

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

DATE: FRIDAY, JANUARY 26, 2007  
TIME: 9:00 A.M.  
PLACE: KALANIMOKU BUILDING  
LAND BOARD CONFERENCE ROOM 132  
1151 PUNCHBOWL STREET  
HONOLULU, HI 96813

Chairperson Peter Young called the meeting of the Board of Land and Natural Resources to order at 9:05 a.m. The following were in attendance:

**MEMBERS**

Mr. Peter Young  
Mr. Ron Agor  
Mr. Samuel Gon III  
Mr. Robert Pacheco

Mr. Tim Johns  
Mr. Jerry Edlao  
Ms. Taryn Schuman

**STAFF**

Ms. Charlene Unoki, Land  
Mr. Dan Quinn, State Parks  
Mr. Dan Polhemus, DAR

Mr. Sam Lemmo, OCCL  
Mr. Paul Conry, DOFAW  
Mr. Tim Lee, HP

**OTHERS**

Dr. Jim Anthony, E-3 & 4  
Ms. Dawn Watson, E-3  
Ms. Martinez, E-3  
Ms. Stephanie Fried, F-1 & 2  
Mr. Craig Chapman, E-4  
Mr. Tony Talat, D-1

Ms. Ululani Beirne, E-3  
Ms. Grace George, E-3  
Ms. May Au, E-3  
Mr. Roy Vitousek, K-1 & 2  
Ms. Mari Berry, D-3

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

**Item A-1      Minutes of January 12, 2006**

Member Pacheco recused himself

**The Board:**

**“Item D-8 Approval in Principle of an Acquisition of Private Lands for State Park Reserve, Pupukea-Paumalu, Koolauloa, Oahu, Tax Map Keys:(1) 5-9-05:38 & 82 and (1) 5-9-06:01, 18 & portion 24; and After-the-Fact Approval to Apply for a Coastal and Estuarine Land Conservation Program Grant Administered by National Oceanic & Atmospheric Administration. (PROJECT DEVELOPMENT/Gavin)**

**Member Johns recused himself.**

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

**Item D-3 Set Aside to the County of Hawaii, Department of Water Supply for its Waiohinu Well Development project at Waiohinu, South Kona, Hawaii, TMK: (3) 9-5-03: portion of 19 (HDLO/Wesley)**

**~~[Member Johns recused himself.]~~**

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

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

**Item K-1 Request to Extend the Processing Period for an Additional 60-days for Conservation District Use Application HA-3250 for the Commercial Use of Hand Quarried Volcanic Ash Located at Pu’u Nene, Humu’ula, North Hilo, Island of Hawaii, (3) 3-8-001:001**

Mr. Sam Lemmo, Administrator for the Office of Conservation and Coastal Lands, reported that this is for 60 day extension on a CDUA for a quarry operation on the Big Island. The applicant is Jack Lockwood and Staff is recommending that the extension be approved to accommodate a contested case hearing.

Member Johns inquired whether 60 days was enough time. Mr. Lemmo responded that was the time period requested.

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

**Item K-2 After-The-Fact (ATF) Conservation District Use Application (CDUA) KA-3373 for Irons Single Family Residence (SFR) Located at Haena, Island of Kauai, (4) 5-9-002:040**

Mr. Lemmo reported that this is an after the fact CDUA for the Irons single family residence located in a limited sub zone in Haena on Kauai. He gave some background information in which there were some violations and the applicants were given 2 years to bring the property into compliance. They have paid the fine and have filed an application to reconsolidate the structures

into one structure. They have also done an environmental assessment which was approved, therefore, Staff is recommending that the proposed house be approved at this time.

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

**Item E-4 Request for Approval of Malaekahana Partners, LCC as the Selected Bidder to Develop, Operate, and Maintain Malaekahana State Recreation Area (MSRA), La'ie, O'ahu.**

Mr. Dan Quinn, Administrator for the Division of State Parks, gave some background information on Malaekahana. He reported that there are two sections of the park, one called Kalanai and the other called Kahuku. The Kalanai portion was built and is operated by the State as a standard camping and day use area. The other section, Kahuku, has been operated by a number of non-profit organizations since the State purchased the property over 20 years ago. The current operator is the only group to prepare a proposal when Staff sought private sector proposals to complete development and operate the park. The park has no master plan that reflects this current proposal nor does it have an EIS. Therefore, what would be required of the Malaekahana Partners is completing a master plan according to their proposal and going through the environmental impacts statement process. Mr. Quinn reported they have recently received information from the Department of Interior (who provided land and water conservation funds to help purchase this property) that they have some concerns with using private funds and private entities to improve and manage LWCF funded properties. They are currently reviewing this process as other national parks are attempting to do the same thing, however, if they come back and tell Staff that they cannot do this, then Staff will need to reconsider this whole course of action. Mr. Quinn reported that Staff had run into some problems. The first is that the proposer was supposed to pay for the appraisal of the property on which Staff would base the rent, however, they were not amendable, therefore, this is something that still needs to be done. In addition there are some items in the proposal, including clarification on the alternative energy system. Mr. Quinn wished to point out that the statement on the 3<sup>rd</sup> page, 1<sup>st</sup> paragraph, where it reads "Staff further notes that this request for approval is of the development concept and the actual details and implementation of the proposal will be negotiated when the lease is executed..." is not quite accurate. Staff neglected to say that the implementation of the proposal will be negotiated through a development agreement, prior to the lease execution.

Member Johns inquired if the authorization of the development agreement comes to the Board or is the Board is authorizing it today. Mr. Quinn responded he would like to have the authorization delegated to the Chair, but if the Board would like the development plan to come back before the Board, he would be glad to do so.

Mr. Quinn mentioned that there will be community input through the master plan and EIS process. This proposal has raised concerns on the part of the community; some are in favor and some are concerned. Mr. Quinn wished to follow up with the evaluation committee, which was originally involved in helping to evaluate the proposal, and create an ongoing committee to have community input and review of the actual operations of the park. The 2 sections of the park are actually covered by this proposal and members of the committee are split on having private management for an area that is currently managed by the State. The proposal for the Kalanai

section includes a security gate about half way into the park which allows the day use area to have unencumbered access to the park by the public and controlled access would begin from the camp ground entrance. The park has several cabins, but the proposal calls for replacing them since they are in poor condition and most of them should be demolished and/or replaced. The proposal is for camp grounds, camping, and some auxiliary uses. At this time, Staff wishes to proceed with this and get Board approval for Malaekahana Partners LLC as a selected bidder which will allow for further, detailed discussions on the development agreement.

Member Johns clarified that the lease will come back to the Board after the master plan and EIS process and the development agreement is completed.

Chairman Young suggested that Staff bring back the development agreement.

Member Johns wanted to clarify about how many bidders there were for the RFP process. Mr. Quinn responded that this was the only bid they had received.

Member Johns also inquired whether Mr. Quinn attended the Koolau Neighborhood Board Meeting or if he just received a report from them. Mr. Quinn responded they recently got a report from them, but he also attended several of the meetings. He mentioned that part of what the Neighborhood Board asked for was that Malaekahana Partners go back to the community and get additional community input. They did have some specific issues with the earlier proposal, but since then the proposal has been modified and most of the concerns have been addressed.

Chairman Young mentioned that the Neighborhood Board wants assurance that the final proposal conforms with the representations made. He inquired if the current proposal does so. Mr. Quinn responded that there were earlier proposals and he believes that they just wanted be certain that what was proposed to them was being received by the Board.

Dr. Jim Anthony testified that he is in favor of this proposal.

Chairman Young wanted to clarify that Mr. Quinn was amending the submittal as well as the recommendation to allow for the development plan to come back to Board.

Member Johns inquired if the development agreement would come to the Board after the EIS process or include the development agreement as part of the EIS. Mr. Quinn responded that the development agreement would be a part of the EIS. Member Johns also noted that the development plan should come back to the Board because then the appraised value will have been calculated and Staff will have a proposed rent, etc.

Mr. Craig Chapman, representative of Malaekahana Partners LLC, wished for some clarification on because if they are the select bidder now and when the master plan is completed and everyone has signed off on it, they then enter into the EIS and SMA process. However, if at that point the plan is reduced or modified to some extent, he needs to be informed on the correct procedure. Chairman Young responded that Mr. Chapman would need to work with Park's staff on the terms for the development agreement and that would define what the project would be. Member Johns further clarified that they work on the development agreement now and include it in the

EIS. When that is brought before the Board, and if they have any concerns brought up by the EIS, they would most likely have to modify the project and development agreement. This would again be brought back before the Board and all information up to this point will be placed in front of the Board when they are making their decision to approve or disapprove the lease.

Mr. Chapman also wished for some clarification on the appraisal process because they are going to be putting out substantial funds to do the appraisal, which they are more than willing to do after they become the bidder. However, going through the EIS process may bring about some changes which would ultimately change the appraisal if done at an early stage. Chairman Young clarifies that the appraisal would come after the decision on what is actually going to be developed. Mr. Quinn noted that the appraisal is supposed to be done now so that they can begin to frame what the project is going to look like. There are some issues with Malaekahana Partners trying to project out their income and Staff trying to figure out the length of the lease. They have the basic framework for the cabins, camping, and number of occupants, but in order to make this project viable, they need to determine the assigned value. Member Johns agreed with Mr. Quinn and mentions that they can always get an amendment to the appraisal later on.

#### **The Board:**

- 1. Approved Staff's recommendation and directed Staff to bring the development agreement back to the Board for approval.**
- 2. Amend Page 3, Paragraph 1**

**“...Staff further notes that this request for approval is of the development concept and the actual details and implementation of the proposal will be negotiated [~~when the lease is executed,~~] through a development agreement prior to lease execution and will be subject to community and agency input through the EIS process.**

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

#### **Item E-3 Issuance of Revocable Permit to Ms. Grace George for Agricultural Purposes, Ahupuaa O Kahana State Park, Oahu.**

Mr. Quinn, with the use of a map found at the end of the submittal, reported that the original revocable permit (RP) area was from the time prior to the State ownership of Kahana Valley. It was originally an RP for Sam George, but then other residential lots were carved out of that area and issued to other residents. Subsequently, Sam George had passed away and his widow, Grace George, still lives on the property. The configuration of the RP area has caused some issues because it wraps around the other residential lots, therefore, to alleviate some of the conflict, Staff is recommending to refigure the RP area for agriculture uses as shown in the exhibit. Instead of having it surround the adjacent house lots, Staff is recommending that the area run towards the valley. The original RP area was about 4.7 acres, but functionally only 3.5 acres. The new proposed area would be approximately 1.5 acres. Staff recommends allowing Grace George to continue agriculture use, but to reconfigure the area. There is also a request for the construction of a storage room and Staff has no problem with that proposal.

Member Schuman, in reference to the map, asked what B-4 was. Chairman Young responded that it was a former lot. Mr. Quinn added that it was a lot that was never issued because there was no lease issued for that lot.

Member Johns inquired about what happens to the former RP area. Mr. Quinn responded that at this moment nothing. The section around lot B-3 is not useful and the area that is the cause of conflict is on the mauka side of B-6. Member Johns also inquired if the Kahana Community Association still operational and if so, did they weigh in on this. Mr. Quinn responded that he did not bring this before them; he is only proposing a reconfiguration. The RP ran its course at the end of last year. It was previously managed by the Land Division, but they have asked State Parks to assume responsibility for the RPs.

Dr. Jim Anthony provided a visual of the proposed reconfiguration that Mr. Quinn described earlier. He read a statement on behalf of Grace George. Ms. George wrote that she does not agree with the makai end boundary of the new property line for the new RP, be set in 10 feet from the existing makai property line for lot B-6. To do this would add insult to injury and compound the taking of trees and plants she cultivated on the original RP area. Dr. Anthony testified that the issue is that even though there is a surveyed boundary for lot B-6, the proposal requests that RP line be moved another 10 feet towards B-5 (Ms. George's property). He and Ms. George believe this to be unnecessary and is not a resolution to the problems they have faced. He reports that there is vegetation that Grace had planted over a 20 year period inside the old boundary (lining B-6). Dr. Anthony reported that some months ago, the neighbor who occupies B-6, beheaded approximately 40 palm trees they had planted. In a previous discussion with Mr. Quinn, Dr. Anthony had told him that the way for them to solve this problem was for State Parks allows them to build a fence along the property line on their side. They wish to leave the original surveyed boundary for B-6 in place, and he and Ms. George will put up a fence 6 inches in from the existing boundary. With respect to the other provisions, this is the only amendment to the Staff submittal they would request the Board to make. Dr. Anthony wished to emphasize that a lot of work was put into the area by Ms. George upon receiving the area after her late husband passed away. He reported that they had just finished building a house that was appraised at \$324,000. He also inquired whether the rent for a revocable permit could be changed or if it was set at \$40. If the \$40 is final then that is fine, but he wished to appeal to the Board to see if anything could be done because Ms. George used to pay only \$27 a month for a RP area that was much larger than the one being proposed.

Chairman Young wished to clarify on which side of the boundary the proposed fence would be. Dr. Anthony responded that it would be on their side of the property line. He also inquired if the palms that were topped would stay inside the fence on Ms. George's side. Dr. Anthony concurred with the Chairman. Member Pacheco questioned if currently the palms were directly on the property line or inside of it. Dr. Anthony responded that they are inside of the property line, but if after the fence is built, there is anything intruding on the other side they will either leave it there or cut it down.

Chairman Young, in response to Dr. Anthony's inquiry about the set rent, stated that the Board had adopted a policy through the Land Division about the minimum rent being \$40.

Member Pacheco asked for clarification from Mr. Quinn on the acreage size of the original RP area. Mr. Quinn responded that the functional area appeared to be only 3.5 acres, but the map is not a surveyed drawing, rather it was based on old kuliaana type uses of the land. Member Pacheco also wished Mr. Quinn to elaborate on the other problems with the neighbors, besides the topping of the palms. Mr. Quinn responded that he would not want to delve into it because he does not have first hand knowledge about what has been going on there. Dr. Anthony responded that this is the first and only incident that has occurred. Before, they were very neighborly except for when Grace's late husband was still alive; he was abused when protesting against incursions on his side of the RP.

Ms. Ululani Beirne, a resident of Kahana and a member of the Community Association, testified that Grace George and her family have worked very hard to keep their property nice. She is testifying because every single lessee, when they agreed to build their home in Kahana, understood that they would only receive 10,000 square feet and 1,000 of that would be gardens. On top of this, many of them who originally had RPs also had agricultural uses of the property. When Sam George was first living there and raising his original family, he had over 20 acres of agriculture land. She believes that what is good for one, in regards to an agriculture lease, should be good for the others in the community that would like to have an agriculture lease. Therefore, if Grace is considered to be given an extension on an agricultural lease to go further than the 10,000 square foot boundary, then the Board needs to look favorably on the rest of the residents. She also mentions that B-6 is leased to her sister and believes that building a fence might be premature at this time. When it came time to choose a lot in Kahana, her sister didn't realize that the agriculture permit encircled her whole house. While Grace's house may be appraised a \$324,000, the Martinez home is just as valuable. The reason why the palms were topped and are the genesis of this problem is because the roots were growing under the foundation of the Martinez home. The Martinez family felt that they needed to get rid of the tree because it would break the foundation of the house. She doesn't believe the house should be fenced up because everyone should learn to get along in Kahana.

Chairman Young clarified that this was not an agricultural lease, but a revocable permit.

Ms. Kapua Kaluhilei'ula'okala read from her written testimony. She also testified in favor of granting Ms. George the revocable permit.

Ms. Dawn Watson testified that Sam George, when he realized he didn't have much time left, wanted to make sure his wife, Grace, was taken care of. She remembers him talking about this extra acreage he had and having to come and give presentations to the Board to make sure that this land would be available to his wife. She gives testimony in honor of Sam, who wanted to make sure that his wishes and commitment to his wife and family would follow into the future. She asks that the Board to grant Ms. George the revocable permit.

Ms. Beirne noted that her sister Martinez and Ms. May Au were on their way to meeting; both who reside on the neighboring properties. She asked that perhaps the Board could table this matter at this time so that the Board can hear both of their testimonies.

Dr. Anthony clarified that Grace George and her former husband had this piece of land as an RP for over 20 years, and they do not plan on building a rock wall. All they want to do is put up a simple chain link fence.

Chairman Young suggested that this matter be deferred until the neighbors arrived.

Mr. Quinn and Dr. Anthony agreed to the deferral.

**Item E-1      Permission to Enter into a Revocable Permit with S.M.C.A., Inc. for the Food and Rental of Swimming Equipment at Hapuna Beach State Recreation Area, Island of Hawaii.**

**Item E-2      Request from Hulakai to use a Portion of the Kekaha Kai State Park – Kaulana-Mahai'ula Section to Hold the Second Annual Hulakai Longbord Surf Classic.**

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

**Item D-3      (1) Sale of Reclaimed (Filled) Land to James Stanley Berry and Mari Ito Berry; and (2) Amend Prior Board Action of August 24, 2001, under Agenda Item D-25, Grant of Term, Non-Exclusive Easement for Seawall and Fill Encroachment; Issuance of Lease for Private, Residential, Non-Commercial Pier to James Stanley Berry and Mari Ito Berry, Kaneohe, Koolaupoko, Oahu; TMK (1) 4-7-30: seaward. (ODLO/Al)**

Ms. Charlene Unoki, Administrative Assistant for the Land Division, reported that Mr. and Mrs. Berry would like to purchase the reclaimed land. She noted that the Board may sell reclaimed land to the abutting owner if the land was filled as of June 12, 1962; this qualifies. Staff would like the Board's permission to sell this reclaimed land (approx. 668 square feet) to the Berry's.

Ms. Mari Berry reported that they had a survey done last year as well as an appraisal to complete this transaction. They since learned that their neighbor had a quit claim deed so in order to expedite this process and not have to go through a costly and lengthy process, they would like to purchase this for the same amount as the lease.

Ms. Unoki responded that they cannot do this pursuant to the law. They have to have an appraisal done of fair market. However, because this land was filled in prior to 1962, it is supposed to be looked at as submerged land, about 50% of the cost would be knocked off.

Ms. Berry inquired if the appraisal for last year counted. Ms. Unoki responded that the appraisal done last year was for the easement. Ms. Berry inquired that since the appraisal was done last year and they have their neighbor records, why they can't just use that data. Ms. Unoki responded that whoever Staff hires is going to look at all this information and they have to have a separate appraisal for this transaction.

Chairman Young clarified that the appraisal last year was for an easement, this appraisal would be for an unencumbered, fee simple, submerged land which is a completely different type of an appraisal.

Member Johns also noted that while they cannot rely on the neighbor's records alone, the appraiser will take it into account.

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

**Item D-1 Amend Prior Board Action of June 24, 2005, under Agenda Item D-8, for Sale of Remnant to Prospect Estates AOA and Sea View AOA, and Cancellation of General Lease No. S-3915 to Sea View AOA, Kewalo, Honolulu, Oahu, TMK: 2-2-04:65. (ODLO/AI)**

The applicant agreed with the recommendation.

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

**Item C-1 Request for Approval to Enter into Contract with Malama Kahalawai, Inc. to Implement the FY07 Watershed Management Grant Program.**

**Item C-2 Approval of a Permit to the U.S. Forest Service to use State Land at Laupahoehoe, Hamakua, Hawaii and Pu'u Wa'awa'a, Kona, Hawaii as per the Cooperative Agreement for the Hawaii Experimental Tropical Forest.**

**Item C-3 Annual Update on Chevron Hawaii Refinery Safe Harbor Agreement.**

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

**Item I-1 Request for Approval to Enter into a Contract with University of Hawaii-Office of Research Services to Develop an Architectural Submittal Form, Update the Hawaii and National Registers of Historic Places Webpage, and to Review Projects Submitted to the State Historic Preservation Division for Review.**

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

**Item M-1 Issuance of a Sixth Non-Exclusive Rent-A-Car Concession Honolulu International Airport.**

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

Member Johns excused himself

**Item L-1 Approval to Enter into a Memorandum of Understanding Between the Department of Land and Natural Resources (DLNR) and the Department of**

**Business, Economic Development and Tourism (DBEDT) Regarding Development of a Geothermal Resource Information System.**

**Item L-2      Permission to Hire Land Surveyor for Boundary Survey and Staking at Manuka Natural Area Reserve, Island of Hawaii, DOFAW Natural Area Reserves Special Fund.**

**Item L-3      Appointment of Hamakua Soil and Water Conservation District Director.**

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

**Item D-2      Consent to Renewal of Revocable Permit No. 10 for Lands under Governor's Executive Order No. 1598 to Elizabeth Martinez dba Olomana Gardens, Waimanalo, Koolaupoko, Oahu, TMK: (1) 4-1-10:Portion of 69. (ODLO/Steve)**

**Item D-4      Extension of Approval in Principle of Direct Lease to Coalition for Specialized Housing for Low-Income Rental Housing Purposes, Waimano, Oahu, TMK: (1) 9-7-10:35 (ADMINISTRATION/Charlene)**

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

**Item F-1      Request for Authorization to Issue Two North Western Hawaiian Islands State Marine Refuge Special Activity Permits to Applicant Mr. Donald Palawski of the U.S. Fish and Wildlife Service, for Certain Management Activities Within State Waters, and to the Operator of a Vessel to be Chartered by Applicant for Related Support Activities, Both Valid From February 1, 2007 to December 31, 2007.**

Mr. Dan Polhemus, Administrator for the Division of Aquatic Resources, reported that this is the same submittal that was brought before the Board at the last meeting. The only change is a modification to the title in order to accommodate the sunshine law.

Member Edlao was concerned with the snorkeling aspect of the application. He inquired how often this activity was going to be done. Mr. Don Palawski, applicant and NWHI refuge manager for Fish & Wildlife, responded that this is referenced to staff that they have at Tern and Laysan Island. It is more of a moral and health issue that they go out and take a swim because they are sometimes there for 6 months and it gives them an opportunity to put their face in the water. It is not as if there is going to be an extensive amount of snorkeling.

Member Edlao had another question in reference to page 4 of the submittal because it uses the word "visitor". To him it has the connotation of a tourist. Mr. Palawski responded that the refuge is closed to the public and "visitors" in this case are sometimes visiting researchers or others who are permitted to be there and they are supervised by the Fish and Wildlife staff. The Board agreed on the use of "authorized personnel" instead.

Stephanie Fried, representing Environmental Defense, testified that they had compared this year's permit to last year's, and last year's permit stated that swimming would be allowed if a person was there for more than 7 days. She inquired why this year it has been changed to 2 or more days. Mr. Palawski reported that this probably pertains more to Laysan Island when they do a change of the crew and they have people there for a short period of time. It is almost impossible to not get in the water when getting out of the boat to get to the shoreline. He emphasized that this limited to only for people authorized to be on the trip to begin with and it is usually a very small number of people.

Member Edlao also commented that in the application, Mr. Palawski mentioned the possibility of bringing young native Hawaiians on some of these cruises. Member Edlao encourages Mr. Palawski to strongly consider doing so. Mr. Palawski agreed and mentioned that they would be signed up as volunteers.

**The Board:**

**Amend Page 4, Review Process:**

**“DAR reviewers also agree with Applicant’s request to allow swimming and snorkeling activities for authorized personnel [~~and visitors~~] to the NWHI.”**

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

**Item F-2 Request for Authorization to Issue one Northwestern Hawaiian Islands State Marine Refuge Special Activity Permit to Applicant Ms. Aulani Wilhelm of the National Oceanic and Atmospheric Administration, Northwestern Hawaiian Islands Marine National Monument, for Certain Management Activities Within State Waters, Valid From February 1, 2007 to December 31, 2007.**

Mr. Polhems reported that he had no amendments to the submittal, but it has been modified as per the Board's instructions. The applicant has resubmitted the application and removed references to archeological research and native Hawaiian cultural activities.

Ms. Malia Chow, is the Policy Analyst for the NWHI Marine National Monument from NOAA and is here on behalf of Aulani Wilhelm. She reminded the Board that NOAA does not act in isolation for management activities, consistent with the MOA that was signed back in December. They coordinate all of their management activities with DLNR through DAR and Fish and Wildlife Service. There is a Monument Management Board which meets several times a month, who is in close coordination with all of the activities that they do.

Member Gon inquired that in a conceptual, emergency situation, what the procedure would be. Ms. Chow responded that there is an emergency response tree that has been developed based on what type of emergency it is and who's office it would fall under. Usually phone calls come to the State if the emergency is within the refuge and then they would contact Aulani or Fish & Wildlife depending on the jurisdiction. She would say that within 24 hours, all responsible

parties have been notified and are coordinated. Member Gon inquired if the notification process would occur as conference call. Mr. Polhemus responded that they would convene an emergency meeting of the Monument management and it could be a face to face meeting or by a teleconference. Their main goal would be to expedite as quickly as possible and get concurrence among all parties.

Member Edlao inquired about a long term plan. Mr. Polhemus noted that a Monument management plan is currently being developed, but had not yet been finalized and is the subject of continuing negotiations between ourselves, the Department of Interior, the Department of Commerce, and the White House CEQ. They are currently in discussion about when this plan is going to be finalized; the dates range from December 15, 2007 to potentially March 2008. The reason for a long time line has to do with the decision to incorporate the Monument's comprehensive conservation plan into the Monument plan, as well as the NEPA compliance (the EIS). Member Gon inquired about an existing plan that was being developed during the creation of the monument and he asked if it would serve as a foundation in preparation for this upcoming plan. Mr. Polhemus responded that he is referring to the Sanctuary plan. Mr. Edlao inquired if upon finalization, this plan would be available to the Board. Both Mr. Polhemus and Ms. Chow concurred. Ms. Chow also mentioned that it would be available for public comment.

Ms. Stephanie Fried, representing Environmental Defense, testified that they have a number of strong concerns. Their first concern is along the line of Mr. Edlao's question; what are they planning to do up there? They support the Board granting NOAA a permit for emergencies and time sensitive non-emergency needs, but for the time sensitive activities, they would need to show why they couldn't bring it before the Board. They do not support the license to kill because it allows them to kill, injure, degrade, remove, etc. which are all serious and potentially damaging activities especially without a specific description of the plans. She believes that for some of the things that the applicant is asking for on the permit should fall under a science permit. She believes that the permit NOAA is applying for is for non-extractive purposes undertaken to further the knowledge of resources, provide for resource enhancement, or benefit research management. The application says that the applicant has already received a permit from the Monument, but that permit is appended to the State's application. The State requires that all other permits be attached to the application and she believes that it is important for the Board to be able to see that information. She emphasized that State rules are different than the Federal rules. She mentioned that the Board had instituted a number of permit requirements and by the end of last season they were quite robust and she would refer to them as "best practices", but it seems that they are starting all over again. She submitted to the Board, and excerpt from the last permit granted in October of last year and her recommendation would be to apply those conditions to this permit as well as future permits.

Chairman Young inquired if those conditions were for a management permit or a research permit. Ms. Fried responded that they were for a research permit, but they were general permit conditions. Chairman Young emphasized that this is for a management permit, not a research permit.

Chairman Young inquired if she expected that NOAA apply for a permit every time they want to do an activity. Ms. Fried responded that they do not, but they need to describe what they are

going to in their permit. She believes that the applicant has asked for many, potentially damaging activities and they need to be more specific and include a description of their projects. This particular permit does not do so. This permit also does not put a limit to the number of people who can be authorized to go to the North Western Hawaiian Islands. She reiterated that she would like the Board only to issue this permit for emergencies and time sensitive activities and then have NOAA come to them later with a much clearer explanation of their other activities. If there are certain projects that NOAA is going to pursue throughout this year they should be able to present an activities proposal to the Board because they most likely have already written their grants. She would ask that for each cruise, a signature page be required, where everyone signed and dated it before they left and had full knowledge of the rules. She stressed that on the State permit, it says that incomplete applications shall not be processed. This application requires copies of any existing permits and again Ms. Fried reiterates that the applicant has a Monument permit that was not attached. Also, as a part of her written testimony, she included some changes to the language.

Ms. Chow responded to some of the comments that Ms. Fried had made. She states that Ms. Fried had made some assumptions that were incorrect. If NOAA was going to conduct any research, education, or monitoring activities, they do plan to submit another application and she believes that this is clearly stated in this application. Bin Li, from the Division of Aquatic Resources, reported that this particular condition was inserted into No. 5 of the application so that they would know that any other activity not listed has to be reported to the Department and then they can decide whether another permit is needed or an amendment can be made to the current permit.

Chairman Young inquired if Ms. Chow would have a problem with changing No. 5 on page 7 to say that approval for activities should be by the Board alone. Mr. Polhemus pointed out that there are several minor activities listed under 5 that would then have to come before the Board. Stephanie stated that 5 would require prior Board approval and discard the reference to DAR, and then add No. 6 from her suggestions that allows for time-sensitive activities.

Ms. Chow mentioned she has a concern and wished to clarify that they are not restricted to the activities Ms. Fried had listed. Chairman Young pointed out that it say "including" not "only". Ms. Chow also wished to remind the Board that it is NOAA's full intent to keep the Board informed as much as possible, therefore she agrees with the addition of No. 6 to the permit as well as concurs with the amendment to No. 5. Ms. Fried would also like to include her No. 9 in the recommendations which states that all personnel, before departure, sign the permit indicating they understood all the rules and regulations. In her track changes in No. 1, Ms. Fried is suggesting implementing the general conditions that were established the season prior.

Mr. Polhemus mentioned that this permit process will no longer be in effect soon since they are moving towards a joint permit. The new application instructions are already up on the web and the general conditions of that permit are currently in its stages of being finalized.

Chairman Young inquired if the Department has any standard, general conditions now. Mr. Polhemus responded that those were negotiated last year, permit by permit and continued to be an evolution as the year continued. Chairman Young inquired if those would be applicable to

this permit. Mr. Polhemus responded that he wouldn't know because he did not have those in front of him. He did mention that any dumping in the monument is illegal and a federal violation. Chairman Young asked that if a waste log was a requirement, wouldn't it mean that if someone did any type of waste dumping, that they would not only be breaking Federal Law, but also the conditions of the State permit and then there would be consequences for both? Mr. Polhemus concurred.

Chairman Young suggested that they defer this item for now and during that time Staff and Ms. Chow can review the general permit conditions that Ms. Fried was refereeing to. Mr. Polhemus agreed.

**Item E-3      Issuance of Revocable Permit to Ms. Grace George for Agricultural Purposes, Ahupuaa O Kahana State Park, Oahu.**

Ms. May Au is the lessee to the right (lot B-3) of Ms. George's property, is the vice president of the Community Association and a Kapuna on the Kapuna Council of Kahana. She supports the revocable permit and the proposed area, but she would like there to be a 20 foot setback on her side.

Chairman Young inquired if there were significant plantings in the area right next to Ms. Au's house. She disagreed. Mr. Anthony responded that there is; lining the boundary line are ti leaf plants and coconut trees.

Chairman Young inquired how wide the lots were. Mr. Quinn responded Ms. Au's is 75 feet, but the others are 80.

Pua Martinez testified in support for Ms. George's revocable permit. She is also asking for another 10 feet to setback (total would be a 20 foot set back). Pua's daughter responded that the reason for the additional 10 feet is because there have always been concerns that things are being planted right on the boundary lines which leads to encroachment on her mom's property. They have also been told by their general contractor that the roots will damage the concrete slab foundation. She too supports Staff's proposal for the new RP area.

Chairman Young pointed out that the problem doesn't seem to be the new RP area, rather it seems to be how far away it is from the other properties. He inquires if there is a way to work this out and if they move the RP boundary line more in, can the RP area be moved further back as well as allow them time to transplant some of their plantings.

Dr. Anthony responded to the comments made by Ms. Au and Ms. Martinez. Ms. Au's property has always had a row of ti leafs marking the property line and there is no problem with roots growing under her foundation. Rather she has been using a portion of the old RP area to grow plants. Under the new configuration Dr. Anthony suggests that she can apply for her own RP. There is no reason or evidence supplied as to why Ms. Au's boundary should be extended for 10 feet. On the Martinez side, there is an ulu tree that Ms. Martinez's son cut down unceremoniously and without their permission.

Chairman Young inquired about what's going to happen to the palms that were topped; are they going to grow back? Mr. Anthony responded that they are watching to see what happens.

Dr. Anthony again stated that only thing that will make everyone happy is if a fence is erected.

Ms. Au and Dr. Anthony were able to identify that the ti leaf line was her boundary line and she was pleased with that.

Ms. Martinez explained that her son only topped the ulu tree and this was because the fruit and rubbish were falling in their yard. Previously Grace's son had also topped the ulu tree. The palm trees are still there and are growing.

Chairman Young inquired if those palms could be relocated. Dr. Anthony responded that they are probably going to have to dig them up to put the fence in. Chairman Young asked what would happen if the fence was built inside the boundary line, 10 feet in. Dr. Anthony responded that the fence is to be built on their side of the boundary line, but believes that a 10 foot set back is ridiculous.

Chairman Young clarified with Dr. Anthony that he is going to cut down the ulu tree in question. Dr. Anthony agreed. Mr. Anthony would also like to remove some of the plants in the back of the Martinez property that was a part of the old RP area. Ms. Martinez agreed.

Chairman Young suggested what if the Board was to authorize the RP, subject to an on the ground agreement and then the description would get reported back to the Board. Dr. Anthony agreed, but asked for a representative from State Parks to be present.

Mr. Quinn summarized the agreement to be the approval of the RP with the final configuration to be determined on site with a representative from DLNR, approved by the Chair, and then reported back to the Board. Chairman Young also clarified that included in the amendment is the permission for Dr. Anthony and Ms. George to remove some of the plantings as requested.

#### **The Board:**

- 1. Approved the issuance of a new revocable permit with the final configuration to be determined on site with the participation of DLNR, approved by the Chair, and the results reported to the Board.**

- 2. Amend Staff Recommendation:**

**"2. Allow Grace George to remove plants from the former revocable permit area."**

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

**Item F-2 Request for Authorization to Issue one Northwestern Hawaiian Islands State Marine Refuge Special Activity Permit to Applicant Ms. Aulani Wilhelm of**

**the National Oceanic and Atmospheric Administration, Northwestern Hawaiian Islands Marine National Monument, for Certain Management Activities Within State Waters, Valid From February 1, 2007 to December 31, 2007.**

Mr. Polhemus reported that the applicant is agreeable to attaching the general permit conditions as laid out in the handout. The special conditions were for the previous permit and Mr. Polhemus feels that they are not applicable. Chairman Young asked Ms. Chow if she would be okay with the special conditions. She agreed that both the special and general permit requirements were okay.

Mr. Polhemus also mentioned that when they had review these conditions previously with the AG's office, they felt that condition 25 was not enforceable and potentially not within our authority. Deputy Attorney General, Linda Chow noted that if they were to state it as it being an encouraged action, then it should be alright.

Mr. Polhemus added that condition 29 d should be deleted since there is no dumping in the monument. Chairman Young disagreed but all it says is there is no dumping within State waters. Mr. Polhemus also thought that condition 31 needed to be amended because there is not always going to be a State trustee representative aboard the vessel, therefore, that clause should be stricken from the condition. Ms. Fried brought up that person next in line to keep the log would be the lead scientist, but felt that this was not appropriate. The Board then decided that the language should be changed and should be the appointed State or other co-trustee representative and not aboard the vessel.

Ms. Chow wished to make not on condition 19 in which a 10% bleach solution would be used; his is not always possible. There is currently a scientific review to see if the % of bleach used could be reduced to a 1% solution. This will be going back to the general council for review. So while the percentage may change, the intent is the same.

**The Board:**

**1. Amend Staff Opinion:**

**“DAR staff is of the opinion that Applicant has properly demonstrated valid justification for her application, and that she and her staff should be allowed to enter the NWHI State waters and to conduct the management activities therein as specified in the application. [with] The applicant will operate under the following special instructions and conditions, which are in addition to the Special and General Conditions [imposed by the Application Guidelines] herein appended.”**

**“5. Direct that the following activities that are not emergency responsive in nature shall require prior approval [either by DAR in the form of a permit amendment or] by the Board in the form of a separate permit, as deemed appropriate by the staff in response to the Applicant's request...”**

**“6. In the case of time-sensitive activities that are not emergency responsive in nature, yet are necessary to “manage, preserve, protect and preserve the unique resources in the marine refuge,” including activities associated with the aftermath of an emergency, such as a pre-assessment and assessment of a vessel grounding, or the identification of alien/invasive species, or conducting enforcement-related activities, or in response to a new disease outbreak, permittee must first ascertain and document, in writing, whether there is enough time to submit a formal permit application to the board prior to carrying out the activity. If time is sufficient for a Board submittal, Applicant must apply for a permit and submit the application for Board approval. If time is insufficient for a formal Board permit application, except in the case of an emergency, Applicant shall obtain prior written approval by DAR in the form of a permit amendment. This amendment will be brought before the Board at the next Board hearing.**

[6.] **7. ...**

[7.] **8. ...**

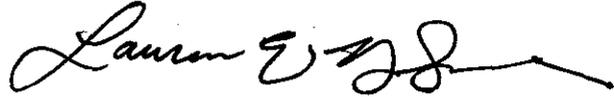
**9. Direct, as per appended permit conditions, that all personnel sign and date the permit indicating that they have read and understood the conditions prior to departure for the NWHI, maintenance of daily waste and impact logs, full implementation of disease, invasive species, and anchoring protocols.”**

**2. Append the attached Special and General Permit Conditions (see attachment)**

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

There being no further business, Chairperson Young adjourned the meeting at 12:05 p.m. Tapes 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,



Lauren Yasaka

Approved for submittal:

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PETER T. YOUNG  
Chairperson  
Department of Land and Natural Resources

## SPECIAL PERMIT CONDITIONS

This permit is subject to the following conditions:

1. Collecting Practices:
  - a. Collecting activities under authority of this permit must be authorized and supervised directly, on site, by the undersigned Permittee or his appointed representative who shall take special caution to avoid any over collection or undue damages. No personnel shall be allowed to conduct collecting activities absegt such authorization and supervision.
  - b. Permittee must notify DLNR, Division of Aquatic Resources (DAR), within one day in case of major damage caused to coral or other marine resources as a result of collection or any other activities conducted under this Permit.
  - c. Bycatches shall be returned to ocean before chemical treatments.
2. This permit will authorize collecting, killing, and in-State transport of dead material only, subject to the other conditions of this permit. No out-of-State transport of any samples or biological products is allowed without prior written approval from DAR and legal signatures from any receiving parties agreeing to abide by all applicable conditions of this permit.
3. No intentional take/use/disturbance of any live coral, pearl oyster, sea turtle, or monk seal. Incidental or accidental touches or interactions shall be minimized. Should the scientists on this mission encounter pearl oysters, sea turtles, or monk seals, they must take every precaution not to approach, disturb, or interact with them. Specifically, there shall be no touch/take/use/disturbance of any live Acropora colonies.
4. Pursuant to Section 188-23, Hawaii Revised Statutes, any use of electrical shocking devices, explosives or chemical substances is expressly prohibited, except to the extent that the following chemicals are allowed with stated limitations as follows:
  - a. A limited amount of concentrated chlorine bleach solution will be allowed aboard the NOAA ship for the decontamination of in-water gear, lab surfaces and tender vessels. Diluted chlorine bleach disposal will occur as listed below under Disease Protocols.
  - c. Chemical substances as referred to above shall not be carried aboard any of the tender vessels operating in the NWHI State waters.
5. A log or report of all waste disposal occurring aboard the vessel during the cruise shall be submitted to DAR O'ahu with the mandatory cruise report; log shall be maintained for all discharge occurring aboard the vessel and include time, date, volume, description of what was released and who released it and shall be signed by the Ship's Captain. No

Black water, food scraps, solids, chemicals, or waste liquid will be released into State waters.

6. The Permittee will provide for all permittees (including all assistants) to go through a precruise mandatory briefing by DAR staff regarding the permit conditions and legal repercussions of non-compliance.
7. All personnel on this mission shall read and declare that they understand and accept the terms and conditions of these conditions (including general and special ones), and shall affirm by their respective signatures that they will abide by these terms and conditions. The above acknowledgement and declaration shall be completed prior to the departure of the ship from Honolulu. A copy of the signatures as appear on this Permit shall be delivered to the State, DLNR, Division of Aquatic Resources, prior to the departure of the ship from Honolulu.
8. All vessel hulls must be thoroughly cleaned of invasive species prior to departure.
9. Anchoring of vessel at these islands is allowed only on sand or rocky substrate, but not on any corals. All anchoring activities within the lagoonal waters of FFS will involve directed placement of the anchor to avoid damage of coral, live rock, seagrass meadow and other habitats of concern. Anchoring will be done on sand or rocky substrate only.

#### **GENERAL PERMIT CONDITIONS**

This permit is further subject to the following general conditions:

#### **NORTHWESTERN HAWAIIAN ISLANDS STATE MARINE REFUGE ACTIVITY PERMIT GENERAL CONDITIONS**

1. This permit does not make the Board of Land and Natural Resources or the State of Hawai'i liable in any way for any claim of personal injury or property damage to the permittee or assistants which may occur during any activity authorized by this permit; moreover, the permittee and all assistants agree to hold the State harmless against any and all claims of personal injury, death or property damage resulting from activities of the permittee or any assistant, actions or omissions under this permit.
2. This permit conveys a privilege to engage in activities within State waters under the jurisdiction of the Division of Aquatic Resources (DAR). The permittee is responsible for complying with all applicable County, State, and Federal requirements.
3. The permittee and other personnel are individually responsible and accountable for their actions while conducting activities authorized under this permit. Additionally, the permittee is responsible and accountable for the actions of the permittee's assistants.

4. This permit is not transferable or assignable. Any person whose name does not appear on this permit and is conducting any activity described herein is subject to prosecution for violations of State Laws. The permit holder must abide by all provisions set out in the permit as well as other applicable regulations.
5. Permitted activities must be conducted with adequate safeguards for the environment. To the extent possible, the environment shall be restored to its existing condition prior to the cessation of the permitted activity.
6. Permits must be carried aboard vessels and made available on request for inspection by DLNR or USFWS Refuge or other enforcement personnel. For in-water activities, it is recommended that a copy of the permit be laminated and available for display at all times, in addition to copies held by personnel and aboard the major form of transport into the NWHI State Marine Refuge and the NWHI Marine National Monument.
7. All private vessels used to access the NWHI Marine Refuge must carry a minimum amount of Wreck Removal and Pollution insurance, specifically targeted and sufficient to provide for the vessel's full extraction and removal from the NWHI should it run aground or experience difficulties. The extraction method used must meet with the approval of DLNR and any other appropriate State or Federal resource trustees.
8. Any vessel causing damage to marine resources within the refuge may be subject to citation from DLNR and fines from the Board of Land and Natural Resources, in addition to costs necessary to mitigate the disturbance caused.
9. Recent concerns over the proliferation of alien algae in the main Hawaiian Islands have resulted in the need for a strong effort on the part of any visitor that conducts activities in the pristine waters of the NWHI to insure that they do not serve as vectors for the accidental introduction of these species. The minimum successful fragmentation size for at least two of the concerned algal species is less than 1 cm. DLNR requires that all activities in State waters in the NWHI take all steps necessary to eliminate the possibility of accidentally transferring these (and other) harmful species into new ecosystems where they might gain a foothold. As such, DLNR has developed a set of requirements for all divers and snorkelers to follow prior to departure for the NWHI:
  - a. Unzip and open all pockets on buoyancy compensators, dive bags and wet suits:
  - b. Submerge and soak all dive gear (including dive bags) and transecting gear for a minimum of 24 hours in 100% fresh water;
  - c. Thoroughly dry and then visually inspect all gear prior to departure for NWHI; and d. Any algal pieces must be removed and discarded prior to departure.

10. All tenders and dive boats (inflatables, whalers), engines, anchor lines, etc. will be visually inspected for any algal remnants or other alien species which must be removed prior to departure for the NWHI. If necessary, the vessels must be washed and fumigated prior to departure from the main Hawaiian Islands. This inspection is in addition to the overall vessel inspection mentioned above.
11. The same procedure above is required of all expeditions traveling to multiple islands within the NWHI. If drying and inspection occur after departure then the algal pieces must be retained in sealed containers until they can be disposed of back on Oahu. Extreme care must be taken to kill these specimens (freshwater soak for 24 hours followed by drying and placement in sealed containers) during transport.
12. All participants (including crew) in a permitted activity or aboard a permitted mode of transport will abide by the non-harassment of protected and unique marine wildlife policy. This includes staying away from Hawaiian monk seals and sea turtles, and minimize disturbance to assemblages of large apex predators such as jacks, sharks or grouper, and avoiding damage to any live coral or live rock.
13. In accordance with Federal and State Laws, there will be no intentional release of sewage from the transport vessel during the permitted expedition. All sewage will be held in a proper storage tank until it can be off-loaded to proper handling facilities or until other written approved protocols are in place.
14. Tenders will be outfitted with EPA omissions approved outboard engines that meet the latest environmental standards.
15. Refueling of tenders and all small vessels will be done at the mother ship and outside the confines of the lagoons or near-shore waters.
16. Tender and dive vessels will operate at slow speed and with a bow lookout in shallow water NWHI coral reef areas in order to minimize prop or bow damage to three dimensional coral reef habitat or endangered monk seals or sea turtles.
17. Anchoring:
  - a. Permitted Transport Vessel: It is illegal to anchor on living coral reef areas in the NWHI. Transport vessels will endeavor to anchor as far offshore as possible and will try to predetermine anchorages prior to departure.
  - b. Tenders and Dive Vessels: It is illegal to anchor on living coral reef areas in the NWHI while conducting inshore operations. In those areas where anchoring needs to occur adjacent to living coral resources, placement and retrieval of the anchor will be done by hand whenever this procedure can be done in a safe and prudent manner.
18. The permittee, assistants and ship's crew agree to provide access to data, logs, photos and other documentation obtained under, or required by, this permit upon request of the Division, and to allow Department staff to inspect on-board the vessel, or afterwards on the permittee's premises, any and all organisms and other

samples collected under this permit. Furthermore, the permittee and assistants agree to provide to the Division a copy of each published report prepared with data obtained under this permit.

19. The permittee will sign an affidavit that all ship's personnel have been informed of the above provisions and have agreed to abide by these conditions prior to departure from the Main Hawaiian Islands.
20. This permit expires on the date indicated on Page 1.
21. This permit is not to be used for nor does it authorize the sale of collected organisms. The research activity must be non-commercial and will not involve the sale of any organism, byproduct, or material collected. Furthermore, any resources or samples collected are a public trust, and are not to be used for sale, patent, bioassay, or bio-prospecting, or for obtaining patents or intellectual property rights.
22. The permittee may not convey in any fashion (including, but not limited to, selling, trading, or giving) any corals, live rocks or any organisms collected under this permit to any person or party in Hawaii which does not already have a permit from the Hawaii Department of Land and Natural Resources authorizing possession of the same and without direct, written approval from the Hawaii Division of Aquatic Resources.
23. Permit holders agree to submit a project report and cruise log to DLNR within 30 days after returning to Honolulu. The project report will be a brief (1-2) page statement summarizing the results of permitted activities. A cruise log shall list the days spent in the Marine Refuge, activities carried out, approximate positions, and general observations. Permit holders must also provide DLNR with project summaries, GPS locations, visuals, technical reports, and/or catch reports (if applicable) for activities undertaken while in the NWHI Marine Refuge as specified in the conditions of their individual permit.
24. Permit holders are encouraged to **immediately** report to DLNR observation of any impacts to the marine resources, whether directly caused by their activities or not. This includes observations of activities conducted by other parties along with both natural and anthropogenic events. Permittees provide a valuable role as 'eyes and ears' on the water. All recorded observations by permittees will provide additional information and assist with management of the refuge. Such reporting shall include full documentation with notes, logs, photos, GPS, and other information as may be required.
25. A violation of any terms or condition of this permit or any violation of State law not covered by this permit may result in revocation of the permit and other penalties as provided by law. In addition, the Division may consider any such violation as grounds for denying any future permit applications.
26. The issuance of a permit shall not constitute a vested right to receive additional or future permits. There is no right to a renewal or re-issuance of a permit.

27. The Board may immediately amend, suspend, or revoke a permit granted pursuant to these guidelines, in whole or in part, temporarily or indefinitely, if the permit holder(s) has acted in violation of the terms of the permit, or for any good cause shown. Formal notice of such action shall be subsequently communicated in writing to the permit holder and shall set forth the reason for the action taken. Any verbal notification from a Board representative of a violation will also result in immediate cessation of all activities within the Refuge.
  
28. Disease protocols:
  - a. All sampling and dive gear will be disinfected in an enclosed container for 10 minutes or more between sites with a fresh 10% bleach solution in order to kill any microorganisms and eliminate the possibility of disease transmission by researchers.
  - b. Wet lab surfaces will be wiped down after each activity with a fresh 10% bleach solution in order to kill any microorganisms and eliminate the possibility of disease transmission by researchers.
  - c. Tender vessels that have been inside French Frigate Shoals lagoonal waters (where diseased organisms are known to occur) will be disinfected by wiping down their internal and external surfaces with a fresh 10% bleach solution in order to kill any microorganisms and eliminate the possibility of disease transmission by researchers. This will occur when the vessel is outside State waters and prior to the support vessel leaving the immediate vicinity of French Frigate Shoals.
  - d. Disposal of any water containing 10% bleach solution from above activities will occur outside State waters under applicable Federal and International laws
    - 1.
  
29. No live organisms of any kind will be transported within, or outside of, the NWHI State Refuge waters. Samples will be killed by freezing, immersion in ethanol, or other acceptable means aboard the vessel and prior to leaving the location of collection.
  
30. A daily log maintained by the appointed State or other co-trustee representative whereby any organisms collected will be documented on a daily basis relative to what was collected, the amount, the size of the specimens, the location (including specific GPS points), and the status of the specimen(s). The log entry will be signed by the person who collected the organisms and countersigned by the State representative after validation of the collection; this log will constitute a legal document for enforcement purposes.

1. The percentage of bleach required may change