

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

DATE: FRIDAY, FEBRUARY 13, 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
Jerry Edlao
Ron Agor

Timothy Johns
Rob Pacheco

STAFF

Dawn Hegger, OCCL
Molly Schmidt, Legacy Lands
Dan Quinn, SP
Dan Polhemus, DAR

Randy Kennedy, NARS
Dale Bonard, Legacy Lands
Morris Atta, LD

OTHERS

Pam Matsukawa, Deputy Attorney General
Dawn Chang, K-4
Woody Vaspra, K-4
Jimmy Medeiros, K-4
Michael Kumukauoha Lee, K-4
Marti Townsend, K-4
Richard Ha, K-4
Brian Taylor, K-2
Ron Terry, K-3
Lea Hong, C-2
Blake Elheny, C-2

Eric Leong/DOT, M-2
Kale Gumapac, K-4
Rocky Jensen, K-4
Pali Kapu Dedman, K-4
Moana Jones, K-4
Arthur Hope, K-4
George Atta, K-2
Grant Arnold/OHA, K-2
Dave Getty, K-3
Kawika Burgess, C-2
Gary Yamamoto/DOT, D-1

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

Item M-2 Issuance of Revocable Permit to Dewain A. Dedrick, DBA Bella Pietra, in Vicinity of Pier 29, Honolulu, Harbor, Oahu

Eric Leong from Department of Transportation (DOT), Harbors Division here to answer any questions.

Unanimously approved as submitted (Edlao, Pacheco)

Item M-1 Authorizing the Department of Transportation to Dispose of Highway Remainder Parcels 61 & 75, Kalaniana'ole Highway, Widening Project, Federal Aid Project No. F-072-1 (39), East Halemaumau Street to Keahole Street, at Kuliouou 1st, Honolulu, Hawaii, Tax Map Keys: (1) 3-8-14:4 & (1) 3-8-002:27.

No one here to testify on this item.

Unanimously approved as submitted (Johns, Edlao)

Item A-1 January 23, 2009 Minutes.

Member Pacheco recused himself.

Unanimously approved as submitted (Johns, Edlao)

Item K-4 Briefing on the Mauna Kea Comprehensive Management Plan for the Mauna Kea Science Reserve by the University of Hawaii, Island of Hawaii, TMKs: (3) 4-4-015:009&12 (No Decision Making). Copies of the plan can be reviewed at the Department of Land and Natural Resources' (DLNR) Kalanimoku Office, at 1151 Punchbowl Street, Honolulu Hawaii, Room 131, or at the DLNR Hilo Office at 75 Aupuni Street, Room 204. A Copy of the Plan may also be reviewed at the DLNR, Office of Conservation and Coastal Land's Website at: <http://hawaii.gov/dlnr/occl/manuals-reports>

Chairperson Thielen informed the Board that this is a non-action item briefing.

Dawn Hegger of Office of Conservation and Coastal Lands (OCCL) introduced Dawn Chang who will present a briefing on the Mauna Kea Comprehensive Management Plan (CMP).

Dawn Chang introduced Gerald DeMello of University of Hawaii (UH) - Hilo and Stephanie Nagata from Office of Mauna Kea Management (OMKM), Arthur Hope from Kahu Ka Mauna and Ron Terry from the OMKM Board. Ms. Chang explained that the purpose of this informational briefing is to follow-up since the last briefing in October where there was guidance by the Board to do an environmental assessment with the

CMP. Since then OMKM had publicly distributed the Comprehensive Management Plan. And, will discuss a proposed schedule on the CMP.

The community was concerned about the lack of understanding of the cultural significance of Mauna Kea. OMKM had the Edith Kanakaole Foundation prepare an orientation of the cultural significance in the CMP. There was criticism by the community that there was lack of community involvement in the management of Mauna Kea which resulted in OMKM doing extensive community outreach in the planning process. At the last October Land Board meeting, KAHEA raised concerns that the CMP needs to comply with the Kapa'akai case where the Hawaii Supreme Court provided an analytical framework upon where government agencies must preserve and protect traditional customary practices which became the basis at how OMKM looked at the CMP. Section 5 identifies the valued cultural, natural, and historic properties including traditional customary practices. It is inventoried with the recent and previous studies on Mauna Kea. Section 6 is the impacts of the proposed action in adopting the CMP. The intent of the CMP is to preserve and protect the valued resources. Section 7 looks at the potential threats to the cultural and natural resources coming up with the management recommendations. OMKM looked at previous conditions of the BLNR approved in other CDUPs, the 1995 Management Plan, and the most recent information related to these resources. OMKM wanted to do this the right way, by listening to the community and have the community help develop the management plan.

The management plan is drafted so that the Board and staff can do their own independent analysis where they can say this document is theirs, too. Conditions from any permit can be found in it. Ceded lands, state lease, compensation, and new development issues were brought up by the community, but went beyond the scope of the management plan and is not discussed. CMP will take comments up to the Board action. It came out 10 days ago, it's on the OMKM and DLNR websites, it's at public libraries, OMKM sent letters to everyone involved in this project and CDs are available. The environmental assessment document is completed and was public in the Hawaii QC Bulletin on February 9, 2009. The 30 day comment period is currently running.

Ms. Chang asked the Land Board to consider approving this document in the April 9, 2009 meeting. A critical component of the CMP is administrative rule making for the University of Hawaii to implement and enforce the CMP. There are House Bill 11-74 and Senate Bill 502 currently being heard at the Legislature to authorize rule making authority to the University of Hawaii to implement the CMP. The rule making authority is consistent with the auditor's report and recommendation from 1998 and 2005. The Legislature asked why DLNR doesn't do this. It was a specific request by the auditor.

Kale Gumapac, alaka'i for Kanaka Council, Moku O Keawe asked cultural practitioner, Rocky K. Jensen to kahea for us. Mr. Gumapac introduced Woody Vaspra from the World Council of Elders which is an aha of spiritual elders of native peoples from the Americas, Australia and Asia. Rocky K. Jensen who is an artist, carver, canoe builder, cultural historian, and practitioner is recognized by the State Culture and the Arts as a Hawaiian living treasure. Jimmy Medeiros of Protect Keopuka Ohana (PKO) who

successfully litigated against the developer at Hokulia who had no regard to the land or the people. Pali Kapu Dedman is the founding member of Protect Kahoolawe Ohana, who protected the iwi at the Ritz Carlton, and founded the Pele Defense Fund which returned acres of Wao Kele O Puna forest to the Hawaiian people.

Mr. Gumapac said that the University of Hawaii mismanaged, desecrated, sold out on the community and that the Kanaka Maoli is not stated in the CMP. The plan continues to allow UH management responsibilities under the name of OMKM and OMKM Board. There is no provision requiring an EIS which should be included. It should include psychological impacts on Kanaka Maoli.

Pali Kapu Dedman said he thinks the courts sidelined the community concerns by addressing it in a CMP which doesn't have any guidelines on how to do the plan and how to address the issues when it was native issues that brought this plan about. Mr. Dedman questioned how this plan was allowed without any guidelines reiterating the need for an EIS and said he is against this CMP because it is inadequate. The sacredness of the mountain is desecrated because of the telescopes and will not end until Hawaiians have control. This is a Hawaiian issue that Hawaiians need to address. It shouldn't be the community who fly back and forth who has no cultural or historical attachment to Hawaiian issues. Mr. Dedman cited how Hawaiians are taken advantage of by the outside community and not having a choice in the matter. The Board doesn't have cultural knowledge, none are Hawaiians, nor are any practitioners and wouldn't have the expertise to address these issues in looking at the CMP. Mr. Dedman said his group is against this plan because it doesn't address any of their concerns.

Jim Medeiros for Kanaka Council, Moku O Keawe said he is against the CMP, appealed to the Board not to accept the CMP because it is incomplete. Mr. Medeiros wanted any burials, if found inadvertently, to be protected in place. The CMP should manage UH instead of managing people reiterating UH's mismanagement of the mountain. The main problem is ceded lands where the State charged UH \$1 resulting in UH subleasing all this land to other countries. The CMP will take away all the rights of the Hawaiian practitioner. Mr. Medeiros had concern with access because an insect critical habitat would prevent anyone from entering the area. Hawaiians need the freedom to be totally open.

Woody Vaspra with Kanaka Council of Moku O Keawe said the CMP gave a good description of how the Kanaka Maoli revered the mountain and gave the example of Mt. Fuji not having telescopes because it is sacred. The CMP says Mauna Kea is sacred, but it doesn't say whether telescopes will be decommissioned to bring the mountain back to the people. Mr. Vaspra felt that this CMP was orchestrated to fulfill a court order. The Kanaka Maoli were great land managers using the ahupua'a system, but not so today. Mr. Vaspra described desecration of indigenous cultural sites around the world. What has astronomy done for the Kanaka Maoli, for the people of these islands, and for the world? The only reason the telescopes are up there are for intellectual curiosity. Is that reason enough to diminish a culture? Especially, the spiritual aspects. OMKM said that

they could teach the Hawaiian community astronomy and Mr. Vaspra said no they can't because the Hawaiians know how to use the stars to survive.

The CMP doesn't address a federal law called the Native American Religious Freedom Act of 1978 that allows the practice of indigenous peoples. The incursion of the telescopes prevents the true religious practice. The CMP needs to state this plus

1. Restore the spiritual significance of Mauna Kea. The CMP states Mauna Kea as a recreational and tourist site. Would you use Kawaihao Church like this? Restore the kapus of the mountain because it is a traditional site. Have an authentic plan to decommission telescopes.
2. The CMP talks of restricted access. Must allow unrestricted access to the Kanaka Maoli because this is their mountain to practice their spirituality and ohana activities. Stop the tourists from taking pictures during ho'okupu ceremonies.

Rocky Jensen said a greeting in Hawaiian to everyone, introduced himself and said no to the CMP. He described the sacredness of adzes. Morally, what are the obligations to the Kanaka Maoli's needs? The CMP doesn't address the moral issues of the Kanaka Maoli.

Michael Kumukauoha Lee, a native practitioner of kilokilo poi and la'au lapa'au o ke kai, said he is against the plan as proposed because it doesn't take into consideration that Mauna Kea is a sacred mountain. Mr. Lee described that the stars are our gods, they help Hawaiians with planting, where to catch fish, navigation, when the volcano will erupt using the moon, knowledge of all 200 star names and how they change. This plan doesn't take into consideration the mo'olelo, the kupuna, our keiki and that this is a learning center for Kanaka Maoli, important in the kumu lipo chant which sets in stone why for Hawaiians to keep the mountain sacred and protected because there are parts of Hawaiian tradition that are supernatural. Part of the mountain was used as an ice box during times of war to store food; the caves were used for warriors because of the 360 view of the entire island and able to see opposing armies and destroy them. This plan is insufficient because it doesn't take into account what is really sacred to Hawaiians. Assessments have been poor. Need to place in the newspaper a notice to all kupuna who know about Mauna Kea or not. The hoailona of the visions are taken away. Hawaiians see in their dreams their families that bring the stories. It was cut out completely. That is part of a Hawaiian's life where they have one foot in this life and the other in the other world which is what makes Hawaiians so spooky. The visitor center makes claims they know Hawaiian stars, but they don't because they never called out to the right experts in the correct manner. This plan was not done in the proper way and will not have a great plan because the mana is left out of what Hawaiians bring to the Big Island. He predicted the last big earthquake and even astronomers don't even know how to do it. Real Hawaiian chanters use the stars circling around Kane's eye and they are possessed by the spirit of families from the past. Mr. Lee's uncle could call up the red shark, a megalodon, to chase away the tiger sharks. Don't do the plan the wrong way otherwise it will not hold together.

Moana Jones, native practitioner and story teller from Puna, Hawaii described when Aunty Nona Beamer wrote to and asked President Bush to stop the desecration on

Haleakala, but never heard from anybody. Aunty Nona saw the Governor who told her that this was a done deal which made Aunty Nona depressed. Many young people on Big Island feel strongly about this and would be here if they could afford to. Ms. Jones reiterated the desecration and sacredness of Mauna Kea. There needs some dismantling before considering any more desecration. There should be public access. The OMKM needs to be more diligent because they haven't been.

Marti Townsend of KAHEA is in opposition of the CMP and distributed a copy of Senate Bill 502, her written testimony, Joint Testimony from four organizations, a Mauna Kea brochure created by KAHEA, construction timeline on Mauna Kea, and FAQ on OMKM. Ms. Townsend explained Bill 502 is one of four bills that seek to transfer authority of Mauna Kea from DLNR to UH which is a concern because it sets a bad precedent of overturning the relationship between leaseholders and landlords. OMKM needs these bills to pass in order to implement the CMP like closing the access road. Ms. Townsend asked the Board to delay decision making on the CMP until after the legislature is closed and after the Governor signs the bills because it would be premature and to allow the public as much notice as possible on when decision making is made. Because DLNR hasn't testified in opposition to the bill and Ms. Townsend felt this is something the administration has worked out and KAHEA has concerns about the long term implications. There is still litigation and if one of the bills gets signed then it will be like Superferry all over again.

Ms. Townsend expressed concern that if UH is really changing why three public hearings today making it difficult for the public to keep up. Should take this step by step first deciding what is necessary to protect the conservation district of Mauna Kea then decide transferring authority to anybody. The CMP doesn't change the way the university has conducted itself on the summit. There is testimony where UH rangers have interfered with cultural practices. At the October Land Board meeting, Kealoha Pisciotta, President of Mauna Kea Anaina Hou, explained why there is a problem with giving management authority to UH because their rangers do not have the proper training. UH should give money to DLNR who has trained staff and DOCARE officers. The CMP doesn't meet the needs of a conservation management plan instead it is a telescope development plan and there are no controls on the number of telescopes. It was admitted that there was contamination but there is no commitment to clean it up. UH is not committed to conservation, but to get this obstacle out of the way so they can build two more telescopes. Ms. Townsend described KAHEA's Mauna Kea brochure, the FAQ sheet on OMKM and noted that the Department has received at least 300 e-mails opposing the CMP.

Arthur Hope, member of Kahu Ku Mauna, prior member of OMKM Board, a cultural practitioner, cautioned the Board to check the materials presented for their authenticity specifically KAHEA because the brochure talks about 50 telescopes and that isn't true. Mr. Hope has a problem with people providing false information to sway decisions.

Richard Ha is a farmer from the Big Island and supports the CMP for his employees. The plan is managing and the issues brought up today are outside of the plan. Mr. Ha

knows the Kanaka Council members and it's important to have their guidance because of their experience. Mr. Ha is a member of the Board of Directors of the Hawaii Island Economic Development Board and three years ago the 30 meter telescope subject came up. Being part-Hawaiian he decided he better get involved to make sure it is done right because it wasn't before. Mr. Ha disclosed he is the Chair of the 30 Meter Telescope Committee describing planning for the future for his workers and their children. Maybe consider whether taking down and putting up telescopes benefits outweighs the cost.

When people talk about Mauna Kea they are talking about the culture. When talking about the culture people go to Keaukaha because it is the oldest Hawaiian Homes community on the Big Island. When talking to the Keaukaha community about the 30 meter telescope they'll ask what is it Mr. Ha wants because they don't trust. After discussing with the principal that Mr. Ha isn't there for money Mr. Ha learned that the children couldn't afford to go on excursions. The Big Island community adopted and sponsored all the classrooms. Mr. Ha described that in the future people will have to take care of their own communities because of gas prices. Have an imperfect document now or do nothing at all which would be unacceptable, but it is important to talk story and maybe have another master plan to say this many telescopes which could be later on. Mr. Ha explained that maybe having the largest telescope will help children learn and come up with a way to produce fertilizer for the island to be self-sufficient.

Member Edlao asked whether other counties could get some of the \$50 million dollars as described on page 31 of the CMP because the telescopes are on State ceded lands. It should benefit the entire State. Ms. Chang acknowledged that the Big Island community benefits. Member Edlao asked how does the special fund get allocated. Ms. Chang said she may not be the best person to answer, but she understands those monies go to the maintenance of the road, visitor center, could be for future habitat studies, and ranger program upkeep. There maybe a future orientation video.

Member Johns asked about the cooperative agreement with regard to enforcement because there is question about who is managing. Ms. Chang said that the NARS and forestry areas are under the Department, OMKM has been discussing with DLNR on an MOA to work cooperatively on the NARS area. DOCARE doesn't have the officers to cover all the time, but to train the rangers to have a good understanding of the NARS resources that they can provide an education tool.

Randy Kennedy from the NARS program said the MOU came before the Board a month ago which was passed, but will get back to the Board on how that evolved. Member Johns said that there was discussion whether any kind of enforcement stays with DLNR. Would any cooperative agreement do that? Ms. Chang said she wasn't aware of that and didn't think so. Chair Thielen recollected that it gives some authority to the rangers to do some of the work, but there are other ways to do that too. Ms. Chang said she didn't think there was specific funding for the rangers. It is only to provide rule making authority and establishment of a special fund.

Member Johns asked whether the draft EA is intended to evaluate the environmental, social and economic impacts of the CMP. Ms. Chang said it goes through the criteria established by OAQC. OMKM struggled with the psychological impacts. How to quantify it? The social impact is in the CMP, but not the psychological. Member Johns asked if there will be additional documents from the university to help the Board make a decision. Ms. Chang said there will be the EA which will evaluate the CMP. OMKM will provide a response or amendments to the CMP based on all the public comments.

There was discussion over what the Hawaiian Civic Clubs saw which was a draft recommendation and not the CMP.

Ms. Chang clarified that this document does not restrict access to Native Hawaiian practitioners and will continue working with Kanaka Council and the members of the Hawaiian community.

Ms. Chang summarized that the most challenging was trying to satisfy everyone in this document which won't happen. There were public meetings where there was no consensus except something needs to be done reiterating Mr. Ha's comment that there is a plan although imperfect, but it looks at protecting the resources or no plan at all. Kahu Ka Mauna is working with families who have connections with Mauna Kea to create and develop the protocols for Mauna Kea. Have the Native Hawaiians decide. Her group tried to be balanced but the plan won't satisfy everyone, there is a need to manage, can't take down the 13 telescopes because they are already there, there are potential interests like roadway improvements and all these things need a guideline on how the Department and university is going to evaluate whether there are consistent uses that protect and preserve the resources. There is a lot of work needed to be done and this is a start.

Member Johns asked the cumulative impacts will be evaluated on a project by project basis under the EIS or particular use. Ms. Chang acknowledged that.

Chairperson Thielen summarized that because there are a lot of different interests it may be difficult to draft a plan that would satisfy everyone and most of the people here would have to agree with Mr. Ha that we need a plan to guide the mountain top. Everyone agrees that they want a strong and thoughtful plan. There is a need for some entity to take responsibility to ensure that anything that comes forward for use on that mountain top follows that plan. She wasn't clear who takes that responsibility. The community benefits package appears that an entity comes forward saying they want to do something on the mountain top. Under this plan the Chair isn't sure whose responsibility it is to look at that and it's done on a case by case basis. If it is just adhoc based on the applicant or does this plan layout a foundation that says this must be included or these are the types of things that must be considered for this so it's equal to everybody in the future knowing they will come to one entity who will evaluate that. Similar to the decommissioning. One thing people want from the CMP whether they agree with all the pieces or not, somebody is responsible for making sure that all the pieces are addressed and followed and that becomes the point of entry to that entity. Member Johns asked who would that be? Ms. Chang said that model was expressed and suggested by Kanaka Council to have

something like the Kahoolawe Island Reserve Commission which is a policy question that is far beyond this management plan. It was suggested that is a much more thoughtful discussion that needs to be made, but in the meantime there needs management of the resources. Under the 2000 Master Plan, OMKM will manage it, policy guidelines are by the OMKM Board at the University of Hawaii at Hilo and they recognize that this is conservation lands. All CDUPs have to come before the Land Board. Any project has to go to OMKM first to see if the proposal is consistent with the CMP and make any recommendations to DLNR on a CDUP.

Chair Thielen said that the university's recommendation is this plan be adopted by the Land Board and becomes DLNR's plan, but it's still confusing on who is responsible for making the determinations under the plan. The plan laid out that the university will do additional plans to address unanswered questions. The Papahānaumokuākea plan sets up a clear responsibility for ensuring that the guidelines of the plan will be followed and there was a point of entry to make that determination. If the OMKM has day to day responsibility it is unclear in the CMP on whether they are charged for making other determinations that are the issues and concerns beyond the scope of the CMP that people want to address and whether funding for the additional plans will go through them or not. The university needs to address them even if it is interim answers pending the final establishment of some body or new entity to be tasked this because the state is going into several years of decline. Ms. Chang replied understood and will take that information back.

10:50 am RECESS
10:53 am Reconvened

Item K-1 Request to Rescind an Amendment by Haseko (Ewa) Regarding the Size of the Hoakalei Marina for Conservation District Use Permit (CDUP) OA-2670 for the Construction of a Marina Entrance Channel Located at Ewa, Island of Oahu

Request for a Contested Case by Michael Kumukaoha Lee Regarding Amendments to Conservation District Use Permit (CDUP) OA-2670 for the Construction of a Marina Entrance Channel Located at Ewa, Island of Oahu

Dawn Hegger reported on background and history requesting the Board to rescind the amendment by HASEKO and deny the petition for a contested case.

Mike Lee said that changing the size of the marina opens up other issues describing a past issue where bones were dug up, but there is no effort by anyone to reconcile this.

Chair Thielen said that HASEKO will not reduce the size and will keep it as is.

Mr. Lee said he didn't want to do anything to the marina. He had asked to re-enter the bones in an area that is safe and concrete over it with a plaque saying who this ali'i is and what had happened. Re-establish the rare opaeula which Member Gon had the foresight to save. And, re-build the shrine that was destroyed. Mr. Lee felt that DLNR should be more diligent with developers not following rules.

Member Pacheco asked about the reasons why this is not longer an issue. Mr. Lee said that he was ready to go to court to be denied and he expected to spend whatever money it took. Now, he won't get his day in court because if he did he expected to win citing Papipi Road and Kalo'i Gulch.

Yvonne Izu for HASEKO was here to answer any questions.

Unanimously approved as submitted (Johns, Agor)

Chair Thielen stated that this doesn't preclude the parties from having discussion afterwards and if they care to bring anything forward later they may.

Item K-2 Conservation District Use Application (CDUA) OA-3481 for the University of Hawaii at Manoa, Institute of Marine Biology's (HIMB) Coconut Island (Moku o Lo'e) Proposed Improvements, Subject Parcels TMK's: (1) 4-6-001:001 (1) 4-6-001:051, Kaneohe Bay, Island of Oahu, Consultant George Atta, Group 70 International, 925 Bethel Street, 5th Floor, Honolulu, Hawaii

Dawn Hegger for OCCL gave background and asked to add conditions 18. That HIMB will submit to DLNR a working list of scientific land use experiments past, present and future that may occur on Coconut Island. 19. HIMB will submit a list of infrastructures that need renovation, repair or that need to be demolished.

George Atta representing Group 70 International who are the consultants on Coconut Island for the past decade are aware of the history and situations. Referring to condition #18, Mr. Atta said it is difficult to come up with a projected list for future experiments not knowing what funding will be available. The list would be very general to comply with that. #19 is doable for them. Mr. Atta introduced Brian Taylor, Dean of the School which UH Marine Lab is under and other HIMB staff.

Member Johns recalled signing the enforcement case in 1999 and at that time the Board envisioned that UH would file an after-the-fact permit sooner than 10 years later. Mr. Atta realized that there was a time limit in filing for the CDUA explaining that he had spoke to Sam Lemmo about filing the CDUA at the same time as the master plan which Mr. Lemmo didn't have a problem with. The SMA needed to be done before the CDUA. The university learned that they had to do a full EIS and didn't have the funds which delayed the SMA. Funding was received, proceeded with the SMA then ran into shoreline certification problems. The State surveyor refused to certify the filled land.

Mr. Lemmo was willing to accept the SMA, but the City wouldn't accept it. Later the university got funding to do the certified shoreline and filed the SMA application which resulted in two applications because the pier needed a separate SMA. Then the university could come back to the Board.

Member Johns said it's good that all the Mauna Kea opposition left because there is a recurring pattern with the university's land use and asked to address the accesses and archaeological issues.

Mr. Atta said that unrestricted access is the beach on the east side facing the Kaneohe Marine Base and a peninsula on the southwest side called Maile Point where people water ski. The Kaneohe Bay users are aware of this. The rest of the island is managed access because of a high concentration of research activities. The university is proactive to public programs welcoming thousands of school children and groups of people to visit the island. No access is denied. Malia can testify to that. There have been several archaeology studies. When the Pali Lab was built there was an archaeologist to monitor and didn't find anything. Mr. Atta understood condition #12.

Chair Thielen suggested amending condition #18 to say "planned" instead of future. For condition #19 changing the language to say "may trigger a conservation use application." Mr. Atta agreed to both.

Brian Taylor, Dean of the School of Ocean, Science and Technology which oversees HIMB is here to answer any questions asked about condition #18 whether it is a one time list or on-going because they want to avoid repetition. Chair Thielen said this is on-going, but staff could come up with a date.

~~[It was discussed that DLNR had nothing to do with the delays as mentioned earlier by Mr. Atta and]~~ Chair Thielen asked the University if they agreed with Mr. Atta that the delays the University faced in obtaining their permits were due to issues with other organizations and internal funding, and were not due to DLNR. Mr. Taylor confirmed that DLNR had not been the cause of any delay.

~~[Chair Thielen asked the University if they agreed with Mr. Atta that the delays the University faced in obtaining their permits were due to issues with other organizations and internal funding, and were not due to DLNR.]~~

Grant Arnold representing Office of Hawaiian Affairs (OHA) thanked the applicant, consultant and OCCL with the site visit. Access is not clear because at Maile Point is a huge KAPU sign and the public would not know that was an access point. Referring to #6 offered OHA's assistance to staff. Also to #15 Mr. Arnold asked to elaborate with a list of BMPs. Member Johns and Chair Thielen suggested using condition #19. Mr. Arnold noted that the sewage infrastructure is maxed out and the applicant plans to double the population and asked how the applicant will address that.

Mr. Atta said that the city's waste water system along Lilipuna Road is maxed out and until improvements are done HIMB is limited. During the SMA phase there was a commitment pledged that HIMB would not as an island increase wastewater flows to the system beyond current levels at that time which they have. The island has become more self-sufficient by using low flow technology. Chair Thielen noted the applicant needs to comply with the conditions and that fines have increased.

Member Johns said that every other visit produced a violation. No violations would be a pre-requirement before the applicant could bring a CDU to the Board.

Ms. Hegger said that the applicant has generally been in compliance with the past CDUA and it's recognized this list would help categorize any improvements the applicant needs for the CDUA, not for any violations. There are Land Division issues the applicant needs to work out.

There was some discussion with access compliance where the applicant works with the Department on an access plan and the Department will coordinate with OHA.

Member Johns approved staff's recommendation as amended with additional amendments to condition #6. Requiring the applicant to develop an access plan with approval by the Department. Condition #18. That the working list be presented by OCCL to the Department annually with past, present and planned language talked about earlier. Condition #19. That the list of infrastructure improvements also includes the best management practices that will be implemented with those improvements. Member Agor seconded it.

The Board:

Approved staff's recommendation as amended with the following additional amendments:

- 6) The applicant acknowledges that the approved work shall not hamper, impede or otherwise limit the exercise of traditional, customary or religious practices in the immediate area, to the extent such practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law; **and that the applicant will develop an access plan to Coconut Island with the Office of Conservation and Coastal Lands approval;**
- 18) **That the applicant will submit a working list of past, present, and planned experiments that may occur at Coconut Island to the Office of Conservation and Coastal Lands annually; and**
- 19) **That the applicant will submit a list of infrastructure improvements that need renovation, repair, or need to be demolished, and includes Best Management Practices that will be implemented with those improvements.**

Unanimously approved as amended (Johns, Agor)

Item K-3 Conservation District Use Application (CDUA) HA-3483 for a Portion of Section III of the Saddle Road (State Highway 200) Improvement Project-Mile Post 11-19 and Subdivision of Land by the Federal Highway Administration Located at Piihonua, South Hilo, Island of Hawaii, TMKs: (3) 2-6-018:004 & 010

Ms. Hegger asked the Board to approve the project.

Ron Terry, consultant with the Saddle Road Project, said he is here to answer any questions and introduced Dave Getty from the Federal Highways Administration in Denver, Colorado and could answer questions on funding and scheduling. They agreed to the conditions.

Unanimously approved as submitted (Pacheco, Johns)

11:33 am RECESS

11:48 am RECONVENED

Item C-2 Review and Approval of Project Recommendations for Funding from the Fiscal Year 2009 Legacy Land Conservation Program (Land Conservation Fund)

Member Johns recused himself.

Molly Schmidt, Legacy Land Coordinator for DOFAW, gave background history and distributed an amendment to the Background section adding a #4. Disqualify the Maunalua Fishpond Heritage Center's project from consideration in the Fiscal Year 2009 grant cycle. Referring to #3 on page two the Department recommended to hold off awarding the extra funds to the first project which in effect is what the recommendation would do provide those funds to the Honouliuli Project in the amount of about \$445,000 because the project applicant originally listed the Oahu City & County of Honolulu Clean Water and Natural Lands Commission Funding as available pending funds for that project and the Clean Water and Natural Lands Commission has since gone through with getting approval for their application process. Forestry and Wildlife said that those funds will become available along the lines of not providing extra funds but providing these funds as a supplement where they're needed. DOFAW asked to reserve the funds within the Hawaii Conservation Fund to see when the deadline will be between now to May for encumbering funds for these projects. What other projects might need the funds. The additional funds will stay in the Land Conservation Fund until April. At that time it will allow time for DOFAW to encumber and allocate where the funds will go.

Dale Bonard, Chair of the Legacy Lands Commission, said the commission wasn't sure about the funding because of the slowness of the city fund in getting applications out and the commission doesn't know how many will come in. Mr. Bonard felt it best to assign the additional remaining funds to the projects in the order listed. Honouliuli has a drop dead date of November 2009.

A Board member asked whether it is required for the county to provide matching funds where Ms. Schmidt said it is for county and non-profit applicants. State applicants are not required to.

Ms. Schmidt said that the funds will stay in the special fund and if not used it will go to the next project on the list. If the funds go to Honouliuli, she expects the county to withdraw their application.

Lea Hong from Trust for Public Lands distributed Ma'o Farm press release saying it closed at the end of January noting what a good use these funds are, and supports the commission's recommendation to allocate extra funding to Honouliuli because it should be used or the legislature might take it away. There is a need to raise \$500,000 and it's discouraging because it's taken the county process two years. The deed has not been worked which makes it hard for DOFAW. Her organization is in support of Sunset Ranch.

Kawika Burgess, Native Lands Coordinator for Trust for Public Lands, summarized his written testimony describing Lapakahi giving some history, issues and that the Kohala community supports it.

Blake Elheny, President of the North Shore Community Land Trust reported he is here for Sunset Ranch and strongly supports the commission's recommendation supporting all the projects.

There was some discussion about the amendments.

Member Agor moved to move the balance of the funds now to the projects in the order of priority plus the addition of #4 as distributed earlier. Member Edlao seconded.

Unanimously approved as amended (Agor, Edlao)

Item E-1 Request for Approval to Assign Lease S-5291 to Adella Au Johnson and Mahina Johnson and Assign Lease S-5308 to the May L. Au Living Trust Ahupua'a "O Kahana State Park, O'ahu

Dan Quinn with Division of State Parks reported background to transfer leases.

Unanimously approved as submitted (Johns, Edlao)

Item D-1 Issuance of Right-of-Entry Permit to the State of Hawaii, Department of Transportation, Highways Division for Archaeological, Geotechnical and Test Boring Purposes on Lands Encumbered by Revocable Permit No. S-7444 to Coco Palms Ventures LLC, Wailua, Kawaihau, Kauai, TMK: (4) 4-1-03-17.

Morris Atta for Land Division gave background and that Coco Palms gave their consent.

Gary Yamamoto from DOT was here to answer any questions.

Unanimously approved as submitted (Agor, Johns)

Item D-6 Grant of Perpetual, Non-Exclusive Easement for Drainage Purposes and Issuance of Construction and Management Right of Entry to the Department of Hawaiian Home Lands, Waimanalo, Koolaupoko, Oahu, TMK: (1) 4-1-018: portions of 050 and 051.

Mr. Atta explained the drainage easement issue and there is no opposition. DHHL representative is here to answer any questions.

Unanimously approved as submitted (Johns, Pacheco)

Item D-2 After-the-Fact, Consent to Sublease K-5 of General Lease No. S-5619, Natural Energy Laboratory of Hawaii Authority, Lessee, to Uwajima Fisheries Inc. Sublessee, Kalaoa 1st – 4th and Ooma 1st & 2nd, North Kona, Hawaii, TMK: (3) 7-3-43: portion of 42.

Mr. Atta informed the Board on the lease which is consent for assignment.

Unanimously approved as submitted (Pacheco, Edlao)

Item C-1 Request for Approval to Enter into a Contract with Albert H. Agliam dba Remote Fencing Outfitters to Install Ungulate-Proof Fencing within Kuia Natural Area Reserve, Kauai

Staff spoke on background.

Unanimously approved as submitted (Agor, Johns)

Item D-3 Approval of construction plans for General Lease No. S-5276, Brendan Balthazar, Kaupo, Hana, Maui, TMK: (2) 1-8-1:3.

Item D-4 Amend Prior Board Action of July 14, 2000, Item D-1 and April 27, 2007, Item D-13, Rescind Prior Land Board Approval and Set Aside to Housing and Community Development Corporation of Hawaii for a Senior Project with Assisted Living and/or Health Support Services and a Management Right-of-Entry, Kaakaukui, Oahu, TMK: (1) 2-1-051:portion 009.

Item D-5 Amend General Lease No. 5498; Rachel Kuulei Haili and Rachel Ching Haili, Lessees; Waimanalo, Koolaupoko, Oahu; TMK: (1) 4-1-010:80.

Item D-7 Request for Concurrence to Holdover Status over Lease of Federal Lands for Public School Purposes, Kaneohe, Koolaupoko, Oahu TMK: (1) 4-4-009-007.

Item D-8 Consent to enter into a contract with Environmental Systems Research Institute (ESRI) for department-wide geographic information systems (GIS) software licenses, software maintenance renewals, and training.

Mr. Atta said there were no changes. There was no public comment.

Unanimously approved as submitted (Edlao, Pacheco)

Item F-1 Request for Approval of a Special Activity Permit 2009-72 for Dr. Ross Langston of The University of Hawaii, and Designated Assistants

Item F-2 Request for Approval of a Special Activity Permit 2009-73 for Dr. Frank Parrish of The National Marine Fisheries Service, and Designated Assistants

Dan Polhemus for Division of Aquatic Resources said there were no changes.

Unanimously approved as submitted (Johns, Agor)

Item L-1 Permission to Hire Consultant for Environmental Impact Statement for Hawaii Public Shooting Range, Pu'u Anahulu, North Kona, Hawaii

Item L-2 Permission to Hire Land Surveyor for the Hanahanapuni Shooting Range, Wailua, Kauai

Item L-3 Approval for Supplemental Agreement to Consultant Contract No. 57376, for Job No. B71DO73A, Ala Wai Small Boat Harbor Infrastructure Improvements Honolulu, Hawaii, Oahu

Item L-4 Request for Authorization for the United States Geological Survey (USGS) and its agents, employees, and consultants, to enter upon State and private property for the purposes of investigating, installing, operating and maintaining remote sensing gages and related instrumentation equipment, conducting inspections and hydrologic and hydraulic calculations on and around streams, dams and reservoirs located within the State of Hawaii pursuant to Hawaii Revised Statutes Chapter 179 and 179D and Authorize the Chairperson to request, negotiate and execute agreements with the USGS

Unanimously approved as submitted (Pacheco, Edlao)

Adjourned. (Johns, Edlao)

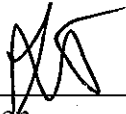
There being no further business, Chairperson Thielen adjourned the meeting at 12:23 p.m. Recordings of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Adaline Cummings
Land Board Secretary

Approved for submittal:



Laura H. Thielen
Chairperson
Department of Land and Natural Resources