

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

DATE: FRIDAY, APRIL 24, 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 9:10 a.m. The following were in attendance:

**MEMBERS**

Laura Thielen  
Tim Johns  
Ron Agor  
Dr. Sam Gon

Rob Pacheco  
Jerry Edlao  
Taryn Schuman

**STAFF**

Dan Polhemus/DAR  
Morris Atta /LAND  
Kevin Kong/DOCARE  
Russell Sparks/DAR  
Michael Constantinides/DOFAW

Ed Underwood/ DOBOR  
Paul Conry/DOFAW  
Dan Quinn/PARKS  
Barry Cheung/LAND

**OTHERS**

Linda Chow, Deputy AG  
Darrell Yagodich, D-1  
Joan Bagood, D-7  
Cary Kondo, D-5  
John Carroll, D-8  
James Warner, C-1  
Dr. Brian Bowen, F-3  
Stephen Karl, F-6  
Allen Rietow, C-2

Cliff Cisco, J-1  
Craig Wagnild, D-3  
Dwight Stringfellow, D-7  
Patrick Maloney, D-9  
Earle, D-8  
Shaun Quesen, F-11  
Dr. Robert Toonen, F-5  
Kalani Fronda, C-2  
Michael Blum, F-9

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

**Item A-1 ANNOUNCEMENTS**

Chair Thielen announced that today is Board Member Tim Johns last BLNR meeting expressing her appreciation for the contributions he has made to Hawaii's natural and cultural resources, helping her transition as Chairperson and that she will miss having him at the Board meetings.

Member Johns said that the best part of DLNR is the people who have given their career and lives to the mission of protecting our lands and natural resources, cultural and historical resources and for that you have his greatest admiration and utmost gratitude. He is honored to help you in your mission and thankful Governor Cayetano and Governor Lingle gave him the chance to do that. Member Johns acknowledged the current and future Land Board members and thanked everyone.

Staff members came up and spoke expressing their appreciation from each of their divisions and programs for Member Johns' compassion, leadership, guidance, wisdom, insight, mentorship, support, and service and that he will be missed.

**Item A-1 April 8 & 9, 2009 Minutes TO BE SUBMITTED.**

Chair Thielen reported it is not ready and to defer it.

**Deferred**

**Item F-2 Request Final Approval to Adopt Hawaii Administrative Rules, Chapter 13-60.7, Kahekili Herbivore Fisheries Management Area, Maui**

Dan Polhemus representing Division of Aquatic Resources described request and that the Board has seen it before. It has gone through public hearings where the public is in support and there were a few concerns from the community about gathering rights, but is in support.

Board Member Edlao confirmed the community's concerns and later support.

Chair Thielen asked Russell Sparks whether Maui staff is prepared to monitor, follow-up, and report back to the community on whether this has been successful. Russell Sparks, Maui Aquatics staff, acknowledged that and reported the reason staff picked this spot was because of 15 years of monitoring that showed a need before the reef fully degraded. Staff along with UH are surveying the area. Staff was hired to continue monitoring and involve the community.

Chair Thielen inquired whether this was one of the sites of underground injection wells for sewage which Mr. Sparks confirmed that there are land and fishing impacts and the University of Hawaii research evidence shows that sewage is percolating right up on the

reefs where staff is monitoring the decline. Plus, developmental and recreational use impacts. Staff hopes to protect the reef to bring it back and generate attention and public support with the county and land owners.

**Unanimously approved as submitted (Edlao, Gon)**

**Item J-1 Issuance of Revocable Permit to Honolulu Transpac, Ltd. for Support Areas for its Regular Biannual California to Hawaii Yacht Race Finishing at the Ala Wai Small Boat Harbor, Tax Map Key (1)-2-3-037;portion of 12.**

Division of Boating and Ocean Recreation Administrator, Ed Underwood presented background on this bi-annual event reporting that docks B, C, D, and the cross dock have been replaced and the boats can be relocated to the 500 row which was always the intention for this race.

Cliff Cisco representing Transpac reminded that they come before the Board every other year saying they appreciate DOBOR's work in getting the 500 row back for them.

**Unanimously approved as submitted (Schuman, Pacheco)**

**Item J-2 Issuance of Two Separate Revocable Permits to Island Ice Company, LLC for a site at Maalaea Small Boat Harbor, and Kahului Boat Ramp**

Mr. Underwood reported background noting that this falls under HRS 102 as a concession contract allowing for a 12 month period then long term leases go to bid after that.

**Unanimously approved as submitted (Edlao, Johns)**

**Item D-1 Cancellation of Governor's Executive Order No. 4143 and Reset-Aside to Department of Hawaiian Home Lands for Makuu Well and Reservoir Site and Access and Utility Easement Purposes, Kaohe, Puna, Hawaii, TMK: (3) 1-5-008:001 por.**

Morris Atta, Land Division Administrator, briefed the Board on the background saying in order to obtain sufficient funding to complete the project DHHL would need to be the agency in control of the land and this request is for that purpose, to cancel the existing EO with the County and a re-issuance to DHHL.

Darrell Yagodich from DHHL said that the well will provide water to their existing subdivision in Puna and the planned 800 homestead unit. Plus, it will add to the County's existing system.

**Unanimously approved as submitted (Pacheco, Gon)**

**Item D-3      Consent to Assign General Lease No. S-5264, HITV Operating Co., Inc. Assignor, to Hawaii Public Radio, Humuula, North Hilo, Hawaii, TMK: (3) 3-8-01: 11.**

Mr. Atta noted that this site has a history of changing ownership and with the switch from analog to digital the current owner doesn't need the site, but Hawaii Public Radio can use the site and this is for that transfer.

There was some discussion whether this operator has another site which they don't and that the site is in a dead zone between repeaters.

Chair Thielen referred to a previous remote area incident where people left and the Department was left to clean up the site and there was discussion to do a bonding asking whether this is relevant to this site. Mr. Atta said he didn't think so because it is an on-going operating site, but he would have to check because it is an old lease.

Craig Wagnild is an attorney representing HITV Operating Co. said he believes there is a deposit in place of \$39,000 that was in lieu of a bond which they requested it be returned and Hawaii Public Radio will place a deposit or bond that there is a provision for that.

There was a discussion whether to add this provision into the lease where Chair Thielen suggested adding a condition saying if it is not in the lease to add it.

Member Gon asked questions about the location and environment which Mr. Wagnild and Member Pacheco answered saying its at the 8,000 foot level over barren lava at the hairpin turn on the way to Mauna Loa Observatory along with other repeaters.

Mr. Atta cautioned that because this is a general lease he believed it is a public option. Staff wouldn't be able to modify the terms of the lease itself which he assumed since there is a bond under the current operator and there is some sort of provision in there. Chair Thielen said it sounds like it's a deposit in lieu of a bond, but we want to make sure under the assignment that would still be required and staff would work it out with the new tenant prior to the assignment being approved. Member Johns asked whether to change condition #3 where Chair Thielen said it could be included.

**Unanimously approved as submitted (Pacheco, Edlao)**

**Item D-7      Request for Extension of Notice of Default, General Lease No. 4582, Mokauea Fishermen's Association, Lessees; Kalihi, Honolulu, Oahu, TMK: (1) 1-1-3:188.**

Mr. Atta describe where and what happened in regards to a notice of violation from Department of Health for discharge of sewage where the lessee is working with non-profits to remedy the situation which is on-going and the need for additional time to come to compliance.

Secretary of the Mokauea Fishermen's Association and a resident, Joan Bagoood read her association's written testimony and gave it to Chair Thielen asking the Board to allow them time to remedy the situation.

Per Member Pacheco's questions Mr. Atta spoke about the public controversy on this area early on where the State characterized these residents as squatters and many structures were torn down, but claims of the residents and Native Hawaiian community said they are entitled to be there. As a resolution, DLNR was allowed to issue this lease to the residents as an organization, the fishing association, to possibly resolve that situation and as a result we have this long term lease where the residents are trying to perpetuate the education and fishing lifestyle which is an unusual situation.

Member Pacheco asked whether these are full time residents which Ms. Bagoood confirmed.

Member Edlao asked whether the funding is to cure the problem within six months or get the funding and get started in the curing process. Barry Cheung said that some grants are being processed and there was a meeting with DOH and the Association hopes to complete everything within the six months.

Dwight Stringfellow, a DOH contractor and neighbor described the process and that the plans were doable for DOH. Member Gon asked whether the course of action he is proposing will be facilitated through DOH's permitting system which Mr. Stringfellow confirmed relating there are similar systems through the state where Chair Thielen cited examples. Mr. Stringfellow noted this association has a lot of support from the community by cleaning up the harbor where Member Johns noted Kai Makana and the charter schools have worked there.

Member Johns asked Mr. Atta about how staff plans to handle the problem person which Mr. Atta said staff will have the lessee take care of it. If needed, staff will assist the lessee maybe with DOCARE's help which would be a separate issue.

**Unanimously approved as submitted (Schuman, Edlao)**

**Item D-5 Set-Aside to the County of Hawaii for Public Roadway Purposes, Villages of Laiopua, Phase 1, Kealakehe, Keahuolu, North Kona, Hawaii, TMK: (3) 7-4-21: Road Lot Adjacent to 3 and 4; Construction Rights-of-Entry onto TMKs: (3) 7-4-21: Road Lot Adjacent to 3 and 4, 7-4-20:06, and 7-4-21:04; and Grant of Perpetual Slope Easements Affecting TMKs: (3) 7-4-20: 06, 07, and 7-4-21:04.**

Mr. Atta reported background and that it affects four different parcels – the county, Department of Education (DOE), and DHHL where the County of Hawaii is working with each agency.

Cary Kondo, a consultant from Belt Collins for Hawaii County, presented a map and described the project.

**Unanimously approved as submitted (Pacheco, Edlao)**

**Item D-9      Extension of Lease Term, General Lease No. 3854, Patrick and Nancy Maloney, Lessee, Waimanalo, Koolaupoko, Oahu, TMK: (1) 4-1-026:018.**

Mr. Atta reminded the Board that this lease came before the Board for non-compliance issues previously, but now the Lessee wants to put in improvements and will self fund it and not go through a bank and are requesting a 10 year extension to the lease.

There was some discussion about previous violations which is not an issue with the AG's office.

Patrick Maloney was here to answer any questions.

**Unanimously approved as submitted (Schuman, Agor)**

**Item D-8      Consent to Assign General Lease No. S-3856, (1) Hemaloto Alatini and Leona Alatini, Assignor; Hemaloto Alatini, Assignee; (2) Hemaloto Alatini, Assignor, to Aisea Vulangi, Assignee, Waimanalo, Koolaupoko, Oahu, TMK: (1) 4-1-024:023.**

Mr. Atta reported subsequent to the issuance of the lease the Alatinis' divorced and Leona Alatini filed for bankruptcy protection. This is to allow transfer of the interest from the ex-wife to the ex-husband and for the ex-husband to transfer it to someone else.

Member Johns asked referring to the back-to-back assignments is there consideration in either of them. Mr. Atta said there is no consideration in the first one because it was abandonment and the second involves an agriculture lease and not a commercial lease where there is no premium.

John Carroll is the attorney representing Mr. Alatini and Mr. Vulangi reiterating Mr. Atta's report and thought there was no impediment to this transfer and that Mr. Vulangi is the farm manager here to answer questions about the operation.

Member Johns asked whether there was a final order of abandonment beyond the notice which Mr. Carroll confirmed. Mr. Carroll noted that Mr. Vulangi needs the transfer to develop the farm more and would like to move it along.

Ms. Earle, representing Nilasoni Alatini, said she is not a professional, but was here because of the Alatinis and how the land was originally gotten, that there is a possible issue with the transfer because of a possible debt. And, they are currently looking for an

attorney through the Volunteer Legal Service of Hawai'i where Ms. Earle presented a letter to the Chairperson.

Chair Thielen asked what is it Ms. Earle and Mr. Nilasoni Alatini is seeking where Ms. Earle explained that there was a cloud over how the sale was first done to Mr. Hemaloto Alatini and the sale of the 400,000 (\$?) of the land to Mr. Vulangi is also a consideration. There could be some interest in money that is owed also to John Carroll and it may be helpful to do with something with the land which is what Ms. Earle was told.

Member Johns asked there was somebody else who was entitled to the interest when the married couple got the lease which Ms. Earle confirmed. Member Johns asked when that was and Mr. Atta said staff member, Barry Cheung said maybe 1980s or 1990s, but is going to check.

Chair Thielen said while Mr. Cheung is checking information on prior assignments and to speak with the parties the Board will move on to another item and then come back to this item.

Mr. Carroll said, after clarification from Member Johns on the issue Ms. Earle brought up, this should have been brought up long ago because they had ample time to do it.

Chair Thielen asked the parties to this issue to meet outside with Mr. Cheung and then come back to the Board.

**Item C-1 Forest Reserve Enforcement Regarding Unauthorized Logging of 32 Koa Trees from the Humuula Section of Hilo Forest Reserve, North Hilo District, Hawaii, TMK (3) 3-7-001:008.**

Member Johns recused himself.

Division of Forestry and Wildlife (DOFAW) Program Manager, Michael Constantinides informed the Board that in 2007 staff discovered that some logging had crossed the boundary line over into the State forest reserve on conservation lands with a resource sub-zone. Subsequently, staff requested assistance from DOCARE who investigated. He pointed out the boundary lines on Exhibit A describing a gulch and a fence that didn't follow the gully and instead continued cutting into State lands. The logging occurred on the Parker Land Trust and it was the assumption of all parties that the logger felt the fence described the boundary and logged up to that point. Staff surveyed, made an estimate of the number of trees removed, and after consultation with Mr. Warner the Division worked up a set of proposed litigation for this incident because all parties felt this was an unattended accident. Those litigation items were a combination of cash payment for damages, in kind services in lieu of a fine or value of a fine, as well as re-forestation activities for the koa forest. Mr. Warner has been very cooperative and supportive.

There was some discussion whether or not the habitat restoration is tied in with the dollar fine which staff did not quantify with a dollar value and that Mr. Warner is to do a Habitat Restoration Plan. Chair Thielen referred to statutory changes that went through the legislature a year ago that there is a component in there for damages in land areas that there are fines, but there is also a restoration component added in giving the example of people disturbing dune ecosystems and having to build it back up to restore them the way it was.

Member Edlao asked why Parker Ranch is not mentioned in the fine where Mr. Constantinides said that staff was advised by the Office of Attorney General that this administrative recourse staff seeks must be limited between the Department and the party that conducted the operation on the ground. And, that any potential recourse involving Parker Ranch would have to be left between the logger and the land owner. Member Pacheco said but Parker Ranch built the fence over forest reserve without a permit and possibly grazed the land there for 80 years.

Chair Thielen said that staff is asking for three things: 1. To recover the value of the koa that was sold. 2. Put the fence back to where it should be. 3. And, restore the area to how it had been before it was harvested. Who is the appropriate party responsible for #2? Mr. Constantinides said Parker Ranch, but the fence work described in the submittal is not necessarily the fence for that immediate boundary area it's in the vicinity, but may include that. Placement of a fence is implemented when there is a pasture type operation, but he doesn't think staff nor Parker Ranch saw the need for a fence in this location. The fence there is broken down and will remain. Per Member Edlao's question whether or not it is an encroachment Mr. Constantinides believes it is. Member Gon said that is not the issue before the Board now.

Chair Thielen asked if staff is saying in kind for the fines or addition to the fines where Mr. Constantinides replied in kind for the fines and asked not less than \$26,000. There was some reference to meetings with Parker Ranch as noted on page 3. Mr. Constantinides noted that staff is asking for the value of the koa harvested and sold, but it's quite important that there be a disincentive associated with this type of activity therefore staff has the fine and forest restoration.

James Warner of Awapuhi Farms and Mill agreed to the recommendation and conditions as questioned by Member Gon. Mr. Warner said he has communication with Parker Ranch on a daily or bi-weekly basis and that his company is still logging in the area explaining what the gulch terrain is like to find the boundary and the most logical place to build the fence compared to a hundred years ago and the use of GPS today. Mr. Warner said if he knew he might be a hundred feet from the boundary he would go two hundred feet away and he wants to do what is right for the State and is already doing some restoration which he described hoping the money generated will go back to forestry. Also, he mentioned going to this property for many years and wants to take care of it. Chair Thielen noted Recommendation #2 delegating authority to the Division's Branch Manager which is not typical and recommended continuing delegating authority to the Chairperson.

Member Pacheco moved to approve staff's recommendation with an amendment to Recommendation #2 that the Board delegate authority to the Chairperson in lieu of the Division's Hawaii Branch Manager. Member Gon seconded it.

**Unanimously approved as amended (Pacheco, Gon)**

**The Board approved staff's submittal amending Recommendation #2 by deleting [Division's Hawaii Branch Manager] and add to Chairperson**

**Item D-8 Consent to Assign General Lease No. S-3856, (1) Hemaloto Alatini and Leona Alatini, Assignor; Hemaloto Alatini, Assignee; (2) Hemaloto Alatini, Assignor, to Aisea Vulangi, Assignee, Waimanalo, Koolaupoko, Oahu, TMK: (1) 4-1-024:023.**

Mr. Atta reported back after the discussions with the parties there appears to be legitimate law enforcement activity occurring in this case that could warrant the Department's caution in consenting to this assignment at this time. It is Mr. Atta's understanding that there are allegations of fraud in the acquisition of the interest and we are not here to act on any of those allegations he had a concern with the Board facilitating this assignment if in fact there is some proof there is inappropriate activity involved here. What is requested by the intervening parties is some additional time to substantiate the allegations that they are raising because they have specific filed police reports which staff and the Board doesn't have before us today and staff can't evaluate or comment on the substance and possible Federal investigations involved which Mr. Atta cautioned the Board on proceeding. Mr. Atta suggested 90 days for the parties to meet with their attorney. Member Gon said it would be more appropriate to defer this item than to set a time where Mr. Atta agreed.

Member Johns asked why a criminal investigation has any affect on the Land Board's decision. Mr. Atta said we can check with the Deputy Attorney General, but his only concern in regards to the Board consenting to the assignment is in the future that this assignment is an on-going criminal act that the Board could somehow be named as facilitating a fraudulent transfer. There was some discussion what the time limit was for fraud. Mr. Atta asked whether they have that concern with the statute of limitations if not the Board could proceed, but he wanted the Board to be fully informed.

Mr. Carroll said that if these claims has any legitimacy it should have been resolved long ago because he and his client has been before the Board two or three times already and there are criminal allegations flowing both ways between these relatives where they were barred from the property last year February when they had council at that time who brought up these same issues then. Mr. Vulangi has been working on this property for over a year and for the relatives to come in with these allegations is not timely and violates any of the statutes even with respect to fraud or statute of limitations and either respect to fraud and contract. This is a way for the relatives to delay and harass. These relatives had council at one time and should be the one here to file papers. In addition to

the money Mr. Vulangi paid Mr. Alatini Mr. Vulangi put in a lot of time correcting problems to comply with Federal requests regarding erosion.

Member Johns asked Mr. Atta whether staff inspected this property prior to bringing it to the Board where Mr. Atta said it depends how you would perceive the on-going activity which began in 2000. Member Johns asked whether it is a violation of the lease which it is not per Mr. Atta who said it is the fraud that is claimed reiterating the statute.

Member Johns asked how it affects this assignment whether transferring from the wife to the husband then to a third party has allegations that are fraudulent. Mr. Cheung related that the 2000 assignment done by the couple had bought the lease from a foreclosure proceeding. Member Johns said that the 2000 assignment was to Mr. and Mrs. Alatini and when they first consented to signing the documents that there was suppose to be a third party on it. Mr. Atta said that the allegation is the funding came from a different person and that Mr. Hemoloto Alatani was to act as a property manager which doesn't affect the current assignment. Member Edlao noted that is between the financier and has nothing to do with the Board. Mr. Atta said that staff has a problem with the assignment if there is anything they should have to act on of allegations of fraud to this current assignment. Member Johns said that the other party is concerned that if the asset gets away from Mr. Hemoloto Alatini then there won't be any asset where Mr. Atta said that the concern is alienation to get payment, but it has been 9 years as noted by Member Johns.

There was some discussion about the wife's bankruptcy.

Mr. Carroll noted on the issue of the notice that no one asked for a hearing or entry of the order had been ignored that gave his operation abandonment where Mrs. Alatini submitted her affidavit indicating she relinquished presenting her affidavit to the Board. Chair Thielen noted that Mr. Carroll has something signed on January 24, 2009 the deadline to file a request is February 3, 2009. You are telling the Board in the absence of anybody filing a request this needs to come to order. Staff and the Board don't have anything that shows that anybody filed a request from February 3, 2009.

Chair Thielen said that she thought it not fair with those who brought claims, but Mr. Carroll said that this is not the proper place for those claims and should go to circuit court which Chair Thielen agreed but this Board is on notice of some concerns.

There some discussion whether or not there was a notice of bankruptcy which staff does not and Mr. Carroll said he would get what he could from the court to Mr. Cheung.

Chair Thielen summarized that the Board is entertaining the possibility of deferring this matter to get further information about the abandonment of the property and final order, but if there are other claims about the property of a prior transfer whether it was fraudulent those need to be made at another forum that this is not the body to decide that and the Board votes to come back to be certain to make a decision on the request.

Ms. Earle said that they never had an attorney and that this is the first time and she is helping to right a wrong, but Member Johns cautioned that it maybe too late and that she needs to get an attorney and she will where Chair Thielen reiterated those claims need to go to different forum and not through this body.

Member Johns moved to defer to the next BLNR meeting and Member Schuman seconded it.

Chair Thielen summarized that the Board moved to defer making a decision on this matter until the next meeting on May 8<sup>th</sup> and that Ms. Earle should find her council to advise them on the allegations at another venue.

**Deferred (Johns, Schuman)**

**The Board deferred to next BLNR meeting on May 8, 2009.**

**Item F-11 Request for Approval of a Special Activity Permit 2009-79 for Gary Ostrander of The Manoa Innovation Center and Designated Assistants**

Mr. Polhemus described permit background.

Shaun Quesen representing Gary Ostrander said he approves the recommendation.

**Unanimously approved as submitted (Johns, Gon)**

**Item F-3 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit to Dr. Brian Bowen, University of Hawaii, Hawaii Institute of Marine Biology, for Access to State Waters to Conduct Reef Fish Genetic Survey Activities**

KAHEA had e-mailed written testimony.

Mr. Polhemus briefed the Board on the permit background.

Member Johns asked regarding KAHEA's written testimony whether some will be addressed or will they be raised over and over again where Mr. Polhemus said he did not receive KAHEA's comments which the Board provided a copy. Member Johns noted some concerns the Board sees on a regular recurring basis and at some point it was discussed by staff that they are refining the process, reporting process, permitting process has gotten better and better, but he wondered whether some of these could either push it dead - say look this has been dealt with as opposed to seeing them all the time. Mr. Polhemus said some of these are covered in the Monument Management Plan at this point they've negotiated and Paul signed off on. Basically, some are detailed in the Monument Research Plan which is on-going and staff will finish in August or September. Some of these are long term philosophical issues such as discharges where the Board has

certain authority out to three miles otherwise it's largely a Federal responsibility. It's a mix of explanations. Member Johns reiterated and asked is it a constant refinement of the process which it is, Mr. Polhemus said and Mr. Polhemus noted that the monument staff looked at how the annual reports linked to permits are best pursued and rolled out and the level of detail of those to the Board and others which Member Johns accepted. Member Gon said it seems that the annual report or periodic reporting that takes into account the summation of these piecemeal permits would be the best for the Board. The question bothered by KAHEA with regard to total take by a multiple permit where Mr. Polhemus agreed saying part of the research plan is also looking at how staff has assessed the plan.

Chair Thielen said also the comments KAHEA raised about the protocols and trip reports should be addressed in that pursuit. It's understood some things outside the three mile boundary the State wouldn't have authority over, but certainly we will agree to have some of those protocols and trip reports. Mr. Polhemus noted there is an interesting anomaly to the current rule that says these trip reports are confidential and he wasn't sure whether that aspect referred to HAR would agree with the UIPA. Chair Thielen said in addition to the rule if you are going to have permit conditions requiring certain things and call it something other than trip reports is in the rule that information would have to be provided and the protocol followed where Mr. Polhemus agreed.

Member Johns asked whether staff resolved the CDU issue which Mr. Polhemus said that staff had extensive consultation with OCCL where they have concluded for the activities for here and Federal waters.

Member Pacheco asked whether there are daily take logs which there are per Mr. Polhemus saying that that data base is set up. Member Pacheco wondered why KAHEA is bringing this to the Board for they seem to address this several times. Member Gon asked whether it is an issue of this being a requirement versus a voluntary matter. Member Johns said sometimes it is a requirement in a different place than what the specific permit the Board is acting on. Mr. Polhemus said that staff wants a very clear accounting than what is selected and where it's at and whether say a coral specimen is selected, analyzed once and can't be used for subsequent research project – how do you track that, how do we know where it is, how do we research it again. The data base system created will track that specimen.

Dr. Brian Bowen was here to answer questions.

**Unanimously approved as submitted (Pacheco, Johns)**

**Item F-5 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit to Dr. Robert Toonen, University of Hawaii, Hawaii Institute of Marine Biology, for Access to State Waters to Conduct Reef Invertebrates Genetic Survey Activities**

Mr. Polhemus reminded the Board that this was previously brought before them which is a proposal to collect several small samples of black coral and small tissue samples of other invertebrates.

Dr. Toonen was present for questions.

**Unanimously approved as submitted (Pacheco, Gon)**

**Item F-4 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit to Matthew Craig, University of Hawaii, Hawaii Institute of Marine Biology, for Access to State Waters to Conduct Reef Fish Life History Research Activities**

Mr. Polhemus reported on permit background involving aweoweo and uhu.

Member Johns asked why the research has to be done there. Mr. Polhemus said partly because life history is affected by fishing and this is a controlled area without any impact. Chair Thielen asked whether there is more a desire to research here rather than in other areas. Mr. Polhemus said he thinks it's because of the ecosystem and what the main islands used to look like and what they've become now.

Member Johns asked is the research tied to the management of the sanctuary because there has been the argument is it a living laboratory for people to study and compare or is it a sanctuary or if the research is guided towards its management of that resource as oppose to giving general information and using the fact that its an undisturbed laboratory and therefore can be used as a control. Mr. Polhemus said that the President's Proclamation made it clear that basic research will inform broader study is not included. Chair Thielen asked KAHEA commented that any research would be permitted or is there going to be structure around what type of research to be permitted in an area. Mr. Polhemus response was that is what the research plan is intended to do. Chair Thielen said to prioritize differently from what she and asked are you addressing the core issue where Mr. Polhemus acknowledged that and said that the question is what kind of research is allowed because some are not allowed at all. In those classes of research that should be allowed which should be conducted soonest because we need the answers versus those we could weigh more. Chair Thielen clarified her question are you addressing that first question in the research plan about are there any limits on the type of research that would be allotted which Mr. Polhemus confirmed.

Chair Thielen asked about the timetable which will be done this year per Mr. Polhemus.

Member Pacheco asked whether any permits have been denied. Mr. Polhemus said permits are weeded out all the time at the MMB level noting that one was dropped last Tuesday because the applicant couldn't resolve MMB's concerns. A lot never make it through the initial permit review. Member Johns said that the sooner that the Research

Plan is in place the better we will have criteria to measure beyond what we have set in policy guidelines.

**Unanimously approved as submitted (Pacheco, Johns)**

**Item F-6 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit to Stephen Karl, University of Hawaii, Hawaii Institute of Marine Biology, for Access to State Waters to Conduct Temperature Monitoring of Coral Reefs Research Activities**

Mr. Polhemus described background displaying photo of instrument and that Mr. Karl was here to answer questions.

**Unanimously approved as submitted (Pacheco, Johns)**

**Item F-7 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit to Dr. Ruth Gates, University of Hawaii, Hawaii Institute of Marine Biology, for Access to State Waters to Conduct Coral-Endosymbiont Research Activities**

Mr. Polhemus reported on background noting this is a renewal.

**Unanimously approved as submitted (Pacheco, Johns)**

**Item F-8 Request for Approval of Special Activity Permit 2009-86 for Dr. Great Aeby of The University of Hawaii at Manoa, Department of Natural Resources and Environmental Management, and Designated Assistants**

Mr. Polhemus informed the Board on the background.

Member Johns asked whether there are rules for the pending violation which Mr. Polhemus confirmed.

**Unanimously approved as amended (Pacheco, Johns)**

**Item B-1 Request Board Approval to Enter Into a Memorandum of Agreement between the Department of Land and Natural Resources, Division of Conservation and Resources Enforcement, and the Department of Justice, Drug Enforcement Administration**

Kevin Kong representing DOCARE requested Board approval to renew the MOA.

Member Johns asked whether the County Council backed off on DOCARE doing activities there. It was Mr. Kong's understanding the County backed off on the Department of Justice that had to do with the County's department.

**Unanimously approved as amended (Gon, Pacheco)**

**Item C-2 Conservation District Use Permit Approval for the East Alaka'i Protective Fence Project**

Member Gon recused himself.

Paul Conry, Administrator for DOFAW, briefed the Board and that this has gone to public hearing.

Member Agor asked about the traps where Mr. Conry explained that staff uses the protocol for animal control operations -- Fencing and use of non-lethal methods of driving animals out, but pigs are cunning and there is a need to trap them.

Member Johns asked why DOFAW is presenting this as oppose to OCCL. Mr. Conry said because it's a DOFAW project and they take the lead, but staff works closely with OCCL. Kevin described more in detail the trapping process and what happens to the pigs which staff leaves behind because it's too expensive to fly them out with a helicopter.

Member Agor asked whether hunting is allowed inside the fence and is there a limit where Mr. Conry said it is allowed based on the current hunting regulations which they will be updating in a couple months.

There was some discussion about inviting hunters and using permits. There is no plan to use off island hunters as asked by Member Johns.

Member Edlao suggested adding a condition to say coordinate with DOFAW and KISC to implement their alien species preventive protocols as listed on page 34 that way everyone is on the same page and knows what is going on.

Kalani Fronda representing Kamehameha Schools and one of the founders of the Kaua'i Watershed Alliance spoke saying that this is one of the first remedial projects they are working on and are excited to see it move along working with Nature Conservancy and DOFAW to put these BMPs together.

Mr. Conry said for condition #10 "Coordinate with DOFAW and Kaua'i Island Invasive Species Committee (KISC) to implement and share invasive species preventive protocols."

Allen Rietow, Field Rep. with Nature Conservancy and Chairperson for the KISC, said that his staff will see that condition is carried forth.

Member Agor moved to approve as amended and Member Edlao seconded it.

There was discussion after the motion and vote about the issue of waste and that the Kauai County Council will help in the future.

**The Board:**

**Approved staff's recommendation as amended by adding a condition #10 "To coordinate with DOFAW and Kaua'i Island Invasive Species Committee (KISC) to implement and share invasive species preventive protocols."**

**Unanimously approved as amended (Agor, Edlao)**

**Item F-9 Request for Approval of Special Activity Permit 2009-52 for Dr. Michael Blum of Tulane University, and Designated Assistants**

Mr. Polhemus gave background using nets for non-lethal take and that Michael Blum was present to answer questions.

**Unanimously approved as submitted (Gon, Johns)**

**Item F-1 Amend Prior Board Action of March 13, 2009, Item F-4, to Correct the Funding Amount (\$310,160) of a Request for Approval to Enter into a New Federally-Funded Project Agreement (\$269,860) between the Research Corporation of the University of Hawaii and the Department of Land Natural Resources for a Maui/Oahu Marine Resources Assessment Project for FY10 (7/1/09-6/30/10)**

Mr. Polhemus reported no changes.

**Unanimously approved as submitted (Johns, Pacheco)**

**Item F-10 Request for Approval of a Special Activity Permit 2009-71 for Mr. Carl Jellings and Designated Assistants**

**Item F-12 Request for Approval of Special Activity permit 2009-81 for Ms. Traci Erin Cox of The University of Hawaii at Manoa**

Mr. Polhemus described each agenda item and there are no changes.

**Unanimously approved as submitted (Johns, Gon)**

**Item D-2 Extension of Approval in Principle of Direct Lease to United States of America, Department of Agriculture for Research, Educational and Housing Facilities Purposes at Laupahoehoe, Hawaii, TMK: (3) 3-6-6:portion of 46.**

- Item D-4** Amend Prior Board Action of September 26, 2008 (Item D-4), Issuance of Revocable Permit to Volcano Island Honey Company, LLC, at Lalamilo, South Kohala, Hawaii, TMK: (3) 6-9-01: portion of 15.
- Item D-6** Amend Prior Board Action of December 9, 2005 (D-1), Set Aside to Department of Agriculture for Agriculture Purposes, Statewide.
- Item D-10** Amend Prior Board Action of March 14, 2008 (Agenda Item D-11), Conveyance of State Land to the Hawaii Housing Finance and Development Corporation (HHFDC), East Kapolei, Honouliuli, Ewa, Oahu, TMK: (1) 9-1-17: Portion 71. (ODLO) Gary

Mr. Atta reported no changes. No public testimony.

**Unanimously approved as submitted (Johns, Schuman)**

- Item E-1** Subject: Request to Approve an Amendment with the Department of the Navy for the Renewal of a License for Nonfederal Use of Real Property and for Acceptance of an Environmental Condition of Property at 'Aiea Bay State Recreation Area, 'Aiea, O'ahu

Representing State Parks, Dan Quinn referred to the orientation map and that there were no changes.

**Unanimously approved as submitted (Schuman, Johns)**

- Item L-1** Permission to Hire a Certified Arborist to Develop a Management Plan for Trees on the Island of Oahu Funded by DOFAW Operating Funds
- Item L-2** Approval to Execute Supplemental Contract No. 1 to the Agreement for Professional Services, Contract No. 45609, for Job No. 17-OW-L, Oahu Exploratory Wells, Oahu, Hawaii
- Item L-3** Permission to Hire a Civil Engineer to Develop Bid Documents and Provide Construction Services for Kawai Nui Marsh Baseyard, Island Of Oahu Funded by DOFAW Operating Funds
- Item L-4** Approval for Award of Construction Contract for Combined Projects: Job No. J00CH11A, Hulihe'e Palace, ADA Barrier Removal Project, Kona, Hawaii and Job No. J00CH87A, Kekaha Kai State Park, ADA Barrier Removal Project, Kona, Hawaii

**Item L-5 Approval for Award of Construction Contract for: Job No. J00C204A, Keanakolu Ranger Cabin and Bunkhouse, ADA Barrier Removal Project, Hilo, Hawaii**

**Item L-6 Appointment of East Kauai Soil and Water Conservation District Director**

No staff was present. The Board didn't have any questions and there was no one from the public.

**Unanimously approved as submitted (Pacheco, Johns)**

**Item M-1 Issuance of Master Lease FAA Agreements No. DTFAWP-09-L-00015 United States of America (USA) Federal Aviation Administration (FAA), Hilo International Airport**

**Item M-2 Amendment No. 1 to State Lease No. DOT-A-05-0007 Application for Additional Space Air Molokai, Inc. Honolulu International Airport**

**Item M-3 Issuance of a Direct Lease to Hang Gliding Maui LLC for a Hangar Facility at Hana Airport**

No DOT staff was present or anyone from the public to testify.

**Unanimously approved as submitted (Edlao, Johns)**

**Adjourned (Edlao, Johns)**

There being no further business, Chairperson Thielen adjourned the meeting at 11:25 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:



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Laura Thielen  
Chairperson  
Department of Land and Natural Resources