

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawaii 96813

September 12, 2014

Chairperson and Members
Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

DOFAW Oahu District

Land Board Members:

SUBJECT: ANNUAL RENEWAL OF RIGHT OF ENTRY PERMIT FOR KAWAINUI
MARSH STATE WILDLIFE SANCTUARY: #OA-459-06

INTRODUCTION:

The Division of Forestry and Wildlife (DOFAW) wishes to renew the Right of Entry Permit issued to Aha Hui Malama I Ka Lokahi (AML).

The purpose of the permit is to allow AML to conduct activities focused on education, ecological restoration, and cultural practices, in Kawainui Marsh. Issuance of the permit was requested by AML for the following activities:

- Conducting educational tours of the marsh area highlighting the wildlife biota of the marsh, the cultural/historical significance of the marsh, the role the marsh plays in the watershed system, and the threats posed to the marsh. All tours must be scheduled and approved ahead of time by Oahu Branch DOFAW, and must not conflict with other management activities underway in the marsh.
- Conservation/restoration actions to reduce the presence of invasive vegetation and increase the presence of native vegetation. All vegetation control activities must be approved in advance by DOFAW.
- Establishment of lo'i kalo for educational and subsistence purposes in area approved by DOFAW.

The partnership has been beneficial to both parties, the marsh, and the community. Renewal of this permit allows AML to continue to conduct activities pursuant to the previous permit. No changes other than the issue date are proposed for the right of entry.

Attached, for background information is the approved Board Submittal dated September 13, 2013.

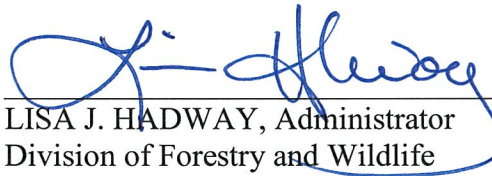
RECOMMENDATION:

That the Board:

Approve the continuation of the management right of entry to Kawainui Marsh State Wildlife Sanctuary, issued to Aha Hui Malama I Ka Lokahi, on a month-to-month basis for the one-year period through September 1, 2015. Continuation is subject to the following:


1. The standard terms and conditions of the most current right-of-entry document from, as may be amended from time to time;
2. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.

Respectfully Submitted,



LISA J. HADWAY, Administrator
Division of Forestry and Wildlife

APPROVED FOR SUBMITTAL:



WILLIAM J. AILA, JR., Chairperson
Board of Land and Natural Resources

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawaii 96813

September 13, 2013

Approved by the Board of
Land and Natural Resources
at its meeting held on

9/13/13

Chairperson and Members
Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

DOFAW Oahu District

Land Board Members:

SUBJECT: Annual Renewal of Right of Entry Permit for Kawainui Marsh State
Wildlife Sanctuary: #OA-459-06; TMK: (1) 4-2-016:015; (1) 4-2-
013:022 and 005 Kailua, Koolaupoko, Oahu

INTRODUCTION:

The Division of Forestry and Wildlife (DOFAW) wishes to renew the Right of Entry Permit issued to Aha Hui Malama I Ka Lokahi (AML).

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- Conducting educational tours of the marsh area highlighting the wildlife biota of the marsh, the cultural/historical significance of the marsh, the role the marsh plays in the watershed system, and the threats posed to the marsh. All tours must be scheduled and approved ahead of time by Oahu Branch DOFAW, and must not conflict with other management activities underway in the marsh.
- Conservation/restoration actions to reduce the presence of invasive vegetation and increase the presence of native vegetation. All vegetation control activities must be approved in advance by DOFAW.
- Establishment of lo'i kalo for educational and subsistence purposes in areas approved by DOFAW.

The partnership has been beneficial to both parties, the marsh, and the community. Renewal of this permit allows AML to continue to conduct activities pursuant to the previous permit. No changes other than the issue date are proposed for the right of entry.

Attached, for background information is the approved Board Submittal dated May 11th, 2012.

Approved by the Board of
Land and Natural Resources
at its meeting held on
MAY 7, 2012

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
1151 Punchbowl St. Rm 325, Honolulu HI 96813

May 11, 2012

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

OAHU

Issuance of Management Right-of-Entry to Ahahui Malama I Ka Lokahi, Kailua,
Koolaupoko, Oahu, Tax Map Key: (1) 4-2-016: 015; (1) 4-2-013: 022 and 005

APPLICANT:

Aha Hui Malama I Ka Lokahi, a domestic nonprofit corporation

LEGAL REFERENCE:

Section 171-13, 43.1, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Kailua, Koolaupoko, Oahu, identified by Tax
Map Key: (1) 4-2-016: 015; (1) 4-2-013: 022 and 005, as shown on the attached map
labeled Exhibit A.

AREA:

800 acres, more or less.

ZONING:

State Land Use District: Conservation
City & County of Honolulu LUO: P1/P2

TRUST AND LAND STATUS:

Acquired after Statehood, i.e. non-ceded.

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

ITEM C-3

working relationships with other Divisions, community and school groups as key to the long-term goals for Kawainui Marsh restoration.

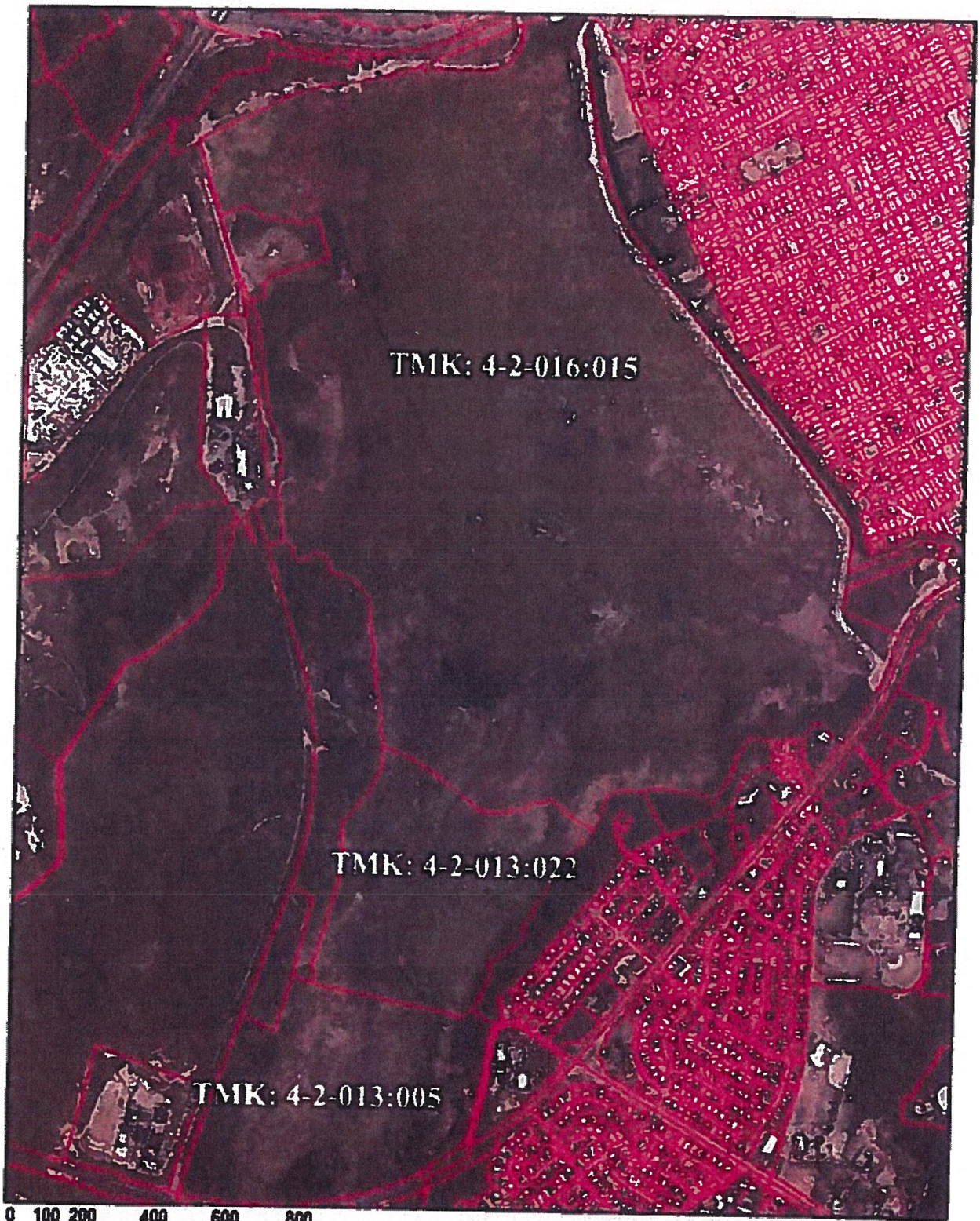
The MOA establishes responsibilities for both the BLNR and AML, in order to conduct necessary actions to manage Kawainui Marsh. The proposed Right-of Entry Permit provides the legal document necessary to allow AML to enter and operate on lands owned and managed by the Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW).

The Division of Forestry and Wildlife, Oahu Branch, has been working with AML to establish programs and protocols as directed to by the MOA. AML's proposed actions are consistent with DOFAW management operations, as it provides assistance and increases DOFAW capabilities to restore the natural, biological, and cultural resources in Kawainui Marsh. The permit will allow AML to conduct ecological restoration by reducing the presence of invasive species, and increasing the presence of native species. AML will also have the ability to conduct educational and outreach programs to school and community groups. They will also provide opportunities to increase cultural awareness and activities appropriate at Kawainui Marsh.

All activities conducted under this permit will be monitored by DOFAW staff to ensure that environmental compliance is followed. Under the terms of the proposed right-of-entry, AML is responsible for consulting with, and following the recommendations of DOFAW staff to ensure environmental compliance protocols are followed. DOFAW staff will meet regularly with AML board to gather information and provide technical assistance on project/work proposals.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, the disposition will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a management right-of-entry to Ahahui Malama I Ka Lokahi, covering the subject area for access purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry document from, as may be amended from time to time;
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.



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Meters

Kawalnui Marsh State Wildlife Sanctuary
DLNR-DOFAW 804-25-2012



EXHIBIT A





BOARD OF DIRECTORS

Charles Isaacs, Co-President
Dr. Charles Burrows, Co-President
Ron Walker, Vice-President
Sandy Adamson, Treasurer
Dr. Sam Gon III, Secretary
Dr. Steve Montgomery, Member at Large
Darcy Oishi, Member at Large

OFFICE

146 Hekili Street, Suite 204A
Kalihi, HI 96734

April 11, 2012

Mr. Jason Misaki
Division of Forestry and Wildlife
O'ahu Branch
2135 Makiki Heights Drive
Honolulu, HI 96822

This letter is in response to your letter to the 'Ahaui Mālama i ka Lōkahi (AML) Board of Directors (BOD) dated March 3, 2012. In compliance with the existing Memorandum of Agreement with the Board of Land and Natural Resources in regards to the Kawaiū Marsh State Wildlife Sanctuary, we are formally requesting a Right-of-Entry permit to grant us legal access to the Sanctuary and honor our responsibilities as agreed upon by the MOA. This request is being made on behalf of the BOD for the time period of May 1, 2012 to April 30, 2013. We are formally requesting a Right-of-Entry permit to conduct the following work in the Kawaiū Marsh State Wildlife Sanctuary:

- Education,
- Conservation and management, and
- Subsistence, traditional and customary practices by native Hawaiians consistent with the long-term preservation of the wildlife sanctuary resources

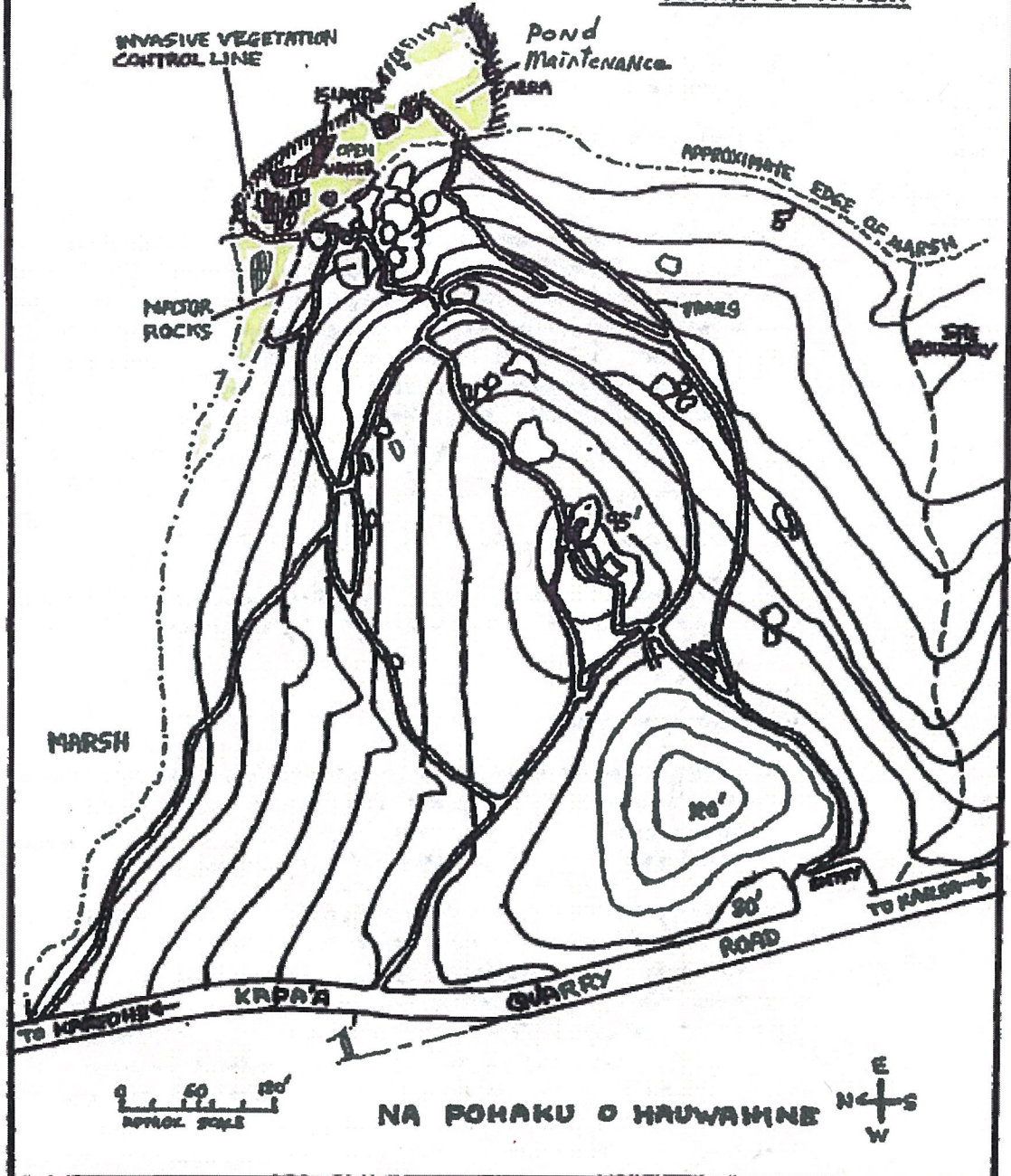
This will be accomplished by:

Conducting period educational tours of the marsh area highlighting the wildlife biota of the marsh, the cultural/historical significance of the marsh, the role the marsh plays in the watershed system, and the threats posed to the marsh. Impacts to native birds and other species will be mitigated by conducting these tours away from nesting sites.

Conservation management will be conducted in the areas near and around Ulupō Heiau and Nā Pōhaku o Hauwahine. This will be done through mechanical and manual removal of weeds infesting the marsh area and, once permitting issues with the Department of Health Clean Water Branch have been resolved, careful application of pesticides in accordance with all applicable Federal, State and County rules and regulations. Removal of the floating weed-grass mud layers will be done to increase the open water and mudflat surface areas of the wetland ponds. All work will be performed with proper protective equipment in compliance with AML's safety protocols. All individuals conducting work in the marsh will sign liability waivers. Potential environmental impacts will be reduced by conducting work within the marsh at sites highlighted in the included

EXHIBIT C

KAWAINUI MARSH



0 60 120
APPROX. SCALE

NA POHAKU O HAWAII



**MEMORANDUM OF AGREEMENT
BETWEEN
'AHAHUI MALAMA I KA LOKAHI
AND THE
STATE OF HAWAII
BOARD OF LAND AND NATURAL RESOURCES
REGARDING COOPERATIVE MANAGEMENT PROGRAMS
AT KAWAINUI AND HAMAKUA MARSHES, OAHU**

This Memorandum of Agreement ("Agreement") is made the 2/11/2010 day of February, 2009, by and between 'Ahahui Malama I Ka Lokahi, hereinafter referred to as "AML", and the State of Hawaii, by its Board of Land and Natural Resources hereinafter referred to as the "Board." AML and the Board are jointly referred to as the "Parties."

WITNESSETH

WHEREAS, pursuant to section 183D-2, Hawaii Revised Statutes (HRS), Board is charged with the responsibility of managing and administering the wildlife and wildlife resources of the State; and

WHEREAS, pursuant to section 195D-1, HRS, the Board is charged with the responsibility of insuring "the continued perpetuation of indigenous aquatic life, wildlife, land plants and their habitats for human enjoyment, for scientific purposes and as members of ecosystems"; and

WHEREAS, Kawainui Marsh is one of the largest remaining wetlands in Hawaii, encompassing an area greater than 830 acres, and serves as a critical flood control basin to protect the developed lower-lying areas of urban Kailua as well as the water quality of Kailua Bay. Moreover, the marsh's aesthetic open space is of high value to both the Windward community and the State; providing a variety of recreational and educational opportunities; and

WHEREAS, Hamakua Marsh is a 22 acre wetland historically connected to and immediately downstream of Kawainui Marsh, which possesses many of the same flood control, water quality, open space, recreational and educational opportunities afforded at Kawainui; and

WHEREAS, Kawainui and Hamakua Marshes have been designated a RAMSAR site of international importance due to their important natural and cultural resources, referred to collectively as the *Kawainui and Hamakua Marsh Complex*; and

WHEREAS, Kawainui and Hamakua Marshes support a variety of introduced and indigenous aquatic wildlife as well as providing important habitat for migratory bird species and four endangered species of native Hawaiian waterbirds, the U.S. Fish and Wildlife Service has identified both marshes as water bird recovery areas. In addition, because three prominent heiau (Ulupo, Pahukini, and Holomakani) and numerous significant archaeological sites are located in

I. Board Responsibilities:

The Board agrees to undertake the following responsibilities under this Agreement:

- a. Support the efforts of AML to continue to develop educational and interpretive programs in Kawainui and Hamakua Marshes, especially with wetland bird habitat restoration.
- b. Seek consultation and advice from AML in the protection and management of cultural and ecological sites within Kawainui and Hamakua Marshes.
- c. Assist in funding interpretive and educational signage and kiosks about the natural and cultural resources of Kawainui and Hamakua Marshes upon receipt and approval of a proposed design and budget.
- d. Provide appropriate information and resources, as requested, to assist AML in gathering materials to develop educational and interpretive programs and to support AML and community efforts in creating a visitor center and a Hawaiian cultural and environmental center at Kawainui Marsh.
- e. Provide passive recreational opportunities in conjunction with the wildlife sanctuaries, including trails, viewing platforms for bird-watching, and interpretive signs.

All Board activities and support are as funding permits.

II. AML Responsibilities:

AML agrees to undertake the following responsibilities under this Agreement:

- a. Will continue to engage Department of Education district schools, and private schools, i.e. Le Jardin Academy, colleges and interested community groups in the restoration projects and educational programs in Kawainui and Hamakua Marshes.
- b. Will consult with and seek necessary approvals from the Board on any cultural and ecological restoration projects or programs conducted on lands managed by the Board in Kawainui and Hamakua Marshes.
- c. Will provide the Board proposed designs and budgets for interpretive and educational signage and kiosks about the natural and cultural resources of Kawainui and Hamakua Marshes.

III. Joint Responsibilities:

The Board and AML agrees to undertake the following joint responsibilities under this Agreement:

VII. Miscellaneous Provisions.

A. *Disclaimers.* Nothing in this Agreement shall be construed as affecting in any way the delegated authority or responsibilities of the Board of Land and Natural Resources. This Agreement shall not supersede any agreements currently in effect between the State and AML.

B. *Additional Parties.* By modification of this Agreement by the Parties, additional governmental, non-profit organizations, and other entities may be made party thereto on such terms and conditions as the Board and AML may agree.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Agreement as of the last date written below.

'AHAHUI MALAMA I KA LOKAHI

By Charles K. Burrows Date 2/24/2010
Name Charles K. Burrows
Title President

STATE OF HAWAII
BOARD OF LAND AND NATURAL RESOURCES

By Laura H. Thielen Date 03/11/2010
for Laura H. Thielen
Chairperson

Approved by the Board of Land and Natural Resources
at its meeting held on October 23, 2009.

Approval as to Form:

[Signature] Date 11/5/09
Deputy Attorney General