

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

DATE: THURSDAY, APRIL 21, 2011
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HI 96813

Chairperson William Aila called the meeting of the Board of Land and Natural Resources to order at 9:02 a.m. The following were in attendance:

MEMBERS

William Aila, Jr.
Jerry Edlao
Rob Pacheco

David Goode
John Morgan
Dr. Sam Gon

STAFF

Dr. Bob Nishimoto/DAR
Russell Tsuji/LAND
Ed Underwood/DOBOR
Bill Tam/ADMIN

Sam Lemmo/OCCL
Paul Conry/DOFAW
Laura Stevens/ADMIN
Randy Awo/DOCARE

OTHERS

Colin Lau, Deputy Attorney General
Kathleen, F-2
Leighton Tseu, F-2
Heidi Guth, F-2
Megan Webster, C-1

Dr. Charles Littnan, F-2
Dan Polhemus, F-2
Kehau Watson, F-2
James Case, K-3
Catie Cullison, K-1

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

Item A-1 February 25, 2011 Minutes

Member Gon recused himself.

Approved as submitted (Morgan, Edlao)

Item A-2 March 10, 2011 Minutes

Item A-3 March 24, 2011 Minutes

Were not ready for this Board meeting.

Item F-2 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Conservation and Management Permit to Frank Parrish and Alecia Van Atta, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, for Access to State Waters to Conduct Shark Monitoring and Removal Activities

Dr. Bob Nishimoto representing Division of Aquatic Resources (DAR) noted that the applicants are here and he proceeded to describe what this agenda item is for. Section A is to monitor shark activity at select Hawaiian monk seal pupping sites and Section B is removal of predatory sharks from these areas. In short the permit will allow entry to conduct these activities in the Papahānaumokuākea Marine National Monument including the Northwest Hawaiian Islands Marine Refuge and the waters which is 0 to 3 miles surrounding French Frigate Shoals (FFS). The activities will occur from April 10 to September 1, 2011 and is largely continuing work previously submitted for the Monument. The intended activity A is to monitor shark activities to determine when activities commences and what shark species are involved using human and remote camera observation from land. The reason is predation by sharks on monk seal pups. Section B involves removing sharks that that are observed to be pursuing, injuring or killing seal pups or those patrolling within 50 meters of the shoreline when the pups are present. This activity will help to address the problem of low juvenile seals survival is necessary for the species to recover. The approved methods of catching a predatory shark are 1) hand line from shore with crew assisting in a small boat if necessary, 2) a handheld harpoon and 3) net surprise. For all methods sharks would be pulled to shore or along side the small boat, tail roped and dispatched by a bang stick. The shark carcass will be examined and desired remains to fulfill Native Hawaiian practices and to conduct scientific analysis. Applicants aim to remove 19 sharks between April 10 to September 1, 2011. This activity is identified in the Management Plan and is supported by the Monument Management Plan, Priority Management League 3.2 which is to reduce shark predation on monk seals. It supports the Monk Seal Recovery Plan which is to monitor shark activity and to remove sharks that are decimating the seal population. As for the review process, there were several comments made from the scientific community which consist of a Marine Management Board which supports acceptance of this application, but the following issues were raised on page 3 of the submittal which Dr. Nishimoto read.

Exemption determination – All activities associated with this permit including monitoring and removal of sharks have been evaluated as a single action. The exemption class has no serious environmental disturbance appear to fall under exemption class #5 as described under Division of Forestry and Wildlife exemption list published June 12, 2008. As for the cumulative impacts, this project is a continuation of shark removal activities undertaken in 2000, 2007 and 2010 under permits. Possible adverse effects to the coral reef ecosystem at French Frigate Shoals from shark removal investigated by Dr. Parrish from the Marine Fishery Service indicated that removal of 20 sharks is nearly interceptable affect on the dynamics of the FFS ecosystem. Any impacts are minimal mitigated by special and general conditions attached to the permit. Dr. Nishimoto read the recommendations for the Board to authorize and approve the permit.

Dr. Charles Littnan testified in brief that every time this agenda item comes up there are mis-understandings or misconceptions of the project and he wanted to completely inform everybody of the steps they are taking or why they are proposing this. The Hawaiian monk seal is critically endangered with around 1100 individuals. This species unique to Hawaiian waters faces a variety of threats that continue to disproportionately affect young seals from birth to 3 to 4 years of age. Currently, less than one of five seals born in the Northwest Hawaiian Islands survives to adulthood. Unless this trend changes monk seals could disappear within our lifetime. The National Marine Fishery Service is the lead agency for monk seal recovery efforts for the mandates of the Endangered Species Act and the Marine Mammal Protection Act. Dr. Littnan described the various programs aimed to protect and save monk seals. This shark removal is part of a larger strategy. The selective removal of Galapagos sharks to prevent monk seal predation is a vexing issue. There are strong scientific cases to support the approval of this permit application. The predation of pups is only observed at FFS which became an issue in 1997. It occurs no where else in the range. In the 15 years that this predation has been occurring at least 206 of the 835 pups born at FFS has been injured or killed by shark attacks, about 15% each year. Shark experts say that predation on monk seal pups around shallow waters by Galapagos sharks are typical behavior. Removal of 19 sharks around FFS would have negligible population level and ecosystem impacts. Also, selective removal of up to 19 Galapagos sharks could have immediate and long lasting impacts on monk seal survival and recovery. The potential benefits far outweigh the potential costs. All the activities proposed in this program application have been proposed previously by both the Monument Management Board and the Board of Land and Natural Resources. The proposed activities this year are scaled back from previous years because of budget issues. They propose a short term effort to remove a small group of sharks that developed this atypical behavior. They do not discount or disregard the moral and cultural concerns that are associated with this project and will continue to work with the Department to address these concerns. As a research and recovery program, we value all ecosystem components and are only proposing removal of sharks after carefully ruling out other options. Dr. Littnan related the methods they used, but none proved successful. They have been working with the Native Hawaiian Cultural Working Group for guidance on the project where there was a diverse range of opinion on their proposal. They voted no position on the topic. A brief narrative is in the permit package and they can provide more. Monk seals in the Northwest Hawaiian Islands are in peril and we have few

options to address their decline. The limited options that are available need to be applied strategically and with due diligence to the welfare of the other resources both biological and cultural. We are confident that the actions are consistent with the Monument Management Plan to maintain the biological diversity and ecological integrity of the ecosystem. In this case there is an unnatural imbalance of sharks and monk seals at FFS and would be imprudent to think that the situation would resolve itself naturally. We believe the intervention we are requesting is warranted and respectfully request you allow us the only remedy available by removing a limited number of Galapagos sharks.

Member Edlao said this sensitive issue has been going on a long time that he didn't think the applicant has done everything and there are other alternatives available they aren't looking at. He asked what about relocating the females (monk seals) to another area to pup and wean there and reintroduce later on. Everything is focused on culling sharks and he thinks they need to look at other directions. There is mention of Galapagos and Tiger so what is it?

Mr. Littnan explained that they addressed the issue of moving females, but there are two problems. You cannot remove an animal within the atoll because they show high degree of fidelity to the sites they are going to pup at. Looking at FFS swimming from Tern Island to Trig Island or from East Island to Trig Island...Member Edlao asked whether that was based on actual removal or just a theory. Mr. Littnan confirmed that saying they have extensive history of translocating animals. Adult animals will return to the site they are from. Swimming a couple dozen miles is nothing. Even a couple hundred miles is nothing. The only potential solution for that is to remove all the females from FFS to another atoll where they will eliminate the reproductive potential at FFS dooming its exacerbation so that in our book it's not a reasonable solution. We have mandates under BSA recovery plan for monk seals that say we have to have a certain number for this species to be considered recoverable. We have to have a certain number of animals at each population showing a growing trend so we would be pushing these animals closer to the brink putting them in jeopardy instead of resolving the problem. The second issue is our program has been firm from the beginning that we are not proposing removal of any shark except for a small number of Galapagos sharks. Other programs brought up tiger sharks as potential issue, but we don't have any data that supports that. There are thousands of hours of video showing Galapagos sharks pulling monk seals into the water. Tiger sharks could be problem, but they don't have any evidence.

Member Edlao asked it sounds like you folks know which 19 sharks are targeted. Another question was defined patrolling an area that if a shark is patrolling does it mean it will kill? What is the trigger to say that is the culprit? Are they actually doing it? Dr. Littnan said they have a video and could come back with it. Galapagos sharks are tend to stay in deeper waters outside of the atoll and do move within the atoll. The atolls at FFS are used as a thoroughfare to reach other deeper waters. Every shark expert has said that it's extremely unusual for Galapagos sharks to be within the shallows of the atoll, 20 meter depth. We are talking about Galapagos sharks in four or five feet of water where half their body is removed from the water and pulling pups off the beach. It's hard to describe in the paper, but you don't see Galapagos sharks in only a few feet of water.

When they are there you can tell there is predatory behavior, they are particularly brazen where if you slip your hand into the water they will approach shore from wherever they are. The shark experts can tell you that the sharks they will catch are certainly, 99% sure participants in this predatory behavior.

Member Edlao said that this is natural behavior in Galapagos sharks and would go on and on. Dr. Littnan agreed saying he won't discount it, but you need to understand for the 20 years of studying monk seals prior to 1997 this didn't happen. It wasn't observed by the Coast Guard that was up there. In 1997 off-casting or supplemental feeding of sharks caused sharks to move in. It is a natural behavior, but it is not a standard behavior because you don't see it elsewhere in the range. If you remove the animals doing this it will stop the problem and if you don't you've lost 20 sharks. Member Edlao reminded Dr. Littnan they brought this before to take away a few sharks, but here we are again for the third time. Dr. Littnan said it is really hard to catch these sharks. They caught one last year that you have to put in hundreds of hours to catch a single shark because the methods we are proposing is we are trying to be as selective as possible. If they went to the outside of the atoll they would catch sharks, but by being selective to target the animals we are interested in we have narrowed our fishing to the shallowest of shallow areas. After speaking to the shark specialists they said to fish anywhere within the atoll because you are going to get some animals that aren't the target ones, but if the shark is in the atoll that is kind of weird. We are not failing. It is our own choice to do this means you have to fish a whole lot in order to remove sharks. We never said we would do this within a year and we will come back next year with the same permit. The removal of that one shark stops the predatory movements within the shallows for at least a month or more. The Galapagos sharks left the shallow areas and they didn't have any predation events, we didn't have any injuries, we didn't have any losses whatsoever during that period of time. But, there are other animals coming back in to do this. It's hard for us since this is a controversial and difficult topic, but we don't propose this because we enjoy removing sharks. We don't put monk seals above everything else. Our job is to do the things through all our analysis and research. Chair Aila is familiar with the amount of thought and strategies they have done. We don't ask for this lightly and we don't mean to be a nuisance coming back that we need to do it again.

Member Edlao asked what the population was of Galapagos sharks in the area. Dr. Littnan said it's estimated at 668 sharks but the range is up to 1700. At FFS and archipelago wide it is dramatically higher.

Member Pacheco asked that Dr. Littnan mentioned that these sharks are brazen and he is having a disconnect with them being hard to catch. If you are sitting on shore observing these sharks isn't there other avenues that could be more effective? Dr. Littnan explained that the animals most brazen are late in the season and researchers are on shore watching with little ability to do anything until the permit is in place. That happened a couple times. Sharks are amazingly smart and cunning. At the beginning they weren't allowed to do removals and some of the science we have now didn't exist back then. We could harass the sharks and subsequent shark removals changed the shark behavior a little bit. And, why they are asking the ability to camp on shore also is these animals would be

taken first thing in the morning when the mother will abandon the pup overnight and the pup will be sitting on the shoreline which happened last year and the year before. There is a video camera sitting on the animals or video taping the beach. They see the animal and by the time they get in the boat the animal is taken by the shark. These sharks will take pups at night as well because human presence is less. There are other options they could do that if they had permission for harpoons or throw a line in front of a shark that is patrolling a couple feet from shore. They've discussed shooting in the past. People have safety concerns of having a harpoon and a gun. Those discussions have been on the table, but not one will work given the great variability in shark behavior. We can have a year where the sharks stay in very shallow water and will approach and it doesn't matter if there are people on the beach or not. There will be years where they haven't seen a shark less than 20 feet from shore and there is the same level of losses at night. Member Pacheco asked the purpose of this program is to save these pups from predation and he supports the concept of ridding these sharks. But, he'd rather give the ability for Dr. Littnan's staff to use greater means to be more effective quicker because we mess around with this year after year and get no shark or one shark. We aren't doing what the intent of the permit is for. What can we do in a permit to allow giving you greater flexibility to have a greater chance at success if we are going to allow for this at all? Dr. Littnan said two things. The list they have this year is the best that we can do. In the future considering one of the things we can put in the permit to be honest I'm scared to add anything more. This is a rather brutal permitting process for this one in particular and changing or adding anymore just resets the process. It takes an enormous amount of time to move forward with the things that have been accepted and approved. There isn't any other technique other than firearms that they could add because they don't want to compromise on the selectivity. Last year when they used bottom sets they caught tiger sharks which were live release and broadening that much more we have the fear of increase bi-catch and the impacts on the eco-system and catching non-target Galapagos sharks as well.

Member Edlao asked how can you say non-target Galapagos sharks which may be the bad guys anyway. How do you determine the non-target sharks from those who are? Dr. Littnan said in two ways. One of the ways of increasing their success is fishing broader, using the same tools, but extending in a broader range which means going to the outer edge of the atoll. Member Edlao said you have to do that. Dr. Littnan agreed, but you will be catching other animals using that part of the atoll as a thoroughfare and those are non-target Galapagos sharks. There is a shark size limit. Member Edlao asked the sharks you guys have seen attacking pups are they young sharks, older sharks. Dr. Littnan said they tend to be older sharks about eight foot or larger.

Member Pacheco said you got two groups of Galapagos, ones around the deeper areas of the atolls and the ones coming in on the shallow shallows. Dr. Littnan confirmed that relating how these sharks cruise the islands and may stay for days and some go past other atolls.

Member Pacheco asked about the surprise netting. Dr. Littnan said it was developed in Scotland for capturing seals. If you imagine a fire hose cut in half and Velcro so it can

close. There is a tangle net inside it which forms a "U" in shallow water. They would lay it on the ground. When they wanted to catch seals they approached them and the seals would go in the water. They hit a trigger compressed air fills this float that the net is attached to bursts out of that fire hose and then floats to the surface and entangles the seals and are pulled on shore. We've taken that concept and adapted a little bit. We can lay on very shallow waters maybe down pups three or four feet which would catch these animals and apologized for not bringing the video tape. These sharks would swim by (drive by) once and see the mom and the pup then dive and disappear in real shallow water. From a couple feet out the shark will charge the pup or the mother. The net would catch the shark during that drive by or during the return when they are going to do the charge. These animals are so intense in their predatory behavior that it may not necessarily work and they maybe get out of the net before hand. But, they blow the net the shark is entangled and pulled to shore.

Member Edlao asked whether this is an inlet where the pupping occurs. Dr. Littnan said this is a stretch of a sandy islet and a little of a barrier reef which makes it a bit of a lagoon. It's a relatively shallow lagoon. Member Edlao asked how about netting during the pupping season. Dr. Littnan said they talked about that and it didn't get much support and there are other issues like free access for turtles come in and out or animals getting barbed behind it. Turtles would come up on the shore. Member Edlao asked if the turtles get attacked. Dr. Littnan said usually they get attacked by the tigers.

Member Gon asked whether this modification for seal capturing was tested on sharks. Dr. Littnan said they've done tests on it in the field like at Ala Moana Beach Park, but they have not. Member Gon asked last year the permit was for 20 take. What was the year before? Dr. Littnan said none. Member Gon said so zero and one and this year is third time.

Member Gon asked you talk about the history of Galapagos sharks coming into feed maybe associated with inadvertent feeding by human presence there. In fact, one of the testimony items we received talk about watching sharks coming into shallow waters to chew on sand that was mixed with blood and guts from fish and kitchen scraps and the like, being dumped at sea and people staying out of the water because of increased presence of sharks. Have those practices been curtailed and no longer human enhancement of shark feeding in that area? Dr. Littnan said a lot of that history is from Uncle Buzz. During the 1950s when FFS was under the Coast Guard or Navy he went up there fishing and yes their slop and waste went right into the water. There has been a huge break in between that and these are not sharks that inherited this behavior and are doing it again. Maybe what might be affecting the sharks' behavior is the lobster fishery where hundreds of pounds of bait were thrown into the water. Shortly after, those practices were ended. You'll find animals that adapt to find a new nitch to feed in. The problem is the nitch they've chosen is an endangered species. The important thing to consider is feeding on these pups is 7-9 pups a year. It's usually a rear flipper or a chunk out of the side. It's a part of a meal and not the entire animal that these sharks maybe hungry, but are not surviving on these pups and it's only 3 or 4 months. It does little for

the sharks doing this, but it decimates the FFS population. This activity is driving this population into the ground.

Member Gon asked what the life span of Galapagos sharks are. Dr. Littnan said as far as he knows it is not know. They use other life history from other similar related species. Member Gon asked is it decades. Dr. Littnan acknowledged that asking for Kathleen who said between the age of 10- 15, but could live twice that long. Member Gon said that if we have decades of sharks continuing behavior since the 1990s and you're saying it's not inherited. Dr. Littnan acknowledged that, but it could be transmitted.

Member Morgan asked what are other primary causes for mortality for monk seals. Dr. Littnan said it's the same for all monk seals, but it's disproportionate for these monk seals. There is resource limitation. They are starving which makes you susceptible to predation, disease, but that is the universal one across the Northwest Hawaiian Islands. He related other issues like entanglement in debris and aggressive behavior among males. Once the animal is past 3 or 4 years survival jumps up 80%.

Member Gon asked that Dr. Littnan mentioned the permit period mismatched with your ability to deal with sharks. Dr. Littnan said historically and it's not only necessarily related to the permit. It's when the permit is in place when it might be later than was projected based on normal permit processes and it's the hiring and because it's late we have to wait for a charter to be available to bring staff up. It's a complex moving of many parts that prevent people from getting up there on time. As soon as the first pups are on the ground you start to see this predatory behavior.

Member Gon asked how do we anticipate the need to have the permit extend so the permit from last year extends into your spot of shark control rather than hoping all your permits are in place to be there in time. You'd want to set up this year's permits so it extends into the period that is most important for the pups to be protected rather than counting on the permit falling into place exactly on time. Dr. Littnan said and maybe a modification to have this stretch into a one year period from the date it's initiated to cover the beginning of the season. We put this permit in the permit cycle early yet ended up in the exact same spot where we deployed our camps and are still waiting for permission on this. We tried other strategies to mitigate running up to that. It's either were not learning that this is a difficult process or we're expecting since we're not coming back with anything new that perhaps part of this is difficult of getting this through. We are trying to find a pathway for the cultural and moral aspects of this as well. He would like to modify it then, but that might make people uncomfortable unless you put a provision in you're tentatively approved for the start of next year, but we want to make sure there is some follow-up after the shark season. Member Gon said he wouldn't be anticipating approval of next years permit. I would just want to make sure the effectiveness of this permit is maximized by making sure that it applies to the period of time that is most important for the detection and removal of sharks. Dr. Littnan said the permit started last year in June or July which would be covering the beginning part of the season, but many of the managers wouldn't consider that to be this to be a whole different seal season or a different shark season we would be working on two different permits. We would have

people deployed for shark fishing which we would hire next year to stand up to do this. They could work half a season on a permit, but if the other one didn't get approved then they are stuck out there because we can't bring them back and we're paying salaries for people who can. There are logistics set that permits need to be approved for the year they are going to apply. If we need to submit our next year shark removal activity permit next week then maybe that is what we need to do. Member Gon said he knows it's hard to impose human calendars against natural calendars.

Member Edlao asked about the average loss of monk seals is 8-10 a year where Dr. Littnan said is about 15-20% of the cohort. Member Edlao asked that Dr. Littnan mentioned monk seal loss by disease, aggression and how does that loss compare with what Galapagos sharks are taking. Dr. Littnan said they looked at it and it is insignificant. Kathleen said there were two other losses. Dr. Littnan said that the normal survival at that age is 100%, but what is happening at FFS is beyond the norm. Even if these monk seals survive from shark predation they still face high mortality because of starvation or these other factors. It's hard to quantify when they don't have field camps up there. We have other things in place that we are developing to increase survival of juveniles once they've weaned, but getting the animals that are surviving until weaning we can't do anything to help them. We can't put them in captive care or rehabilitation programs. Once an animal is weaned they are remove them from those islands where the shark predation happens. As a weaner you don't go anywhere and just sit on the beach, live off your fat and grow. If a monk seal is moved to another island a vast majority stays on that island and they don't get taken by sharks.

Member Edlao asked what is the timetable for that to come to the Board. Dr. Littnan said the permit for captive care activities will be coming in the next few weeks, but for the larger scale translocations and these other activities it will be in the next year or two. Staff is going through a large problematic EIS to get all those things in place and that is why we are trying to mitigate these issues to be able to move on to other survival things.

Member Pacheco asked going back to Member Gon's comment about the term of the permit. I don't think we have anything that would limit us enable to make the permit a broader range, but he was wondering that would even help because you have all these different processes with the different agencies. Dr. Littnan said he would have to leave it up to other people to speak. There maybe a Federal permit that they come to the Board for a yearly approval which would simplify the situation. Chair Aila said that the Northwest Hawaiian Islands are constrained to 12 months by our administrative rules. Dr. Littnan agreed.

Member Gon asked given more lead time what the main delay elements were this time. Chair Aila said it would be more beneficial as Board members to understand the process and then look at the delay. Member Gon said that is what he was getting at. Dr. Littnan said there are other people in the room that are more appropriate or better at speaking about the process than I am.

Dan Polhemus with the Fish and Wildlife and Chair of the Papahānaumokuākea Monument Management Board testified that permits are submitted a minimum of 90 days in advance and refer to the Monument's permits working group which has representatives from all the co-trustee agencies on it. They are then sent out for scientific and cultural review. Certain particular issues are flagged and then there are additional discussions with appropriate parties regarding this. The cultural consultation took a prolonged period of time and that was probably the most significant reason that this perhaps took longer than the National Marine Fisheries would have anticipated. Member Edlao asked then for each step there is no time frame to make a decision or comment period. It's however long they take. Mr. Polhemus acknowledged that they have to work it to everyone's satisfaction and takes as long as it takes. Generally they try to process permits in 90 days. Member Gon said that he knows the cultural aspect did not yield consensus for part B although it did yield support for part A, the monitoring and tenting. Mr. Polhemus confirmed that. Member Gon asked whether the lack of consensus was the reason for the prolonged discussion and realized they would not achieve consensus. Mr. Polhemus said there is the Cultural Working Group meets irregularly and we wanted to wait until we had input from that group and was mediated by our representative from OHA. There were two adhoc meetings of the Monument Management Board to work out the issues brought by the Cultural Working Group. Upon the Chair's questioning Mr. Polhemus said there are set deadlines for submission three times a year. We would take something out of sequence if they saw it would be a prolonged discussion. Chair Aila suggested they might want to consider that for the next process. Dr. Littnan said they did it for this process, but proved to be very difficult. That was why his comment of starting next week. Having the best available facts makes it slightly more efficient for them and they wouldn't gain anything by submitting in May, June, July or August because their field camps haven't come back and fishing is on-going. They don't want to insert anything because it just derails what is already in place like budget cuts. It only allows them to do certain things. People don't want to review the permit until all the information is in.

Member Pacheco noted we're dealing with three bureaucracies here to make a decision.

Leighton Tseu testified he is a retired merchant seaman, a member of Hokuleia crew and sailed on the sea for 40 years. He related sailing to Mokumanamana where there were millions of birds, fish and ika in 1968. In 2005, there were no birds because man eradicated the food life there. Take away the mano (shark) food he is going to eat something else. He doesn't see the scientist getting mad for taking of all the fish. You cannot control Mother Nature. The tsunami wiped out Midway and that is a natural effect. We believe in our aumakua and I don't care of its type or Galapagos or any of them, that's our aumakua. We in Hawaiian Islands believe what we do and look at the changes that have happened because people do not respect our culture. These islands are changing so much we are losing them. The way the scientists think destroys Mother Nature and it scares him. If he doesn't protect their aumakua who will? That he comes here from the na'au and not from the head with all this scientific talk and you cannot control Mother Nature. Mr. Tseu related working for Matson in Micronesia and who shows up during the garbage dump, the Galapagos. If we need shark skin talk to a Micronesian because they know the garbage is. These sharks are already trained and

changing the way they live. I've seen sharks come up on shore and take a turtle. Take away a food resource you got to find another. Everything is eradicated, but you cannot change the culture of our islands. Need to teach people to understand and respect who we are and what we have. If we don't educate people of our culture nothing left like on Oahu there is no more fish, he'e (octopus), limu (seaweed) just in the last 60 years gone because we are the ones that are the problem. Not the sharks. We caused this. Because we are taking from the sharks they are taking from us. Everywhere they chant with Hokulea the shark appears or the ika. Not many people understand their culture and it hurts that he has been fighting this for 10 years. You can make the difference in the future of our keiki and our culture. You have the responsibility. In the old days we respected the scientist knowledge and now it is our turn. I understand about the pups. There's got to be other ways. He is surprised that they never asked the practitioners to be there. They never asked them one on one and if they did he would get look them in the eye and ask really how they are going to do this, but not by killing. You do not solve anything in the world by killing.

Chair Aila said the Board does take their responsibility seriously. He asked do we as Hawaiians and as a people also have a responsibility to monk seals. Mr. Tseu said we are responsible for everything. Everything is life, but how do we do it? There has got to be other means besides killing. Maybe they need to sit down with the practitioner who can talk to the mano. Take them out there and let them walk the grounds. There is so much they can do to be a part of this. All they are thinking is killing and we are thinking of saving on both sides. All life is important, but no one is controlling man. Millions of people everywhere, but we cannot let the most ...We need to come up with something where they can meet, but don't ever forget us or we'll forget them.

Kehau Watson said she is now a consultant with Fisheries, but wasn't in the beginning. She has been part of the conversation of this permit for the past eight years, she is part of the Native Hawaiian Working Group and she is also the Chair of the Humpback Whale working group. Ms. Watson testified from her written testimony that more of these types of issues will come up with more environmental degradation. She and Uncle Charlie Maxwell talked at length with respect for those who have the mano as their aumakua and are here to protect it. She agrees with Uncle Charlie that one this is the Galapagos shark and she has researched sharks extensively. If this were the tiger shark this would be a different conversation. We know there are certain areas where mano are particularly sacred which she mentioned. There has been a want from many of us to have a more sophisticated conversation about when and where in which species and individual sharks are particularly sacred. The sacredness of a species or animal have never been prevented from being taken in the Hawaiian cultural giving the example of he'e which represents Kanaloa, but most people here have eaten tako poke. The sacredness of a species is about the level of kapu and kapu is not something forbidden, but is rather highly regulated. There are very sacred protocols that go into the treatment of that particular animal. Fisheries have bent over backwards to be as respectful and they have worked with practitioners. There have been some missed opportunities in so far as management in this issue, but Fisheries and number of people worked very hard make this a learning and management opportunity where science and culture worked collaboratively to address the

needs of our environment and ecosystem. Practitioners did go to the Northwest Hawaiian Islands where protocols were done. They worked with the practitioners and weapon makers on how to take from the animal referring to discussions eight years ago on how to show reverence for your resources and it was to make sure they were used. She has met with both the research and policy arms of OHA four separate times for multiple hours and with multiple staff over the last year in how to address issues like cultural distribution to make sure it's done fairly. The resources from the shark were brought back to Oahu and distributed to weapons makers and a pahu maker. Sharks are taken every day in Hawaii that you can order one from the fish market. Of all the sharks taken last year only one had a condition that it had to be distributed to Hawaiian practitioners and it was this one and they did that. She thought that was important because that should be the standard. Also, the sound made from a pahu using cow hide has a different sound from that using the skin from a mano. Ms. Watson related there was a meeting on how to have a more sophisticated dialogue, how they can do this with respect and reverence and she thinks they are accomplishing that.

Heidi Guth testified that she is OHA's manager for Papahānaumokuākea related she is in a bit of an awkward position for those who have been involved in this issue from the beginning. OHA did not administer the Papahānaumokuākea Native Hawaiian Cultural Working Group until three or four years ago. She used to attend as a representative of OHA and she just administered it, but the agreement was that as the administrator I would always, if there was a consensus, represent whatever the cultural working group said on any particular issue. Every year that she has gone to these meetings on this particular permit it's been incredibly uncomfortable and heart rending from both sides. Like Kehau said National Marine Fisheries Service has done an innumerable immense effort to try to communicate their needs and the needs of those pups, but to the Cultural Working Group and to the Hawaiian community at large. Anytime there was a recommendation or condition placed upon this particular permit for either a request for more information or a request for cultural practitioners to go up. Conditions on how the sharks will be handled every time National Marine Fisheries Service has granted that and amicably so. They have come to all of our meetings and not only answered all the cultural questions, but they've answered the scientific questions. Like Charles said he did submit this particular permit application very early in the fall. Part of the permit application process is it's submitted by a certain time and it goes to the permit coordinators and the permit coordinators from each of the co-trustee agencies they look through that application to make sure it's complete to find out if there any questions they have that might need to be amended before it goes out to the public. Those questions are answered very quickly by National Marine Fisheries Service and they are almost all scientific questions where there are a couple rounds of that before the permit was released to the Permit Working Group, the cultural community and additional scientific reviewers. It went out for that review and their comments at that time were, at least on the cultural perspective was they support the monitoring and the continued studies, but she wanted to make sure it went to the Cultural Working Group before she commented on the shark culling aspect of it. There is a regular schedule for the Cultural Working Group meetings which was set last year and before that they had been meeting intermittently based on the need of the Management Board for questions they wanted to ask. Now they meet

quarterly based on equinoxes and solstices. The next meeting because of the holiday was set for January so they missed the Winter Solstice. The application for this particular permit had to be amended as Charles said because of the lack of Federal funding. Charles amazingly turned around that changed amended permit application in time to go to the Cultural Working Group and presented the new amended application to them and answered any questions in January. Our next meeting was scheduled for March 18th. The Group was not ready to make any determinations at the January meeting because it was just presented to them. There were discussions over the three months and at the March meeting for the first time, last year OHA did not vote and abstained from this permit vote at the Monument Management Board table because there was an even split between the Cultural Working Group. Some wanted to protect the monk seals no matter what and some wanted to protect the sharks. This time she was able to leave that meeting feeling at ease because there was a consensus. There were members from both sides again, but they all agreed that they did not want to answer this question again and they viewed this question as choose. Choose between the animals. In this place that we hold sacred in Papahānaumokuākea you are asking us to choose between natural creatures and say which one should live and die and we are not willing to do that. Particularly not in this setting where we're feeling like a boxed that needs to be checked. The Cultural Group, the Native Hawaiians have been consulted with and they've been asked and they say this. Now again, with the National Marine Fisheries Service credit they have hired a cultural specialist and she has done a lot of work and she is willing to work one-on-one with multiple members. I commend them for that. However, OHA's mandate does not go away. As you know we are not part of the Executive Branch. We have a mandate to work with Native Hawaiians, to better the conditions of Native Hawaiians and based on Chapter 10, HRS other state agencies and county agencies have a responsibility to at least listen to our concerns when we raise them. In this particular case, as the person who sits at Monument Management Board table or the Office of Hawaiian Affairs I feel I have to speak out for the group that has religious underpinnings in this particular case. There are 10 findings that have to be met for a permit to be approved. The 10th finding is that there is nothing else that would hold this to be inappropriate - this particular permit, this particular action. Because of religious underpinnings I would argue that there is something, at least at this point, at this level of consultation that holds this permit to be inappropriate to be approved at this time and those religious underpinnings do actually raise Federal issues that have been held to counter the Endangered Species Act and the Marine Mammal Protection Act and that is the First Amendment right to religious freedom and the American Indian Religious Freedom Act which was amended to include Hawaiian religion. As you all know the reason we are before you all today is because this particular proposed activity would occur within the Northwestern Hawaiian Islands Marine State Refuge and that particular State Refuge has seven different purposes. One of which is to protect the Hawaiian culture and Hawaiian religious practices is included within that protection. Because of that and because of OHA's mandate I would urge you to deny part B of this particular permit application and that is why there was no consensus at the table at the Monument Management Board because OHA could not commit or not agree to part B for those reasons at this time.

Member Gon asked so in previous years OHA's position was either silent or positive for all portions of the permit. Ms. Guth acknowledged saying that is correct because National Marine Fisheries Service was so willing to answer all of the conditions that were put before them we consistently endorsed yes or in last year's case we abstained because of the split. I think the reason that it had gotten to this point, at least in the Cultural Working Group there was a consensus we just don't like the question. It's inappropriate and it's not the way we want to be consulted on this particular issue and that is because of years of trying to work it out, of trying to find that mutual respect for the western scientific community and the culture. After going through as many steps as possible we are still not there and so they are not willing to check the box any more. Because of that I felt like I had to abstain OHA's own responsibilities and take a neutral position.

Member Gon asked have there been any discussions in OHA of what an alternative process that would be considered appropriate in this particular situation. Or what format it might take. Ms. Guth said there has. Over the past couple years especially since the reorganization, as Kehau had alluded, that we have a research division now which is headed by Kamanaopono Crabbe who is a long time member of the Native Hawaiian Cultural Working Group. Member Gon asked is he still and Ms. Guth confirmed that he is. He and I as well as some members of his Research Division spoke two years ago when they first started about how to create an opportunity for there to be an equal level discussion amongst Native Hawaiians and the scientific community such that it's not someone bringing to you their fully formed ideas and prescriptions, but its two sides coming together with each bringing their own perspective and each being held in equal respect to each side to each round of information and you get to a point where positions that are mutual and you work from there. At this point it feels more one sided versus the other than a melding of common interests or at least a common understanding and common respect. We're not at that place where and perhaps Kehau could help us with this that has been discussed where the groups come together without agendas already prepared. This doesn't apply to this particular permit. This applies to all scientific research and monitoring and management. The goal of the Monument Management Plan we wrote in it there is a goal that there would be integration of the Native Hawaiian cultural knowledge and of western science. That has not happened yet. As we continue down this path I think you are going to find more and more of these, this isn't the right question to ask the Native Hawaiian community. We need to have that baseline of understanding and respect before questions can be asked of each other.

Member Goode asked this position that OHA has taken he has never heard before this Board. To your knowledge has that happened before or based on religious practices. Ms. Guth said they have never taken this position. This has come with a great deal of thought and a great deal of complications. It is a difficult position to take in some ways and yet an easy position to take in others. Member Goode asked whether this would be something the trustees would be involved with. Ms. Guth confirmed that. And part of the reason why she is here as well is because OHA does not have representation of the co-trustee level at Papahānaumokuākea. There are three co-trustees and OHA is the seventh member of the Management Monument Board and none of the other co-trustees have the same mandate that OHA does. I think a lot of the reasons to get to this place

because none of those other agencies have to come at questions from the same perspective and they only get to this place when OHA comes in at the last minute which is unfortunate and hope to remedy.

Chair Aila asked whether OHA has taken a position for Native Hawaiians because I understand there is still disagreement within the Native Hawaiian community on the concept of aumakua and the ability to take some sharks that may or may not be aumakua. I'm hearing in your decision you used the word "may" that the number 10 condition may come into play with the Native American Freedom Religious Act. Is that indicative of the fact that there is not consensus at that point yet or has OHA taken a position that it is generally the Native Hawaiian belief that in particular with this permit the taking of this shark that it may violate the Native American Freedom Religious Act. My understanding is I haven't to the last couple meetings and for the sake of disclosure I used to be part of the Native Hawaiian Working Group and it is his understanding that Hawaiians have not yet answered that question amongst themselves whether or not it is appropriate to take sharks that may or may not be some other families aumakua. Is the position that OHA is taking now that the decision has been made that it is a violation to the Native American Religious Freedom Act? Ms. Guth said that the position of the Office of the Hawaiian Affairs on this particular permit at this particular time and the reason I add that little parenthetical is because there is still a lot of discussion that needs to be had that we don't feel has been had in an appropriate manner. At this time legally the finding cannot be met because there are Native Hawaiian religious underpinnings for some members of our Native Hawaiian community that find this particular activity would violate their freedom of the religion and the American Indian Freedom Religious Act. It was only OHA at the Monument Management Board table who felt this way. When you see there is no consensus it is really six to one.

Chair Aila asked the Native Hawaiian Working Group basically did not come to consensus either on the issue. They basically said don't ask us anymore. Ms. Guth said they came to the consensus don't ask us this particular question anymore and that this was not the way. They want to be asked to choose between animals again.

Chair Aila asked from a consultation process at that point this is very process orientated situation here and from the process position this don't ask us that question anymore consultation is pau for the Native Hawaiian Working Group. Ms. Guth apologized if she had said it in that manner. It was more do not ask us this question in this manner again. If you are going to consult with us consult with us differently. The conversation has not been closed. We want to be able to sit one-on-one with people. There are members of that particular group – some who support monk seals no matter what and some who support sharks no matter what, but all of them do not like this particular format for this particular issue and they don't want to go through it again. They wanted to take a stand to the Monument Management Board, to the Land Board, to everyone to make it clear that the process needs to be different and that they need to be respected in a different manner which equates to religion.

Member Edlao asked the applicant the first time they came with the application was for how many (sharks). Dr. Littnan said that would be about 8-10 years ago and he asked one of his staff to answer who said they were the first permit to come before this Board which was for either 20 or 40 sharks. The 2001 EA said 40, but they might have compromised and said one. Member Edlao asked how much was actually taken at that time. The gentleman said over six years they took 12. Member Edlao asked the last permit before this one was to take how many. Dr. Littnan said a total of 20 and they took only one. Member Edlao said and this year you're asking 19. He asked last year the loss of pups was what. Katherine said six were confirmed and later an additional two and a maximum of eight. Dr. Littnan said they fished for only six weeks and need to more time. Member Edlao asks how many does he hopes to get and what in reality. Dr. Littnan said he hopes to get 19 this time, but best projection is three or four if behavior is conducive.

Chair Aila asked from the perspective of complying with the Native Species Act is there a way to ask the question differently to the Native Hawaiian community. In other words can you comply with the Act without removing the sharks? Dr. Littnan said the simplest answer gets back to they tried to do that. They tried to deal with the shark issue in other ways and have considered multiple different and have had dialogues with different strategies. We truly don't think there is another way forward. In terms of asking the question differently that is one of the difficult parts of this. We are begging for guidance. We're begging for education. We are desperate to have a constructive dialogue on this. We understand it's sensitive for us and it's sensitive for the Native Hawaiian community for different reasons. The statement if we can ask the question differently I guess what guidance on what the question is we should be asking or how we can dialogue. If people want one-on-one meetings I will travel across the islands to have that. We are waiting for people to tell use on how to have a dialogue and we will do it. We apologize for asking the wrong question. It was news to us.

Ms. Watson explained they were trying to function within the prescribed permit process that they have. The process unto itself didn't allow for the dialogue and the relationship development that needed to occur. We have started that there was a recognition personally for her I was surprised to find how eager practitioners, weapons makers and pahu makers were to get resources. And one of the things that evolved out of this was Fisheries does have a lot of cultural resources that it can distribute more. So the dialogue that has now started with members from the Working Group is what are our needs? I think that is where there will be a coming together of the minds. That dialogue has started already and the idea is to move it forward. Where does that dialogue fit within this permitting process that does not lend itself well to further the pacing and the way Hawaiians tend to have conversations? That meeting was held on Maui and they will be having more meetings. That conversation has already begun and it's a matter of how can we get guidance from a regulatory perspective that figures out where these two different processes come together and that will be the goal.

Dr. Littnan clarified regarding that question being asked. I think asking to choose one species over another is a bit of a simplification. We are asking do monk seals have the

right to persist? Do they have a right to exist in this ecosystem? There are no easy decisions, but we are not just asking for the sake of some monk seals that are not in dire straits that we need to do this. There are going to be tragic losses to these sharks, but that is not an issue between one versus the other. This is extinction versus survival and if it were simple as one over the other than we wouldn't ask the question.

Member Edlao said then to ask the question of the Galapagos shark should they exist. Dr. Littnan said it does. Member Edlao said the question should be how can we protect them and what can we do as oppose to choose one or the other and come up with ideas such as mentioned earlier that are coming down the tube and expand on that then bring it before the Board.

Member Goode asked the applicant that he understands Galapagos sharks are not endangered and the monk seal is. In other permits we had before this Board of these issues there is a strategy to mitigate and enhance the species. And since the Galapagos isn't endangered could there be a component of this permit or activity that we are taking X number of sharks, but we are also doing this other activity that either enhances the shark population or perhaps enhances the cultural aspects as an aumakua or people in the State understanding of the cultural aspect. A gentleman from the audience mentioned funding some shark research. Dr. Littnan said the outcome of those supported research projects were to help us better understand the hypothesis we were working on were acceptable or not. To some degree its trying to extract anything good out of this that we can is providing that remains with the Hawaiian community, but in terms of providing shark abundance elsewhere that is something that we've never really considered. It is a dialogue that we could have. Member Goode said and revisit this again next year. Dr. Littnan acknowledged that and said part of it we try to be very inclusive in all of our activities for the Native Hawaiian community and if you are talking about culture enrichment we voluntarily bring members of the Hawaiian community practitioners up to the Northwest Hawaiian Islands. We don't have to put on our permit as escorts like if they were going to Nihoa or Mokumanamana and have brought people up regularly.

Mr. Tseu asked who they brought up last year. Dr. Littnan said Keoni Kuoha. Ms. Watson said and Pua Pata who came and presented to the Cultural Advisory Working group at length about all the protocols that were done and fielded questions from the Working Group. Dr. Littnan said that Umi Kai was the weapons maker.

Member Gon made a motion to go into Executive Session pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, in order to consult with its attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities. Member Edlao seconded it. All voted to go into Executive Session.

10:57 AM EXECUTIVE SESSION

11:12 AM RECONVENED

Member Pacheco made a motion to approve staff's recommendation. Member Edlao seconded it.

Member Edlao said he wanted to make sure with a condition that monk seal flesh will not be used for bait. I'm sure they are going to do it, but I want to put it in there. He asked if he has to put that in as a condition or was there any intent to. Dr. Littnan confirmed that. Member Edlao wants it in there then that no monk seal flesh will be used as bait as a condition. He wasn't happy because this has been going on for awhile and obviously something is not working. Member Edlao was glad when Dr. Littnan mentioned other things coming down the tube, but he really means it when he says you guys got to step on it to get that to the Board and work with it. Member Edlao will be here the next two years and you guys better come up with something better than killing sharks because I will not approve any more killing of sharks after this that he will not support it after this.

Member Gon pointed out that this is a complex situation and appreciated all the testimonies. The Board does have a responsibility to the recognized State Endangered Species Act and take those responsibilities very seriously as well. It's a very difficult decision here, but I am also satisfied that a great deal of effort had been made on the part of the applicant to explore ways to do this in a culturally, recognizable and sensitive manner. I still think that given Heidi's testimonies that there are problems to work out so it's refined even further. I know that is a difficult road to go especially if you are going to anticipate bringing this permit to us next year and that means you will have to take the next immediate permit application slot in order to do that. But, if you plan to change tack and pursue some of the recommendations Heidi at OHA has mentioned then that will complicate matters even further for you. Nonetheless, it's been pretty clear over the last few years that this is a sore point and the whole idea of biological resources as cultural resources and the recognition of that is going to require novel thinking and adjustments of process.

Member Pacheco commented that one of the areas of being on this Board is the public process of making decisions of something I feel strongly that has to be looked hard at is our collaborative processes with stakeholders and I can appreciate OHA's position tremendously in that sense and I agree with that but I don't have any ideas on how to improve it. It is a difficult thing, but there has to be a better way for us to engage in these conversations to come to decision making. The second thing is I don't see this as an issue of choosing one species over another. A species here that is on the brink of extinction and that is not the case with the Galapagos sharks and we are talking about taking very few individuals out. I don't see the weighing of those two things together an equal at all. As I made the motion I am in full support of this permit.

Member Edlao asked Dr. Nishimoto whether he is going to add his condition regarding using monk seal flesh used as shark bait and whether they need to vote as an amendment.

Member Pacheco noted that they need to do something about the date, April 10th and whether that is a problem. The submittal date should be made effective today.

The Board discussed whether to vote on the amendment and they added to the recommendation.

Member Gon said for clarification the length of the permit runs a year from the start of the permit. Chair Aila said it is included in the recommendation in the original motion. But, we need one for the amendment. All voted in favor for the amendment.

Deputy Attorney General Colin Lau suggested withdrawing the original motion then do the amendments. Chair Aila clarified that Member Edlao added an amendment to prohibit using monk seal bait.

The Board:

Amended staff's recommendation to add no monk seal flesh will be used as bait. The submittal was made effective today. Also, the amendment will run a year from the start of the permit. Otherwise, staff's submittal was approved.

Unanimously approved as amended (Pacheco, Edlao)

Item F-1 Amend Prior Board Action to Correct the UH Match Amount (\$128,430) in February 25, 2011, Item F-2: Request for Approval to Add Federal Funding (\$385,291) and Extend through FY12 the Department of Land and Natural Resources (DLNR)/University of Hawaii (UH) Contract No. 55137 for the Project Titled Evaluating the Effectiveness of Restricted Fishing Areas for Improving the Bottomfish Fishery

Dr. Nishimoto conveyed the reasons behind this request and DAR's recommendation is 1) that the Board amends the prior Board action of February 25, 2011, agenda item F-2 to reflect the change in grant from \$136,130 to \$128,430. 2) That the Board recognize and adopt project exemption project prepared for by Dr. Kobayashi which applies to and coincides prior analysis and the same complies with Chapter 343.

Member Goode made a motion to approve as submitted. Member Morgan seconded it. All voted in favor.

Unanimously approved as submitted (Goode, Morgan)

Item K-2 Conservation District Use Application (MA-3577) for the Construction of a Single family Residence, by Peter Martin, Located at Olowalu, Lahaina, Maui, TMK: (2) 4-8—003:046

Sam Lemmo representing Office of Conservation and Coastal Lands (OCCL) briefed the Board that this is a resubmission of a CDUP that the permit essentially expired and the applicant had to come in and reapply. Staff recommends approval. There is one issue where staff normally approves a one year initiation and a three year completion deadline on CDUPs. As shown in the submittal staff recommends a three year initiation and a five year completion and the reason for that is Mr. Martin is dealing with a situation at the County of Maui where they are not able to process his SMA exemption because this

house is also in a special management area and he is currently in talks with them. It's too complicated for Mr. Lemmo to explain why the County is holding it up. Staff thinks it's okay for the Board to move ahead and approve the CDUP and give Mr. Martin additional time on the initiation and completion issue and let him go to the County to resolve the issue.

Member Gon asked whether the Board's approval will facilitate the County's process. Mr. Lemmo said either that or upset them. Currently, under State law single family residences are exempt. They are not considered development under the SMA. It gets into County development plans and is very technical in nature. At the end of the day, the Board regulates uses in the conservation district in terms of zoning. I feel comfortable in the Board taking action on the CDUP to give them time to work out the issues with the County. If they don't work the issues out, I don't know what would happen.

Member Gon asked whether the additional time Mr. Lemmo is talking about is in condition 9 for within three years and complete within five. Mr. Lemmo confirmed that. Member Edlao asked about condition 5 where it says single family shall not be used for rental unit unless approved by the Board. During previous items he had commented that he wasn't comfortable with that unless approved by the Board where it causes problems, but he will let this one go. He is reminding staff until this changes.

A motion was made by Member Edlao and seconded by Member Pacheco. All voted in favor.

Unanimously approved as submitted (Edlao, Pacheco)

11:30 AM Member Pacheco departed for an early flight.

Item D-10 Two (2) Consent to Federal Interest Affecting Property Located on the Land Covered by General Lease No. S-5981; Consent to the Construction of the Malama Recovery Building and a Two-Story Medical Clinic Building; Modification of Improvement Bond Requirement; Termination of Notice of Acknowledgement of a Thirty (30) Year Federal Interest Affecting The Proposed Substance Abuse Treatment Center Only and as Part of General Lease No. S-5981; Waianae District Comprehensive Health and Hospital Board, Incorporated, Lessee; Lualualei, Waianae, Oahu; TMK (1) 8-6-1:3.

Russell Tsuji representing Land Division said there is recommended changes he needs to make because of a 343 issue that was raised and other issues. He conveyed the project involves two buildings which he described, a smaller building and a larger two story building. The 343 issue is to the smaller building which has no significant impact that has been authorized for years and the two story building is replacing an older one story building. The foot print should be substantially the same. The older building had a pitched roof and the new building will have a flat roof. Staff has a recommendation to the declaration, but in abundance of caution after talking to counsel, Steven Ho and

James Chen representing the Waianae Coast Comprehensive Health Center (WCCHC) what they need right now is the consent to the Federal agents. An approval of the construction can wait and he learned that they submitted a draft EA to the Federal authorities. Hopefully by the time the Board can give a final approval to the construction it will be submitted and completed. What Mr. Tsuji is requesting is an approval in concept based on the conceptual drawings attached with the understanding that as is customary practice plans and specifications of all constructions is submitted administratively to the Chairperson for review and approval to make sure it's consistent with the authorized use and prior Board approvals. The Chair signs administratively rather than bringing as a Board item. It's to review the conceptual plans as submitted as an exhibit to the submittal and to approve in concept as recommended and there will be a change to its final recommendation. Staff tried to explain in the submittal because we don't receive requests for Federal interests very often and this is probably the first time DLNR is dealing with it. It is an encumbrance similar to a mortgage except it's limited to the improvement and not the land which is the building. It's perpetual and not for a term of 30 years. There is a condition in the event at some point in the future the building the Federal funds is used for is no longer used for the intended purpose that was granted by the Federal agency if it ever gets to that then the option for the State would be to buy it out and it would be at fair market value. After speaking to counsel, he thinks it should be market value at the time of the buy out. Mr. Tsuji wasn't sure about that because when he was representing NELHA it wasn't clear. It sounds reasonable and if it is 50 years down the road instead of being worth \$14 million it is going to be worth a million or less and would be easier to buy out that interest. I don't foresee that happening if this non-profit agency decides not to operate the facility I am sure staff would try to find a substitute operator because it is the only hospital out there. The issues here are the Federal interests which he wanted to lay that out before the Board so you can fully understand what it is. The staff feels comfortable with it because it does not encumber the rest of the facilities except only the one it's funding to be constructed and only the building and not the real estate.

Mr. Tsuji said the other issue going out is standard requirement for all the leases when the lessee is doing substantial construction there is a provision that requires an improvement bond which covers two parts - the typical labor and material bond and secondly a completion bond. He gave the example of a \$12 million building going up you certainly don't want to have a half built building. Those are the typical bonds required by SC and being a non-profit that was a concern for the lessee financially. What the lessee is proposing is in lieu of them putting up the bond that there are two bonds they are offering which is coming from the general contractor which is a builder's risk policy that is a labor and material bond. The lessee's counsel confirmed that and said and a performance bond to ensure completion. Mr. Tsuji said he understands it is a non-profit and it is coming from the General. There is the slight risk that you pay the General and he doesn't do the job then he's gone which he doesn't think will happen. He doesn't think it is a problem, but the Malama Recovery Center - the smaller building is actually completed. Mr. Tsuji said to Mr. Ho next time to advise his client for this kind of big project to come earlier because this is an after-the-fact approval. Mr. Tsuji apologized to the Board's counsel that he didn't realize it was already built.

Steven Ho representing WCCHC said the Federal interest came before this Board March of last year and was approved by the Board for the Malama, but what happened was a condition was imposed that Federal interest be permitted for only 30 year period and that was submitted to the Federal Government. They rejected that it wasn't acceptable because there is a form of Federal interest that needs to get filed. A 30 year condition is not acceptable and that is the reason why we are back here, but that issue did come before the Board.

Member Gon asked then you are here to terminate that prior notice. Mr. Ho acknowledged that this is to terminate that and substitute it with a new one for perpetual with respect to the buildings only.

Member Morgan asked whether he wanted to amend the motion to consent to the concept and technically it's completed. Mr. Tsuji said they still need to submit administratively the plans and specs to the Chair. It's to cover the two story building that is yet to be started. The construction of improvements doesn't come before the Board it's usually handled administratively and delegated to the Chair. When staff gets the plans and specs from a lessee we usual go back in file the make sure it's consistent with a prior Board approval and consistent with the lease and if it's okay we recommend the Chair sign off which is the plans for construction. When you issue the lease you already have a conceptual idea of what it's used for.

Member Gon asked the only adjustment in the recommendation in the Board packet is item D-3. Mr. Tsuji said he has the language which is a number of amendments. He was going to add that B, C, D and E all be relabeled where B is C, C is D, D is E and E is F plus he is going to insert a new B which is declaration by the Board which he read regarding no significant effect on the environment that the EA is exempt. Mr. Tsuji related the amendments to the new item C as shown below.

James Chen, Chief Financial Officer introduced himself and Rich Bettini, Chief Executive Officer of WCCHC are present and could answer questions.

Mr. Tsuji continued relating with the amendments to the recommendations. Deputy Attorney General Colin Lau asked is it possible in his amended C which is now D to indicate that the Federal interest will be towards the improvements on the property rather than just than just the property generally. The one that authorizes the Chair to execute two consents to the Federal interests affecting property and asked if we could have improvements on the property rather than general property because the property hasn't been defined in any documents. Mr. Ho pointed out the draftsmen in those notes of Federal interests defined the property as the improvements. Mr. Lau said he just wanted to make sure in the approval by the Board that they're approving the Federal for those improvements. Mr. Tsuji clarified affecting the improvements on the property.

Member Gon asked the applicant whether they understand all the amended recommendations made and are in agreement. Mr. Ho acknowledged that.

Member Morgan made a motion to approve as amended. Member Gon seconded it. All voted in favor.

Rich Bettini, President and CEO of WCCHC for the past 30 years explained that they need to make building improvements because they are turning people away now because of the demand. You will see a beautiful building. They are concentrating the Federal interests in one building and they will be making other improvements. He related the competitive process across with other health facilities and that the State's interest will be protected.

Member Gon commented that this is a much need facility and service and thanked Mr. Bettini.

The Board:

Approved as amended. Based on staff's explanation and recommendation at the meeting, the Board amended the written Recommendation section as follows:

Insert a new Recommendation B, amend the remaining recommendations accordingly as follows; deleted language is bracketed and stricken, and new language is underscored.

B. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment pursuant to the exemption notification attached as Exhibit F.

~~[B.]~~C. ~~[Consent]~~ Approval in Concept to the construction of the Malama Recovery Center and the two-story medical clinic building under GL 5981, and delegate to the Chairperson the discretion to review and approve the construction plans and specifications upon the Lessee's compliance with the requirements with Chapter 343, HRS for those improvements.

~~[C.]~~D. Authorize the Chairperson to execute two (2) Consent to Federal Interest [Affecting]in the aforementioned Improvements on the Property Located on the Land Covered by General Lease No. S-5981 attached as Exhibit B2 and C2 herein, subject to the following:

1. Review and approval by the Department of the Attorney General;
2. Other terms and conditions as prescribed by the Chairperson which best serve the interest of the State.

~~[D.]~~E. Amend Condition 38 of General Lease No. S-5981 to read as follow:

"38. Bond, Improvement. The Lessee, upon submittal and written approval of the construction plan shall within sixty (60) days procure and deposit with the Lessor a surety bond or other form of document acceptable to the Chairperson in the amount of the construction cost relating to the proposed [two-story medical clinic building]improvements, which bond or document shall name the State as obligee, conditioned upon the faithful observance and performance of the building requirement contained in this lease, the completion of the proposed [two-story medical clinic building]improvements [building(s) and improvements] on or before the specified date of completion free from all liens and claims, and that the Lessee shall hold the State harmless from all liens, suits, actions or damages arising out of, caused from or attributable to the work performed pursuant to the building requirement."

~~{E.}~~F. [The Lessee shall not be required to provide] Delegate to the Chairperson the authority to use his/her discretion in releasing the improvement bond as noted in Condition 38 of the lease, upon the expiration of the filing period for the application for a lien in Section 507-43(b), HRS, and upon no liens or claims having been filed."

Unanimously approved as amended (Morgan, Gon)

Item K-3 Rule Amendment (OA 10-02) Request to Amend Title 13, Chapter 5, Hawaii Administrative Rules (Chap. 13-5, HAR), to Redesignate Land that Lies Within the Conservation District Limited Subzone into the Resource Subzone by Mr. & Mrs. James Case, Located at Makiki, Honolulu, Oahu, TMK:(1) 2-5-018:021

Member Gon disclosed that the applicant is a relative of an employee of The Nature Conservancy Hawaii and there is no benefit or interest to him or this decision leaving it up to the Deputy AG to decide on whether he should recuse. Mr. Lau answered in the negative.

Mr. Lemmo reported on this request that these occur very rarely and the reason is when you want to change a restricted subzone or a limited subzone to a less restricted subzone you are proposing to increase uses in the conservation district. It could lead to that or increased density. It is typically something that is discouraged in the conservation district. In fact, that is why the conservation district is zoned by the LUC as conservation land because it should be a place where uses are to be restricted, controlled. Some uses are allowed, but need to be prudent sustainable uses. The current zoning regime on this particular property uses are currently restricted. By changing the subzone to a lesser restricted subzone you might open the door for additional development. They don't get a lot of these because you have to go through a rule amendment process. The process the petitioner has to go through is the same process staff goes through in our administrative rules and the reason for that is the subzone are contained in the administrative rules. To change the subzone you have to change the administrative rule. It goes through that

process of coming to the Board to get approval to hold public hearings, getting the Governor's approval to hold public hearings. Going out and holding a public hearing. Complying with all the requirements of rule amendment process and coming back to the Board with a recommendation which is what we are doing today. When people come to staff saying I want to change a subzone. Staff will say it's very difficult and asked whether they've considered going to the LUC and having the land rezoned to a less restrictive land use district such as urban, rural or ag. We don't want to create situations where we start triggering zoning patterns in a certain way. That is usually a function of the Land Use Commission.

Mr. Lemmo explained that staff received this petition and is processing it. They have gone under all the amending processes under amending rules. The recommendation stands for what it is. But, because staff recommends this go forward this is based on a very specific set of circumstances to this site. He described the Tantalus community giving some history which is a residential area in a conservation district where the Board has allowed development of one single family residence per lot in the Tantalus area, but there are some areas on the fringes of Tantalus area that when they did the subzones in 1978 they put some of these lands in a limited subzone and some of these lands had existing homes on it. That makes this a special case where you have a petitioner who has two lots, he has a non-existing conforming structure on one of the lots and the other lot appears to be undeveloped possibly with a water tank on that lot, but both lots are in the limited subzone which is next to and on the downside of Round Top Drive. Everything in the up side of Round Top Drive is in the resource subzone and everything below is in the limited subzone. The owner has two properties one single family residence and he would like to change the zoning to resource subzone not covering the entire parcel, but covering the portion of the parcel that appears to meet the criteria for the resource subzone and the main criteria is slope. The area he is petitioning us for the slope is less than 40%. And, if you look at our criteria for designating limited subzones which are reserved for areas where the slope is greater than 40%. In this case it's less than 40%. There are a couple mitigating factors. It doesn't seem like it's out of character with the existing uses at Tantalus. It borders a resource subzone where you would be shifting the boundary of the resource subzone a little bit here. These areas were subdivided to use back in the 1950s. The house was built in the 1940s. The owner acquired the property in 1965 and at that time he could have built a second residence on the other lot because in 1965 you would've been allowed to do that. In 1965, they had two subzones, general use and protected. This was probably in a general use subzone. In 1978, the Department did a major review of its subzones and Administrative Rules and came out with what we used to call Title 13, Chapter 2 which then governed land uses from 1982 on. In doing that they added two additional subzones to the conservation district resulting in four subzones – limited, protective, resource and general. This one became limited and his property got down zoned to a situation where he could no longer use it for single family residential development. His investment back expectations were affected. The owner is coming to staff now and saying I think this land meets the criteria to be rezoned to resource subzone. Furthermore, he feels it's a bit of a hardship on him because when he bought this it was potentially developable and the State came in and made it undevelopable speaking to the second lot that is not developed. Staff looked at all the issues in its

totality and decided this was a case where we could support a request to change the subzone to a less restrictive subzone which could then potentially open the door for one additional residence in this area. Staff wanted to give the Board the issues they faced regarding changing zoning regimes. Hope this helped you make a decision on this and staff is sensitive to the issue of people changing subzones.

Member Edlao asked if they did add another residence would they have to come to the Board. Mr. Lemmo confirmed that.

Member Goode asked then we are leaving some areas as limited with a focus greater than 40%. Mr. Lemmo acknowledged that is correct. There was some discussion referring to the Exhibit E map and Member Goode asked whether it was realistic to manage. Mr. Lemmo said that our subzones are broad brushed and not exactly as it is and they've gotten to a level of specificity that you don't find generally in our sub-zone regimes. I wouldn't have a problem with just including the areas between the road and the down slope extent of this line in a resource subzone and not including the little kipukas. He thinks there is a water tank in the area that he has identified as a kipuka, but that shouldn't affect the situation with those water tanks. They remain in the limited subzone. I would do the subzone in accordance with the property boundaries as adjoining parcel. Member Goode noted there is the portion on the road, too which shows unlimited and should be in resource. Mr. Lemmo acknowledged that referring to Exhibit E that they need to produce a final map that illustrates the boundary of the subzone change and it should be consistent with the property boundaries in this case and filter out these areas. They could probably do that by making that a condition of this approval that this is generally acceptable although they would like to see straight lines. Member Goode said for everybody's sake it's a simple leap and bonds to make them straight. Mr. Lemmo agreed saying that this should have been done on this effort and he was surprised.

Member Gon said essentially if you will be taking this rule amendment to the Governor you will probably require a map of that anyway.

James Case testified that he is one of the applicants and his wife being the other. Mr. Case related that they were in the general subzone and in 1979 they passed a rule that if you were on a 40% slope you should be in a limited subzone where half their land is flat. Half of the other parcel is flat, but the other half slopes down to Manoa. Inadvertently, the law is they are entitled to be in the resource subzone. We are not a 40% slope. For some reason DLNR staff went up and put him and another neighbor in the limited subzone and everyone else in the resource subzone referring to a map. Everyone in Tantalus has a water tank and needs to be below the house to pump up the water. Mr. Case doesn't agree with Mr. Lemmo that it's hard to draw that line because this is an old pu'u and it's hard to draw a line in a straight line that gets there. He doesn't see anything in the rules that say it has to be a straight line. The issue is the 40% slope or not. I just want to make sure if it's a straight line and you draw it to Manoa Valley side of where their house is and go straight across is okay, but that is the reason for going this way. We are not going to build next to the road which is a steep little cliff and we are not going to

build next door because there is a set-back anyway. Don't want it drawn straight through the house.

Member Goode explained another owner 30 years from now to figure out where the line is and with a leaps and bounds description to get close enough to have something to rely on. Mr. Case said they think they can do that.

Mr. Case wondered whether he can replace his water tank. Mr. Lemmo said under the new rules you would be able to replace your water tank.

Member Gon asked if there would be a need to show access easement to that water tank. Mr. Case explained their family situation and he wondered whether he could build a house on the edge of that lot down the hill which would be less bother to his neighbor. They would come with an application and at that time will have to create a reciprocal easement for the driveway which is shared and for the water tank and his neighbor has already done this.

The Board members and Mr. Case referred to a map on where the water tank is and where he plans to build this house on the edge of the cliff where no one will see it from the road. Mr. Lemmo said they will have to come up with a final map.

Member Goode agreed to have the line around the water tank. Mr. Case said the other markings are where the 40% slope was. He related the broad brush gap. Mr. Lemmo said our rules defines what is a subzone boundary – it's either a series of straight lines a property boundary or a following of contour. There were more discussions regarding the property boundary and subzones.

Member Gon asked whether they need to amend the recommendation to have that map or is the fact that the rule amendment will require a map is sufficient. Mr. Lemmo said he thinks its okay and maybe you can put a condition in here that says that staff will prepare a final subzone map in accordance with the subzone boundary in Chapter 13-5. Mr. Case was fine with that.

Member Morgan made a motion to move as amended. Member Goode seconded it. All voted in favor.

The Board:

Amended and approved adding a condition that staff will prepare a final subzone map in accordance with the subzone boundary in Chapter 13-5. Otherwise, the submittal was approved.

Unanimously approved as amended (Morgan, Goode)

Item C-1 Authorization of Funding for Maui Land & Pineapple Company, Inc. for \$1,546,550 during FY 1'2-18 for Pu'u Kukui Watershed Preserve continued Enrollment in the Natural Area Partnership Program and

**Acceptance and Approval of the Puu Kukui Watershed Preserve
Long Range Management Plan, TMK: 4-1-1-17, 4-2-1: por, 4-1-4-
12:por, 4-1-5-10, 4-1-5-13, 4-1-5-16, 4-1-5-17, 4-3-1-1:por, 4-3-1-
17:por, Maui**

Paul Conry, Administrator with the Division of Forestry and Wildlife (DOFAW) briefed the Board on this item and asked the Board to approve the continuation of these management actions at Pu'u Kukui, authorize the funding for this watershed partnership, and authorize the Chairperson to go ahead and negotiate to enter into those contracts and those are done in an annual allotment basis. One of the items that the Attorney General wanted him to clarify on was Chapter 343 that the environmental assessment was finalized. The notice was sent to the Office of Environmental Quality on March 17th and was published on its website.

Member Gon said given the work done in the Pu'u Kukui Watershed Preserve he doesn't anticipate it would be significantly different from the beneficial report received in the past. Mr. Conry said this is the first map since the contract began in 1994 and this is continuing that program.

Member Edlao asked about the community outreach whether it is for specific groups that he wanted to see more involvement with communities in the area – kids, schools. Megan Webster representative of Maui Land and Pine said it wasn't in the report, but they do extend that outreach in the community both with field trips and classrooms visits for pre-school, lower grades, middle grades and high school students. They also have internships available for high school students and they are partnering with the Hawaii Youth Conservation Corp and Americorps. They do outreach with Boy Scouts, the Maui Economic Opportunities Youth Think, a variety of hula halau and other groups have partnered with them. Because of the fragile preserve they try to limit the impact of large groups coming to the area and that is why they are concentrated on the makai end. This is definitely a large community outreach and monthly volunteer service projects in addition.

Member Gon asked this has a long history and whether this particular re-authorization for this segment is that \$1-1/2 million and whether that compares to similar to previous. Ms. Webster said last year they experienced a 25% reduction which they took in their overall yearly budget and they've continued that reduction through the Management Plan and increased by 4% each year. Mr. Conry said the budget is on page 40 of the plan which goes up over the secure period from about \$223,000 in year one and up \$280,000 in year six.

It was moved to approve by Member Edlao and seconded by Member Gon. All voted in favor.

Unanimously approved as submitted (Edlao, Gon)

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

Ed Underwood representing Division of Boating and Ocean Recreation (DOBOR) briefed the Board on this item and said Mr. Cisco was here, but had to leave. Staff is requesting approval to issue this revocable permit, but because staff has been very successful in offering out births they are running out of births to put the yachts in now. Staff will work with the yacht clubs nearby and place the yachts in other areas to accommodate them while they are here.

Member Gon asked whether this point he made required any amendments and Mr. Underwood confirmed it did not.

A motion was made to approve as submitted by Member Morgan and seconded by Member Goode. All voted in favor.

Unanimously approved as submitted (Morgan, Goode)

Item K-1 Conservation District Use Application (ST-3580) for the Installation and Maintenance of 5 Siren Poles by the Department of Accounting and General Services, Located on the Island of Hawaii at: Hookena Beach Park, TMK: (3) 8-6-013:021; Holoholokai Beach Park, TMK: (3) 6-9-001:017; Hoopuloa, Milolii, TMK: (3) 8-9-004:008; Mahukona Park, TMK: (3) 5-7-003:013; and on the Island of Oahu, Vicinity of Makua Cave, TMK: (1) 8-2-001:001

Mr. Lemmo conveyed what this agenda item is and that he stands on his recommendations. As you know in our proposed rules we trying to make this a site plan approval and isn't something he doesn't want to spend a lot of time on at the Board level. Staff didn't see any problems and recommend approving them with the standard conditions.

Catie Cullison, planning consultant for the applicant testified that DAGS has no objections to the recommended conditions.

Member Gon made a motion to approve as submitted. Member Morgan seconded it. All voted in favor.

Unanimously approved as submitted (Gon, Morgan)

Item D-8 Consent to Assign General Lease No. S-3856, Aisea Vulangi, Assignor, to Stuart C. Rinehart, Assignee, Waimanalo, Koolaupoko, Oahu, Tax Map Key: (1) 4-1-024:023.

Mr. Tsuji said he had no changes. Mr. Rinchart was here.

Member Morgan moved to approve as submitted. Member Goode seconded it. All voted in favor.

Unanimously approved as submitted (Morgan, Goode)

Item D-4 Approval for Acquisition of Perpetual Conservation Easement by the Division of Forestry and Wildlife, Kealahou, South Kona, Island of Hawaii, Tax Map Key: (3) 8-2-012:001(por.).

Mr. Tsuji said that this is a matter that Land Division is assisting DOFAW on the acquisition portion. Paul Conry and Sheri Mann are here to explain in more detail on the project. On the land acquisition, they are paying about \$2 million for a conservation easement in which we do not require any real property interest by looking at the draft conservation easement attached to the submittal. There are restrictions on the land and the land owner agreed that DLNR can enforce certain provisions and allow DLNR to access and check up on the property.

Paul Conry conveyed that this acquisition is part of a national program with the U.S. Forest Service which is their Forest Legacy Program and is offered across the country. Hawaii was fortunate of being selected in a competitive process for this nationally for the use of these funds to preserve this agricultural landscape in perpetuity. We were successful with Congress to line item all these approvals. This was successfully selected for two awards combining them into one acquisition. He thanked the landowner for stepping forward and willing to give up those development rights for perpetuity. It meets the overall conservation goals of the State to maintain the open space and agricultural nature of the properties and achieve both conservation and purposes of the Forest Legacy Program to maintain as a working forest. It will prevent any housing developments on this particular area.

Member Goode asked whether the land is zoned agriculture now. We just had an item from OCCL about conservation subzones in the conservation district and this could be rezoned through the Land Use Commission to ag, rural or urban. Since it is primarily for forestry and in ag why not after this is done make it in the conservation district. Mr. Conry said under conservation easements there are 10 being agricultural conservation easements and is what the intent for this property. It would continue to allow them to have agricultural practices. A conservation easement will be there to prevent future development that would normally be in place or be affect of zoning under conservation district rules, but there is that provision under conservation easements for agricultural conservationists.

Member Gon said because this is Forest Legacy one would think that the nature of that agriculture would be like sustainable forestry. Mr. Conry acknowledged that.

A gentleman spoke saying the nature of a conservation easement is similar to zoning in many ways except it is tailored to a specific piece of property so over a period of several years we'll work with DOFAW in specifically tailoring restrictions for this property that will address its particular resources. We think it's not off the rack zoning it's a tailored zoning type where the land owner and the State agency we worked with have fashioned in order to meet our collective interest.

Mr. Tsuji said this form of easement is not a State form that the State got in from the Federal agencies and this is intended to be permanent and runs with the land. Theoretically what we draft here in Hawaii we may get successors, not just grantors and that is the intent. If you were to sell the property future landowners it will run...The gentleman said there is a provision later in the document that defines grantors as successors. Mr. Tsuji said in that respect it is even stronger because Land Use Commission could rezone to the County. In this way the owner is being compensated so there is no allegation of taking ...The gentleman said this is a great program and he has been involved in Forest Legacy projects in many different areas in the United States. It is a very popular program with the U.S. Congress because they see it brings results. There are great things happening with these properties. In this process there is a certain amount of money made available for the land owner as part of what we call a bargain sale, but the bulk of the value of the easement is appraised by the State will be donated by the land owner. It's a donation with some compensation.

Member Edlao moved to approve as submitted. Member Gon seconded it. All voted in favor.

Unanimously approved as submitted (Edlao, Gon)

Item C-2 Request for Approval of a Memorandum of Understanding Between the State of Hawai'i, the United States Department of Agriculture and the Hawai'i Association of Conservation Districts Concerning Collaboration on Forestry Related Program Delivery

Mr. Conry referred to the item where the agencies listed are there to help staff to develop and expand forestry type landowner systems. Staff has been working with USDA and NRCS for a number of years and one of the things staff hopes this MOA will do is give both parties more flexibility to stand on Forestry initiatives on the part of USDA. They got under the Farm Bill and many opportunities. One of the things that slows them down is a lack of expertise in Forestry issues. Staff hopes this expands their opportunities in the future and potentially gets assistance from USDA and NRCS for technical service where staff could tap into funding that is available under the Farm Bill conservation programs for providing technical services. It is a great opportunity for all agencies to expand their outreach.

Mr. Conry said the Attorney General's office asked staff to clarify on the Chapter 343 requirements on page 3 of the submittal we are claiming an exemption in the planning exemption under Chapter 343. Another question was the MOA, Item Q on page 8 was

whether or not providing training would fit under that. To clarify the training here is to provide training to their administrative staff to develop the plans they are going to be using and is consistent with developing plans under that exemption. They need assistance with incorporating forestry practices and forestry approaches into their basic agreements that they have with their landowners. We need to be able to train them on what are the appropriate forestry practices, what are the types of agreements we can enter into and how that matches with our Forest Stewardship Program. It's training them to be more inclusive and be more effective.

Member Gon moved to approve as submitted. Member Edlao seconded that. All voted in favor.

Unanimously approved as submitted (Gon, Edlao)

Item C-3 Authorization to Extend the Time of Performance for an Additional Twelve Month Period and Amend Attachment S3 for Contract IFB DOFAW-10-FM with Olson Enterprises, Inc., to Furnish and Deliver Fencing Material for the Division of Forestry and Wildlife, Statewide

Mr. Conry related that this is a routine fencing contract extending it for another year and the terms and conditions would be worked out with the neighbors.

Member Gon asked where these fencing projects were happening whether they were at the edges or preserves or NARS. Mr. Conry gave the example if there was a fencing project for one of the Watershed Partnership Agreements and things like that. The actual project would go through its environmental assessment. This is just a materials contract where they get a price. Staff used to bid out a fencing contract and they were told that was parceling and had to go with a single statewide contract for materials. This would be for repairing existing fence lines and providing materials for new construction which could be anywhere in the State.

Member Morgan moved to approve as submitted. Member Gon seconded that. All voted in favor.

Unanimously approved as submitted (Morgan, Gon)

Item D-7 Issuance of Revocable Permit to Hawaii Explosives and Pyrotechnics, Inc. for Logo Burning Display on a Platform in the Hilton Lagoon on May 20, 2011 at Duke Kahanamoku Beach, Waikiki, Honolulu, Oahu, TMK:(1) 2-3-037:021 portion.

Mr. Tsuji said he needs to withdraw this item.

Withdrawn (Gon, Morgan)

- Item D-1** Sale of Lease at Public Auction for Intensive Agriculture Purposes, Hakalau-Iki, South Hilo, Hawaii, Tax Map Key:3rd/2-9-02:47.
- Item D-2** Grant of Perpetual, Non-Exclusive Easement to the Hawaii Electric Light Company, Inc. (HELCO); Issuance of Construction Right-of-Entry for Access and Utility Purposes, Honokaia, Hamakua, Hawaii, Tax Map Key: 3rd/ 4-6-11: portions of 6 and 44.
- Item D-3** Issuance of Revocable Permit to Hawaii Explosives & Pyrotechnics, Inc., Ouli, Waimea, South Kohala, Hawaii Tax Map Key: (3) 6-2-2: portion seaward of 4.
- Item D-5** Rescind Prior Board Action of July 12, 2002, Item D-6, Grant of Term, Non-Exclusive Easement (After the Fact) to Jeffrey and Judi White for Waterline Purposes, Kailua, Makawao, Maui, Tax Map Key: (2) 2-9-011: Portion of 008.
- Item D-6** Issuance of Revocable Permit to Hawaii Explosives and Pyrotechnics, Inc. for Aerial Fireworks Display on May 1, 2 and 3, 2011 at Duke Kahanamoku Beach, Honolulu, Oahu, Tax Map Key:(1) 2-3-037:021 portion.
- Item D-9** Grant of a Perpetual, Non-Exclusive Easement and Issuance of a Construction and Management Right-of-Entry to the City and County of Honolulu for Sewer Line Purposes; Waikele, Ewa, Oahu; Tax Map Key: (1) 9-4-014:006 portion.
- Item D-11** Approval in Concept for Removal of Tax Map Key (1) 4-2-010:004 from Waimanalo Forest Reserve, Kailua, Koolaupoko, Oahu; (1) 5-9-005:002 and (1) 5-9-005:077, from Pupukea Forest Reserve, Pupukea and Paumalu, Koolauloa, Oahu; and (1) 2-5-019:006, from Round Top Forest Reserve, Honolulu, Oahu.

Approval in Concept Setting Aside Tax Map Key (1) 2-2 047:001, (1) 2-5-011:007, (1) 2-9-051:001, (1) 2-9-055:014, (1) 3-4-010:portions of 009, (1) 3-4-022:portions of 001, (1) 3-6 004:004, and (1) 3-6-004:026, to the Department of Land and Natural Resources, Division of Forestry and Wildlife for Addition to the Honolulu Watershed Forest Reserve Purposes, Nuuanu, Pauoa, Manoa, Palolo, and Wailupe, Honolulu, Oahu.

Approval in Concept Setting Aside Tax Map Key (1) 4-1-010:094 to the Department of Land and Natural Resources, Division of Forestry and Wildlife for Addition to Waimanalo Forest Reserve Purposes, Waimanalo, Koolaupoko, Oahu.

Approval in Concept for Re-designation of Tax Map Key (1) 6-8-003:041, from Mokuleia Forest Reserve Road Right of Way to Addition to Mokuleia Forest Reserve, Mokuleia 2, Aukuu and Kikahi, Waialua, Oahu.

Approval in Concept Setting Aside Tax Map Key (1) 8-8-001:010, to the Department of Land and Natural Resources, Division of Forestry and Wildlife to re-establish Lualualei Forest Reserve, Waianae, Waianae, Oahu.

Unanimously approved as submitted (Gon, Goode)

Item J-3 Request for Renewal, Cancellation, and Re-issuance of Revocable Permits on the Islands of Oahu, Maui, and Hawaii

Mr. Underwood asked to withdraw this item.

Withdrawn (Morgan, Gon)

Item J-1 Approval for Contract M-2011-003 Furnishing Refuse Collection Service for Small Boat Harbors, Maui

Mr. Underwood conveyed this item and said there was one bid.

Member Edlao made a motion to approve as submitted. Member Goode seconded it. All voted in favor.

Unanimously approved as submitted (Edlao, Goode)

Item M-1 Grant of Perpetual, Non-Exclusive Easements to A&B Properties, Inc. for Waterline and Access Road Purposes and Issuance of a Construction and Management Right-of-Entry, Situate at Kahului, Maui, Hawaii

Item M-2 Consent to Sublease - Special Facility Lease DOT-A-82-0021 Delta Air Lines, Inc. to Host International, Inc. Honolulu International Airport

Member Morgan moved to approve as submitted. Member Goode seconded it. All voted in approval.

Unanimously approved as submitted (Morgan, Goode)

- Item H-1**
- 1) Request Approval for the Selection of Competitive Sealed Bid Process to Obtain and Implement Video Conferencing Capacity for the Department of Land and Natural Resources;**
 - 2) Authorize the Chairperson to Award and Execute a Contract to Procure Departmental Video Conferencing System Equipment; and**
 - 3) Authorize the Chairperson to Award and Execute a Separate Contract to Purchase “Connectivity” Support for the System**
- SUBMITTAL TO BE DISTRIBUTED.***

Member Goode said he has participated in a video conference with DLNR before downstairs (of Kalanimoku Bldg.). Chair Aila said the problem is getting time on that system.

Laura Stevens conveyed the background on this item.

The Board had positive comments.

Ms. Stevens noted that it depends on the quotes staff gets.

Member Edlao asked where on Maui. Ms. Stevens said at the State Office Building. Bill Tam, DLNR Water Deputy said that they haven't settled on one place yet. Member Edlao suggested that the annex is a good size.


Mr. Tam said the goal is to have a place to move ahead with a high quality unit. The neighbor island Board members don't have to fly in. There would be connections with NOAA in Florida. It would be a cost savings on travel, time, etc. It will change the public's perception of how we do business. Get people out and increase moral to be more productive. There are GIS systems and could connect with other Departments. This is an authority to move forward.

Unanimously approved as submitted (Goode, Edlao)

Adjourned (Morgan, Edlao)

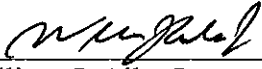
There being no further business, Chairperson Aila adjourned the meeting at 1:00 p.m. Recordings of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Adaline Cummings
Land Board Secretary

Approved for submittal:



William J. Aila, Jr.

Chairperson

Department of Land and Natural Resources