

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

DATE: FRIDAY, NOVEMBER 14, 2008  
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 9:04 a.m. The following were in attendance:

**MEMBERS**

Laura Thielen  
Jerry Edlao  
Ron Agor

Taryn Schuman  
Tim Johns  
Dr. Sam Gon

**STAFF**

Morris Atta, LD  
Paul Conry, DOFAW  
Dawn Hegger, OCCL  
Ed Underwood, DOBOR  
Melissa Sprecher, DOFAW  
Francis Oishi, DAR

Sam Lemmo, OCCL  
Tiger Mills, OCCL  
Michael Caine, OCCL  
Dan Quinn, SP  
Sherry Mann, DOFAW

**OTHERS**

Julie China, Deputy Attorney General  
Dr. Chip Fletcher, K-3  
Josh Strickler/DBEDT, D-6, D-5  
Glenn Yamasaki, D-6  
Greg Smitman, D-6  
James Manuku, Sr., D-6  
Maria Tomei/DBEDT, D-6  
Peter Young, D-6, D-17  
Bob Momsen, K-4  
Tom Witten, D-10  
Duane Okamoto, D-5  
Dean Okimoto, D-5

Harrison Kawate, D-2  
Ben Welborn, K-3  
Guy Gilliland, D-6  
Elizabeth Cole, D-6, D-5  
Henry Curtis, D-6, D-5  
Daniel KenKnight, D-6  
Don Bryan, D-6  
Ron Terry, K-4  
Randy Vitousek, K-3, K-4  
John Ray, D-5  
Alan, Gottlieb, D-5  
Frank Lange, J-1

Peter Hamasaki, D-15  
Larry Mersereall, D-16  
Phil Hauret, D-18

Robert Chong, D-16  
Cindy Comer, D-16  
William Chandler, D-18

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

**Item A-1 Amended October 10, 2008 Minutes.**

Taryn Schuman recused herself.

**Approved as amended (Johns, Gon)**

**Item A-2 October 24, 2008 Minutes.**

Tim Johns recused himself.

**Approved as submitted (Agor, Edlao)**

**Item D-2 Amend Prior Board Action of December 9, 2005 (D-3) and December 8, 2006 (D-2), Set Aside to the County of Kauai for Developing Affordable Housing Purposes, Kekaha, Waimea, Kapaa, Anahola, Kauai, TMK: (4) 1-2-2:32; 1-2-6: 18; 4-3-7:7, 8, 11; 4-6-14:30, 112; and 4-8-13:13**

Morris Atta, Land Division Administrator, reported that the County of Kauai is requesting an additional five (5) years to implement this plan.

Harrison Kawate, Deputy Attorney for the County of Kauai, said preliminary reports were submitted and requested the Board adopt the findings.

Member Agor asked whether the County of Kauai plans to conduct public hearings on the project. Mr. Kawate couldn't say until it goes to final approval with Kauai Council.

Member Agor moved to approve staff's recommendation amending it by moving item #3 to #4 and insert to item #3 conduct public hearings for consensus of approval for communities impacted by this project. Member Johns second it.

Member Agor clarified that the public hearing could be conducted through the county process.

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

**Item K-3 Conservation District Use Application (CDUA) KA-3472, for a Single Family Residence (SFR) at Haena District, Island of Kauai, by Jess Jackson and Barbara Banke, TMK: (4) 5-9-005:028**

Written testimony was received from the Hanalei-Ha'ena Community Association and Landmark Consulting.

Office of Conservation & Coastal Lands (OCCL) Administrator, Sam Lemmo, distributed handouts and written testimony from the Haena/Hanalei Community Association, from the applicant's representatives, and Dr. Fletcher's response to the applicant's letter. Mr. Lemmo presented background on this case where most issues have been addressed except for Historic Preservation/burial issues which will be addressed by a condition in the permit.

Member Johns noted that there are nine (9) more days in the FONSI challenge where Mr. Lemmo clarified that the report had a couple errors where on page 13, 4<sup>th</sup> paragraph, last sentence “, thus CDUA approval is subject to a 9-day waiting period” should be removed because staff is not following that practice. The second condition 17 on page 19 should be deleted. Also, on page 13, last paragraph, delete “and the minimum side yard setbacks,” where Mr. Lemmo explained the establishment of setbacks using “beach tow” to determine erosion rate which is a recommended standard by National Academy of Science and FEMA. The applicant wanted to use “vegetation line” to determine erosion rate which gives a smaller setback that staff didn't agree with then later the applicant came up with the average which came out larger and then the applicant proposed 100 feet to comply with a County of Kauai ordinance rate. Mr. Lemmo explained this erosion rate as recommended by a guide book and explained for and against for “beach tow.”

Dr. Chip Fletcher discovered that the study for the County of Kauai hasn't been completed where the original data was based on the EX methodology which is too tricky for the county to use and since then his staff recommended using ST or single transect instead. The ST rate is lower which comes to a 100 foot set back.

Member Johns wondered whether Mr. Lemmo was ok with the 100 foot where Mr. Lemmo replied he'll go with what the science says.

Ben Welborn of Landmark Consulting representing the applicant agreed with the 100 foot set back and all other conditions.

Randy Vitousek said after Dr. Fletcher's statement he didn't need to testify.

Mr. Lemmo noted that the Haena Association raised the issue of sand hardening. Mr. Welborn addressed this saying that Dr. Fletcher recommended deed restrictions to prevent future engineering steps to armor the shoreline in order to protect the proposed structures which was acceptable to the applicants.

The Board shared the Haena Association written language with Mr. Welborn and Mr. Vitousek. Mr. Lemmo alerted the Board to use every precaution to prevent any kind of shoreline hardening because Haena is an important beach. Mr. Welborn said that his client agrees.

Member Agor moved to approve staff's submittal amending it to change the setback from 130 feet to 100 feet, renumber the second set of conditions 14 to 19 with 18 to 24, and replace condition #22 with the Haena Community Association recommendation on shoreline hardening. Member Johns seconded it.

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

**Item D-6      Resubmittal - Approval in Principle of the Issuance of a Direct Lease to Hamakua Biomass Energy, LLC, for a Commercial Biomass Energy Generation Facility and Hamakua Biomass Holdings, LLC, for Commercial Forestry Purposes, North Hilo, Hamakua, TMK: Various (SUBMITTAL TO BE DISTRIBUTED.)**

Member Johns and Member Schuman recused themselves.

Staff's submittal was distributed to the Board members and deputy attorney general.

Numerous written testimonies were distributed to the Board.

Mr. Atta noted that this is a re-submittal from a previous Board meeting where the Board preliminarily approved the approval in principle to enter into discussions for a lease for a biomass plan on this project where the portion of the submittal currently before the Board is for consideration of looking into entering into negotiations for land to develop feedstock for that biomass plan. Land Division staff was instructed by the Board at the last Board meeting to go back and discuss with Department of Business, Economic and Tourism (DBEDT) staff to devise a proper criteria for determining what lands would be available and appropriate for developing this type of renewable technology and also to consider the issue of multiple applicants for the same source of lands. Land Division staff met several times with Energy Coordinator, Josh Strickler, to discuss the proposed lands noting that the list before the Board is the list brought before Land Division staff and DBEDT. Of the total lands identified, only a portion of those lands were suitable for commercial timber industry. The remaining lands that Hamakua Biomass (HBE) requires would need to be addressed through further discussions with Department staff, Hamakua and DBEDT to see if there are additional appropriate lands available. This request is to approve in principle the notion of moving forward to pursue those discussions and possibly pursue leases if additional appropriate lands are identified.

Chair Thielen referred to the last Board meeting where this Board moved forward the ability to negotiate a lease for the production, but there was some question because while the legislature last year in an effort to move forward the State's policy to promote renewable energy gave this Board the authority to do direct negotiations for renewable energy producers. It was unclear if there was going to be additional competition for these lands and the Board asked for a deferral to give Land Division staff an opportunity to discuss with DBEDT's Energy Consultant the viability of the operator and to give Land Division staff time to go back and identify with greater specificity what vacant lands

maybe suitable for the production. She asked the DBEDT Energy Coordinator to explain the technical aspects.

Josh Strickler (distributing a map) explained that Hamakua Biomass is promoting bio-fuel technology which uses eucalyptus trees harvested from the Hamakua Coast to burn, a similar technology to burning bagasse to create electricity. There are certain constraints in burning eucalyptus trees because a small amount of hydrochloric acid is produced where HBE would have to mitigate those effects with a clean air permit by putting in the proper scrubbers and filters to offset any harm from burning eucalyptus trees. DBEDT's opinion is Hamakua Biomass's technology is viable and sustainable for the Hamakua Coast.

Chair Thielen reminded the Board and Mr. Strickler that the issue at the last meeting was the timetable that the applicant needed to be in production because there are a number of steps - getting the agreement from the energy producer, the clean air permit, and other things which Mr. Strickler was to give the Board an idea of how far away the applicant was to being a viable operation. Mr. Strickler replied close to 18 months away to set up a plant and operate using the Kamehameha School's lines. A clean air permit will take several months then next would be the power purchase agreement from HELCO. HBE is in a situation where HELCO wants to be assured that this project is a sustainable, long term type of project that the lease agreement HBE has with Kamehameha Schools expires in 2021 and its part of HELCO's concern that once that lease agreement expires HBE won't have any land to harvest trees from where the project won't be sustainable and will be stuck with this operation that they have no fuel for. That is why HBE came to the State to seek lands to grow trees on to power their generators. If the Board agrees in principle to enter the lease negotiations HBE can take this back to HELCO as part of their power purchase agreement negotiations to show that this project is sustainable well past 2040 and that is the reason they are here is to help that negotiation process.

Member Gon thought that the reason for the inclusion of DBEDT into this analysis was because these proposed leases fall in the context of existing leases and other potential land uses of the acreage and asked whether Mr. Strickler was able to assess what other options there are for the land – food agriculture, pasture, for restoration of native forest or other uses when we talk about tens of thousands of acres that might be put into a particular land use we have to think of the consequences and balances of these uses that are to occur potentially on that landscape.

Chair Thielen clarified that what is being proposed is the 3,800 acres of vacant land that are not being leased to current tenants, to permit discussion about other vacant land and that negotiation would have to take place with the Division of Forestry. This submittal is not talking about any tenants or revocable permits.

Member Gon said he understood the needs are less direct and present but this is a project that will occur over decades and he wondered to what extent DBEDT has engaged in looking into potential uses and balances of the uses on the landscape for this and other biofuels. Mr. Strickler described meeting with Land Division and Mr. Conry's office

(Division of Forestry & Wildlife) where they went back and forth as to what is the best use for that land available and to ensure that land set aside for conservation was not looked at and tried to make sure there was a balance. Speaking on behalf of DBEDT, that issue regarding the land is a DLNR issue on who controls the land and what's done with the land. DBEDT looks at this more in terms of the viability of the technology, the sustainability and the state energy policy. Mr. Strickler suggested that Land or Forestry Division answer Member Gon's question.

Member Gon agreed that economics plays a big part of land use and Mr. Strickler's assessment of the viability of the current applicant is very useful and was glad Mr. Strickler was able to talk to Land and Forestry Divisions.

Chair Thielen said staff's recommendation is to approve discussion to look at other areas that aren't in forest and whether any of those maybe appropriate or not then negotiate through our Forestry Division, but given the number of testimony from the forest industry, it has a role in this as well. Ultimately, it will have to come back to the Board for a decision about whether they want to lease additional lands beyond this 3,800 plus acres. Those are the tough questions that this Board will have to wrestle with because of the renewable energy projects that people are seeking to lease large tracts of land which hasn't happened for a long time because diversified agriculture and other uses tended to be small.

Member Gon said that while we are here discussing agreement in principle to pursue this, the major discussion is there are a lot of stakeholders interested in the future of these lands who want to testify.

Chair Thielen referred to a Kauai renewable energy situation where it opened discussions and came back to the Board before any lease is approved.

Mr. Atta explained about the list that there were potential issues and concerns because a significant part of the list involves forest reserve lands and natural area reserve lands. As a result of that, staff got Forestry involved. Forestry had serious reservations about using native forest reserve lands for commercial timber operations and the natural area reserves lands are meant to be kept in preservation. So Forestry was alarmed that those lands were even included. The list was never intended as a definitive list. It was to identify lands that the applicant wanted to consider for discussion. This list still includes the forestry lands. Exhibit B is the listed Forestry lands that DOFAW took off.

Member Agor said he may be getting ahead of himself, but he identified five parcels that are being requested by another applicant and wondered whether there is room to have both applicants. Mr. Atta said this list includes an overlap with the following item on the agenda. There was a discussion on how to handle multiple requests for the same lands which this Department is struggling with and they are trying to flush out a methodology.

Chair Thielen noted that on the staff submittal for the 3,800 acres Sunfuels agreed that Hamakua's list will have priority over Sunfuel's for those areas. Mr. Atta elaborated that

during the discussions with DBEDT, Hamakua, Sunfuels and the Department that there was overlap, initially, because this was a direct negotiation process by statute and maybe they should be addressing this by whoever comes to Land Division first to get the first right to consider those lands as part of the applicant's negotiation for feedstock lands. Subsequent to that they realized that the first come first serve may not work properly, but at that meeting it was a first attempt at resolving this competing request situation. Land Division approached the Sunfuels representatives who were ok with the overlap lands if Land Division were to treat it as Hamakua Biomass having first chance at them and for Sunfuels to secure these lands through negotiations necessary if Hamakua chooses not to take those lands then Sunfuels be placed as the second applicant on the list and that is what the submittal was attempting to outline this process. Subsequent to that staff stepped back to approach the Board for guidance on how to deal with the situation....Chair Thielen said Sunfuels agreed in their meetings to have Hamakua have first refusal right over these 3,800 acres where Mr. Atta affirmed her comment.

Member Edlao asked for clarification that Exhibit A is the list Hamakua is looking at for the 10,500 acres. If it wasn't sufficient, Land Division will work with HBE for possible properties. Chair Thielen inquired if these were vacant lands. Mr. Atta said not necessarily vacant because there are Forest Reserves, NARS, but not encumbered by other lessees.

Mr. Strickler added that one of the things DBEDT recommended in the lease was putting certain provisions or milestones in there, for instances, of successful negotiations of the PPA. It is DBEDT's understanding of the Board that they don't want to lock up these state lands for any longer than necessary for what ever reason the project is not successful. It is DBEDT's recommendation that certain lease provisions be put into the contract when certain milestones are hit. If they are not hit then the lease is terminated and that is one of the ways DBEDT can help move through this process. Maybe a first in line situation, but then again it's up to the Board to decide.

Chair Thielen said she is pleased that DBEDT is offering to assist in this because if the Board members recall one of the reasons they asked for a deferral was a concern about locking up lands with long term leases with operators who are not viable which preclude other operators from coming in to do renewable energy production that maybe a better use of the land. DBEDT has the expertise to guide the Board during these lease negotiations on what are benchmarks or timetables to make sure an entity is moving forward with the renewable energy production. The legislation that was passed to give the Board the authority to do these direct negotiations is trying to get the state to 20% renewable energy by 2020 so it wouldn't help us to lock up lands for something that is not viable. And, likely those benchmarks will be customized to the particular renewable energy production because wave energy will be different from wind and biomass.

Mr. Strickler asked whether there was a way to expedite this process because he understood there was a provision where the Chair could do direct negotiations without approval of the Board and is that a possibility in this situation or does the Board want to hold onto that right to review the lease before it's accepted. Member Gon said that there

are certain situations where the Board relinquishes that duty to the Chair, but it is his opinion that because this is ground breaking; the Board will probably want to weigh in on the decision. The rest of the Board agreed. Chair Thielen reiterated that because this is new, this is a law passed last year that authorizes the Board to do direct negotiations and this is the first applicant coming to the Board seeking direct negotiations. A number of policy questions surfaced and she thought it would be better as we begin this process to be working through the Board, taking a look at the final lease terms, and being able to have that public testimony from other parties affected because it would be more helpful to have it done in that manner. Then maybe down the line after the Board has worked through a number of things that may happen, but for the time being Mr. Strickler should come to the Board where Mr. Strickler agreed.

Member Gon pointed out that on the original list of 24,000 acres minus the 18,000 acres in native forest or natural area reserve would leave 6,000 acres. Mr. Atta said after being informed by staff, approximately 1900 acres are encumbered by leases. His statement saying all were unencumbered needs to be corrected. Nineteen hundred (1900) of the 3830 acres are unencumbered.

Guy Gilland, CEO of Hamakua Biomass Holdings and Hamakua Biomass Energy (HBE), presented remarks from a letter from Kent Smith and Hilton Mori saying that they appreciate the Board's continuing consideration of their request and look forward to the BLNR providing an affirmative approval of the re-submitted staff report with the recommendation for the BLNR to approve in principle the issuance of a direct lease to HBE for up to 10,500 acres of vacant and unencumbered state lands. They do appreciate the Board's approval at the last meeting for the 63 acre site. They understood that the deferral of the staff report for the plantation acreage was subject to DLNR's and DBEDT's coordination and formulating a review process that would determine how and who should be issued a direct negotiation for the lease for the state lands. They wanted to reiterate a couple important points that HBE initiated the process in July with a formal submittal of a written request to DLNR and proceeded through a review with Land staff which culminated in a submittal of the recommendation. Within this process HBE conformed with DLNR rules, the Chairperson's and Land Divisions directions in processing a request to lease for a renewable energy facility and are in conformance with the recently passed enabling legislation allowing for direct leasing renewable energy facilities and are encouraged that all is progressing the state's renewable portfolio standards. In the Nov. 5<sup>th</sup> memo from DBEDT it does cite that HBE is on schedule to bring their 30 watt renewable energy power plant into production by end of 2010 with particular progress on key activities that include their clean air permit application which has been accepted by DOH. HBE is in active negotiations with HELCO and HECO with the submittal of the term sheet to the PUC by Dec. 8<sup>th</sup>. At this time there are no independent renewable energy entities at the stage where our project is. HBE believes their action on their re-submittal should be considered and acted on separately than the staff report related to the Sunfuel situation. HBE communicated to the Chair that they are committed to the process with the objective to further the State's renewable energy portfolio standards and to help foster the renewal of a sustainable agricultural economy

on the Hamakua Coast where they hoped the process doesn't get bogged down to meet that objective.

Mr. Gilliland clarified that in the course of HBE vetting through the available parcels from the start HBE was concerned about focusing only on vacant unencumbered lands which was their directive from the beginning. HBE worked closely with Land Division and DOFAW staff in the dialogue and assembled a pretty coherent and comprehensive list of what is available in the play. There are, as Morris offered, some reckoning of a couple parcels in here that do reflect an unencumbered property that's part of the process still occurring. HBE believes their initiative to focus on vacant unencumbered lands and being sensitive to the existing leases is the right approach to take, not discouraging any of the efforts put forward for renewable energies as a general principle position and their effort to supplement the approximately 2000 acres of vacant and unencumbered lands with the opportunity to dialogue with DOFAW on the utility of potentially 3300 acres which would be reconciled even further on non-native standing commercial forest on conservation lands. HBE would appreciate having that opportunity in the approval. HBE is committed as a member of the forest industry to utilize the good quality old growth wood for solid wood utilization and they would commit to that in their ground leases. HBE's objective is to use the by product of the wood production process for the biomass utility. Our group was successful in securing the 14,000 acre Hamakua Eucalyptus plantation which resides on Kamehameha Schools property and, as shared by Morris, the duration of that lease term is to 2021. HBE is not foreclosing the opportunity that there could be an extension of that lease, but at this time Kamehameha Schools is opting not to pursue that. HBE is looking at other lands and to dialogue with other parties on this collection of holding, including state lands, that would allow them to have a sustainable feed stock to support their 40 year energy program which is the basis for their negotiations with HELCO and PPA.

Member Edlao asked whether 10,500 was a minimum or maximum. Mr. Gilliland replied that was a minimum and explained that it is the function of the length of rotation of the feedstock crop. The longer you can run your feedstock rotation between 8 and 15 years depends upon what you're able to do to affect the amount of acreage needed for a sustainable feed stock. The 10,500 coupled with the other properties HBE is pursuing would potentially provide them with a 21,000 acre plantation utilizing an 8 year rotation to be able to generate about 300,000 cubic meters of wood which is what's required to support a 25 megawatt energy production.

Member Gon appreciated the map to see what the land uses are and asked what colored portions were the unencumbered lands where Mr. Gilliland replied they are the blue portions of the map. Mr. Strickler added the total acreage of unencumbered lands is 4,727 on that table. Member Gon added that the reserve lands go right up to the native forest reserve areas like Hakalau Wildlife Refuge. Mr. Gilliland said that the concept was that there could be selective culling of invasive species where HBE could participate in the management of and if there was an opportunity to capture some of the carbon credits there could be a utilization and sharing of that revenue along with the opportunity to rotate and work through the existing non-native commercial forest. If there were

revenues derived from that effort, HBE would commit putting it back into the management of those properties and perhaps the Board could offer a funding mechanism for DOFAW and to HBE to improve the integrity of those properties.

Chair Thielen inquired whether Mr. Gilliland mentioned carbon credits before and asked are you talking about a passive use of forest where you would get carbon credits to apply it towards your business plan which Mr. Gilliland acknowledged. Chair Thielen continued so it wouldn't be culling or harvesting or anything, it would be retaining it passively. Mr. Gilliland said it would be quantifying the sequestration that occurs on the property and applying that in a manner to get credit for. HBE is very open minded and thought they'd take the initiative since it is in the direct area of where their plant is between Laupahoehoe and Paulo thinking that HBE could be the konohiki's of that area and help progress the utility of the lands.

Chair Thielen explained that there are two submittals before the Board. The first one deals with the harvesting of trees which the applicant is seeking the ability to lease and is looking at vacant lands without tenants. The next submittal is the possibility of encouraging some discussion between current tenants and the applicant about mixed uses for properties. Some people might be here to testify on a submittal that might be affecting existing tenants, some people are here to testify on this submittal that may affect forest industries, and some are here for both. Right now we're just dealing with this one.

Glenn Yamasaki stated that Mr. Gilliland has addressed his concerns.

Elizabeth Cole, a resident of Hamakua, noted that this discussion and the business community sees land as a commodity referring to Member Gon's point where the community sees land as an asset. When talking about using such an important asset we need to look at what that use is. The question is do we want to put that land into eucalyptus or whether to put it in energy or transportation fuel; these are questions that we need to look at. She presented Council Member Yagong's testimony which is to have a longer discussion on Hawaii Island because this is not a commodity question for them emphasizing that this affects 50 plus square miles and asked to defer this item in order to hold the meeting at Hamakua so that the community may participate in the decision.

Greg Smitman who is Associate Director of The Kohala Center, a non-profit, private, environment and educational institute located at Waimea, Hawaii, explained that they are under contract with the County of Hawaii to create an agriculture management plan for the County who had six public hearings, two industry hearings, and they have an ad hoc committee working on that. His center is about half-way through the process and should conclude by this coming fall. The other project is the creation of a land map based on GIS data basis that could be used to inform planning and other land zoning on the Island of Hawaii. Mr. Smitman asked for information on this large scale leasing episode and how to advise their agriculture management plan. Whether the Department anticipates there would be an opportunity for individual farmers to participate in creating biomass to fill these new processing plants or is it going to be processing plants that are wholly owned. It could open another market which would need to be discussed. Also, for the

purpose of informing their farm plans and economics of how the center can farm plan on the Big Island, what is the process or evaluations being used to set appraised rates or market value rates on large scale lands like this, of the underlying thought processes which will dictate future leases not just from state lands but lands owned by private land owners which will drive the process and it is critical as the center works with farmers with their farm plans to show economic unit. Mr. Smitman asked if this Board is taking into consideration the enormous input into the property improvement involving large scale land conversion referring to the Sunfuels submittal and that the center believes there is a need for a development lease where the cost is advertised over the life of the lease and wondered how that is done because that impacts the island's agriculture when working with individual farmers who take land not currently in production. Mr. Smitman asked for soil, slope, and climate characteristics to help them write their plan for the County of Hawaii and for answers to these questions. Member Edlao suggested Mr. Smitman talk to DBEDT for his information.

Henry Curtis for Life of the Land responded to Mr. Smitman's testimony referring to the Kahiawa Wind Farm project which didn't have any opposition on Oahu, but the Board decided to take it to Maui for public comment so there is precedence to hold a meeting on the neighbor island even after the Board had considered it here. Carbon sequestration, as forests pull carbon but chopping down forests releases carbon so it is not just a growth industry. Mr. Curtis referred to the October 10<sup>th</sup> Board meeting regarding a quote on chapter 343 and why it was not applicable "in accordance with the division of land management's environmental impact statement exemption list approved by the environmental council dated April 28, 1986 the applicant's commercial forestry operation is exempt from the preparation of an environmental assessment pursuant to exemption class number one that exempts operations, repairs or maintenance of existing structures, facilities, equipment, or topological features involving negligible or no expansion or change beyond the previous existing." What was missing from that quote was the following sentence in the exemption list which said "the exempt items below are not applicable in lands classified as conservation." How a staff member could come up the first part then omit the next section that appears on every exemption class within the exemption list, his organization finds shocking. There was a number of cases the Hawaii Supreme Court says any minor trigger triggers it for the entire project. Using thousands of acres, including conservation land clearly triggers an environmental assessment. Life of the Land is willing to withdraw the following statement assuming that this Board goes along with the environmental assessment and Mr. Curtis asked for a contested case hearing.

James K. Manuku, Sr. was concerned with the lands being used which he hoped the Board looks at as important resources on the lands that are being considered. Mr. Manuku described dumping from previous plantation owners asking to prevent that, to prevent cutting of native trees, to allow and guarantee access to gather resources like medicines found only in certain places and hunting of pigs, he is against any use of conservation land, to have a meeting for the Hamakua people being affected, and to prevent his rights from being infringed upon. Please take into consideration his access rights, protection of indigenous species, not to use any conservation land and someone to

be responsible to look over the everyday management of these facilities so it doesn't impact us like the previous plantation owners.

Daniel KenKnight representing Hu Honua Bioenergy informed the Board that they own the former HCPC power plant at Pepe'ekeo on the Island of Hawaii. It is a 24 megawatt facility that they are transforming from coal to biomass. They are in direct competition with the applicant. It seems to be an on-going theme with people before him as well as himself not knowing much about this, but it occurred to him while the purpose of a direct lease for bioenergy and biofuels was to expedite the State's plans to reach by 2020 and the Governor's goals amended since then. He didn't think it was intended to give unfair advantage to one bioenergy company over another. Mr. KenKnight reiterated what was said earlier about DBEDT looking at the applicant's facility viability and in the process he thought other projects would be looked at as reported in the newspaper. His project has an active air permit ready right now which they are modifying from coal to biomass, they are repairing and doing maintenance on their facility which will be up and running on line quickly. Hu Honua is in the process with the utility to go forward on a power purchase agreement currently waiting for a waiver. Once that is done they are going forward with their power purchase agreement. They have a sustainable biomass farming plan that they are coming out with the University of Hawaii at the end of the month. There are alternative types of species to be grown not necessarily eucalyptus to be grown on this land. They spent millions of dollars on the facility; they have been working with the community in Pepe'ekeo and surrounding areas. Mr. KenKnight recommended that this should be open to a bid within the bioenergy/biofuels community. It was mentioned earlier that the applicant is looking to use this land to aid in their power purchase agreement negotiations with the utility that is a distinctive advantage against his company because they are doing the same thing. They are out there contracting for private wood and private land right now and are in direct competition. This should be open and because this has been done so quietly it has been a shock to him and others. Mr. KenKnight urged do anything other than pass this. He liked the idea of working with the people in the community because they have been working with the community since they first got there and there was criticism about his project which went back and forth and they have adjusted, but it definitely should go before the people on the Big Island because people don't know about this. Addressing Item D-5 there are a lot of people who don't know what is going on and this is not the way to do things. He was at the legislature when the bill that passed was the legislators' intention not to create an anti-competitive situation. It was to loosen things up, so that they could go toward biofuels and bioenergy which is necessary. He didn't think anybody ever considered this to be something used as a tool for competitive advantage.

Per Member Edlao's inquiry of feedstock Mr. KenKnight replied green waste, waste from timber. His company is working with companies who have green waste that would go to land fill or non-productive use, there are companies engaging in clearing large tracks of land and his company needs the wood – a mutual benefit, and engaging with private land owners to plant sustainable biomass farming. They have a symposium next week at UH Hilo, their sustainable plan will be out in mid-December and there are a lot of other ways to do this. Nitrogen fix plants. They've looked at private and some State land similar to

the applicant. Member Edlao noted Mr. KenKnight was there at the legislature when this came up and wondered why his company didn't come forward then.

Chair Thielen explained that Board is responding because of the implication of Mr. KenKnight's testimony was that the Board was doing this on the quiet and trying to do a wholesale non-competitive bid. Mr. KenKnight apologized that he didn't mean it that way. The Chair continued that the Board responded when someone came to the Board under the law which allows direct negotiations with the renewable energy producer for land. The Board asked to defer to bring in DBEDT to take a look what is the landscape, what are other competitors, who else is on the horizon there then come back and advise the Board to make a thoughtful decision. If you're testifying that you're in direct competition it would preclude your company to approach the State earlier as well so she understands he is coming before the Board now and it is information the Board will take into account. Mr. KenKnight's testimony is a bit colored about this Board doing things beyond the scope and he may be getting certain information now from the legislature. When that bill went through the legislature last year it had broad legislative support to move the State forward in renewable energy and people were fully aware that this Board was going to be put in these situations where the Board has to make very hard judgment calls on land use in order to move the State's renewable policy forward. The State legislature and the governor had made a call if we continue business as usual we are not going to get to our renewable energy goals. We are trying the best possible to deal with what has been put in our laps to make fair and reasonable decisions about land use to move us forward in renewable energy which is not an easy decision for the Board members. Mr. KenKnight reiterated his apology that he didn't mean to discourage the Board, that there wasn't any under-handedness, that there is competition and hope the Board would consider this. Chair Thielen said that is why the meeting with DBEDT.

Mr. Strickler addressed some of the comments made earlier specifically he met with Mr. KenKnight's representative Denis Boumant Oct. 16<sup>th</sup> roughly six days after the last Board meeting asked him several times what his plan was to secure fuel for his operation of the Hu Honua Plant and Mr. Boumant said they were not interested in using State land so this question has been addressed and raised more than once. Mr. Strickler met and asked Mr. KenKnight are you seeking any kind of leases of State land and the answer was no every time. Hu Honua has been apprised of the situation and informed of what was going on well in advance to today's meeting. The public comment process is important, but Mr. Strickler asked the Board not to defer what is on the table. Hamakua Biomass is asking to enter into lease negotiations for these lands; they are not asking to take the land or to do anything. When the first request came in it was for agriculture land there was no conservation land in the request. So HRS 343 EIS requirements weren't triggered. Now HBE is looking at conservation lands the EA/EIS process will be triggered within the EA/EIS process. There is ample opportunity for public comment and review. The questions of the public will be addressed in that process. However, if the Board defers today, it's going to push this back a month or two and Hamakua has told the Board they are trying to enter PPA negotiations with HELCO in December. The longer we push this down the road the harder it is for the PPA to move forward and we don't want to push this further and further. Mr. Strickler thinks if the Board allows HBE to enter into land

negotiations now, they can take it to HELCO as part of the PPA negotiations that they can show they are working on the long term lease. Once they do acquire the lease an EA/EIS will be done because HBE is considering conservation lands, or they could make it as part of the lease negotiations if they take the conservation lands off and just have the agriculture lands. There's ways to do this smartly and effectively and allow public comment to be done on the Hamakua Coast in the form without deferring or delaying this any further than necessary.

Chair Thielen asked for clarification from Mr. Strickler if conservation lands were on the table that would trigger a Chapter 343 review. It would only be the case if those went into the lease, correct. For discussion about whether any portion of those lands or some of them may be subject to these that doesn't trigger a 343. It's only that if they go under a lease and there's activity on it that would trigger a 343. Mr. Strickler said he doesn't have 343 in front of him, but he felt what the Chair is saying is correct because conservation lands originally was not part of the application there was no reference to an EA or EIS, but now that conservation is part of the conversation an EA or EIS will be triggered. Chair Thielen added that OEQC would have to answer that question.

Member Gon wondered whether or not Hamakua Biomass was cognizant and acknowledges that an EA/EIS process will be triggered if conservation lands are involved. Mr. Gilliland said HBE is fully aware and that is the appropriate pre-requisite to meet all the permit obligations for the conservation lands. It is no issue.

Member Gon asked Mr. Curtis whether this changes his decision for a contested case. Per Mr. Curtis, it does change because it's the use of conservation land not entering into negotiations about the possible use.

Member Gon said that DBEDT has been considering other developers of biofuels for Hamakua and asked whether there is a short list in the future. Mr. Strickler replied that the only ones who have come forward under HRS 171-95 asking for State Lands are Sunfuels and Hamakua Biomass Energy. No one else has approached them or Land Division.

Maria Tomei with the State Energy Office said the statewide energy agreement that was signed on October 20<sup>th</sup> had a list of projects which could be forward to the Board but doesn't include Kauai.

Chair Thielen said at the last meeting there was discussions about a third energy producer and that anyone interested, henceforth, should be contacting our Land Division. Mr. Curtis mentioned Tradewinds and that there maybe a fifth company.

Don Bryan, CEO of Tradewinds Forest Products, described that his company is doing two things: manufacturing high value forest products because it is an industry encouraged by the State through the DLNR since the 1970s and at the same time to do a co-generation facility much smaller than HBE's which is 7 megawatts that uses their own waste products and they have some state lands and some private lands. Mr. Bryan

wondered under these new rules, asking DLNR, doesn't Tradewinds apply too? They are a true co-generation using the waste heat from the boiler to finish their products. The answer is maybe, maybe not might use some of those woods for a higher value product. It doesn't feel like that's inconsistent with the State's policy. In fact making higher value products to create more employment and more economic activity is precisely what the State has been asking for so long. Mr. Bryan asked the Board not to ignore all the work, precedent and decades that has gone into creating this industry and turning a sharp corner to another use of those lands. Tradewinds supports what HBE is doing and is in favor of biomass energy. Tradewinds is the only company today that has a current active air permit and a current active purchase power agreement and asked the Board to find whether or not Tradewinds is disqualified from this process because they would manufacture some of those trees at a higher value.

Chair Thielen said that the law that was passed authorizing the Board to negotiate for mixed use producer is a legal question, whether it is permissible. The law is clear that it's for renewable energy production only. That mix use maybe an issue, there maybe a remedy to that which require discussion with the legislature because they could amend that law saying there is a co-generation type facility which Mr. Bryan could consider. As far as forest industry, she was glad to hear the companies are talking about using high value. There maybe some benefit to a forest renewable energy because that is creating more support services that could help the timber industry reach that tipping point that we all want to see done. Maybe the challenge is making sure that we're wise in the use of the actual woods for their best purpose. Mr. Bryan noted every study the State has commissioned over the decades has come to one primary conclusion, which is integrated, high value and every cubic foot of wood goes to its best use. Chair Thielen encouraged Mr. Bryan to work with the timber industry by going back and taking a look at that law to see whether he wants to bring forward some ideas this session on co-generation because that is a good point. Mr. Bryan commented he hoped there will be some land still available.

Division of Forestry & Wildlife (DOFAW) Administrator, Paul Conry, clarified that DOFAW provided exhibit B and identified those that were in conservation district or in forest reserve or natural area reserve where DOFAW questioned the appropriateness for being converted. Mr. Conry thought as they moved forward with the discussions what DOFAW staff is going to be looking at is balancing the native forest conservation needs, taking care of the resources on the natural area reserves. The Laupahoehoe Natural Area Reserve currently has an encumbrance with the experimental forest and they would not be appropriate on that list. The other balance is forest product industry, the solid wood industry in that mix. There is about 4,000 acres that are in commercial forestry in the Hamakua area and some of those DOFAW doesn't think is appropriate for environmental reasons because of where they are located, sensitivity of the soils, etc. which will be brought into discussion. Mr. Conry supports discussion of this list, but to also look at available State lands that maybe appropriate and to broaden that to work and try to find the appropriate sites and meet these needs. As an example DOFAW has about 2,000 acres in Waiakea which is already in a timber management plan that could be made available for biomass which could be looked at in meeting these needs in the future. For

DOFAW lands it's a mix of conservation lands, protected zones/sub-zones in conservation and commercial forest in the resource sub-zone in the commercial district which were planted with the intent to harvest and utilize as appropriate but still comply with the needs of protecting the environment. DOFAW will be happy to work through the process and continue this discussion. What they normally would do for DOFAW lands develop a timber management plan and that would require an environmental assessment before getting to a license or lease for DOFAW lands.

Chair Thielen added that the Board clearly asked that both DBEDT and DOFAW be included in the lease if this moves forward with the lease negotiations and we'll have ample opportunity for that.

Peter Young for Sunfuels asked that a lot of numbers of acreage had been discussed and he sought clarification whether to use the Hamakua Biomass list minus exhibit B minus any other encumbered parcels that is on that list, is that correct? Chair Thielen said that the submittal talks about identifying 3, 830 acres that are vacant and unencumbered and that there are two lists included, one list is agricultural lands and one list includes conservation lands and the specific recommendation under the Board's consideration is "that the Board approves in principle the issuance of a direct lease to Hamakua Biomass Holdings, LLC of up to 10,500 acres as detailed above with the understanding that the approval in principle shall not be deemed to be an approval of the lease as staff shall return to the Board at a later date for approval of the lease disclosing the terms and conditions." That is what is on the table as well as what has been discussed till now. Mr. Young reminded as noted that part of the properties that are in that 38,030 acres, one of them is 1900 acres and that is encumbered. It might be helpful to list the TMKs or list how the decision is made because he is still not clear what it is. Chair Thielen clarified it is 3,830 acres not 38,000 acres.

Mr. Gilliland said that the specificity of the lease is relevant. HBE provided an updated list that reflected the DOFAW properties which are not shown on the list. He suggested that the framework for negotiations should be the identification of available vacant, unencumbered lands. Keeping with the spirit of the recommendation, it's very easy to figure out what those are by looking at the blue areas on the map.

Member Edlao said it's evidenced by all the talk that renewable energy is the buzz word nowadays and biomass is more interesting. More information is needed, how it works, etc. if the Board can move forward with this application, the applicant will do an EA and we'll find out more of the impacts and understand more of the plan and what they are going to do, etc., etc. This is an island state and it is something we need to look at and understand.

Member Gon said that if the Board were to pass this item, it will trigger a whole series of actions. This motion today will not lock the Board into any particular thing. It is an agreement in principle to take the next step. Both the applicant and other people in the room are now aware that the next step is going to be complex ones that will weigh the different resources, land uses, and the needs of the community of that area, the nature of

the landscape of Hamakua, the native species and ecosystems that are there, the history of the use of people, companies and others in that area all of those things will have to be taken into account. Member Gon noted that what the Board passed the last time was deferred. One of the main steps was to determine an appropriate manner to select among the applicants and land parcels. This opens the door to continued exploration. The first applicant always has to take those responsibilities on because it's the first time people are looking really hard at what this all means.

Member Agor said that the applicant may or may not be using conservation land and added a condition to have the applicant do a public presentation in the Hamakua area.

Chair Thielen said for the lease negotiations, some guidance to staff maybe helpful. The continued access for hunting and cultural gathering rights maybe important. In the event conservation lands were used, compliance with Chapter 343. Land Division which is going to take the lead on the negotiations which should include DOFAW and DBEDT's renewable energy coordinator. In the event conservation lands are included, involve the Office of Conservation and Coastal Lands (OCCL). DOFAW has the timber industry aspect, it maybe helpful to be in coordination with that industry association as well. A public hearing is required especially for conservation lands. Its uncertain if there will be other public hearing processes involved.

Member Agor asked if HBE will be using conservation land. Chair Thielen said it is not certain at this time. Member Gon said it didn't matter if they use conservation lands or not, he thought it is a good idea to have a public presentation to be made in the Hamakua area. Mr. Gilliland said its part of the permits issued and that they have no issues with that.

Mr. Atta noted that the 1900 acre encumbered parcel is a lease issued to a rancher name Deluz which will be subtracted from the total number that was presented as being available. Chair Thielen said that the submittal acknowledges what they are looking for is vacant and unencumbered lands. Member Gon added in the future there will be parcels that will be added, deleted, added we will get to all those.

Member Agor made a motion to accept the recommendation by staff itemizing the paragraph as item #1 and adding item #2 where the applicant is to hold a public presentation in the Hamakua area. Member Gon seconded it.

**The Board:**

**Approved staff's recommendation by amending it as item #1 and adding an item #2 where the applicant is to hold a public presentation in the Hamakua area.**

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

11:13 am      Recess

11:20 am Reconvened

**Item D-3 Forfeiture of Revocable Permit No. S-6040, John K. Hashimoto and Junedale U. Hashimoto, Permittee, Anini, Hanalei, Kauai, TMK: (4) 5-3-07:0**

Mr. Atta asked for a deferral of this matter.

**Deferred (Agor, Gon)**

**Item K-1 Conservation District Use Application (CDUA) KA-3475 for Consolidation and Subdivision of Land by the County of Kauai Board of Water Supply Located at Kukuilono, Kalaheo, Koloa, Kauai, TMK: (4) 2-3-005:002, 006 & 007**

Tiger Mills representing OCCL reported that the applicant proposes to consolidate two parcels into a larger parcel and sub-divide an existing County tank site with additional lands to create a new lot. The purpose of the subdivision is to increase efficiency in the management of the Kauai County Department of Water facilities and staff stands by their recommendation. Kauai planner supports this.

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

**Item K-4 Conservation District Use Application (CDUA) KA-3488 for the Proposed Puako Emergency Access Road, at Puako, South Kohala, Island of Hawaii, by the Puako Community Association, TMKs: (3) 6-9-001:017 & 6-9-006:051**

Dawn Hegger for OCCL described the access emergency road, the area, that there was a public meeting, and the purpose as emergency access from fire and tsunami.

Ron Terry, agent for the applicant, said that this project has been a community project working hard to get this to go through giving more background about the fire last year and needing this for the safety of the Puako community.

Bob Momsen, a Board member of the Puako Community Association, reiterated the disasters that have occurred making the main road impassable noting that this project has overwhelming support in the community and to use as an emergency route only.

Randy Vitousek representing George Zimmer, a property owner at the end of this road is in favor of this project but made it clear that this road is used for emergency use only.

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

**Item D-10 Issuance of Revocable Permit to Puako Bay Investors LLC, Lalamilo, South Kohala, Hawaii, TMK: (3) 6-9-01: portion of 15.**

Mr. Atta explained this is for landscaping and maintenance purposes on a remnant.

Tom Witten introduced Bob Johnston who is the lessee, reiterated the request and that they agree with all the recommendations

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

**Item D-5 Approval in Principle of the Issuance of a Direct Lease to Sunfuels Hawaii LLC for Commercial Forestry Purposes, North Hilo, Hamakua, Hawaii, TMK: Various.**

Member Johns and Member Schuman recused themselves.

Some testimony was received.

Mr. Atta informed the Board on the background saying that this request is similar to one on Kauai regarding Green Energy where they requested for approximately 1,000 acres to grow biofuels for a gasification process which involved State lands that had encumbrances on it primarily revocable permits. The similarity is the possibility of entering into negotiations to lease or otherwise consider state lands that have encumbrances and to enter into discussions and negotiations with existing tenants or users of the state lands for possible joint uses, mixed uses or possible early termination if that's a feasible option, but it is in no way a request for an issuance of a lease at this time. It's like the previous request that was heard for an agreement in principle to allow these discussions to go forward. What became apparent to Land Division was there were lands for dairy uses where Mr. Atta strongly recommended not including any dairy lands because of the scarcity and importance of that industry to the State staff recommends that none of the lands issued to dairy be considered in this request. This is a request to allow the applicant to enter into voluntary conversations with existing users and it in no way imposes any kind of requirement or any kind of sanctions to the proposed uses. This is merely opening the doors so that all the considerations that were raised in the previous item are also considered in this particular instance prior to any consideration for a long term disposition. Staff is merely promoting discussion of the possible use. Mr. Atta apologized for Land Division because they weren't able to notify all the interested parties given the number of potential impacts that could occur and the number of parties that could be impacted by this action. Unfortunately, staff was initially talking about opening the door for discussion that they understood the applicant was already in discussions with the interested parties and publication of these decisions would occur as part of this discussion process. Apparently, word had gotten out where there may have been some misimpressions that Land Division was seeking to dispose of lands that were unencumbered which has caused a lot of confusion out there. Mr. Atta apologized for it because he should have made it very clear that this is merely opening up for discussions that the specific request from Sunfuels is the ability to enter into discussions and

negotiations for leasing up to 37,263 acres of state lands much of which are encumbered by existing leases and revocable permits.

Chair Thielen explained to the Board that the Department is learning because they're just starting this new law about direct negotiations and one of the things that they considered when looking at the Hamakua Coast was the Kalepa situation a year ago where this Board was approached by a renewable energy producer asking us to revoke some revocable permits which were being used by ranchers in the Kalepa area of Kauai and issue a lease to the energy producer. Instead, what this Board did was put all the parties back to negotiate and ended up in a situation where the ranching community reached an agreement with the renewable energy producer where each rancher would give up certain portions of their land to be able to obtain a revenue stream from this new crop that was going on their lands but none of the ranchers would be displaced. Forestry was involved in those discussions, too so it opened up an opportunity for the producer to remove some invasive species of albizia in the vicinity as well as maximizing production of working agricultural lands in that area. Staff's intention was encouraging that discussion to take place on the Big Island to identify lands that weren't maximizing their productivity where there could be a mixed use to support these joint purposes but what came out on the submittals was similar to item D-6 and has caused some confusion which will be addressed through the testimony today.

Member Gon questioned the applicant requirements as part of the recommendation where the first one says to secure agreements with the State's tenants which he presumed was by discussion meeting with all the folks that might involved in the all the acreage which makes sense to him, but it wasn't part of the previous item because maybe we haven't reached that stage yet. Mr. Atta describe the difference was the previous item was dealing with unencumbered lands and trying to identify those lands to take them out. This one involves negotiating with encumbered lands and the people using those lands.

Board member Edlao asked about expiration of leases. Mr. Atta referred to the map that most lands involved pasture uses and ranching, but this information is fluid because the applicant needs to investigate and pursue all the information necessary to come up with a reasonable solution and possible outcomes. Whatever the outcome this was intended to open the possibility for this discussion to happen.

John Ray representing Sunfuels Hawaii thanked the Board for considering this saying he hopes this will move forward. Mr. Ray said he represents Michael Zofield a German citizen living full time on the Big Island who is a world leader and visionary in regards to renewable energy development with successful projects in Europe and owns a company called CHORUM (carbon, hydrogen, oxygen, renewable) with partners from the Royal Dutch Shell Company, Damar and Volkswagen focusing on developing biomass to liquid fuel (BTL) a liquid transportation fuel. Mr. Ray noted that two-thirds of Hawaii energy imports go to transportation, a third to aviation, a third to general transportation, a third to electricity and has only heard about renewable energy for electricity, but none for transportation. His company is excited about producing diesel fuel modeling the facility

with the hopes of producing from 12 to 13 million gallons a year which is current highway usage.

Mr. Ray apologized because this whole initiative caught him off guard and described how he learned about this item. Sunfuels has been involved with assessing land and feedstock potential for the past year and a half on the Big Island. Mr. Ray introduced Marius Ellis from Forest Solutions whose company came in under contract through Prudential Timber to grow and manage all the eucalyptus plantations on the island and now they're a co-company of Sunfuels, jointly owned to develop energy feedstocks on the Big Island as well as managing large scale native reforestation projects. Sunfuels manages all the reforestation projects for Kamehameha Schools, Queen Emma and lots of other land owners. This team has analyzed Big Island as a whole in terms of public and private lands, primarily focused on private lands, assessing marginal grazing lands that could produce tree crops, but aren't directly in competition with food crop lands which is how Sunfuels came up with this recommendation. Mr. Ray noted the only way his company could identify those lands of interest was by the tax map key. If six or eight acres gets planted that would be considered a huge success.

Mr. Ray is familiar with the livestock industry, was a former Parker Ranch Trustee, and is extremely sensitive to this industry. There are 4500 acres of eucalyptus planted on Parker Ranch lands with plans to plant more lands. Sunfuels is developing management strategies which could promote pre-growth and continued grazing by looking at species identification to allow more grazing under the trees, species selection, planting schemes; they've been working with Parker Ranch who is already grazing on the lands under the eucalyptus plantation. Originally, that eucalyptus was meant for pulp wood production by Prudential Timber and wasn't planted with grazing in mind. For lands that have good soil but little rainfall, trees could improve the soil and bring in more moisture by fog drip, areas like this were described. Mr. Ray reiterated Sunfuels' sensitivity that they had discussions with DOFAW and Nature Conservancy wanting to see native reforestation. If there are commercial incentives to produce cash crops then Sunfuels can produce incomes to enable DLNR or DHHL to start achieving their long term goals of native reforestation. Mr. Ray asked policy makers to look outside the box to locally produced energy and fuel on the island. There are opportunities to co-exist, there will be sacrifices' made, there will be trade-offs because our society is built around mobility especially the Big Island being so rural.

Mr. Ray apologized for the lack of discussion with the Big Island community and had spoken to Council Member Yagong that both of them had been there at the beginning when the forest products industry first came to Hawaii where Mr. Ray represented the County of Hawaii on the State Task Force in the early 1990s. In terms of value added forestry, Sunfuels would love markets of higher value timber and would like to be part of developing that. There isn't a finite amount of land and not everyone can win. Mr. Ray thinks there is room for one power plant, an integrated forest products industry and room for what Sunfuels wants to do, but we need to make the right decisions because of the 40-45 year commitment. His company is discussing with the State, working with the University of Hawaii on researching energy crops, other developments like wind and

water. Their company is taking the lead to repair the Kohala Ditch where Mr. Zofield purchased over 500 acres in the Upolu Point area to develop an energy and agriculture park, they are working with the only dairy on the lease to, looking at a green chop to provide for the dairy so that it is successful by delivering subsidized water and energy.

Chair Thielen asked about Mr. Ray's comment if 6000 acres were planted that would be a success. Mr. Ray said that the difference is between gross and net acres the three eucalyptus plantations are KSBE's TMK is 24,000 acres because when it comes to gross there are environmental, land, and cattle issues. For net we could say need this much for a certain species of crop, but take into account multiple land uses, developing native habitat which is a lot of land and need to make wise choices.

Chair Thielen clarified that the concern was about locking up lands for long periods and asked what Sunfuels minimum land needs are. Mr. Ray replied about 8000 acres, but the time horizons are set and Sunfuels would be happy to plant 3000 or 4000 acres. He agreed to setting benchmarks with DBEDT that Sunfuels doesn't have the same time pressure like Hamakua Biomass, and felt this needs to move forward.

Member Edlao asked how long it would take them to produce fuel. Mr. Ray said eight to ten years. Member Edlao asked whether Mr. Ray plans to co-exist on the land which he does.

Mr. Strickler for DBEDT said that the Board has the Sunfuels binder before them and that his department has met with Sunfuels on numerous occasions. He reiterated Mr. Zofield's experience and the European project. Mr. Strickler described the gasification process turning it into diesel fuel which DBEDT finds it a viable technology and it's sustainable for the Big Island. The problem for Sunfuels is they can't build the plant without trees or do they need the trees without the plant and DBEDT's position is they need to lock up something to get development for this project going. Mr. Zofield may have deep pockets, but not enough to fund the entire project and will need something to take to the bank to show Sunfuels has a long term feed source to support the capital investment and to get this started. Sunfuels doesn't have a project location yet, but Mr. Strickler believes it might be further up the mountain. DBEDT believes Sunfuels is a viable technology and will be beneficial for the Big Island producing biodiesel. The recent Hawaii energy initiative with HECO was primarily for utilities and power generation and DBEDT hasn't addressed sustainable transportation fuel yet. Sunfuels is on the leading edge of this. DBEDT is developing the Hawaii bio-energy master plan, but that is not complete yet and they don't know how Sunfuels will be affected by that plan, but will be part of that plan. In order to meet the Governor's goals we need projects like this to do it.

Chair Thielen asked whether Mr. Strickler was confident in coming up with milestones for something with a long horizon to production. Mr. Strickler described modeling this like entrepreneurial, venture capitalism and investment where companies are trying to start up using different milestones in financing and development and to look at the permitting process and capital investment for the milestones for this.

Chair Thielen agreed with Mr. Strickler about the financing, but she wanted to make sure milestones are set because the Department is giving up assets of land. She suggested setting some benchmarks that the applicant must meet and if they can't the land can go back and another renewable producer is waiting in line. It is a balance that the Board has to sort through relying on DBEDT with the technical expertise to identify realistic benchmarks to move forward. Mr. Strickler said that he may be looking at this at a different perspective, but in terms of the technology will require development of the equipment for this project which Sunfuels has done at their offices in Germany. DBEDT could set milestones by looking at the production process and break it up in pieces. Chair Thielen clarified she was asking for benchmarks in general not just with this applicant which Mr. Strickler agreed.

Duane Okamoto, Deputy Director for Department of Agriculture (DOA), presented Sandra Lee Kunimoto's (Chairperson of the Board of Agriculture) written testimony that the Department of Agriculture offered to assist DLNR to work with all stakeholders.

Member Gon noted that with potential conflicts there are cooperative benefits that complement energy and food sustainability. Mr. Okamoto said DOA will take the lead in working with DLNR and work along side with other partner agencies.

Chair Thielen echoed Member Gon's point that when the large plantations closed the small diversified agriculture did not fill that vacuum resulting in a lot of fallow land, but no robust industry to protect those lands as working lands. There are now multiple uses competing for those lands to encourage maximize productivity of State land serving both food and fuel. Mr. Okamoto said that DOA recognized the need to meet soon.

Alan Gottlieb, President of Hawaii Cattlemen's Council, described his council's background and that they have concerns with this item which would cripple the cattle industry. Mr. Gottlieb presented his written testimony. Trees and grazing does not work. Mr. Gottlieb asked that this process slow down so the affected leaseholders could respond and listed affected factors.

Chair Thielen said that Mr. Gottlieb wrote his testimony in response to the newspaper articles and asked whether he had a response to what was presented today talking about encouraging conversations with the lessees on the possibility of mix uses to maximize the productivity of the lands. Mr. Gottlieb referred to taking out the dairy and was ok with places where cattle can't graze in, but suggested waiting to put cattle in until the trees are bigger and felt discussions should happen first to the stakeholders before allowing this to go any further. Chair Thielen referred to the Kalepa situation where there was discussion between the parties and that the ranchers did reach an agreement which did include some infrastructure improvements by the producer that DOFAW was brought in and the plantings were spread around so that the different ranchers could diversify their revenues, benefit from the infrastructure improvements, and the renewable energy producer had sufficient land.

Henry Curtis spoke about electricity powering vehicles instead of fossil fuels because it is more efficient also, whether that will happen in the future and a need to have that discussion first. There is question whether the 70% renewable energy self-sufficiency can be achieved by year 2030, how to achieve it and whether biomass is a part of that. He referred to a Hawaiian Electric group meeting that climate change is real, ocean energy is viable, location is important, and that there is a need to look at ocean renewable resources because wave energy, OTEC, wind and solar could supply all the energy needs for the state. Therefore there isn't a need to convert land for ranching and agriculture for biomass fuel which would require heavy subsidization because it could be grown cheaper somewhere else and import it. Mr. Curtis described the 50 square miles which triggers an environmental assessment and to have the meeting on the Big Island. Hawaii is being the guinea pigs of this process which has not been commercialized.

Dean Okimoto, President of the Hawaii State Farm Bureau, said he was not against Sunfuels doing bioenergy. Part of the problem why private landowners don't put up lands for livestock is because profitability is low and that is why ranchers go to the state for grazing lands. The State needs to have conversations with all the various agriculture operations viability and he described how much each could afford. Some of the ranchers have put in infrastructure to grow more cattle to keep in the state and Mr. Okimoto recommended going public with this message because these ranchers and farmers are scared that their lands will be taken away. We should look to our lawmakers to address some of these issues.

Member Gon said that this is unanticipated consequence of recent legislation and will need to take into account by adjusting the law or the way the law is implemented. He is sure our legislators will be hearing about this.

Chair Thielen said that she has been using the term maximizing productivity, not highest or best use, where ranchers are doing agriculture operations.

Elizabeth Cole asked to look at the bigger picture when making policy decisions on the land use.

12:43 pm RECESS

12:55 pm RECONVENED

Member Edlao was concerned that the leaseholders weren't notified and cannot support this unless there was more communication with all people affected.

Member Gon agreed and said that this proposal doesn't have the same kind of deadline like item D-6 that there is room for biofuels and bio-liquid fuels and he asked that it not be exempt from an environmental assessment. He recommended that Sunfuels meet with all concerned stakeholders to discuss this project and potential agreements and in item 2 in conducting due diligence on permits and entitlements to include the environmental assessment for land use changes relevant to this project. Or the Board could defer for a

month to meet with all stakeholders and come back with a more supportive context of stakeholders.

Member Agor agreed with Member Gon wanting dialogue for co-existence and to move forward.

Member Gon said that this would be a recommendation that this Board approves in principle, but the applicant must fulfill the requirements and those requirements would be expanded to include meeting with all concerned tenants and stakeholders to discuss this project and potential agreements culminating in securing those agreements with the State's tenants which is a modification of #1. And, #2 to include environmental assessments for land use changes relevant to this project.

The Board discussed this coming back and whether deferring.

Chair Thielen noted that what is missing on this application is a clearer identification of the minimum amount of lands that Sunfuels need and the timetable to faze those in because they may at full production need a certain amount and a certain number of years to get that amount. But, per the applicant they are no where near the 37,000 acres. When Sunfuels meets with the community they will need the minimum land amounts and the timetable for leasing those lands. The Chair agreed not to defer this because its delaying people from getting to the table to wrestle with these hard policy calls and the Board's role is for people to meet on whether we can have mix uses to maximize productivity of land.

Member Agor found that opening discussions with the existing lessees and applicants culminates into a situation where the applicant will come up with a minimum pending on the negotiations.

Chair Thielen said that in the Kalepa situation they asked for 2000 acres and settled for 1000 acres after negotiations. Staff was given the number 37,000 acres, but today Sunfuels said 8,000 acres in productivity which is a much bigger gap. The applicant will need to come up with a specific minimum acres needed and the timetable. The Chair felt 37,000 is a difficult number to negotiate with. Member Agor said this could be added as a recommendation to go into negotiations with the idea of a minimum amount and to share with Department staff.

Mr. Ray said he is acceptable of not having a timetable and leaving it open.

Chair Thielen noted there are two timetables on the table. One is Sunfuels needs to provide the lessees and the Department their minimum land needs and the timetable of when they need those lands. As an example Sunfuels needs 8,000 acres by 2010 to get started which is the specificity that the Board needs on their business plan. The other issue when Sunfuels pulls things together and sits down with the agricultural community is this Board going to ask them to come back to us for a status report or anything with a certain amount of time and there should be flexibility for that discussion to continue. Or,

like in the Kalepa situation the parties involved asked to come back to the Board to give a status report and get some feedback from the Board which was helpful, too.

There was discussion on whether to move on or sit down to get more ideas.

Chair Thielen suggested issuing a decision where the Board encourages the applicant to enter into discussion with the current tenants and agricultural community in the Hamakua region regarding mix use of agricultural lands for traditional agricultural purposes and renewable energy. Also, to identify their minimum land needs and the timetable that they would require for leasing those lands and to return to the Board with any request they may have with prior notice to any affected tenants. The applicant is welcome to come back to the Board with the request then everyone would have prior notice and they can entertain it at that time. To include the Department of Agriculture, DLNR, Hawaii Farm Bureau and ranching associations in the negotiations which send a message to the tenants that this Board is encouraging discussions on mix use. A lease and an environmental assessment is premature at this time because there has been no decision to lease and on what is going where there is nothing to do an EA on at this point. This recommendation is premature and we would be sending people to the table to enter into negotiations and discussions and come back to the Board with specific recommendations. Because Chair Thielen doesn't think these negotiations will take place voluntarily if this Board doesn't do anything by motivating the lessees and referred to the Kalepa situation where the Board gave some direction.

Member Agor asked whether the Chair was comfortable with the staff's recommendation. Chair Thielen said she was not comfortable with the 37,000 plus acres, it's not clear what the minimum acreage is and nor is there a timetable. If the Board were to approve this today the message they would be sending to the agriculture community is this Board is supporting 37,000 acres of lands being leased and she hasn't heard today whether that is the minimum amount needed. The applicant can come back to the Board and the lessees and if they can show 37,000 acres is the minimum they need that needs further discussion.

Chair Thielen asked Mr. Ray whether he will agree to an amendment to this acreage. Mr. Ray said yes for 10,000 acres of planted trees.

Member Gon made a motion subject to the applicant fulfilling all the requirements listed approve in principle the issuance of a direct lease to Sunfuels covering up to 10,000 acres of State lands commercial forestry operations with the understanding that this approval in principal is not deemed the approval of the lease. Staff will have to return to the Board later for the approval of the lease disclosing the negotiated terms and conditions. The Applicant Requirements shall be

1. To meet with all concerned tenants and stakeholders, including relevant State and Hawaii County Offices to discuss this project and potential agreements, culminating in secure agreements with the State's tenants for the use of all or portions of the demised lands whether by early termination of the leases those in agreement sustained.

2. Conduct its due diligence and obtain necessary entitlements and permits, including environmental assessments for land use changes relevant to this project.

Three and four remain the same.

Also, revise staff's recommendation from 37, 263.87 acres to 10,000 acres.

Chair Thielen said Member Gon mentioned obtaining all permits. Permits may not be triggered and that an environment assessment may not be triggered until a lease is done although in some cases they are. She asked for an amendment which Member Gon was ok with.

Mr. Curtis asked for a contested case hearing.

Chair Thielen summarized that the Board approved in principle the issuance of a direct lease to Sunfuels covering up to 10,000 acres that is not an approval of a lease. Sunfuels has to go back and sit down with the affected tenants and the community to discuss whether mix use is appropriate where tenants may or may not be in agreement then Sunfuels will come back to the Board with any proposed lease and there would be prior notice to any of the affected parties to make their presentation to this Board. The Board approved to move forward with negotiations and if those negotiations are successful for Sunfuels to come back to the Board with the specific lease proposals.

Mr. Curtis was familiar with submitting written request for a contested case hearing within 10 days.

**The Board:**

**Moved that upon the applicant fulfilling all the requirements listed approve in principle the issuance of a direct lease to Sunfuels covering up to 10,000 acres of State lands commercial forestry operations with the understanding that this approval in principal is not the approval of the lease. Staff will have to return to the Board later for the approval of the lease disclosing the negotiated terms and conditions.**

**The Board amended staff's submittal. Under APPLICANT REQUIREMENTS on page 3 to read the applicant shall be required to:**

1. **Meet with all concerned tenants and stakeholders, including relevant State and Hawaii County Offices to discuss this project and potential agreements, culminating in secure agreements with the State's tenants for the use of all or portions of the demised lands whether by early termination of the leases or revocable permits, assignments or subleasing if allowable, or otherwise, arrive at a minimum acreage and timetable in their lease application.**
2. **Conduct its due diligence and obtain as necessary entitlements and permits, including environmental assessments for land use changes relevant to this project.**

**Also, revise staff's recommendation from 37, 263.87 acres to 10,000 acres.**

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

**Item K-2 Conservation District Use Application (CDUA) MA-3465 for the Construction of a Rockfall Impact Barrier at Milepost 19 on the Hana Highway, Ko'olau District, Maui, by the Department of Transportation, Highways Division, TMK (2) 1-1-08:01 and 05.**

OCCL Staff Planner, Michael Caine, gave background and staff recommends approval of standard conditions.

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

**Item D-17 Grant of Term, Non-Exclusive Easement to Mary J. Porter Trust for Seawall, Landscaping Area, and Pier Purposes, Kaneohe, Koolaupoko, Oahu, TMK: (1) 4-4-037:seaward of 012.**

Mr. Atta reported that the applicant originally intended to purchase these lands. But, because of a Supreme Court case involving the transfer of ceded lands, staff was unable to process a request to purchase the land. As an alternative, staff suggested that the applicant may pursue a long term easement. The property is in escrow and the consideration payable for the encroachment would have an impact on the sale. According to the applicant, the encroachment should be valued as submerged land. Mr. Atta advised the Board that he hasn't cleared the issue on the appropriate amount with the Attorney General's office. Chair Thielen said until Mr. Atta can get a response from the AG's Office it would be premature for the Board to vote on this and asked whether he wants to defer or this?

Mr. Young representing the Porters explained that Mrs. Porter passed away and the son's need to sell the property. They do not want a deferral at this time because the property is in escrow and they want it to move forward. Mr. Young went on to advise the Board that the applicant did the fill with a permit issued by DOT in 1956. Therefore, he asked the Board to clarify this as fill with a submerged land value based on statute 171-53. In the event the owner is able to proceed with the purchase, a pro-rated portion of the consideration paid on the easement should be treated as credit toward the sale price. Mr. Young had no objections if any approval is subject to AG approval. He simply did not want a deferral of the case. Member Gon noted that is one of the stipulations.

Member Schuman asked wouldn't the appraiser take that into account when he came up with his valuation where Mr. Young agreed according to the statute or the Land Board guidance is to do it that way. Chair Thielen said to have it say subject to review and approval of the AG's and Mr. Young agreed.

Mr. Atta spoke of sale versus easement where Member Schuman understood.

Mr. Young distributed a letter regarding the approval issued by DOT in 1956.

Chair Thielen decided to give our deputy attorney general some time to look at this then come back later in the meeting and moved on to the next item.

**Item J-1 Issuance of a Revocable Permit to Hawaii Yacht Club (HYC), a Hawaii Non-profit Corporation, for up to Fifty (50) Permit-Only Parking Stalls at the Ala Wai Small Boat Harbor, Mole "A", TMK: (1) 2-3-037:por.12.**

Ed Underwood, Division of Boating and Ocean Recreation (DOBOR), asked for an issuance of a revocable permit which the Board had approved in the past and staff wants to reissue the same revocable permit with the following revisions: 1. The 50 permit parking only permits be issued on a monthly basis rather than quarterly. 2. The monthly fee for the parking permit was \$10.00 per parking permit per month where staff is recommending it be \$25.00 per parking permit per month which is the same as a current tenant in the harbor.

Frank Lange, Commodore of Hawaii Yacht Club, has no objections and is fine with all recommendations.

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

**Item D-15 Consent to Mortgage, Landlord's Lien Waiver, Access Agreement, Estoppel and Consent; General Lease No. S-3709, Waimanalo, Koolaupoko, Oahu, TMK: (1) 4-1-014:013.**

Mr. Atta described the situation and staff's recommendation was as long as the mortgagee has an obligation to provide staff with a current address they would send it to them to secure interests.

Peter Hamasaki representing Sea Life Park said that with respect to recommendation #1 which is the notice provision where they were fine with the language proposed to be added. In section 5b they want to retain those provisions by adding it.

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

**Item D-16 Amend Governor's Executive Order No. 2642, Waimanalo, Koolaupoko, Oahu, TMK: (1) 4-1-027.**

Written testimony from Robert Chong was distributed.

Mr. Atta briefed the Board about the access situation where the one user disagreed with the way another user is securing the access. Staff is bringing this before the Board to correct the lack of documentation for the access and make it clear that it is non-exclusive

to both tenants and thereby alleviating some the problems they are experiencing now. It is recommended to remove that portion of that road from the field to Board of Water Supply to provide non-exclusive easements to both properties.

Robert Chong is in support of this and explained the situation with one common access road being chained and Mr. Chong's parents, their mailman and others not able to access the Chong's property.

Larry Mersereall doesn't agree with staff's recommendation because it doesn't address all the facts but he was alright with the right-of-way approved for both lessees.

Cindy Comor agrees with staff's recommendation however the background included false information where Landscape Hawaii made a decision to put up a chain without discussing with the Chongs, with Board of Water Supply, HECO or with DLNR with locks on the chains. She reported a breach of security that impacted a power outage where trees were girdled and asked to keep the chains. Its Board of Water Supply's road and everyone has a lock on the chain. The road is unsecured because the chain is on the ground.

There was discussion whether HECO object to this non-exclusive easement which they don't object but the methodology was the question.

Chair Thielen explained that it is up to the owners on how to secure the area the only recommendation is for all the parties to get access. No one is shut out.

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

**Item D-17 Grant of Term, Non-Exclusive Easement to Mary J. Porter Trust for Seawall, Landscaping Area, and Pier Purposes, Kaneohe, Koolaupoko, Oahu, TMK: (1) 4-4-037:seaward of 012.**

Deputy Attorney General Julie China advised the Board that the AG's Office would work with the applicant on the methodology on how it would be done. No change of the recommendation is needed.

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

**Item D-18 Issuance of Direct Lease for Air Quality Monitoring Station and Access and Utility Easement to Hawaiian Electric Company, Inc., Nanakuli, Waianae, Oahu, TMK: (1) 8-7-006:029 and portions of 002 & 008.**

Mr. Atta said no changes.

Phil Hauret from HECO has no comment.

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

**Item E-4 Establishment of a Volunteer Kokua Partnership Agreement for Portions of Diamond Head State Monument, Oahu**

Dan Quinn for Division of State Parks reported that there is nothing to add and that this is an expansion to their curator agreement.

The Board thanked Mr. Quinn for forming this.

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

**Item K-5 Conservation District Use Application (CDUA) OA-3452 Request for an After-the-Fact Permit for the Construction of a Driveway and Associated Grading, as well as for the Stabilization of an Existing Cut on the Hillside, at Keaalu, Kaneohe, Koolaupoko District, Oahu, by Joyce and William Chandler , TMKs (1) 4-4-17:111 and 35.**

Mr. Caine gave background and noted the seven bulleted items at the end of the submittal that three are requesting a permit for after-the-fact actions and granting these three will resolve violations staff has had with the land owner. Of the other four is what was needed to mitigate which Mr. Caine described and introduced the land owner.

William Chandler asked to defer on this to the December 12<sup>th</sup> meeting because of a number of issues plus his wife and attorney is not here.

There was some argument over when Mr. Chandler had notice of this meeting.

Chair Thielen asked what Mr. Chandler's disagreements or concerns are. Mr. Chandler explained that they paid a \$50,000 fine settlement to get the CDUA to use their property and asked that they be granted use of the improvements. Mr. Caine explained that staff is recommending approval for work that was already done which satisfies the settlement agreement and they are not commenting on how he uses the land, but staff doesn't want him to do any more work further on the land. Mr. Chandler thought they paid \$50,000 dollars to get a permit to use this.

Chair Thielen clarified that the fine was for doing some work without going through the permit process and some impacts that maybe caused by that. What is before us today is to approve a conservation district use permit subject to some specific conditions. Chair Thielen suggested Mr. Chandler get some advice from his attorney.

Mr. Chandler said that there wasn't any case where they studied where an after-the-fact permit was gotten and not allowed to use it. Mr. Caine and the Board asked what can't be used and where are you reading this.

Mr. Chandler wasn't clear on what the recommendation was causing Chair Thielen to be perplexed with his comments saying she will not interpret these things for him and explained what it is before the Board. Mr. Chandler continued reiterating the use.

The Board said to defer this so Mr. Chandler can bring his lawyer but Mr. Caine was concerned because the 180 days will expire in January 2009.

Chair Thielen said that staff will need to put this submittal on the December agenda reiterating that the Board will not interpret this for Mr. Chandler and that his attorney will need to look at this to advise him, also, she warned that if the Board has not acted in December Mr. Chandler is at risk of being in violation again in January.

Mr. Chandler wanted to correct some mistakes in the submittal where Chair Thielen suggested he speak with OCCL staff in between now and the next meeting.

**Deferred (Edlao, Schuman)**

**Item C-1 Request for Approval of Hawaii Conservation Reserve Enhancement Program Agreement Between the State of Hawaii and the U.S. Department of Agriculture**

DOFAW Administrator, Paul Conry, introduced Melissa Sprecher who is the project coordinator and Sheryl Mann, DOFAW staff. Mr. Conry said they don't have any changes explaining that this enables the State to enter into a new farm bill program that has potential of bringing \$40 million dollars of federal funding to assist ranchers and farmers to get more productive use out of their lands giving more background. Mr. Conry thinks it's a good deal for the State which will give some long term conservation benefits which adjusts the program guidelines to make it more favorable to open more land to qualified land owners and he hopes to get 15,000 acres of koa planted.

Member Gon asked what the briefing schedule was where Mr. Conry said it would be for the Chair to enter into keeping the Board appraised on how everything is working by coming in after the initial contracts are completed and then do an annual briefing after that.

Chair Thielen wants this announced to the affected land owners in the Hamakua area. Mr. Conry says it will go forward once the Board approves this and is signed by the Governor and Secretary of Agriculture.

Sheryl Mann explained the uniqueness of this program marrying land restoration and conservation which is an exciting advancement on how they do their jobs. Chair Thielen asked about adding it to the landowner assistant workshops which Ms. Mann said this program has been added into the last several workshops but will do a bigger announcement with the farm service.

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

- Item D-1** Consent to Sublease General Lease No. S-3852, United States of America, Department of the Navy, Sublessor, to New Cingular Wireless PCS, LLC dba AT & T, Sublessee, Waimea, Kekaha, Kauai, TMK: (4) 1-2-02:26 por.
- Item D-4** Re-Submittal Request to Write-Off Uncollectible Account on the Island of Hawaii–Laupahoehoe Transportation Company
- Item D-7** Amend Prior Board Action of August 22, 2008 (D-3) Withdrawal from Governor's Proclamation dated January 3, 1923, Waiakea, Hawaii, TMK: (3) 2-4-49:Portion 31.
- Item D-8** Issuance of Right-of-Entry Permit to Marine Corps League-Camp Tarawa Detachment #1255 onto Lands Encumbered by General Lease No. S-4474, Puu Kawaiwai, South Kohala, Hawaii, TMK: (3) 6-2-01:por. 15
- Item D-9** Cancellation of Revocable Permit No. S-7410 to Louella N. Schutte and Issuance of Month-to-Month Revocable Permit to Guy K. Schutte for Pasture Purposes; Waimea, South Kohala, Hawaii, TMK: (3) 6-4-31:7, 9 & 10.
- Item D-11** Amend Prior Board Action of January 27, 2006, Item D-4, Grant of Term, Non-Exclusive Easement Covering Offshore Waters and Submerged Lands to Kona Village Investors, LLC, for Moorings, Swim Platform and Ingress/Egress Corridor, Kahuwai Bay, Kaupulehu, North Kona, Hawaii, Seaward of TMK: (3) 7-2-10:10

Written testimony was submitted by Deborah Chang.

- Item D-12** After-the-Fact Consent to Assign Lease of Non-Exclusive Easement S-5212, William E. Gibson and Kahala-Ann Trask-Gibson, Assignor, to Teaderman Business Park LLC, Assignee and Amend Lease of Non-Exclusive Easement S-5212, Holualoa, 3<sup>rd</sup>, Kaumalumu, North Kona, Hawaii, TMK: (3) 7-7-04:seaward of 9
- Item D-13** Sale of remnant to Gregg Blue, Makawao, Maui, TMK: (2) 2-7-8: remnant 3-B and 4.
- Item D-14** Amend Prior Board Action of May 25, 2007, Agenda Item D-5, Quitclaim of State's Interests, if any, in Bannister Place to the City and County of Honolulu, Kalihi, Oahu, TMK: (1) 1-2-14: road.
- Item D-19** Set Aside to Department of Land and Natural Resources, Division of Aquatic Resources for Artificial Reef Purposes; Kalaeloa, Ewa, Oahu, TMK: (1) 9-1-013 seaward.

Mr. Atta said no changes. No public testimony.

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

**Item E-1 Request for Approval for Reinstatement of Permit SP-0359, Lot 11, Waimea Canyon State Park, TMK (4)1-4-002-012, Maile Hurley, et al**

**Item E-2 Request for a Special Use Permit from the Federation of American Natives to Hold the Fourth Annual Hilo Inter-Tribal Pow Wow on Portions of Wailoa River State Recreation Area, Hilo, Hawaii**

**Item E-3 Request for a Special Use Permit from the World Triathlon Corporation to Use the Hapuna Beach State Recreation Area in South Kohala, Hawaii for the 2009 Ironman 70.3 Hawaii Honu Triathlon**

**Item E-5 Selection of Projects for Federal Grant Awards through the Land and Water Conservation Fund Program for Fiscal Year 2008**

Mr. Quinn had no changes.

No public testimony.

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

**Item F-1 Request for Approval of a Special Activity Permit for Dr. Spencer Malecha University of Hawaii Manoa, Department of Human Nutrition Food and Animal Sciences**

Francis Oishi representing Division of Aquatic Resources has no changes.

There was no public testimony.

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

**Item M-1 Issuance of Hangar Facilities Lease to Colin K. Perry Kalaeloa Airport, Island of Oahu, State of Hawaii**

**Item M-2 Issuance of a Retail Concession Lihue Airport**

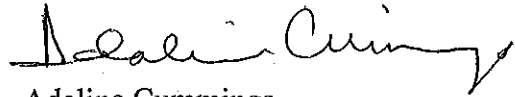
No questions and no public comment.

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

**Adjourned. (Gon, Edlao)**

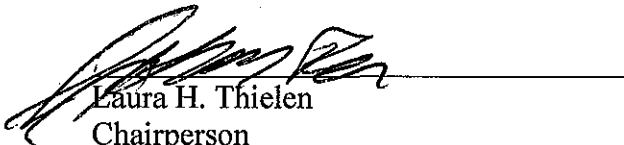
There being no further business, Chairperson Thielen adjourned the meeting at 2:14 p.m. Recordings of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Adaline Cummings  
Land Board Secretary

Approved for submittal:



Laura H. Thielen  
Chairperson  
Department of Land and Natural Resources