



Environmental Impact Statement for the Project to Repair the Kalaupapa Dock Structures

Summary of Public Comments



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Summary of Public Comments

Introduction

The National Park Service (NPS) proposes to improve conditions of the harbor and structures in Kalaupapa Harbor to safeguard continued delivery of supplies essential to the operation and maintenance of Kalaupapa National Historical Park (the park). The overall goal of this project is to provide a safe, reliable pier and harbor structures that support continued barge access essential for and maintaining community services and operations.

The project would stabilize and complete underwater repair of the dock facilities to sustain barge service to the park and would accommodate anticipated changes in barge design and sizing.

The park was once referred to as the “Kalaupapa Leprosy Settlement” and is located in an isolated setting, at the base of 2,000- foot cliffs, on the north shore of the island of Moloka'i, Hawai'i. In this remote setting, non- perishable supplies and materials arrive by barge from Honolulu. The Kalaupapa community is home to several surviving Hansen's disease (leprosy) patients, and is currently managed jointly by the Hawai'i State Department of Health and the NPS. The vast majority of materials needed to sustain the Park are received by barge delivery once or twice each year.

The project area includes the park's harbor, pier facilities, barge berthing basin and a land disposal site for any dredged materials. The “park” refers to the entire Kalaupapa community (including the marine and terrestrial facilities and environments).

The NPS is the lead agency for preparation of environmental compliance under the National Environmental Policy Act (NEPA). As a part of the NEPA planning and compliance process, comments, concerns, and information have been collected from the general public and interested parties regarding the dock structure repair and modification project. This document summarizes the input received by the NPS regarding this proposed project. The contents of this report are as follows:

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Scoping Process and Public Involvement

The National Park Service scoping process includes internal scoping and external (public) scoping. Internal scoping for this project involved discussions among the NPS, other federal and state agencies, and the residents of Kalaupapa, regarding the purpose and need for the project, issues, objectives, management alternatives, mitigation measures, appropriate level of documentation, lead and cooperating agency roles, and other related dialogue.

Public scoping is the early involvement of the interested and affected public in the environmental analysis process. The public scoping process helps ensure that people have been given an opportunity to comment and contribute early in the decision-making process.

The scoping process began on March 11, 2008 with the NPS proposing to complete an environmental assessment for the dock repairs. A scoping letter announcing the project was sent to interested parties, agencies, and organizations in August 2008. This letter is provided in Appendix A. However, potential effects to special-status species (marine mammals and those listed under the Endangered Species Act), led the NPS to determine that an environmental impact statement (EIS) would be the appropriate compliance pathway for this project. Thus, a second phase of scoping began in early 2009 for the EIS. On April 17, 2009 a notice of intent to prepare an Environmental Impact Statement in the *Federal Register* (Federal Register, Volume 74, Number 73) was published.

Three public meetings were held to gather comments and record issues related to the proposed dock and harbor project – two on the island of Moloka'i and one in Honolulu. These meetings were preceded by news releases and other announcements.

On March 16, 2009, a scoping letter was distributed by hand and via electronic and conventional mail to a mailing list of 600 interested individuals, organizations, and businesses (attached in Appendix B). A scoping letter was also sent to 14 federal, state, and local agencies. The letter summarized the purpose of and need for the harbor and dock structure improvements, potential issues and environmental topics and opportunities for public involvement in the NEPA process. The scoping letter also provided details on the two Moloka'i public scoping meetings and requested that the public convey concerns and issues related to the proposed improvements to the harbor and related structures at Kalaupapa. Respondents were encouraged to comment electronically on the NPS Planning, Environment, and Public Comment website; by letter; or in person at the meetings. Scoping brochures and flyers containing the above information were posted through the park and in prominent locations on the rest of the island of Moloka'i and distributed to tour companies.

On April 20, 2009, a follow-up scoping letter announcing the public meeting in Honolulu. All scoping and public meeting information was posted on the park websites at www.nps.gov/kala and <http://parkplanning.nps.gov/kala>. Press releases were prepared and distributed to both Moloka'i and Honolulu newspapers. A classified ad was printed in the Moloka'i Times the week of April 6, 2009 to announce the public meetings. Information on the Honolulu meeting was submitted for the calendar section of the Honolulu Advertiser. During the scoping process that began with the proposed development of an environmental assessment, one news article, "Rebuilding the Kalaupapa Dock?" was also published by the Molokai Times on March 19, 2008.

At each public meeting, a presentation on the project was given and NPS staff were available to discuss the project, answer questions and record comments. The presentation described the conditions and reasons the dock and harbor are in need of repairs so that delivery of supplies essential to operate and maintain the Kalaupapa community and Kalaupapa National Historical Park continues. The presentation included options that would be included in the alternatives, and the pathway and timeframe for the final decision- making process.

- On Tuesday April 7, 2009, a scoping meeting was held at the park to solicit input from those individuals that are members of the Kalaupapa community. Attendees at this meeting were park and State of Hawai'i staff. On Wednesday April 8, 2009 a public scoping open house and presentation to the Moloka'i Planning Commission was held at Mitchell Pauole Center, in Kaunakakai. Fifteen members of the public, eight planning commissioners, and four planning commission staff in attendance at the meeting.
- On May 11, 2009, an open house was held at the Hawai'i Imin International Conference Center. Three people attended, as well as representatives from the EPA and Department Hawai'i Homelands.

Summary of Comments Received

Comments were received by mail, from meeting attendees, and from 11 state and federal organizations. These comments provide important input that will be used by helping the interdisciplinary planning team to define the issues and develop management alternatives to be addressed in the EIS.

Through the scoping effort conducted for the environmental assessment and the environmental impact statement, the NPS received a total of 16 response documents. Five letters were received from the public and 11 documents were agencies. Comments were also recorded during the Moloka'i Planning Commission Meeting. The minutes of this meeting are provided in Appendix C. During the scoping period, the park also held public scoping meetings for the planning of a new General Management Plan (GMP) for Kalaupapa NHP. GMP comments that related to the dock project are also captured below. Many of the documents submitted contained more than one comment or suggestion regarding the Kalaupapa Dock Repair Project. The responses from both the public and agencies responses contained a total of 133 written and oral comments on the management options, schedule and other concerns about the project.

- Many of the public responses sought clarification regarding the pre- and post construction conditions at the harbor. Concerns regarding potential dredging include duration, noise generation, associated maintenance activities, and storage of dredged materials.
- The majority of comments (46 percent) were submitted by state and federal agencies that will be responsible for a variety of permits for the project. Their comments focused on regulatory and environmental concerns of the project.
- Other responses (40 percent) ranged from voicing an opinion, to expressing concerns about the decision- making process leading to the repair of the dock, and further questioned if the dredging was the best option for continuing deliveries to Kalaupapa. These comments included suggestions regarding options for continuing deliveries to the community and questioning the justification for dredging the harbor.

- The remaining comments (14 percent) were directed at questioning or challenging the purpose and need of project.
- Most of the public written comments (4 out of 5) were not supportive of repairing the dock and or dredging the harbor. There was mixed support of conducting the dock repairs from the Molokai Planning Commission. The commission acknowledged there would be opposition from the public for dredging and questioned the intent of the repair project and who would benefit from the proposed repairs. Public attendees at the meetings and written responders did not approve of the project for reasons including that it would disturb natural and cultural resources in the Kalaupapa harbor. No respondents supported dredging as an option in the proposed action. Three respondents supported the dock repairs to retain a viable pier structure.

A detailed accounting of the comments is presented in Table 1. The comments have been organized as to particular topic areas. These topic areas included purpose and need, alternatives, environmental consequences, permitting and consultation, and others that were either an opinion about doing the plan or beyond the scope of the project.

Federal Agency Internal Scoping and Consultation

National Marine Fisheries Service

The NPS consulted with the National Marine Fisheries Service (NMFS), who responded with concerns regarding impacts to species protected under the Marine Mammal Protection Act, as well as impacts to essential fish habitat and managed under the Magnuson Stevens Fisheries Conservation Act. In their response, NMFS included the green and Hawksbill sea turtles and Hawaiian monk seal as the ESA- listed species expected to occur within the project area. (Park staff have also noted the presence of humpback whales near the mouth of the harbor, and this species will be included in the EIS.) The NPS is in ongoing consultation with NMFS regarding the project and will submit appropriate permitting application(s) as part of the overall compliance effort.

U.S. Fish and Wildlife Service

In accordance with Section 7 of the Endangered Species Act (16 USC 1531 *et seq.*), the NPS contacted the U.S. Fish and Wildlife Service (USFWS) by letter on December 12, 2008 to initiate informal consultation and request verification of the list of threatened and endangered species. NPS personnel participated in a field inspection for the repair of the Kalaupapa dock structures project in March 2008 and in an interagency internal scoping workshop on May 11, 2008. Issues and concerns raised during the meetings by USFWS staff were incorporated into three letters submitted to the park.

Special- status species and potential effects from night lighting of the construction area were raised as issues by the USFWS. These will be addressed in the EIS.

U.S. Army Corps of Engineers

The U.S. Army Corps of Engineers (USACE) responded to initial agency scoping with a determination that the Kalaupapa harbor are jurisdictional waters of the U.S. As such, permits under the Rivers and Harbors Act and Clean Water Act will be needed before construction can proceed. The NPS will continue to work with the USACE and submit the permit application as part of the overall compliance effort.

Cultural Resources Consultation

As part of the Section 106 process, the NPS sent letters to the Hawai'i State Historic Preservation Division and to the Advisory Council on Historic Preservation. The letters invited them to participate in the planning process and informed them that the NPS plans to use this draft EIS to fulfill the requirements of Section 106 of the NHPA as well as comply with provisions of NEPA.

Hawai'i State Agency Consultation

The NPS consulted, and is engaged in ongoing discussion with several State of Hawai'i agencies. These include the Hawai'i Department of Health (DOH), the Department of Land and Natural Resources (DLNR), and Department of Business, Economic Development and Tourism, Office of Conservation and Coastal Lands.

The Hawai'i DOH Clean Water Branch had seven comments regarding the proposed activity. Most of the comments were regarding permitting requirements for the proposed action, specifically, Clean Water Act Section 401, National Pollution Discharge Elimination System (NPDES), and that permit coverage complies with state Water Quality Standards. The NPS will be obtaining appropriate water quality permits as part of the overall compliance effort. Additional comments from the Clean Water Branch include requirements for best management practices (BMPs) to protect the marine ecosystem.

The Hawai'i DLNR may require a Conservation District Use Permit for activities in submerged lands within the Kalaupapa Harbor. A would be required for actions taken to widen the berthing basin, as they will affect submerged resources. If the proposed action does not include changes to the basin, this permit would not likely be needed.

The Hawai'i Department of Business, Economic Development, and Tourism require compliance with the Coastal Zone Management Act prior to project implementation. The proposed action will be reviewed by the Hawai'i Coastal Zone Management program for a consistency determination.

The State Historic Preservation Division (SHPD) acknowledged the coordination of the Section 106 of the National Historic Preservation Act and asked for continued coordination throughout the NEPA process.

Detailed Accounting of Comments Received

A grand total of 130 comments were contained in 16 response documents and oral statements at the public scoping meeting were documented for the Repair of Kalaupapa Dock Structures. Each comment received was analyzed for content.

Table 1 below details the comments received in writing, voiced at all three public scoping meetings, and the GMP for Kalaupapa NHP scoping meeting, and comments received when the project was originally scoped as an EA.

The comments are sorted and identified by the section of the EIS where the topic or issue will be addressed. The categories include: PN – Purpose and Need; AL – Alternatives; EC – Environmental Consequences; PC – Permitting and Consultation; OT – Other; and OS – Outside the Scope of this EIS.

Table 1: Public comments received categorized by topic.

Code	Comment
Purpose and Need	
PN- 1	What is the direction that Young Brothers is taking? Are they moving to large barges over the long- term?
PN- 2	How does this project align with the long- term plans for Kalaupapa? How does it fit into the general management plan process?
PN- 3	Young Brothers barge service is a sad excuse for this project. We are tired of being held hostage to this company. We will not accept this.
PN- 4	With regard to potential coral reef impacts from Federal actions, Executive Order 13089 on coral reef protection requires federal agencies to do all they can to ensure their actions do not harm coral reef ecosystems.
PN- 5	Would like to see no changes. Only 13 patients left. Why change the site for the cost and patient time remaining?
PN- 6	How does Barge fit into GMP?
PN- 7	Will Barge even be needed in the future?
PN- 8	Will changes allow new ways for visitors to access?
PN- 9	Will dock last to 2012?
PN- 10	Will restriction on harboring be changed? Could fishing boats etc., come in? Want to make sure park resources stay protected.
PN- 11	How big of a vessel could come in?
PN- 12	Can we afford the bigger barge?
PN- 13	Will we have funding to support the service long term?
PN- 14	Are there legal implications if resources are not preserved and protected?
PN- 15	Barge company can do better job operating in basin to protect resources.
PN- 16	Will dredging be needed as maintenance?
PN- 17	It is the NPS' understanding that "larger" is the general trend in ocean- going barges?
PN- 18	Broaden the pool of stakeholders and do not piecemeal the projects. The sainthood of Father Damien will increase tourism and visitation to the park. We know this and want to work with you, but the basin expansion is not acceptable.
Alternatives	
AL- 1	No dredging in the harbor.
AL- 2	What about hiring helicopters to move supplies?
AL- 3	Where is the funding coming from and how much will the project cost?
AL- 4	What is the duration of the project?
AL- 5	There needs to be a greater range of alternatives for this project. We know things have to arrive to support the community, but we will not let Young Brothers drive this project.

Code	Comment
AL- 6	These issues can be solved legislatively, if necessary. The dredging is a no- go, expanding the airport is a no- go. For both, there would be too much cultural and natural resource damage.
AL- 7	How big of an area will be disturbed by the dolphin?
AL- 8	Requests a place to dock private boats at the park for people to come and tend their sick.
AL- 9	What is the beaming of the barge Young Brothers wants to use? The state recently retired two small barges. Can these be used?
AL- 10	This is a barge problem, not a dock problem. Barges are regulated by the Public Utilities Commission. If this provider is not meeting the needs of the public, then this can be addressed at the commission level. Young Brothers should be looking for a solution - it's their job and that's why they have a license.
AL- 11	Get the business people on Molokai to buy us a barge for the island. Keep Kalaupapa the same. Serve it with the Molokai Island barge.
AL- 12	Aids to navigation – have these been considered?
AL- 13	Hiring of local Hawaiian companies?
AL- 14	How would the construction be conducted? How would personnel staff get to the project area?
AL- 15	How will barge service be accomplished during construction?
AL- 16	Even though there may have been a small fraction of comments in opposition to the dredging at Kalaupapa if people were more familiar to Kalaupapa more people would be opposed to it.
AL- 17	Plan for an emergency boat mooring for boaters, fisherman and hikers;
AL- 18	Support the repair of the concrete pier for safety reasons.
AL- 19	Large aircraft not practical, need dock for supply delivery.
AL- 20	Does one delivery per year justify dredging the harbor?
AL- 21	Could a barge be purchased
AL- 22	Tankers on barge appear to pose safety hazard when exiting on dock.
AL- 23	Have you approached the consumer advocate re: barge prices?
AL- 24	Look for another alternative to support barge service.
AL- 25	How can dredging be avoided?
AL- 26	What non- dredge options were considered?
AL- 27	How much dredging will be needed?
AL- 28	Is there a special fuel requirement?
AL- 29	How does dredging take place?
AL- 30	How much dredged material and where will it be stored?
AL- 31	Where is construction staging?
AL- 32	How will you make sure armor rock stays in place? Native stone may not be dense enough to

Code	Comment
	stay in place.
AL- 33	Will this round of dredging lead to more additional, repeated dredging?
AL- 34	Separate fuel transit components. Subsidize gas w/ long term projected costs. Bring in different delivery.
AL- 35	If barge sizes are limited; enlarging basin in the only option?
AL- 36	Hard to believe that there are no companies with small barges. Did you really look?
AL- 37	What about purchase and share barge?
AL- 38	Take dredging out of picture. Think of options for fuel and small barges. Seek other options.
AL- 39	What is happening at other small harbors? Kalaupapa has added issue of no road access. Are there potential co- operative arrangements that could be preserved?
AL- 40	What if NPS purchases a barge and contracts the operations?
AL- 41	Does the federal government have barges?
AL- 42	Consider military delivery of fuel; marines train at airstrip.
AL- 43	How long will dredging take?
AL- 44	How many barges will fit in new basin?
AL- 45	Can we approach Marine Corps with opportunity to train by delivering goods on aircraft?
AL- 46	Was there another option for orienting the runway expansion? Could it be expanded in a north- south direction (toward the pali) rather than east- west?
AL- 47	Construction of a new airport?
AL- 48	What about a fuel line from topside?
Environmental Consequences	
EC- 1	Repair of the dock structure could result in the loss of degradation of coral reef resources.
EC- 2	The project should be scheduled to avoid the spawning efforts of corals.
EC- 3	Night lighting of the construction area and tall construction equipment should be shielded and directed downward to reduce the likelihood of seabird collisions.
EC- 4	Standard Fish and Wildlife Best Management Practices should be incorporated into the project to avoid impacts to water quality or biological resources.
EC- 5	A project- related mitigation plan should be developed and include a post- construction evaluation of impacts to affected resources and an assessment of the effectiveness of each mitigation action that is implemented.
EC- 6	A Hazard Analysis and Critical Control Plan should be developed to prevent the attraction and introduction of nonnative species to the island and harbor.
EC- 7	Construction activities and the transportation of equipment and materials for the proposed action are potential pathways for non native invasive species to threatened and endangered species.
EC- 8	What is the operation of the Young Brothers large capacity barge service and associated hull fouling at the harbor as it relates to the spread of invasive species?

Code	Comment
EC- 9	It was noted that the threatened Newell's shearwater and the endangered Hawaiian Petrel have been observed near the proposed project area.
EC- 10	The Kalaupapa Harbor is classified as: Class AA- Marine Water, Class II- Shallow Draft Harbor, Class I- Nearshore Reef Flats and Class I- Protected Reef Communities.
EC- 11	The NPS should develop a Best Management Practices measures for potential adverse impacts to water.
EC- 12	Species that are expected to occur within the action area are the endangered green sea turtles, hawksbill turtles, Hawaiian monk Seals. These species may be affected by human disturbance, collisions with vessels and construction waste discharge.
EC- 13	Will the repairing of the dock lead to an increase in large cruise ships and visitors at Kalaupapa?
EC- 14	Will dredging and repair lead to an increase in pollution and problems?
EC- 15	Preserve the Hawaiian Monk Seal
EC- 16	Underwater archeology is also a concern of the residents and some park employees.
EC- 17	Do not generate additional disturbance if it would not accomplish what you need.
EC- 18	Contact Fish and Game to see when important fish species are present in the harbor.
EC- 19	What you do on land affects the sea. Sand comes into the North Shore in June, July, and August. Moving the lava rocks will have effects.
EC- 20	Kalaupapa is sacred. Why we fight is because we don't want damage.
EC- 21	EIS needs to discuss indirect/secondary impacts (i.e. ferry, greater development, etc.)
EC- 22	The marine ecology at Kalaupapa is a wondrous pocket of irreplaceable resources.
EC- 23	Moving these armor rocks, expanding the basin and doing the repairs you have planned will have an effect on the seas life in the area.
EC- 24	Potential project related impacts to migratory seabirds and shorebirds protected by the Migratory Bird Treaty Act should be addressed.
EC- 25	Concern for freshwater springs in the harbor- the mix of water is important in the harbor.
EC- 26	The marine algae used to be harvested in the harbor.
EC- 27	Kalaupapa was a fishing village; ancestors built heiau along north shore as offering to the abundance.
EC- 28	Project could affect fishing community 2 miles away along shore.
EC- 29	Protect the lifestyle of the patients.
EC- 30	Protect water quality from dredged material and construction material.
EC- 31	Dredging could affect fishing reserve.
EC- 32	How much sediment will be generated? How will this compare top stream run- off and water wave sediment movement?
EC- 33	Can project be done outside [monk seal] pupping season?
EC- 34	Affect on underwater spring at harbor?

Code	Comment
EC- 35	What is the visual change to the harbor?
Permitting and Consultation	
PC- 1	The Federal Water Pollution Control Act or Section 401 Water Quality Certification is required for construction activities.
	The NPS is required to obtain an individual National Pollution Discharge Elimination System permit for discharges of wastewater, including storm water runoff.
PC- 3	The NPS Should submit a copy of the NPDES permit application to the Hawai'i DLNR, SHPD or demonstrate to the CWB that the SHPD has reviewed the project.
PC- 4	NPDES or Section 401 WQC is required and must comply with WQS and noncompliance is subject to a penalty of \$25,000 per day per violation.
PC- 5	The proposed federal activity is subject to Coastal Zone Management Act (CZMA) and is subject for review by the Hawai'i CZM.
PC- 6	The Repair of the Kalaupapa Dock Structure in the harbor is considered waters of the United States and requires a Department of the Army Permit Authorization.
PC- 7	The Kalaupapa National historic park must notify the Hawai'i SHPO and meet standards in 36 CFR 800.8 (c)(1)(i) : identify consulting parties, involve the public; identify historical properties consultation regarding the effects of the historic property.
PC- 8	Let the commissioners know when the DEIS will be available for review and comment.
PC- 9	May need to take this project to the Hawai'i Homelands Commission. Need a two month advance to set meeting with commission.
PC- 10	Suggest meeting before release of DEIS.
PC- 11	Would like meeting on Molokai.
PC- 12	Commission meets this year on Molokai (Aug or Oct). Will let NPS know what the schedule is for 2010.
PC- 13	Contact DLNR, Division of Fish and Game to get information regarding Akule in the Kalaupapa area.
PC- 14	It appears that the project might involve submerged lands, defined by the State, as lands from the upper reaches of the waves on shore seaward to the extent of the State's jurisdiction. Submerged lands are in the resources subzone and the Office of Conservation and Coastal Lands (OCCL) is responsible for processing permits in the conservation districts.
PC- 15	Ask the Chamber of Commerce if you can make a presentation for its members during their regular meeting.
PC- 16	As submerged lands are involved with respect to the dock structures, we understand a lease for the use of these lands will be required.
PC- 17	The NPS should request the FWS for a FWCA consultation on the proposed project.
PC- 18	We recommend the NPS include the FWS, NMFS, EPA and Hawai'i Department of Aquatic Resources (DAR) in every stage of the project planning process.
PC- 19	Based on information provided by the NPS, we will recommend the collection of additional biological information data for use in conducting a Habitat Equivalency Analysis(HEA) to

Code	Comment
	scale the anticipate project impact.
PC- 20	We recommend you contact Bruce Peacock and Heather Best of the NPS in Ft. Collins, CO regarding additional information on HEA
PC- 21	The proposed action requires ESA consultation on possible listed seabird and sea turtle nesting and potential impacts from construction activities on these species. Consultation under the ESA and Marine Mammal Protection Act should be requested from NMFS regarding impacts to Hawaiian Monk Seals, humpback whales and sea turtles.
PC- 22	Air transport fuel and off- load onto tanker truck at airport. Continue to take idea and try to take dredging out of project.
PC- 23	Noise is an issue we have not discussed. It is very invasive and all related to dredging.
PC- 24	What is the last day for alternative suggestions? Will NOI be posted so we can see it?
PC- 25	This time period represents an entire monk seal pupping season. Please consult with NOAA/NMFS.
Other	
OT- 1	Residents of Molokai expect to be the “beneficiary” of lands at Kalaupapa
OT- 2	Suspicion expressed that the plan for the dock conveyed to the public is not what will really occur.
OT- 3	Do not use tax payer dollars to renovate the dock because taxpayers have limited access to the Kalaupapa area.
OT- 4	Don’t want KALA to become Yosemite! Further development would degrade ecology.
OT- 5	We’re never had a delivery problem.
Outside the Scope of this EIS	
OS- 1	Look at alternative energy to reduce fuel use and associated delivery issues.
OS- 2	Have an area designed to educate all about father Damien.
Total	133 comments

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APPENDIX A

Scoping Notice for Repair of the Kalaupapa Dock Structures to Ensure Continued
Barge Service to the Kalaupapa Resident Community



United States Department of the Interior

NATIONAL PARK SERVICE

Kalaupapa National Historical Park

P.O. 2222

Kalaupapa, HI 96742

Tel: 808-567-6802

Fax: 808-567-6729



A3815 (KALA)

August 18, 2008

Subject: Scoping Notice for the Repair of Kalaupapa Dock Structures to Ensure Continued Barge Service to the Kalaupapa Resident Community

Dear Interested Party,

In accordance with the National Environment Policy Act of 1969, as amended, the National Park Service (NPS) is in the early stages of preparing an environmental assessment (EA) which will analyze the environmental effects of a range of project alternatives to repair the dock structures at Kalaupapa National Historical Park, Moloka'i, Hawai'i.

Nearly all supplies, ranging from food to fuel and equipment that sustain the Kalaupapa community are transported one to three times per year *via* barge. The Kalaupapa pier is a critical link in receiving the barge and goods it transports. In addition, the pier is considered by the National Park Service to be a potentially historic or culturally significant structure. The pier is approximately 50 years old and exposure to seawater and wave impact has caused extensive cracks in the concrete structure. The pier and associated structures such as the bulkhead and breakwater are failing structurally. Failure of the bulkhead wall could jeopardize the historic Community food warehouse, Building 1-271.

The proposed project would stabilize and repair the failing bulkhead wall and toe structure located adjacent to the pier, reconstruct/repair/stabilize the severely cracked and failing (in areas) concrete pier and associated corroded/failing mooring bitts and bollards. The environmental assessment would also consider options to repair or possibly expand the breakwater to ensure continued protection of the harbor. In addition, the barges currently used to transport equipment, supplies and materials to Kalaupapa will be replaced after 2008 and the NPS needs to make improvements to the dock to accommodate possible changes in barge size. Also under consideration is the construction of structures called "dolphins" to assist barge maneuverability, mooring buoys to improve barge stability, and dredging of the harbor to improve access for a range of barge sizes.

Scoping is the first step for involving individuals, organizations, agencies, and interested parties in the planning process. Public scoping is an early phase of the planning process, which is designed to obtain public input on issues and areas of concern related to the project, including a suitable range of alternatives, the nature and extent of potential environmental impacts and benefits, and appropriate mitigation strategies.

Because the environmental assessment will analyze many ecological and social issues, your participation is encouraged and needed. We look forward to your participation in this process and believe that it will help ensure that your concerns and ideas regarding repair of the pier and associated structures are adequately considered and evaluated in the environmental assessment. When the environmental assessment is complete, it will be made available for your review and comment. If you have questions about the project or would like more information, please contact Steve Luppert at 808-567-6802 x23 or by email at steve_luppert@nps.gov.

Comments may be posted on the NPS website at <http://parkplanning.nps.gov/> or mailed to:

Stephen Prokop, Superintendent
ATTN: EA Comments
Kalaupapa National Historical Park
P.O. 2222
Kalaupapa, HI 96742

Sincerely,

A handwritten signature in black ink that reads "Stephen Prokop" followed by a stylized flourish or initials.

Stephen Prokop,
Superintendent

Attachments

cc/ with attachments
Cerny, KALA
Cody, DSC-DC
Luppert, KALA
Prokop, KALA
Rideout, DSC-DC

Kalaupapa Harbor, Molokai, Hawaii

PROJECT LOCATION

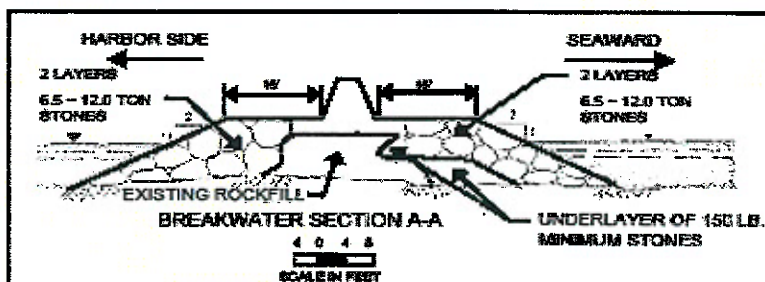
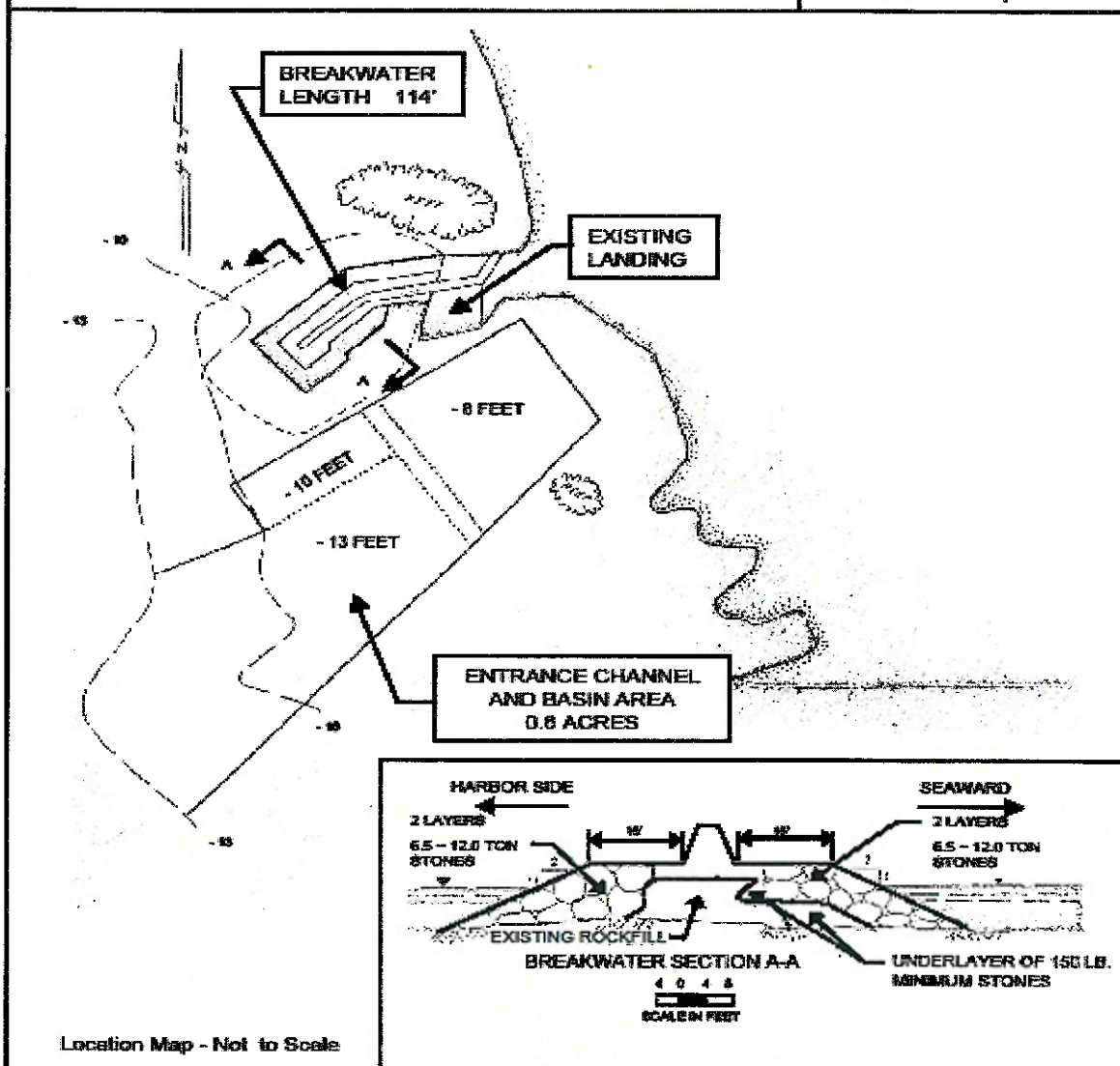
U.S. ARMY ENGINEER DISTRICT

HONOLULU

Kalaupapa Harbor



Location Map



KALAUPAPA HARBOR





Overview of pier structures and harbor with historic warehouse adjacent to bulkhead wall.



Barge and moor lines to breakwater. Note displaced armor stones resting in berthing basin adjacent to breakwater.



Kalaupapa Harbor and Dock



Kalaupapa Dock

APPENDIX B

Scoping Notice Preparation of an Environmental Impact Statement for the Repair of
Kalaupapa Dock Structures to Ensure Continued Barge Service at Kalaupapa National
Historical Park



United States Department of the Interior
NATIONAL PARK SERVICE
Kalaupapa National Historical Park
P.O. 2222
Kalaupapa, HI 96742
Tel: 808-567-6802
Fax: 808-567-6729



March 16, 2009

Subject - Preparation of an Environmental Impact Statement for the Repair of Kalaupapa Dock Structures to Ensure Continued Barge Service at Kalaupapa National Historical Park

The National Park Service (NPS) will be preparing an environmental impact statement (EIS) which will analyze the environmental effects of a range of project alternatives to repair the dock structures at Kalaupapa National Historical Park, in Moloka'i, Hawai'i.

Nearly all supplies, ranging from food to fuel and equipment that sustain the Kalaupapa community are transported one to three times per year via barge. The Kalaupapa pier is a critical link in receiving the barge and goods it transports. The pier is approximately 50 years old, exposure to seawater and wave impact has caused extensive cracks in the concrete structure. The pier and associated structures such as the bulkhead and breakwater are failing structurally. Failure of the bulkhead wall could jeopardize historic structures in the area such as the Community Food Warehouse. The proposed project would stabilize and repair the failing bulkhead wall and toe structure located adjacent to the pier; and reconstruct/repair/stabilize the severely cracked and failing (in areas) concrete pier, and associated corroded/ failing mooring bitts and bollards. The EIS would also consider repair of the breakwater, constructing structures called "dolphins" to assist barge maneuverability, and small scale dredging of the harbor to provide access for a range of barge sizes.

The NPS conducted public scoping (solicitation of comments from federal, state, and county agencies and organizations; the Kalaupapa patient community; park neighbors; the state historic preservation officer; and Native Hawaiian groups) from Spring through Summer, 2008 and began preparing an environmental assessment. Due to the degree to which potential impacts could impact species protected under the Endangered Species Act, the NPS is proceeding with preparation of an environmental impact statement.

The NPS will conduct public scoping for preparation of the EIS. All previously submitted comments are documented in the administrative record; only new issues and concerns need to be submitted at this time. A public open house meeting will be conducted at the Mitchell Pauole Center (90 Ainoa Street, Kaunakakai, Moloka'i). The format will include a brief presentation of the proposed project and a question and answer session with NPS staff. The open house will be on Wednesday, April 8, from 6:30 pm to 8:00 pm. A similar presentation will also take place at 12:15 pm as part of the Molokai Planning Commission meeting scheduled for April 8 at the Mitchell Pauole Center.

All new comments on any issues that may be associated with the proposed project may be submitted either by mail to the attention of the Superintendent (address as noted above) or electronically at <http://parkplanning.nps.gov/kala>. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

When the EIS is complete, it will be made available for your review and comment. A public meeting will also be held following release of the EIS, and the date, time and location of the meeting will be made available at the time of the EIS's publication. If you have questions about the project or would like more information, please contact me at 808-567-6802.

Sincerely,

/s/
Steve Prokop,
Superintendent

APPENDIX C

Molokai Planning Commission Meeting Minutes

(APPROVED: 05/27/09)

**MOLOKAI PLANNING COMMISSION
REGULAR MEETING
APRIL 8, 2009**

*** All documents, including written testimony, that was submitted for or at this meeting are filed in the minutes file and are available for public viewing at the Maui County Department of Planning, 250 S. High St., Wailuku, Maui, and at the Planning Commission Office at the Mitchell Pauole Center, Kaunakakai, Molokai. ***

A. CALL TO ORDER

The regular meeting of the Molokai Planning Commission was called to order by Clayton Yoshida, Planning Program Administrator, at approximately, 12:10 p.m., Wednesday, April 8, 2009, at the Mitchell Pauole Center Conference Room, Kaunakakai, Molokai.

A quorum of the Board was present. (See Record of Attendance.)

Mr. Clayton Yoshida: Good afternoon, Molokai Planning Commission and members of the Molokai community. Welcome. Call this meeting of the April 8th Molokai Planning Commission to order. My name is Clayton Yoshida. I'm the Administrator of the Current Planning Division with the Department of Planning.

B. INTRODUCTION OF NEW MEMBERS - NAPUA LEONG and JOHN SPRINZEL

Mr. Yoshida: We have all the Commissioners here. We have one vacancy. We have Commissioner Pescaia, Commissioner Chaikin, Commissioner Waros, Commissioner Buchanan, Commissioner Kalipi, Commissioner Williams. And we have our two newest Members: Napua Leong, and John Sprinzel. Welcome.

C. ELECTION OF OFFICERS FOR THE 2009-2010 YEAR - CHAIRPERSON AND VICE-CHAIRPERSON

Mr. Yoshida: The first order of business is to organize the Commission for the year and elect the Chairperson and Vice-Chairperson. So at this time, the floor is open for Chairperson for the Molokai Planning Commission year 2009-2010. Are there any nominations?

Ms. Lori Buchanan: Mr. Yoshida, I'd like to nominate Commissioner Kalipi. This is for Chair or this is for Vice-Chair? For Chair?

Mr. Yoshida: For Chair.

Ms. Buchanan: Okay, for Chair.

Mr. Yoshida: Are there any other nominations for Chair?

Mr. John Sprinzel: I'd like to nominate Steve Chaikin as Chairman.

Mr. Yoshida: Okay, so that was --

Ms. Buchanan: I move that the nominations be closed.

Mr. Yoshida: Okay, we have Joe Kalipi and Steve Chaikin. Do the candidates wanna give a one-minute sound bite campaign speech starting with -- I guess we'll go alphabetically, so Steve?

Mr. Steve Chaikin: Thank you, Clayton. I think the Commissioners are pretty familiar with my style as I've been the Chair for the last year. You know, I don't have any egotistical need to be the Chair so, I mean, I'm open to whatever the Commission wants to do. If it is the will of this Commission, I would be willing to serve as Chair and I would do that to the best of my ability.

Mr. Yoshida: Commissioner Kalipi?

Mr. Joe Kalipi: I would have to somewhat say ditto to Commissioner Chaikin that I'm here to serve. And however this Commission feels that the appropriate person to be chairing our meetings would be satisfactory to me. And as I said, I'm here to serve and to look after the best interest of our community. Thank you.

Mr. Yoshida: Okay, is there any discussion or are we ready for the vote?

Ms. Buchanan: Sure, I have some discussions since I made a nomination. My reason for nominating Commissioner Kalipi was to have some -- to diversify the board, to give people room to grow and to learn. And I think it's a good thing for once and a while to give that capacity to other people so they can -- it's a learning curve for them especially, if they have more than one more year to serve. And that doesn't mean that we're not going elect Steve as Chair again next year, but was mostly just to give somebody else a chance to sit in that position, and just give them an opportunity just for a learning curve. And I'm also hoping that that will entice Commissioner Kalipi to show up more often for meetings.

Mr. Yoshida: Okay, any other discussion?

Ms. Buchanan: We going put him on the hot seat and see if he going show up.

Mr. Yoshida: Okay, other discussion? Since you're ready for the vote, now remember, we need five votes to carry a motion. If we get into a four-four situation, then I'm gonna ask

the Corp. Counsel what do we do next. So I guess the two candidates for Chair again are Steve Chaikin and Joe Kalipi. So all those in favor of Steve Chaikin for Chair, please raise your right hand.

Ms. Buchanan: Wait, I have a question. They have a vote, right? They can vote for themselves?

Mr. Yoshida: Yes, they can vote.

Ms. Buchanan: Okay, I just wanted to clarify that.

Mr. Yoshida: Easier to get five if they vote. Okay, all those in favor of Steve Chaikin as Chair, raise your right hand. Okay, all those in favor of Joe Kalipi as Chair, raise your right hand.

After the votes were duly taken, the vote was as follows:

Mr. Joe Kalipi was Elected to the Office of Chairperson.

Mr. Yoshida: Congratulations, Joe. You can -- well, I guess you probably should sit next to the Corp. Counsel, Deputy Corp. Counsel, and you can proceed with the election of the Vice-Chair.

Mr. Kalipi: Okay, first of all, thank you for your vote, Commissioners. And thank you for community turnout this morning, this afternoon. And we wanna welcome you to our April Molokai Planning Commission meeting. Again we're on the way already. And we just wanna recognize the staff that are here with us: Clayton Yoshida, Nancy McPherson. We have Corp. Counsel next to me, Michael Hopper, and we have Suzie. So again, welcome. At this time, we're gonna take nominations for Vice-Chair for the Planning Commission. So the floor is open for nominations.

Mr. Don Williams: I make a motion that we select Steve. He's been there all the time and he's been very helpful to all of us. I think he'd make a good second person. I gotta name his last name?

Mr. Kalipi: No, that's fine. Any more nominees? Seeing or hearing none --

Ms. Buchanan: I move that the nominations be closed.

Mr. Kalipi: Okay, nominations closed. Okay, for the record, we're gonna take a vote for Steve Chaikin as Vice-Chair. All in favor of Mr. Chaikin, Commissioner Chaikin, as Vice-Chair, signify by raising your right hand.

After the votes were duly taken, the vote was as follows:

Mr. Steve Chaikin was Elected to the Office of Vice-Chairperson.

Mr. Kalipi: Okay, unanimous, motion carried. Congratulations, Steve, Commissioner Steve.

D. PUBLIC TESTIMONY ON ANY PLANNING OR LAND USE ISSUE

Mr. Kalipi: At this time, we wanna open the floor. If there's any public testimony that needs to take a place at this time, if you need to go back to work, or you wanna testify for any reason. Just to let you know, according to our governed laws that the Commissioners are only able to respond to those subjects or topics that are on the agenda. Other than that, we'll hear you, and hear what you have to say at this time, but we are not able to respond if it's not accordance to our agenda. Okay? So there's two ways you can do it. You can testify now or you could wait to the topic comes along as we speak through or we follow down on our agenda. So at this time, we wanna open the floor for public testimony again. We're gonna imply that there's three minutes. And we're gonna see if you can wrap it up. There's a three minutes time limit to testify about whatever you wanna say. And then we're gonna ask you to come back. Okay, I see two people standing up, but let's have that fella there closer to the mike, and then we'll have Mr. Feeter follow him.

Mr. Art Parr: Commissioner Chair, Commission Members, my name is Art Parr, and I'm the architect for the Veterans Project. And I just wanna say a couple words about that. I had a good phone conversation with Nancy this morning. And it appears that we could be on track to submit that project to the Molokai Planning Commission within two weeks or four weeks, somewhere in that neighborhood, if we can get our ducks all lined up in, you know, within the next two to four weeks. So we're really encouraged about that.

The other thing I wanna talk about for just a moment is the Molokai Community Federal Credit Union Project. It's a project where we are remodeling their existing building about 1,300 square feet. It's old, worn out, and they're literally on top of each other over there. And in addition to the remodel, we're adding about 4,000 square feet of new space. Parking will be moved from the south side of the building to the north. And the parking will be shared by Blessed Damien Catholic Church and the Credit Union. Lawrence Lasua is here, and he'd like to say a few words. He's president and CEO of the Credit Union. And Fred Bicoy is here also. And Fred informed me that he was on the first Planning Commission here on Molokai, but he wouldn't tell me when that was.

Anyway, we're -- Nancy did send us -- we went before the Urban Design Review Board back in October, on October 7th of last year. And we were asked to make two or three small changes in our documents which we have done. And so, you know, we're actually,

we're pretty close to having documents, drawings, ready to go to the Building Department for permitting purposes so -- but we know we need to go through -- jump through a few hoops yet before we can do that. Thank you.

Mr. Kalipi: Thank you, Mr. Parr. We're not privileged to comment on the Credit Union, but I do see the VA is on our agenda this morning. Any Commissioner had a comment or question? If not -- seeing none, we're gonna move right along.

Mr. Lawrence Lasua: I understand you can't comment on anything yet because you guys don't have anything brought forward to you yet from the Planners, but I do wanna speak on behalf of the Molokai community, an organization established in 1951, which is the Molokai Community Federal Credit Union. It was enacted through a Credit Union Act. Enacted by Congress of the United States in 1934. Since then, we've been able to operate the way we are. We are not for profit organization and -- which means every minute we delay on trying to get our project through costs us money. And, you know, we have a membership of 4,000 members. And by the way, the members are the owners of the Credit Union. So when you look at me, you're looking at 4,000 people who keeps asking me, where's the building? All I can reply is that, you know, the County is looking at our plans, and we're waiting for a response. And so to that, this is what I'm trying to get to. For me, what I see the County, they're there to service the people just like Commissioner Kalipi said, he's there to serve. And so am I. The Credit Union is a financial institution that provides quality services to our members. And if we delay the services to the members, then we're in a lot of problem -- we have a lot of problems. Same thing with the Planning Commission staff and anybody who has anything to do with service. So what I'm trying to say is that if the service that is provided to any individual organization through the County can be established or made -- you know, expedite the process instead of trying to delay the process. And I'm not sure where the bottleneck is, but we've submitted our plans back in 2007. This is 2009. This is the first time I've come up to this Body of the Committee and speak in front of you. And the only reason I'm doing it is because it's taken us this long to try and get something through the County. And so my being here is trying to get you to maybe put some pressure on the staff or maybe the staff needs help. Maybe that's another issue that you need to address not only to staff, but maybe the County as a whole in trying to get things done for the Molokai community. And so that's maybe something that you guys may wanna think about and maybe bring forward to the staff. But in any case, that's why I'm here today.

I'm trying to -- I can't even go online. The other disappointing thing is I can't go on the County online and trying to get a status report of where our process is, where our application is. I can't even do that. I mean, I have to go and call the County in trying to find out where we're at on this process. Maybe it's something that you guys may want to look into, the staff especially, in trying to provide the service to these people not only the individuals, but the community as a whole so when somebody goes in there and apply for

an application, or puts in an application that they're able to see what the status is, and what needs to be done. Like Mr. Parr here says, we applied -- we applied in January of 2007. We went to the Urban Design Review Board in 2008 of October. And then we were notified that we needed to change our assessment application to a major application. So since then, this is where we're at right now. And I'm trying to get the process through as fast as we can so we can start doing what we need to do and to satisfy the 4,000 members that we have and owners. Okay? So that's why I'm here today. So maybe if you guys can discuss this at a later date, but maybe also like I said, maybe the staff needs more help. Okay? So I'd like you guys to consider that. Thanks.

Mr. Kalipi: I'm sorry. I missed your name. Can you state your name for the record?

Mr. Lasua: Lawrence Lasua.

Mr. Kalipi: Lawrence Lasua?

Mr. Lasua: Yeah. I'm the manager for the Credit Union.

Mr. Kalipi: Mr. Lasua, maybe after this maybe you can see Nancy, and we can work this for the next agenda? And then we can have dialogue from the Commissioners to those who testify about the issue. So I think most of us know of something about the Credit Union. And if not, all of us is part of the Credit Union. So if you could see Nancy, and we'll put this on the agenda so we can dialogue this a little bit more.

Mr. Lasua: Well, I did get some reply from Art this morning after like he say, he had some information from Nancy this morning regarding our process. So we're at that part of the stage now, but it's been that long for us to get this information. Okay? Thank you.

Mr. Kalipi: Thank you. Mr. Feeter?

Mr. Bill Feeter: Aloha mai, Commission, Chair. Would you please hand Mr. Kalipi the gavel, please? By definition, a gavel is a small mallet used by the presiding person of a meeting for signaling for attention or order. It symbolizes the protocol which assures an orderly relationship between Commission, community, and County. The power that you wield is far-reaching in effect and must be fair, equitable, and free from prejudice. Thank you for this opportunity to speak, and good luck, Mr. Kalipi.

To the Commissioners, I give you a powerful symbol of your duty and responsibility. A ola koa, live like a koa tree, which you have in front of you. "Koa" means brave, bold, fearless hero, warrior. What does this tree got to do with Planning? Planning is essential for this tree to survive. Koa trees are long term elements on the land. So is Planning. Planning is to create a flexible frame work for development. A master plan as a blueprint on paper

is useless, but strategic planning is essential. Strategic planning is an ongoing process taking into account, the needs, goals, and vision for the future of Molokai.

Lastly, I would suggest a creed. Number one, to be unassuming and unpretentious. To value character more highly than reputation and truth above popularity. To guide conduct by sober judgement and judgement by never sleeping conscious. To be modest and open-minded, and thankful for every opportunity to increase your knowledge and usefulness. Lastly, to be a co-worker with my fellow Commissioners and be true to yourselves. Mahalo and good growing.

Ms. Buchanan: Thank you, Bill.

Mr. Kalipi: Thank you, Mr. Feeter, for the words of wisdom. Mr. Helm? Vice-Commissioner Chaikin?

Mr. Chaikin: Yeah, let me just thank Bill for his gifts. And I think this is really representative of the direction that we need to go as a community if we're gonna restore this island to its former greatness. And they say if you wanna catch a fish, plant a tree. So thank you for your thoughtful gifts.

Mr. Larry Helm: Good afternoon, Commissioners, Chair Joe Kalipi. My name is Larry Helm. And I'd just like to make a few comments on -- regarding the Veteran Project, the Molokai Veteran Center. I just wanted to ask a question. If the project as it stand, and the land was in the name of the Department of Defense, or the State of Hawaii, and they wanted to do the same project as we doing, would they have to go through any permit process, or would they be exempt, Clayton? If this project was with the Department of Defense --

Mr. Kalipi: I'm sorry, Mr. Helm, this part of the meeting is for public testimony. We can't dialogue, basically. You can testify and share your mana'o, basically. But when the thing -- there's certain items that come up on the agenda, that's the time that we can dialogue through the staff and through the Commissioners.

Mr. Helm: Okay.

Mr. Kalipi: At this time, it's a public testimony.

Mr. Helm: Okay, I was told that if it was a Department of Defense land and project, State Veterans, they'd build tomorrow same project. They don't have to go through this. That's what I was told.

And the other comment I wanna make, first of all, thank you for trying to move this project sooner, not later. I had a young man that made national news, a marine, that got paralyzed in Thailand that belonged to our organization that we brought back, and got him rehabbed in California. And he went back to Thailand. He married a girl and had a baby with this wheelchair. Paralyzed permanently. Anyway, he was saving his money. And he gave us a bottle of rum from Thailand. It says, "When the Center is built, I'm coming. I wanna be there and have a shot with you guys of this rum." The rum is sitting in our bunker, but Carl passed away one week ago. So I'm throwing this at you guys. The longer we go, more Vets go, more cost for the project. Okay, thank you.

Mr. Kalipi: Thank you, Mr. Helm.

Ms. Roxanne French: Aloha. My name is Roxanne French. And surprise, Commissioners, like I said last meeting, you'll probably see a lot of me. Just to relieve your minds, it's not about my item. I'm here to support the Veterans Center. And I just wanted to read something that I wrote, and excuse the punctuations or the grammatical error. I was kind of in a rush to do this:

A living memorial. Veterans of Molokai have memorials of concrete to remember their falling comrades. It is time for Molokai to have a living memorial for our Vets, the Veterans Center, in honor of not only our Veterans who have died in combat, as well as those that have passed on for other reasons, but for those that's still surviving, and for those who continue to serve in the military. The Veterans of Molokai have always supported the community of Molokai as an organized group so we should support them. After all, all of us have Veterans in our families. We can make all the laws and ordinances we want, but it is ultimately a higher power than man who determines our destiny. I am standing by what the Veterans have had to go through to obtain the necessary permits to build the Center. The Veterans have worked hard to raise the funds to build the Center. And now our political system is saying you have to work twice as hard to get your permits. Shame on this political system. As if a building will wipe away the nightmares and traumas and abuse they have endured not only to protect us, but in some cases, without regard to their own well-being by the branch of service they served in. Most of the problems in that area and requirements they are now asking for them to address and meet were caused by the County themselves. For all their planning to control what is natural to the land years down the road, they are still trying to correct their flawed planning. If this is not so, then why did they have to redo the drainage system in Kaunakakai Town? What is so devastating to our community to build the Veterans Center? Is our island going to sink? Is it going to cause a traffic problem? The answer to all three questions is no, but it will give them a place to gather,

and receive services and recreational availabilities that our island no longer has to offer even to our youths outside of sports. Maui County Council, it is time to be accountable to our island and help our Veterans in their battle before any more Veterans pass on without seeing this living memorial a reality. Organizations here on Molokai, lobby and demonstrated the State legislature. How about for the Veterans Center on Molokai? Let's start taking care of the people who fought to protect us. And so many of them here on Molokai have roots here. They're not strangers to this aina. Maui County Council, I dare all of you to do the right thing and help our Veterans on Molokai. I dare you to care about the community and what makes up the community. But most of all, I dare you to find a workable solution by working with the Veterans to build this living memorial in the year 2009. Mahalo to all the Veterans on our island. "Hard things are put in our way not to stop us, but to call out courage and strength."

And that was a quote by an anonymous person. And that's all I'd really like to say, but true, I addressed Maui County Council, but I expect the Planning Commission to at least deliver that message to them.

Mr. Kalipi: Thank you.

Ms. Judy Caparida: Aloha, Commissioners. My name is Judy Caparida. And I'm here on behalf of the Veterans. My husband is a Veteran. Hello? You know there were 15 Veterans died since the time they put in this request. And I don't think that we should wait any longer. There were other things that here on the island that was accepted and still didn't accept it that is not legal. So hello? Why don't we wake up? You know, Maui is making a lot of decisions for us, but they don't live here. They don't even know what's going on. They just put it up. And it's not right. For us, you folks are our people. You supposed to support us. Your job is to go over there and tell'em so.

For our Credit Union, hey, that's part of our island. That's our bank. You see, two years they put in a request and it's still yet. Still -- who -- who is that sitting over there doing nothing? Our Planner has been here - what? Two years? Two years? Overworked, burnt out, no help. She's only one. You know how many people we got on Molokai, and how many all this illegal stuff going on? They come in here for permits. But you know what? They add to the permit and we don't have nobody to follow up. All these things is not pono. It's not pono. So you know what? She cannot go running around like a crazy woman. She's already runned out. So all I'm trying to say is that, you know, we need help. You know, and then your job is to try to get the help for our island so that we can do better on the island.

For Kalaupapa, we want it for the needs of the island, not to make it like it's gonna be a zoo. I talked to two persons that lives there. They're all like this. And you know what they say? "You know, Auntie--?" I met him down in town in Honolulu when I went there for my physical. And he told me, "You know, Auntie, do you know there's a meeting that's gonna be held on Molokai?" And I said, "Yes, we had one already." He said, "Well, there's gonna be another one. And you know what? I don't feel good in my --" He said in his na'au, his guts, that what they're really planning is not what really what they're saying, and not really what they're writing down. They said, "You know what? We are live people. We are living beings." They treat the animals better than they treat the human beings. So I'm here to support them also. If there's gonna be something to do with the Kalaupapa, and the barge, and all that stuff, hey, make sure that's what it's gonna be for. On the paper, is what it says, but you know what? They're is to bring in a lot of people to come in there and to really make them feel bad. So I feel aloha for them. And I was there just last week. I said, when I go back, I'm gonna let you guys know that you know what? Put'em in black and white. Put'em in black and white. Make sure you're gonna do something, do it pono, because this is gonna last for their lifetime, and us, and our generation to come. You not gonna be over there to be a showcase. It's gonna be for something. We have lands there. We, the Hawaiians, expect to be beneficiaries of those lands one day that we can go down there and live. So I really needed to let you folks know that if you gonna do something, do it with your heart, do it with your mouth, do it with your mind, because our God is not blind. He's alive. He knows everything about us. And I need to let you folks know. And I stand because I know how good God has been to me, my life here on Molokai. And all of us, we should know how blessed we are already. And we need to keep whatever is that we can allow ourselves to provide for ours because the time is getting harder. And nobody can tell me that it's gonna get better. No way. How can? Cause the top is not pono, the whole thing collapse. And that's why I say, what we have here, we wanna save. Save why? Because I have grandchildren, great-grandchildren. They all coming. I'm not gonna be here long. So I fight for them because we know what we can afford and what can do to make it better for Molokai. I love all of you. Thank you.

Mr. Kalipi: Thank you. Okay, anyone else, public testimony, and we can get on our agenda items?

Ms. Buchanan: Chair Kalipi, I just wanted to make a comment to the supporters of the Veteran Center. A couple of weeks ago, the Full County Council was here for the regularly scheduled budget hearing. At that budget hearing, four Commissioners were in attendance: myself, Commissioner DeCoite, I believe it was Commissioner Feeter, and Commissioner Waros. And I believe all of us asked the County Council and testified on behalf of the Veterans Center to do their part to expedite this project. So I just wanted to let them know that we did talk to the County Council about expediting the project in person.

Mr. Kalipi: Thank you. Just -- that was just for your information. Okay, at this time seeing that there's no public testimony on agenda Item E -- excuse me, agenda Item D, we're gonna close public testimony on any planning or land use issue. At this time, moving on our agenda, we have some housekeeping on Item No. E, approval of minutes on the February 11th 2009 meeting.

E. APPROVAL OF MINUTES OF THE FEBRUARY 11, 2009 MEETING

Mr. Kalipi: I believe that you reviewed your minutes. I'm gonna take a motion from the floor to approve such minutes.

Ms. Buchanan: I move to approve the minutes.

Mr. Kalipi: Any second?

Ms. Teri Waros: I'll second it.

There being no discussion, the motion was put to a vote.

It has been moved by Ms. Buchanan, seconded by Ms. Waros, then unanimously

VOTED: to approve the February 11, 2009 minutes.

Mr. Kalipi: Motion carried unanimous. Okay, at this time on agenda Item F, we have a workshop conducted by the National Park Service, Kalaupapa National Historic Park on the preparation of an environmental impact statement for the repairs of Kalaupapa Dock structure to ensure continued barge service at Kalaupapa National Historic Park, Island of Molokai.

F. Workshop conducted by the National Park Service, Kalaupapa National Historic Park on the Preparation of an Environmental Impact Statement for the Repair of Kalaupapa Dock Structures to Ensure Continued Barge Service at Kalaupapa National Historic Park, Island of Molokai

Mr. Steven Prokop: Thank you very much. Thank you for inviting the National Park Service and Kalaupapa National Historical Park representatives to the topside community here. I'm -- contacted Clayton actually, because I want to include the community topside with what's going on at Kalaupapa.

Right now, we're gonna present a pre-design look at what we're -- preliminary design work for repairs to the existing dock and adjacent structures, and some improvements to guarantee safe and reliable barge service at Kalaupapa. One of my primary missions as

Superintendent of Kalaupapa is to ensure safe and reliable barge service to serve the patient community at Kalaupapa, and to also make sure we get the necessary bulk supplies and materials each year on the barge to maintain and restore almost 200 historic structures. So for those reasons, it's critical that we continue to have barge service at Kalaupapa.

The condition at the pier right now is in not very good shape. It's estimated in about five years, the adjacent bulkhead wall, which is a critical feature of the birthing channel where the barge comes in is failing. It's slumping away. The toe of the slope of the wall is almost completely undermined. So that's kind of a done deal that we need to repair that. Then the pilings of the existing pier, they're starting to show signs of failing. They're little spalling of the concrete. So those need to be fixed and repaired. There's also a little bit of a work in the existing breakwater that's being undermined that needs to be repaired. So that's kind of the repair part of the project, but there's another concern that we have.

Two years ago, Young Brothers was forced to decommission a barge that had served Kalaupapa for many, many, many, many years. That barge was fairly narrow and it was perfect -- a perfect fit for the birthing channel at Kalaupapa. Unfortunately, that barge will never see active duty again. And that leaves just one other barge in the whole State of Hawaii that's narrow enough to fit into the birthing channel as it exists now. There's no guarantee from the owner of that barge that'll be available year-to-year down the road. So I'm very concerned that just having one barge to rely on is not serving the purpose of having reliable and safe barge service to Kalaupapa. There's about 14 barges available in the State of Hawaii that could be selected if the existing birthing channel was widened by about 20 feet. That would guarantee that we could always have barge service to Kalaupapa. So in addition to the emergency repairs I discussed, the pre-design that you're gonna see presented by our Project Manager, Monica Norval, over here, she's a civil engineer with the National Park Service, you'll see in the design that she presents in the power point presentation, widening that birthing channel. Now, you know, the amount of environmental compliance to be able to even consider or go forward with that is pretty immense. We've been consulting with all the environmental agencies, State and Federal, for about a year now to see if that's even feasible. We haven't gotten all the data yet. The earliest construction would occur on this project would be in the year 2012. So I would like to really hear from the public and Commissioners if you have ideas, suggestions, how we could -- if there's another alternative out there. The bottom line for the folks at Kalaupapa is we need the barge every year. How do we get that done? So your help would be greatly appreciated. I'm gonna now turn over to Monica Norval to discuss the preliminary design for this project. Thank you very much.

Mr. Kalipi: Excuse me, Superintendent, can you just state your name for the record?

Mr. Prokop: I'm sorry. I'm Steven Prokop, Superintendent for Kalaupapa National Historical Park.

Mr. Kalipi: Thank you.

Ms. Monica Norval: We are going to show a power point here. And I don't want to show it -- shine it in your eyes. If you would like to go to this side, perhaps it'll be easier to see. As Steve said, my name is Monica Norval. I'm the Project Manager for the repairs at Kalaupapa Dock. I work with National Park Service in Denver at the service center that is the project management organization for these large projects.

For those of you who have been down there, you might recognize that the dock structure is on the right-hand side of the slide. And that is some of the winter waves that are crashing over the dock which is an annual occurrence in the heavy winter storms. And it's no secret to you how remote this area is protected by the 3,000-foot cliffs between topside and the peninsula. This is a photo that has been taken from the top of the trail head, and again, just illustrating the isolation. The dock structure is called out there on the left which is visible from the trail head. The dock structure is located in the heart of the community, so it's culturally integral to the community and a very important aspect. Because of the isolation of the peninsula, there's really only three ways to get there. There are small engine planes. There's passenger service with planes of nine-person with little cargo room. There's also a small cargo plane for small packages, some food items, mail, UPS, that kinda thing. The other is a 3.2 mile walk from the trail head. And there's no way to expand that trail for widening for any kind of vehicle use. So the only way to bring bulk supplies; vehicles, fuel-type, is to come via the barge.

The airport capacity is limited because the runway is quite small. It is too small to bring in cargo planes such as a C130. We had looked as an option of what we would have to do to be able to bring in cargo via the airport. And what we would have to do is extend that runway about 2,000 feet into the ocean. So that, of course, would be bringing in a large amount of material. There'd be a big environmental impact. And it's estimated that would be about a billion-dollar option. So that has not been pursued further.

So with those limitations, the seasonal barge is the only way to bring in fuel, the bulk supplies, construction materials that are used to preserve the historic structures down there, all the materials for the Department of Health to keep the clinic open, to keep the patient and employee communications facilitated.

The current configuration as Steve said is very narrow. We'll have some slides coming up that show that. And we are just running out of options of commercial barges that available to serve. In addition as Steve said, there are repairs that need to be made to maintain the structure for future barge use. As you are all aware, there's also only a limited season.

The barges can only arrive in the summer. The open sea crossings limit even during some portions of the summer period. During high waves, it's impossible to bring barges over. So that limited period has resulted in at times, our one available barge has been off-island in Guam or working at other places. And delivery of material such as the construction material for historic preservation has been delayed six months or more at times.

The current arrangement for bringing in barges requires two tugs: one in the upper right photo is used to keep the barge snug against the dock structure, and the other one is in alignment with the barge basically to keep tension on the fore end to keep it in place. There is no margin of error because of how constricted the space is for the barge the way that they have to turn the goods in small radiuses to drive them off onto the dock. Also, there's a lack of mooring points. And so currently, some of the mooring lines run under the barge, and are actually scraping the bottom and doing some harm to coral down on the bottom.

This is kind of an overview of what the items that we're talking about. You can see the warehouse called out in the background. And that is supported by the bulkhead wall. The bulkhead wall is what's got some voids in the toe area. And were that to structurally fail, the foundation for the warehouse would be damaged, and there would be damage to the warehouse. The dock structure itself, you're -- I'm sure you're aware that the State of Hawaii is doing cooperative work with us. They are doing the repairs, in general, above water. So they've done some above water work on the bulkhead wall. They're going to be doing some repairs to the concrete portion, the deck portion of the dock, and the steel plate. In addition, there's a breakwater that extends off to the left. The winter waves over time have plucked away the stones from that structure so that needs to be -- the armoring needs to be reestablished. And then you can see the birthing base and kind of illustrated there. And that is where the barges come to be abutted to the dock. And that is a little bit too narrow for the commercial fleet.

One aspect that we were looking at is to extend the breakwater for further protection of the barge. And we did wave studies down there and a few other things as part of the pre-design. And it was found that extending the breakwater was not going to add a lot of benefit. And extension of the breakwater would've been a lot of very visual change of the area. And that will not be done, so the breakwater will only be repaired and reestablished to the previous configuration. There also was historically, a mooring dolphin extending out further than the breakwater. And we are looking at reestablishing that mooring dolphin basically for better mooring points and safer docking operations of the barge.

This illustrates some of the current damage that is done, some of the voids at the toes of the structures, some of the spalling concrete on the pier ramp and the tops of the breakwater. Again, the State of Hawaii did some repairs two years ago. They will be doing another round of repairs this summer. And then our project is scheduled for 2012. And

you can see on the upper right that the armoring stones have been plucked away from the breakwater. And they need to be re-armored against the breakwater structure itself. And there's -- in the lower right, you can see some of the spalling concrete that Steve was referring to.

Again, this is an underwater photo of the displaced armoring stones. And they need to be removed in order to reestablish the armoring at the breakwater, but also just to reestablish the draft in the birthing basin. Another thing to note about this is that you can see there's very little coral development there. Within the harbor, which is not a natural harbor, it is already a constructed harbor. It has been dredged for depth and widening at least three or four times in its history. The coral formation is less than 1% coverage of the basin and harbor floor. It is also is not -- they tend to be isolated clumps that adhere to the rocks so there's not large structural development anywhere.

As we've talked about before, bringing in the barge right now is a very intricate process. There's little margin of error. If there's any kind of adverse weather conditions, swells of two-foot even, the barge cannot cross and be docked. So the birth, if we widen the birthing area, that will make it a safer, more secure way to bring the barge in. If we reestablish a dolphin for mooring point, that also will help. And the main thing that it does is it just gives us the ability to have barges available from the entire fleet instead of being limited to one. And that one can be decommissioned at any time, and there would not be anything available.

This is just a concept of what it would look like. The mooring dolphin will extend out and it actually -- the barge comes in aft first, so it would be a mooring point for the fore. And that, in general, is about the size of the previous barge to scale. What we would be doing with widening the birthing area is, parallel to the edge of barge, so the lower right hand, we would be widening that by about 20 to 26 feet to get the required width, and the depth that we would be taking out is approximately, six feet.

Ms. Buchanan: . . . (inaudible) . . .

Ms. Norval: About right here? If you look at the box called "barge," and the bottom right portion, the long end of the barge, we would be widening the birthing area 26 feet toward the shore, and the depth of that would be six feet, approximately. And that would be all that is required to bring in the more commercially valuable barges throughout the State.

Ms. Buchanan: I sorry. I just not getting it. Can you point it out?

Ms. Norval: Okay. . . . (inaudible) . . . The rest of the birthing basin, other than reestablishing . . . (inaudible) . . . taking out those armoring stones and any other debris,

we are not making it deeper. It's adequate. It's just making it wider for what's available now.

Ms. Buchanan: . . . (inaudible) . . .

Mr. Kalipi: Excuse me. Commissioner Buchanan, we're gonna need to get it on the mike. to get it on the record. If we don't care about the discussion, it's not gonna show up in our record.

Ms. Buchanan: Monica? Hello? Testing? So how would that widening -- how would you execute that widening of the birth?

Ms. Norval: We're looking at several ways. The way that it was historically done is just to take a large weighted metal object and whack it 'til it broke up, and then like use a clamshell-type thing to take out the broken rock. We're looking at drilling and hydraulically splitting.

Ms. Buchanan: What's there that we're removing?

Ms. Norval: It would be lava rock.

Ms. Buchanan: Lava rock.

Ms. Norval: Just lava rock. It's all -- the whole basin bottom is lava rock shield, I guess you'd call it. Okay, next slide. And with that, I'm going to turn this over to Karen Cantwell. She is our Compliance Specialist for National Park Service for the Western Region in the Hawaiian Islands.

Ms. Karen Cantwell: Aloha. So as Monica said, in Compliance, I'm one of the folks that make sure the National Park Service follows the National Environmental Policy Act, also called NEPA. So NEPA is actually a really great environmental law. And it protects the environment by making Federal agencies accountable for their actions. And it was enacted in 1970 under Richard Nixon, believe it or not. So the law does this by requiring that we coordinate and consult with the public and appropriate Federal and State agencies during the course of our planning. And the human environment that is defined in NEPA is not just natural resources and cultural resources. It's patient resources, visitor resources, the soundscape, air quality, geology, archaeology, a whole gambit of resources down that we have at Kalaupapa. The law is triggered when the Park Service has a project that has the potential to affect the environment such as this one. And the law outlines steps that we need to take to comply with the law. And one of the first steps is public scoping and that's where we're at right now. And public scoping in my opinion is really the heart of the law because it's getting at -- getting input from all of you folks. Kalaupapa is public land. And

we really do want your input on the project. So as Steve said, this is the time that we ask you to voice any concerns that you have about the project, talk about -- bring up any issues or topics that you'd like us to address further in our analysis, or come up with any other alternatives, alternative ways to accomplish the project. We really do need you to help make this a better project. Next slide.

So what comes out of the planning process, as Steve mentioned, is an environmental impact statement, also called an EIS. But basically, this is a rather comprehensive document that analyzes the impacts of the project, as well as the impacts of all the alternatives to the project. And also as Steve mentioned, there's also a variety of consultations with the agencies that we have been undertaking so far and that will continue to undertake the Hawaii Office of Environmental Quality Control, also reviews in addition to -- starting with the National Marine Fishery Service, Army Corps of Engineers, the State Historic Preservation Office, and on and on.

And some of the resources, the cultural resources, as you know the settlement was -- you might know, declared a National Historic Landmark in 1976, established a National Historical Park in 1980. The dock itself is historic, but the alterations will be repaired to the dock and it will be used as it has been historically. There's also a great deal of natural resources at the site. So you can see from that list. So the Hawaiian Monk Seal, critically endangered, the most endangered seal in the U.S. waters. And let me assure you that the Park Service's mission is to preserve and protect the resources. We have no desire whatsoever to impact monk seals or any resource at Kalaupapa. It's our mission and we're sticking to it. So we're all on the same page.

There are two pupping beaches near the project site. And like Monica had said, the work would occur during the summer time which is the pupping season, but we're embarking on a lot of studies that figure out to get data, and figure out how we can reduce impact as much as possible one of which will be an acoustical survey, and our consultants are undertaking that now. We have a couple folks here, and they have done these type of studies for the Park Service in the past to reduce impacts for marine mammals. And there you can see the location of the pupping beaches in relation to the dock. Next slide.

And so here's our timeline for the project. You can see we're in public scoping right now in spring. And the public scoping period will last until the end of May. And the final date for the scoping will be posted both on the project website, and that is on fliers, a couple fliers we have on the back table. And we'll also have an updated flier that will be posted in the library in town as well. So when we're finished with scoping, we'll have a scoping summary that contains all of the comments that we got from agencies and the public, and that will also be on the web, the website, and a copy at the library as well. After that, we go back to the drawing board, sort through all the comments, rework the project, and come out with a draft document in spring. That will have a 60-day comment period on that

document. And during that time, we'll also have more public meetings. We welcome your input again. And we take all that input, go back, work on the project a little bit more, and then a few months later in the fall, we'll come out with a final document. About 30 days after that, we'll have a record of decision that'll be the final project. And that final project is approved by the Regional Director of the National Park Service for the Pacific West Region concurred -- supported by Steve. So that's our process.

Ms. Buchanan: So who is the reviewing agency for this EIS that you doing?

Ms. Cantwell: Do you mean approval --

Ms. Buchanan: There's a reviewing agency for the EIS?

Ms. Cantwell: The agencies, there's a lot of different agencies during the course of the whole planning process. So we'll need to get permits from National Marine Fisheries, yeah, National Marine Fishery Service, Fish and Wildlife Service, Army Corps of Engineers, SHPO. So we cannot move forward unless we get concurrence from all those agencies that what we're doing is the right thing.

Ms. Buchanan: But there should be one agency that gives you a decision and order of finding of no significant impact.

Ms. Cantwell: The National -- yeah, the Regional Director signs off on the record of decision. That's the version for the EIS. That's the approval document.

Mr. Prokop: So that concludes our presentation. If there's any comments, suggestions, etcetera, we'd love to hear that.

Mr. Kalipi: Okay, Commissioners, we're gonna go back to your seats, please. We can do this two ways, Commissioners. The first way is the Commissioners can go at it with questions and comments with the representatives from the National Park. Or we can have public testimony and then the Commissioners can go at it after that. So I'm just getting some responses from the Commissioners.

Ms. Buchanan: I think I would like to give -- ask questions now and then the community can give testimony.

Mr. Kalipi: If the rest of the Commissioners are -- don't have a problem with that. I think by the dialogue either give the public testimony and a little bit more information as the question and answer time with the Commissioners and the National Park representatives. So let's do that. We'll do Board comments and questions. And then we're gonna allow the

public to testify about to what they have seen and heard today. So the floor is open, Commissioners, to ask, or comment, or questions.

Mr. Chaikin: Yeah, I'm just wondering, one of the main parts of this whole project is that you guys wanna expand that whole barge entrance area. And we don't have barges. You don't have barges. Young Brothers is the one that has the barges. And what is their input on this? Are they moving in the direction of going to all the bigger barges? Or do they have the need for the future to keep the smaller barges? Do we have any information on that?

Mr. Prokop: Yeah, that's a very good question. We did explore that with Young Brothers. They have -- unfortunately, they have no intention of purchasing a narrow barge to replace the one that used to service Kalaupapa. The reason they gave is it's not economically feasible or productive for them. The economies of scale from a small barge, it doesn't -- there's really no profit in there. And so unfortunately, it's a business decision. And it's not just Young Brothers. It's barge companies across the Mainland and the Hawaiian Islands. You just don't find narrow and smaller barges today.

Mr. Chaikin: Thank you.

Mr. Kalipi: I've got one. I noticed in the slide show, they did a -- I guess, a study on the runway, to extend the runway. And if we look at the runway, I just was curious, why didn't they angle the runway into the land part where it can run along for another half a mile rather than trying to extend it to the ocean, and do some kind of study to say if the runway could be extended not into the ocean, but onto the land?

Ms. Norval: I'm not a designer of airports, but the main reason and what we've explored was you have to take off and land in prevailing wind directions. And so you can't just angle it at a different angle because there's land mass there. You have to keep with the prevailing wind.

Mr. Kalipi: Okay, I'm just thinking in my mind because I know the Molokai Airport is angled one way, but there's another strip of airport that goes another way to capture a different type of prevailing winds. And so I'm just trying to understand. Is the land somebody else's, or is that on the National Park that, you know, just to say you got enough land to --

Mr. Prokop: Yeah, you know, there's a couple of things, really. It's all within the park boundary, so that's not a -- you know, that doesn't preclude it from happening because of land owners. It could happen, but environmentally, and then as Monica was mentioning, in conversations with, you know, officials with the State Department of Transportation, it just really isn't feasible to reposition the airport there without enormous environmental -- and it wouldn't be a safe runway. It's really located there for a very specific reason. The

pali that are surrounding the area there, it's a very limited wind dell where you can come in with a plane. But we could double check that, though, with the Department of Transportation officials.

Mr. Kalipi: Okay, thank you. Since I got the mike, I'll continue. Just to comment, I think for some, I'm just responding for some of the people if I lived Kalaupapa, or as if I lived Molokai, one of the concerns in my mind is, widening and opening the dock area for a bigger barge. Would that also widen the area so one of the cruise ships could land in there or dock in there? Because, you know, just thinking Molokai style, we like our style. We like -- we wanna have some kinda control of the development. And how would that play into things? Would a big cruise ship be able to dock in there?

Mr. Prokop: It's a concern that, Commissioner, that I've heard from a lot of folks upstairs and downstairs. And the National Park Service, we're starting a general management plan right now. We've gotten no public feedback or agency feedback from our partners that would wanna do any kind of significant change to the way people come and go to Kalaupapa. In other words, the trail, by air, by mule, there's been no discussion or suggestions that we have passenger service by water. The National Park Service does not operate in a vacuum. If the public doesn't want passenger service at Kalaupapa via boat, it's not gonna happen. The reason why we're doing this project is again, just to guarantee safe and reliable barge service to Kalaupapa. We don't have the infrastructure to support more than a hundred-person cap that exists today in Kalaupapa. It would take a tremendous amount of planning, support from the community, etc., to have any significant change in the visitation. But I would encourage all the Commission Members and the public to attend our -- we're gonna have a public scoping meeting on our general management plan. I believe it's April 27th. We're gonna have two meetings. I'll double check that date. It's in the newsletter. The 29th, I'm sorry. We're having several meetings with all our partner agencies as well on that general management plan. Sorry about the long answer.

Mr. Kalipi: No problem. Thank you. Commissioners, I see a couple questions there on the floor.

Mr. Williams: I was just curious if you had looked at the possibility of utilizing helicopters, or is that too far out there as a possible -- another source of moving cargo?

Mr. Prokop: We have looked at that. The diesel fuel needs about 8,000 gallons a year to run our water system. We have a well that's about 600 feet deep. And it requires, you know, a tremendous amount of fuel to pump that water. We also have about 30,000 gallons of gasoline required to do all the grounds maintenance, all the maintenance vehicles, the patient vehicles. So that amount of fuel, it certainly could be done if we were talking about more modest amounts of fuel, but with the amount that we're -- that the

community requires -- and it hasn't gone dramatically up or down in many years. I've only been in the park for one year, but those are the figures we've been looking at for the last several years as far as the amount of fuel that we need.

Ms. Mikiala Pescaia: The material that's removed from the birth widening, where's that gonna wind up?

Mr. Prokop: That's a very good question: where to put the dredged material? We are working again with our partners. The -- you know, in some locations across the Mainland, the regulatory agencies might permit putting the fill further out to sea away from the site. I've heard loud and clear from the public here, not interested in that, could be potential impacts of the fishery, etcetera. So the idea is to use the material to put it on shore, on the land, and to use it for road bed material, which we'll be needing.

Ms. Pescaia: I might have missed this: where's the funding for the project coming from, and what is the estimated overall cost -- the budget?

Mr. Prokop: Yes, the funding for the project, Kalaupapa National Historical Park had to compete with a couple hundred other national parks across the country for construction, what they call, line item construction repair funding. Nothing to do with the funding for Kalaupapa. Not one penny of the money could be used for anything but this particular project. If the project doesn't get approved for some reason, then the money would just go back to the U.S. Treasury. In 2009 dollars, if we built -- if we did every -- all the components that we showed you today, which is not a done deal, by the way, we may not do all the components if our regulatory agencies or just internally, here at the park, we feel the environmental impacts outweigh the benefits to this project, but it's nine million dollars, approximately, if we were to do this project this year. In 2012 dollars, it's about 13 million dollars for the total project. The State of Hawaii, we'll be doing about a one million-dollar project this year at the pier to replace the very rusted out winch, and they're also replacing bollards, etcetera.

Ms. Pescaia: Okay, so -- and the State isn't partnering with you on this portion of the project then. So they're doing certain things on land, and you folks are doing this project. Yeah, you're nodding. You know what I mean?

Mr. Prokop: Yes, yes, yeah. It was very arbitrary. What it came down to, and this was prior to my arrival, the State agreed to do everything, all the repairs, and they're emergency repairs, by the way. This isn't something we have the luxury of saying, well, maybe we should, maybe we shouldn't. The emergency repairs, everything above the waterline, the State has agreed to do. Everything below the waterline, the National Park Service has agreed to do. Our funding stream is a little bit better than the State right now so it seems to be working.

Ms. Pescaia: So as you're planning, are you folks -- are their things built into the preplanning that kind of align with the rest of the long term plan for Kalaupapa? Because you're in the midst of doing this. I don't know, are you building into it like, I guess, ways for the plan to also attach in case there are further improvements that need to be made in order to accommodate the general plan, the management plan, the long range plan?

Mr. Prokop: It's a good question, but we're really early in the general management plan. I'm coming into the planning for the future of Kalaupapa looking for guidance and suggestions from the community here. And obviously, the patients is our most important public as charting the future for Kalaupapa. So I'm trying -- my goal is not to be pre-decisional. This is gonna be about a three to four-year process, this general management plan process. We're very early in the process.

Ms. Pescaia: And if you can -- you've already brought the -what -- this presentation that we've had here, you've already taken it to the Kalaupapa community, right?

Mr. Prokop: Yes.

Ms. Pescaia: How did they -- what was their general reception of the proposal?

Mr. Prokop: Their -- a lot of concern about widening the birthing channel. You know, that, I've heard that from every person I've spoken to. And it is a -- you know, a person who works for a conservation agency, the idea of doing dredging is not something that I signed up for the Park Service to do, but it's a real dilemma because I'm charged with providing safe and reliable barge service to the community. And we're in a situation where there's only one barge. If that barge isn't available for whatever reason, I'm gonna make the headlines in all the papers, but it won't be for a -- you know, the community needs that barge. If there's ideas out there how we can get that done without widening the birthing channel, I am all ears. But absolutely, the folks in Kalaupapa, including my own employees are very concerned about the dredging. No question about that.

Ms. Pescaia: Anything else that stood out for them? Was there any other concerns that stood out for them?

Mr. Prokop: Yes, there was one other concern: the archaeology below the water there, if there's any, you know, sacred -- I mean, the whole Kalaupapa Peninsula is sacred, but further exploration of that, we've done -- we've had our archaeologist do a preliminary look around, scuba diving, and looking for any, you know, red flags for special sacred area on the floor of the ocean there. And that didn't show anything, but we feel like we wanna hear from the public. Kupuna, if there's any information that could be provided to the Park, we wanna hear that. We wanna see that. If it's oral or written, that would be very important. And just so to let you know, too, the pier, as Monica mentioned, it's a very disturbed site.

It's been dredged two or three times, but it is true. You know, this project, the preliminary design does include widening it, so that would be new construction, obviously.

Ms. Waros: I know that it mentioned the dredging or the work on the pier would overlap with the pupping season. And I don't remember if someone's mentioned about how long the estimated work itself would take.

Ms. Norval: The work is estimated to take basically, one summer season. So from approximately, May to -- through September or maybe into early October. And that would be all phases. That's not necessarily all dredging. That is doing the concrete repair at the pier pilings. That's doing the bulkhead toe repairs, installing the dolphin, doing the widening. So all those will have -- be done in that amount of time.

Ms. Waros: We just had an educational conference this past Sunday for the seals from NOAA. So I would assume that's an entire pupping season as well. So I'm assuming that you're working very closely with NOAA as Molokai has the second largest seal colony, and that means 35 seals in the State of Hawaii. So again, I know you mentioned you all are very concerned about it, but just kind of to reiterate how important that is.

Ms. Cantwell: The National Marine Fishery Service is the subagency within NOAA. So we were on many conference calls, and you know, could possibly be a cooperating agency with us, or -- but we're already talking with them about how they're gonna review, and when, and they're gonna be a very integral part of the whole process.

Ms. Norval: And I'd like to just mention that from the slide that showed the location of the dock and the location of the beaches, they are farther north. So the prevailing wind direction and the prevailing tides actually go from the pupping beaches toward the dock, which will -- it's a natural kind of acoustic barrier just by, you know, the relative location of the two. So that's helpful to us.

Mr. Kalipi: I guess I get a comment from left field because I heard Superintendent said that one of the concerns was not to dredge or widen the birthing channel. How much is a barge? Can we take nine to 13 million dollars by -- partner up with YB, buy a narrow barge and rent that -- and share the barge with them, and not widen the birthing channel?

Ms. Norval: We've actually looked at that. As the Federal government, we can't contracting-wise do that, but we looked at what if the Park Service were to buy a barge? And then the Park Service hire the tugs, do the re-commissioning every five years so it can haul fuel across the open water. Then we would also have to store the barge, maintain the barge. And over a 20-year life cycle which is how we look at these projects, it's 70 million dollars. And that this project, you know that just from living here that the repair the cycle

on the dock is not very great. So the capital construction is about the 20-year cost. So it's significantly higher, almost four times higher.

Mr. Kalipi: Thank you.

Mr. Prokop: Commissioner, just so you know, that's a very good point. We're also looking at the military services that they have any means to help us out with this so that we wouldn't have to go through this dredging process. And we're in communication with them, but we don't know what the outcome would be right now.

Mr. Chaikin: Yeah, in my big recollection of the whole EIS process, I remember there's a certain period in there that you maybe could sign up to be a consulted party in which you can, you know, set forth your questions, and then you guys would be required to answer them. Is that something that's going to be available in this process? And if so, could you let the Commissioners and the public know as well as how you might sign up to be a consulted party?

Mr. Prokop: Yes, and I'll let Karen --

Ms. Cantwell: Well, there's different -- there's cooperating agencies, and that would be possibly be another regulatory agency, a State or Federal agency. Any member of the public is -- can make comments during the public comment period and during the release of the draft EIS. So any comment that you make, we'll take into consideration as far as the planning process.

Mr. Chaikin: So there's no separate category like to be a consulted party in which --

Ms. Cantwell: Not really a consulted party. I mean, we have cooperating agencies, but --

Mr. Chaikin: Okay. I don't know. That had surfaced in one of our other EISes, so I thought maybe that was part of the process.

Ms. Cantwell: Well --

Ms. Norval: . . . (inaudible) . . .

Mr. Kalipi: Can somebody repeat that on the mike?

Ms. Cantwell: She said that we will -- well, you could be a stakeholder. And so you -- we make sure that you get all the information. You receive a draft copy of the document. And so we would've done that for you anyway -- make sure that you get all the information in a timely manner.

Mr. Chaikin: Thank you.

Ms. Buchanan: I think, Steve, what you getting at is, at the point where a person legally obligates himself to the people initiating the EIS to say that you feel you'd would be adversely impact by the action, and then that gives you the right for them for every question that you have, they have to submit back in writing to you. They have to answer every one of your questions. I think that was what you was getting at. And we saw that happen with the La`au Point Project. And basically, the Ranch was mandated to answer every question that a group of people or individuals had that had submitted legally in writing that they were gonna be impacted somehow. And you had to show how you would be impacted, and then you became a party to that. But I had -- or you wanna --

Ms. Cantwell: Well, there's a section in the EIS issues and how we address them. So all of the issues that we heard during the scoping process, we will address them in one way or another. They might not all be addressed in great detail as part of a proposed alternative, but if they were -- if we looked at them, and they weren't feasible, we'll explain why. So if we looked at them, and we included them in the analysis, we'll explain that too. So you should be able to find an answer to all of your questions. And if not, you can call Steve, or myself, or Monica at any time.

Ms. Buchanan: I have a little bit more questions. In the spring of 2008, you began scoping for an EA. And I think because of that, you determined that you really needed to be doing an EIS.

Mr. Prokop: Yes.

Ms. Buchanan: Any comments made during the spring of '08? Comments were being transferred to this scoping of this EIS. During that period, did you get any comments from the Department of Hawaiian Homelands?

Mr. Prokop: We actually -- you know, again, I've been here for a year, so I'm hesitating answering that on the time because I'm not really sure about that. Monica, maybe -- yeah, yeah. Can I get back to you on that? Yeah, come on up.

Ms. Buchanan: And, maybe I'll just sum it all up. Was OHA -- did OHA respond in writing? Did Department of Hawaiian Homelands respond in writing? Did Hui Malama O Mo`omomi respond in writing?

Mr. Prokop: I can answer that -- yes, yes. We advised them about this project going forward. They sent back that, you know, thank you very much. They'll be following the -- this isn't word-for-word, but basically, they're following the developments with all our

regulatory agencies, and they'll be monitoring what goes on with this project. They're well aware that it's going on. We're in written correspondence, yes.

Ms. Buchanan: Is the Aha Keole of Pala`au contacted as a stakeholder? That would be the -- then the Hanakahi and the Aha Keole Organization?

Mr. Prokop: I will double check on that. And if they haven't been, we will definitely add them.

Ms. Buchanan: Okay. You mentioned that the Harbor was dredged multiple times? When was the last dredging?

Mr. Prokop: Sometime in the 1990s. I don't know if anybody here was around during that time, but starting back in the '60s up until the '90s.

Ms. Buchanan: Okay, because I was just trying to absorb everything. And you noticed, this is just to be helpful for your future scoping meetings, you saw that I had to ask Monica to explain that to me, because if she's just telling me, I cannot visualize in my brain what she's talking about. And to be honest, everybody only cares about that part. I don't think you're gonna get any opposition from anybody that, you, you're gonna save your pier from falling down. But if you're gonna be dredging lava rock, which I tell you right now get maybe not cultural historical sites in the sense of stone and that kind of stuff in the water, but you'll have bottles, trash from the early -- you know, or late 1900s, whatever, that's gonna be in that area right there. I know cause I've been there. So I was just thinking that nobody's really gonna oppose the infrastructure part of that, but it's the dredging part or the widening of the 26x6 feet, and I was thinking, why only six feet? I mean, if you got mooring stones in there, why don't you just bring the barge in during high tide? Does that clear you by another feet or two? You know, stuff like that. I didn't notice that you had a list of alternatives, which I'm always, always interested in. Obviously, I don't have the draft EIS or I would've read it. So I wouldn't mind being mailed a hard copy of the EIS that I can review.

And then the whole Young Brothers' thing about the barge, for myself, it's a no fail. I think it's a sad excuse to dredge 26 feet of lava rock because I gotta accommodate Young Brothers. You know, as a community, we sit here, and we're held hostage by Young Brothers. We've had several meetings. They come. They change our sailing dates. And then five months later, they come and they wanna change the sailing dates back. It reeks havoc with our farmers. They ask for pay increases and rate hikes every year. And I'm tired of it. And now they going tell me I gotta dredge Kalaupapa 26 feet so because they don't have a barge that can accommodate because they wanna send that barge to Guam? It's not gonna fly. I'm not gonna accept that. I'm not that ignorant. I'm gonna lobby my legislatures for a reason because of a health -- because it's a health issue. Just because

it's a peninsula, and it's isolated, and let's be real. There's maybe 14 patients in Kalaupapa right now. There's probably two National Park workers for every patient there now. So in reality, the improvements we're making today whether it's in your general plan or in the structural -- reconstructing of the harbor, it's really not to benefit the patients because the youngest patient has to be what - 60 years old with multiple health issues? So let's just throw -- you know, Molokai people, we like you throw everything out there. There's no hidden agendas. There's nothing that we not sharp enough to know what's going on. Okay?

So the alternatives are not acceptable to me. I haven't seen that in the scoping. I would love to see them in the scoping to genuinely be a part of maybe alternatives because we do realize that the stuff gotta get down there. We know fuel gotta go. Multiple small vessel coming in, whatever it is, you know, you guys getting paid to sit here for eight hours every day and dwell on that, you know, while we are working. But I am not gonna let Young Brothers determine the dredging of my Kalaupapa Harbor. I'm not. That's a sad excuse and it's not acceptable.

Hang on. Sorry. And the whole thing about a limit of competitive bid for seasonal barge, I mean, that's legislative. Not -- not -- some of these problems can be solved legislatively where if stuff gotta be changed, if special conditions have to be made, but I think dredging that harbor another 26 feet wide is not the answer. Maybe the marine dolphin wouldn't be so bad. Extending the airport, I wouldn't even consider that. And as far as widening it the other way, there's way too many cultural sites and historical sites that you would have to displace.

The general plan, I know it's not what you're here for today. And I know that that's gonna be separate from this, but it all goes together. The same as how Keopuni Lokahi and the enterprise community is also looking at the trail system above in Pala'au State Park. And all of this goes and ties into Patsy Mink's designation, and spent money long time ago on the entire North Shore of Molokai being -- qualifying to become, you know, a national park. I think for you folks, for the National Park, you need to broaden, maybe broaden your pool of stakeholders because -- and take on a more holistic approach to all of this instead of trying to piecemeal out the project because we all know what the result is in the end. And that's gonna be an increase in tourism due to the -- Father Damien becoming a Saint, and trying to accommodate the influx of people that wanna be coming to Kalaupapa. So we all know that topside. We wanna help you guys, but at the same time, know that we going draw the line. And I -- at this point, I cannot support this aspect of this project, because the adverse impacts are way too much, and the alternatives are not feasible, or acceptable, or something that I'm gonna swallow. So -- but thank you for coming. We really appreciate this. And I already attended one general plan meeting, and I plan to -- if I'm here on the 29th, to come to the next one. Really fast, let me see if I missing anything. I sorry. I can give somebody else change.

Mr. Kalipi: Yeah, any more Commissioner had something to say while she reviews her notes?

Mr. Sprinzel: My name's John Sprinzel. Early on in your presentation you said something about when you were widening this, it was already six-foot deep but just covered in rocks?

Ms. Norval: There are -- I think that's kind of a combination of two ideas. The loose rock part is near the breakwater where the previous armoring stones have kind of been plucked down and rolled down into the birthing basin. The part that's being deepened by six feet is --

Mr. Sprinzel: To six feet or by six feet?

Ms. Norval: No, six feet deeper.

Mr. Sprinzel: Six feet deeper?

Ms. Norval: That's correct. And that is basically, lava shield, just lava flow.

Mr. Sprinzel: Thank you.

Ms. Buchanan: I like being a Commissioner because I see a lot of words I don't understand. So, Monica, what's -- in referring to the mooring, what's a "bit" and what's a "bollard?"

Ms. Norval: Those are just terms for ways to strap a line from the barge onto the dock. So a bit -- a bollard is really just a vertical pole that you run a line around. And a bit is generally two small columns with a cross bar apart. So they're just essentially, two different types of ties.

Ms. Buchanan: And then when you were explaining about the -- extending the breakwater, you said that that was not an option because of the visual change. Can you define that visual change what you meant by that?

Ms. Norval: In the original definition of what would improve and maintain barge service there, one thing that was proposed was extending the breakwater just so that it would provide more wave protection and potentially allow barges to come in at times when they can't right now in the little bit of marginal. We found through studies that it would not be helpful to do so. But at the time that it was being considered, we'd have public presentation done at the community. And the concern on that was that it would change the visual aspect of the harbor. And the concern was, it's a -- the character of the harbor right now is small. It's looked the way that it's looked for a long time. So there was concern about

the visual aspects of extending that breakwater. But through just the process of doing the engineering-type studies to see what would be beneficial and what would not, that was not incrementally beneficial, and it's not being pursued further.

Ms. Buchanan: Thank you, Monica. You're also -- we're using two barges now because of the absence or maybe -- I don't know if it's directly associated to the absence of that mooring dolphin that was there historically and is not there now. If you now return that mooring to that site, will you still need two tugs, or will that suffice, and you just need one?

Ms. Norval: It is -- we are in preliminary design, but the thought is, is that that would eliminate the need for the second tug. So, you know, that is something that when the environmental process is complete, and we come to a preferred alternative through all the design process, public input, the EIS, that would be defined at that point, but that's the hope that it would eliminate the need for the second tug.

Ms. Buchanan: How large of an area would that impact?

Ms. Norval: It would involve putting approximately, three or four pilings. The pilings would be 12 inches in diameter each.

Ms. Buchanan: Plus, I'm sure they're serving the surrounding area. And the whole reason I'm getting at this is it would be a shame to have more impact to the site and end up you still need two barges. You know, if you're gonna do something for a specific reason, and you're gonna impact the site, and marine life, and whatever else, you gotta make darn sure that that is gonna serve the purpose. Otherwise, it's money that you're throwing away for no reason.

Ms. Norval: Well, the main purpose of that is, though, to have a mooring point at that aft end for really stability, and to keep during small swells just to keep the movement down, keep the potential for the barge from swinging out. So that's the main purpose. Hopefully, it would eliminate the need for a second tug, but it's really more of a structural stability reason.

Ms. Buchanan: Thank you, Superintendent, and Monica.

Mr. Kalipi: Okay, we're gonna need to move along because we have other items on our agenda. And so if no more questions, we're gonna let the public testify or comment at this time.

Mr. Prokop: Thank you, all, very much.

Mr. Kalipi: Thank you. Okay, at this time, the floor is open. I see you raising your hand. The floor would be open for public testimonies to comment on the -- what you have just heard.

Mr. Fred Bicoy: Thank you. You know, there's an advantage to being older because you can see things that work and you see things that do not work.

Mr. Kalipi: Excuse me. Please state your name when you come up, please.

Mr. Bicoy: My name is Fred Bicoy, and I'm from -- a resident of Molokai. I took all kinds of notes. One of them is the akule. You gotta know when that fish come in into that bay area. So I would suggest that you contact the Fish and Game Department and find out when those things come in. Many years ago, when we were on the Molokai Planning and trying to replace pineapple, what we had found is that the price of tuna came up, but the farmers were at fault. Now you think about it. Now how can that be? The farmers were using DDT that went into the lowlands. And the . . . (inaudible) . . . is the kinda bird that spends 80% of its life in the water, and 20% on land. The 80% that he spent in the water, it defecates in the ocean. That feces becomes feed for little fish. And that little fish draws bigger fish. And the tuna would come in and that's how they caught them. When they used DDT, it went into the lowlands. And the 20% of those birds were on land raising little birds. The eggs were -- the shells were broken because of DDT. So we can see that -- what I'm saying is that what you do on land, there's a definite correlation and effect on the sea. So on the North Shore, yeah, you guys have sand come in May, June, July, August, and maybe late September. When the sand comes in, the sand acts as a habitat for crustaceans as a little -- for moi, for example, and the different types of fish comes in to feed on. Now, you guys going be moving those rocks, armor rocks. Those things will definitely have an effect. So what I'm saying is that you gotta have some kind of working principle, yeah? And I would suggest that in all of the things that you guys do, yeah, you use the word, "compliment" that what you do is you compliment things that are in existence. You supplement things that you think would improve. But -- and then -- but you do not supplant things that are good. So you use that basic in your mission guideline. I would suggest that you do that. Another thing also is to go around in your whole mentality and attitude is to win, not we win, somebody lose, you know. So what does it mean, you know?

Many years ago, when my parents came to Molokai, the old Hawaiians told my father in 1919, "What do you mean when you plant --" "You cut down a banana tree and plant two in its place?" And my father learned that in old Hawaiian, if the banana is ripe, you dig two holes. You plant two seedlings. And my father said, "You know, Coy, that should be your philosophy. For every idea that you gonna condemn, make sure that you got two good ones replaced." So what it does is that when you come here and listen to the Molokai people to talk, what it does is that if you're willing to listen, you can hear the silent and the concerns of people. But if you don't have this idea where you have two in its place, when

I am talking, in your mind, you're thinking of a rebuttal. So in essence, you know -- you don't hear what I'm saying. That's when we have problem of miscommunication. So I would suggest that -- and the akule, go to the Fish and Game, and find out when those things come in so that when you dredge, you have a win-win situation, not get your project going, but the akule would go somewhere else. You don't want that.

Also, in your environmental impact, yeah, my son who's an engineer told me this, "Dad, you can have a \$10,000 or \$100,000 study, and you will get that study, but you also could have a million-dollar EIS study. One is a Cadillac. One is a Volkswagen. And both of them pass, but a Volkswagen is not a Cadillac." You see the point I'm trying to make?

Now in your water, you're gonna be improving your water system down there, yeah? Utilize the compliment to supplement, but not supplant it. Alright? On Molokai, we have a lot of runoff. Most of our water are runoff, you know? For every tree that we cut down, we're creating a problem. And many of us just don't pay much attention to that.

Now, in every Park Service in the Mainland, there's always accessibility. You know, I went to . . . (inaudible) . . . Park. I can park anywhere. . . . (inaudible) . . . You're gonna have a National Park down there. I don't see any -- in your plans, I don't see anything that says, okay, boulders, you may be able to block here while you tend to your sick, or you tend to whatever. You gotta think in terms of Molokai people go pick opihi. If anything happens to them, you have a place where you can -- they can bring the boat, and park it right there. But you don't have a facility or even access down at your wharf. So be thinking about it. If you're gonna be making it into a National Park, then you have all these other amenities that you win and the public win.

Now, you came here and you asked the people if they have any kind of testimony. So that's what I'm trying to do. I'm trying to give you things that I know it works and I know it doesn't work. Now, you gonna be probably doing a lot of those below the water. Probably the Corps of Engineers will do that.

Mr. Kalipi: Excuse me, Mr. Bicoy, can you wrap it up in a minute? It's over the three minute allowable time.

Mr. Bicoy: Okay. Right?

Mr. Prokop: The Army Corps of Engineers will be a consulting party.

Mr. Bicoy: Yeah, okay, okay. Okay, okay. Since you gonna be working with them, yeah, my concern is that a lot of these Federal government agencies, they have an arrogance about them, and it bothers me, because I'm a taxpayer. The salary that you're getting

comes from me and people like us. Alright? So it bothers me when they don't try to work together and have a win-win kind of situation.

So also, find out when the sand comes in and when the sand goes out because then when you do your construction -- and removal of those rocks, you know, those armored rocks you're talking about, those things gonna be definitely -- those things gonna be affecting the configuration of the bottom of the ocean, you know? And that affects the current. And then the current will bring food and whatever that the sea life depends on. Now, if you do all that, it's a win-win kind of situation. If you don't do that, there's somebody wins and somebody loses. I'm sorry I took so long.

Mr. Kalipi: Thank you, Mr. Bicoy. Thank you. Any questions from the Commissioners for Mr. Bicoy? Seeing none, thank you, Mr. Bicoy. You -- at the end of the testimony, if you wanna come back for a minute. We're gonna keep time. It's three minutes. I'm sorry about the miscommunication. It's three minutes. We wanna give allotted time for everybody who wants to say something to come up and say something in the appropriate time. Again, we do have other items on the agenda. And so seeing that there's one more person wanna testify, please come up, sir. And we're having Suzie to keep time. Three minutes. Thank you.

Mr. Pat Evans: I can make it more briefer than that. My name is Pat Evans. I'm a six-year resident here. I've been in transportation --

Mr. Kalipi: Hold on, Mr. Evans. We can't hear you.

Mr. Evans: By way of introduction, my name is Pat Evans. I live in Heights Four for six years. That's not much seniority. I've been involved in transportation to Molokai since 1950. Flew for Hawaiian Airlines and I qualify in certain maritime areas also. And Commissioner Buchanan brought up one point that we're missing one set of numbers. We're widening that narrow little slot in there. Has anybody an awareness of the actual beam of this barge that Young Brothers say that they may or may not have around? And you might wanna compare the beam of that relative to a couple of recently freed up barges that belong to the State for the ferry. Perhaps the State actually has the physical hardware that we could not have to dredge the widths of it. Just a set of numbers. How wide are the respective barges? Thank you.

Mr. Kalipi: Thank you. Any questions from the Commissioners for Mr. Evans? Seeing none, we'll take another testifier.

Mr. David Liechtenstein: Hello. Thank you, Commission. My name is David Liechtenstein. Young Brothers has a monopoly on the barge business. We all know. And they are regulated by the Public Utilities Commission. This seems like it's a barge problem. They're

in the barge business. And I heard Mr. Prokop say that they couldn't -- or they couldn't build or buy a narrow barge because it doesn't make business sense. Well, they are a regulated business by the Public Utility Commission, which means they serve the public, which means that when you serve the public, it doesn't -- sometimes it conflicts with profits. And this is not about profit. This is not about making money. This is about serving the people of Kalaupapa. And it's a problem that seems to me Young Brothers should be the people to solve this problem. And it seems like the Public Utilities Commission should be compelling Young Brothers to provide the proper barge. And if that means that Young Brothers loses money, then they lose money, but it's their job to provide service for the people of Kalaupapa.

Ms. Buchanan: I have a question for David. You're absolutely right. A hundred percent correct cause I carry a Public Utilities Commission license. And in the event that you get to the point where you cannot service that PUC license, then anybody else can come in and petition for a license for competitive reasons. So I agree hundred percent with your testimony.

Mr. Liechtenstein: Okay. Thank you.

Mr. Kalipi: Thank you. As our next testifier comes up, just for the public, please keep your cell phones on vibrate or to turn it off just for courtesies of others. And we're gonna make an announcement starting from here end to just let people know that please turn off your cell phones or put it on vibration. Thank you.

Ms. Ruth Manu: Aloha. My name is Ruth Manu. It really makes sense cause you know what? To tell you guys the truth, without Kalaupapa, this is like our body. We all love Molokai. The part about this is that for us, Kalaupapa is a sacred place. Always have been. Why we fight so hard is because we no like anything else to go over there and damage whatever is left back behind there. Well, that's besides the point. We're talking about the barge. You know what? They giving us so -- how that man said over there, why don't we just tell our business people on Molokai, buy us our own barge? You know the business people, hah? Because they having problem, too, with getting all their stuff over here. So we bang'em up together and we tell'em with us community backing them up. You know what? We no need'em. If they no like give us a barge, buy our own. Buy Molokai's own. Why not? Tell me why Molokai no can do it? We can. Hello? Plus, they like change again, right? Just like how Lori was saying, all about barge. Hello, Molokai, we can do it if we want to, you know? Stop fooling around with this minor things. They get always getting all this stuff that we gotta go through hoops, through loops, through whatever. But you know what? I'm concerned about Kalaupapa like how everybody's talking about it. It is a very true concern that we should voice for it, you know? A lot of people could be on the Board now. Later, when we get off the Board, then we get new greenhorns on'em again. And then we go through the same process. Keep Kalaupapa, Kalaupapa. If we

need to have the dock to be built, then if they going through all whatever, whatever needs to be done, then how like Lori said, it needs to get all these things straightened up because we on Molokai don't want nobody to do that to us and hurt us again. We've been there, done that, and knows it all. So for me to tell you this is like we love everybody that's trying to do something for Kalaupapa, but we have patients down there saying they don't want nothing changed. I talking about the true Hawaiians who live there before any outsiders came from outer islands and stationed down there now. We have family down there that's telling us -- that's feeding us they don't want nothing. "Auntie, please, until we die." So you know what, Planning Commission? I know you guys can put you guys' mind and heart together. Whatever about Kalaupapa, we gonna talk story. It is very, very important. Some of them, they tell us now, they trying to do their best, but we gotta look at the big picture, really big picture for Molokai. Aloha. Any question? What you guys think about that about the barge? Think about it. I think so we can do it. Aloha.

Mr. Kalipi: Thank you. Okay, any more testimonies? Seeing none, we're gonna close this time of testimonies on this issue. And we're gonna take a ten-minute break, and we're gonna go at it for Communications on G. So we're gonna recess, ten minutes recess.

(A recess was taken at 2:12 p.m., and the meeting reconvened at 2:23 p.m.)

Mr. Kalipi: Okay, maybe if we can settle down? We're gonna get back in from recess and take up our next agenda item. Seeing that we have quorum, if you're following along in the agenda today, we're on Communications. We're on Communications G on the agenda: Mr. Jeffrey Hunt, Planning Director, requesting concurrence from the Molokai Planning Commission pursuant to the special management area rules, as amended, that special management area exemptions can be issued for the following: Cooke Memorial ADA improvements and renovations. We're gonna have our Staff Planner Nancy McPherson comment and give some background about what we're seeing.

G. COMMUNICATIONS

- 1. MR. JEFFREY S. HUNT, Planning Director, requesting concurrence from the Molokai Planning Commission pursuant to their Special Management Area Rules, as amended, that Special Management Area (SMA) exemptions can be issued for the following:**
 - a. Cooke Memorial ADA Improvements and Renovations
SMX 2008/0523 B T2008/1999
TMK: 5-3-002: 005, 200 Kolapa Place, Kaunakakai, Island of Molokai.
Lot Area: 4.88 acres (N. McPherson)**

Requesting concurrence with recommendation for exemption from SMA Rules for repairs, upgrades, and renovations for Americans with Disabilities Act (ADA) compliance for the Cooke Memorial Pool at Mitchell Pauole Center to include handicapped accessibility improvements, repairs to the existing roof, electrical fixtures, restroom/shower facilities, and painting within the existing footprint. Valuation: \$356,793.

The Commission may act on whether or not to concur with the Planning Director's determination that an SMA exemption be issued.

Ms. McPherson: Thank you, Chair Kalipi. Good afternoon, Commissioners. Welcome, to our new Commissioners. This is a recommendation for exemption for improvements and renovations to the Cooke Memorial Pool Complex in order to meet the Americans with Disabilities Act requirements, and also to make repairs and improvements to I think what we all know is an aging facility here on Molokai. You were given a short form for -- instead of the letter which usually goes out with the items that this Commission has decided it wants more information on, but we -- I believe we went ahead and included the assessment and the exhibits, so -- which kind of defeats the purpose of short form, but well, it's a work in progress. The idea with the short form was that these six items -- just to kind of fill in the new Commissioners -- the six items that were chosen by the Commission that could be reviewed without all of the supporting documentation, you know, the idea was that you would just get this one-page form. But because this is a public facility, and because I know that Lori likes to see plans, and, you know, Commissioners might be interested in getting more information, we decided to go ahead and give you the whole shebang here. So I hope you've all had a chance to review the assessment and look at the exhibits.

The proposed action consists of renovations to the existing pool building deck and parking lot for ADA compliant improvements, and construction of new wheelchair accessible pathways, crosswalks and ramps within the existing Cooke Memorial Pool Complex on a 4.89-acre site that has been previously developed for the existing Mitchell Pauole Center. So we've determined that it qualifies as not development for the reasons checked. And if you don't have any questions for me at this time, we do have a planner who is a designer who is working on the project for the Parks Department here today. We also have Mike -- I'm sorry. I forgot your name. No, no, I know Mike. April Shiyotani and Mike Mangca who works on -- at the complex here for the Parks Department also to answer your questions. So if you don't have any questions for me at this time, I would like to -- oh, yes, Chair? I mean, Former Chair? Vice-Chair?

Mr. Chaikin: Yeah, I don't have any particular concerns on this project. I only am bringing up a question about how we can better streamline the process. But, you know, thank you for giving us this letter from the State Historical Preservation because I noticed that that

was missing in the first -- you know, when we got our packet. But I guess my question is, you know, when you read through the recommendations from the State Historical Division, they state, "We recommend the following conditions be attached to the subject permit." And we all know if we concur with you and the Planning Director and exempt this, we cannot attach any conditions to it. But can you attach conditions as the Planning Department? Or how do we accomplish the goals of the State Historical Division?

Ms. McPherson: Thank you, Commissioner Chaikin. This is an issue that we need to resolve with the State Historic Preservation, the wording. We need to tweak the wording. I do have a State archaeologist coming over next week - Patty Conty. And she and I are going to meet and discuss things. So I'll forward her comment to -- your comment to her. The issue with an exemption, I don't think they fully understand the exemption -- the SMA exemption process. The issue with exemptions is that they are not conditioned. We do not attach conditions to exemptions. What we do is we take the information provided, comments from agencies, and we do an assessment. Based on the information in the assessment -- and in this case, the recommendations for mitigation that have been provided by the State Historic Preservation Division, which I actually didn't have in my hand at the time that I did the assessment, but I, you know, I basically assumed that the Parks Department would be willing to work with the State in order to mitigate any potential impacts due to the project, and I can allow them to answer. They just got a copy of this themselves today. So, you know, my understanding from the County's perspective is that we do want to incorporate those recommended mitigations into County projects. And so the assumption is that we are going to do that. Now, if the applicant has no problem with the recommended mitigation measures, then it becomes part of the project and it's helpful if they represent during the meeting that they are willing to do that. Then that becomes part of the record. So if we could get a statement from Parks, if April is able to make that assurance today at this time. Baron Sumida is also in charge of this project. He wasn't able to attend today but he's available by cell phone on Maui. So if we need to get reassurance from Baron that the requirements in this letter will be met -- I'm not sure if he even has gotten a copy of it yet. But we are trying to get this project going. It's a shovel-ready project. So we're trying to get it going. But the point is if you concur with the exemption based on the representations of the applicant in their submittal and during the meeting, then that is what the concurrence is based on. And what that means is if they do not comply with, and Mike maybe can correct me or help me with this, if they do not comply with or adhere to their representations, do what they said they were going to do basically, the -- Mike, maybe you should correct me here, can an exemption be revoked? Or would it require them to submit another assessment if they've changed the project and they're not, you know, not doing what they agreed to do?

Mr. Hopper: Alright, for new Commissioners, you're agreeing whether or not, with the Department, if this project is exempt from the SMA. SMA requires that certain types of development in certain shoreline areas get an SMA permit from the Commission. And

you're the final decision-maker on that. Part of the assessment is that if there's certain types of development or certain projects, they may or may not qualify as development that needs an SMA permit. Nancy has determined in reading over this project and looking over the law that this is a project that's exempt. That it is not subject to HRS 205A, which is the State law about SMAs, and doesn't need an SMA permit because of the reasons she set forth in this application here.

The reason you can't exempt or condition an exemption is because once something is exempt, that means you have no jurisdiction something over it. That means that they're not supposed to be getting an SMA permit. And basically, you have no jurisdiction over it. It's not subject to the SMA law at all, so therefore, the Commission doesn't need to see it. But because of your rules on Molokai, every exemption has to come to you for approval. On Maui, exemptions are just exempt. They don't get approved by the Commission. So they come to you.

Now, the issue that we're talking about is representations made by the applicant. So for example, let's say an applicant says, "I want an exempted for a thousand square foot house," and then they get an exemption, and they build a five thousand square foot house. Well, they didn't build what they got exempted for. So essentially, that's considered a special management area rule violation because they built something without an SMA permit or assessment. And so that's the issue there. You cannot condition exemptions, though. Basically, the idea is that you were exempted for "X" project, and you did "Y" project. So you didn't actually ever get an exemption for that. It becomes a bit difficult when conditions require monitoring plans and things like that versus the condition is that -- it's not a condition. It's a -- you're gonna build a certain structure a certain way. Now, we have allowed when representations are made that, "Here is our project. Our project will include us also doing archaeological monitoring." And then the argument by the Commission would be if they didn't do that monitoring that we exempted you based on you saying you were doing monitoring and you didn't do that. And so you actually did a different project. The less you can either condition or tweak exemptions, the better, because we have not tested enforcement of conditions of exemptions. And the policy is that they're actually not permitted. But rather than requiring an SMA permit, if the applicant says voluntarily that they're going to do those mitigation measures, the Commission has issued exemptions on those basis, so you can go forward with that. I know that's a very complicated explanation, but that is the state of the law with respect to exemptions, and you need to know that when you're deciding these exemptions.

Mr. Chaikin: Alright, well, thank you for that long answer. And I think the thing here is, you know, just to try to streamline this process, and make it so it can go thoroughly smoothly without these kinds of questions coming up on how could we do this? How can we make them do that without making them get an SMA permit so we can put a condition on it? And so hopefully, we can find out a solution to this problem. Obviously, they can volunteer up

on the mike, and say that they're going to do it, and then it is part of the record. But short of that, I mean, what I was getting at is we clearly cannot do that from everything I've heard. The question is, can the Planning Department? There's all kinds of restrictions on them. You know, there's building codes. There's all kinds of stuff. There's nothing that can be put in there that says they have to adhere to the State Historical Preservation's recommendations or requirements? I mean, that's my question, and that would solve the problem if something like that was in the code.

Ms. McPherson: Well, I think this was brought up at a previous meeting, and we did discuss it for a while regarding the State Historic Preservation Division's laws that they implement, their responsibilities and jurisdiction, and ours. And we are supposed to be working with them. You know, they -- they're implementing State and Federal law. We're supposed to uphold State and Federal law, and implement County law. So it's supposed to all work together. It's called the regulatory framework, and I'm gonna get to explain that to you next meeting. But, you know, for now, the point is that we're supposed to be reinforcing each other. And if we're not, then something's wrong with the framework, and it needs to be fixed.

Mr. Chaikin: Alright, did you say that State Historical Preservation is going to come here to Molokai?

Ms. McPherson: They're coming -- one of -- the one archaeologist is coming for another matter. And she and I are going to meet. And what I'm doing is I'm encouraging them to send someone to speak to the Commission. That's not gonna happen this time, but we're working on it.

Mr. Chaikin: Alright, so just to sum it up, if you could pass this on to them that they're sending us letters saying that we recommend the following conditions be attached to the subject permit, the permit -- there is no permit. It's -- the application is for -- to be exempted from the permit. So if you can maybe explain the process to them, we can get that cleared up, hopefully. Thank you.

Ms. McPherson: Yeah, I transmit the assessment to them. That's what I transmit. It's not a permit application. It's an assessment. And so I don't think they're totally clear on how this process works. So I'll work on it.

Mr. Kalipi: Commissioner Sprinzel, did you have a question?

Mr. Sprinzel: As I understand the Planning Department approves this particular exemption?

Ms. McPherson: What we do is at this point, we are recommending that it be exempted, and we're asking you for concurrence with that recommendation. We're asking you to agree with us that it qualifies to be exempted from the SMA rules. This is a change in the Molokai Planning Commission SMA rules that happened -- what? A couple years ago.

Mr. Sprinzel: This is a fairly minor project, isn't it?

Ms. McPherson: Well, yeah, I kind of think so.

Mr. Sprinzel: So it's not going to affect all sorts of different problems that the community might have because it's mainly repairing, isn't it?

Ms. McPherson: It's a good project. It's a public benefit project. It's a going to have minimal impacts in the area. But the State Historic Preservation Division wants to review these projects. And they want to, you know, recommend mitigation measures as a matter of course. And so that's where we are right now.

Mr. Sprinzel: So I'd be in order to propose acceptance, yes?

Ms. McPherson: Well, we'd like to let the consultant come up, if we may right now, and talk a little bit more about what's being proposed, if that's okay?

Mr. Kalipi: And following that discussion, we're gonna give public testimony, and then we're gonna take a motion on the floor.

Ms. McPherson: Okay, thank you.

Ms. April Shiyotani: Good afternoon, Commission. My name is April Shiyotani. I'm the representative for the Architects, Hiyakumoto, Higuchi. And the client of the project is the County of Maui. So this is a County project. We just got the letter this morning from the State Historical Preservation Department. I did talk to Calvin Higuchi, the architect of record, and we will follow the recommendation. As part of the plan, we will get it -- I believe a change order will have to come to the project, because it wasn't part of the bid, but we recognize that we wanna work with the State and move forward.

This project is primarily for ADA compliance. All facilities need to work towards compliance. This is based on a survey that was done I believe in 2003 by the County of Maui to go over all their facilities. We're following their recommendations, as well as including some repair work to the pool while we are doing the renovations for the ADA compliance. I can answer any questions on what that scope is, but primarily, it's the locker rooms, the addition of an ADA compliant ramp from this level up to the pool level, and then a access to the sidewalk from the pool level across the parking lot.

Mr. Kalipi: Any Commissioners have any questions? Okay, seeing none, thank you.

Ms. Shiyotani: Thank you.

Mr. Kalipi: Nancy, you have some final comments?

Ms. McPherson: No, I'm just standing here hoping you'll take action.

Mr. Kalipi: Okay, if no more questions, we're gonna open the floor for public testimonies at this time of the exemption of the Cooke Memorial, or the request for exemption from the Planning Department of the Cooke Memorial Pool. Please come forward. Again, just a reminder, three minutes testimony. And -- okay, thank you.

Ms. Roxanne French: Aloha. My name is Roxanne French. I told you guys I was gonna be your biggest headache. Guess what? No brainer. Okay? First of all, the giveaway point: ADA compliance. So there's only one avenue that this Commission should take and it's to recommend exemption. That's all I have to say.

Mr. Kalipi: Thank you. Anyone else, public testimony? Seeing none, we're gonna close this time of public testimony, Item G. And we wanna entertain a motion from the floor to accept or deny the Planning Department's proposal.

Mr. Sprinzel: I propose we accept the exemption.

Ms. McPherson: Concur -- can I ask that you make a motion to concur with the recommendation? Yes, thank you.

Mr. Kalipi: Commissioner John Sprinzel?

Mr. Sprinzel: Yes.

Mr. Kalipi: Okay, Commissioner Sprinzel has made a motion to concur with the Planning Department's position on exempting the Cooke Memorial Pool. Is there a second?

Ms. Napua Leong: I second the motion to concur.

Mr. Kalipi: Commissioner Leong has second the motion. At this time, we're gonna take a vote. If -- any discussion?

Mr. Chaikin: Thank you. Let me just say that I hope -- you know, the whole business of we looking at all of these exemptions I think what we wanted to do originally was to just look at the bigger projects especially, the ones on the shoreline. And we got stuck with all

of this other stuff. And I really consider this micro-managing Nancy's job. And I think that hopefully, we, as a Commission, can move to some kind of a system where she can do this automatically where some of these more routine applications don't have to come before this Commission. That's all. Thank you.

Ms. Buchanan: In response to Vice-Chair Chaikin, I disagree. They gave it -- the County of Maui gave us a all or nothing alternative, ultimatum. It was either you're reviewing all the exemptions or you're not. And I said, if that's the ultimatum that staff is gonna give us, then guess what? We going see them all. Because like the testifier said, this is a no brainer. We all know this is a no brainer. Now, for SHPD to come in at the last minute and give its recommendation, it's good and bad because this is what we want of the coastline permits. We want them to be aware that this is what we going be requiring of all people who wanna build on the shoreline next to fish ponds and other cultural sites. And so that's all good. And it is a no brainer, and it should be a very easy no brainer thing to process, but given the ultimatum of seeing the exemptions or not, I'll be very careful to never give up that power to oversee the exemptions before we end up with houses in fish ponds again.

Mr. Kalipi: Commissioner Chaikin?

Mr. Chaikin: Yeah, I guess my point was not to do away with us looking at exemptions, only for us to do away with the ones that are really routine. I mean, right now if somebody wants to just enlarge their carport in Ranch Camp for a couple feet or something, they gotta come through this whole process. So I think the thing was to try to get some of the lessor impactive exemptions somehow where they can just move through the system without having to go through this ordeal.

Mr. Kalipi: Okay, any more discussion? Commissioner Mikiala Pescaia? Okay, just thought you were gesturing something that you wanted to say.

There being no further discussion, the motion was put to a vote.

It has been moved by Mr. Sprinzel, seconded by Ms. Leong, then unanimously

VOTED: to concur with the Planning Department's recommendation for exemption.

Mr. Kalipi: Unanimous, motion carried.

Ms. McPherson: Thank you, Commissioners. And we do -- we have streamlined in that all I have to do is put the date and my initials. And as long as I remember to give it to Clayton -- and we're all going back to Maui tonight -- then that can actually get to the Building Department, and Zoning, and they can get going on the permits so yay.

Mr. Kalipi: Okay, thank you, Nancy. Okay, moving on in Communications G-1-B, we have the Marques addition and after-the-fact lanai located on Kamehameha V Highway, Kawela, Island of Molokai. And the Planning Department requesting concurrence with the recommendation for exemption from SMA rules for the conversion of an existing garage into a family room, bedroom and bath, and connection to the existing single family residence, plus attachment 500 square foot ohana unit and new IWS for a total of 736 sq. ft. Site work included minimal grading, new driveway, and asphaltic concrete driveway approach. The valuation was \$78,000. Nancy?

- b. Marques Addition and After-the-Fact Lanai**
SMX 2008/0440 B T2008/1664
TMK: 5-4-013:006, 2756 Kamehameha V Highway, Kawela, Island of Molokai
Lot area: 8,880 sq. ft. (N. McPherson)

Requesting concurrence with recommendation for exemption from SMA Rules for the conversion of an existing garage into a family room, bedroom and bath and connection to existing single family residence, plus attached 500 square foot ohana unit and new IWS for a total of 736 sq. ft. Site work includes minimal grading, new driveway, and asphaltic concrete driveway approach. Valuation: \$78,000.

The Commission may act on whether or not to concur with the Planning Director's determination that an SMA exemption be issued.

Ms. McPherson: Thank you for doing my introduction for me. I do have to give you a replacement, Exhibit 6, right now. So I'm just gonna hand this out. All this is is that State Historic Preservation had the wrong TMK numbers on the original letter, so we got that fixed, and this is the letter that we need to use with the correct TMK numbers on it.

Okay, we do have the architect. Rich Young is here for the project. And the owner, Elmer Marques, is also here. This is to convert the existing garage, add a ohana unit, do a septic system, individual wastewater treatment system. There was a lanai that was built quite a long time ago that never was permitted, so we're trying to get approval for that so that they can be in compliance. But there's no fines involved with this because it was done in the '70s. And there's gonna be minimal grading, a driveway and approach, as well as excavation for the individual wastewater treatment system. So we're recommending that this be exempted as repair maintenance, or interior alterations to existing structures, and structural and non structural improvements to existing single family residences where otherwise permissible. The idea with the SMA in Chapter 205A is that single family homes are exempt. That also means expanding your single family home, or repairing it, or altering

it, or renovating it, if it's allowed in the zoning. So as long as it meets the Zoning Code, the Building Code, etc., etc., the Department of Health asks for an upgrade to the wastewater treatment, you know, so that people -- we're trying to get people to abandon their cesspools, and get some modern septic systems installed when they come in for these projects. So I did a site visit for the project, and I'm happy with what's being proposed. They were -- you know, they are having to move the parking on the site around a little bit which I think if you look at the site plan, Exhibit 3, they are moving parking around in the front, but it's -- and they do have -- you can see where the infiltrators are going in up above there. This is the kind of site plan I love because it has all the information on it that I need in order to make my determination. So Rich gets an A. And if you don't have any questions for me, I'd like to turn it over to Rich. He can tell you a little bit more about the project.

Mr. Kalipi: Okay. Commissioner Buchanan?

Ms. Buchanan: Wait. I got a question for Nancy. The after-the-fact lanai permit, you said no fines are being issued for that. So my question is this, and maybe Corp. Counsel, I don't wanna open a can of worms here, but my Aunt wants to purchase a home in Kamiloloa. The Realtor has already disclosed to her that the additions to the house that she wants to purchase were built without a permit. So my question to my Auntie was, so what happens? At the point where you need to improve your home if it's in the SMA whatever, it's gonna do the same type of trigger here where he came in for a permit, and you found out that he had a lanai built without a permit. And so I'm just wondering if it would be an issue as I can see it being an issue on houses that were built. And then when you resale, what happens? And if we don't issue fines, then where does it stop escalating?

Ms. McPherson: Right. Well, this is an area that I'm struggling with quite a bit right now to be honest with you, and the Department is, too. I might need Clayton to come up here and talk to you a little bit about after-the-fact permits. I'm not sure at what stage, you know, work that was done many, many years ago no longer triggers an after-the-fact fee. I'm really not clear on that, frankly. The issue is that in some cases, the person was told by a County employee, not on this one, but I have another one, that they didn't need a permit for their garage. And you know, and so that puts us in a really difficult position to be issuing fees on these things. So I think we're gonna have to look at it on a case-by-case basis. And I'm probably making Mike very uncomfortable right now, but I'm really going to have to do some more investigation because we wanna be fair. We wanna be consistent. And we also don't wanna be punitive. We don't want to punish people for coming into compliance. In a previous jurisdiction that I worked for, they did amnesty periods where you could come in for old stuff that had never gotten a permit, and you could actually get it permitted that way. The jurisdiction had the documentation for the project on the record, you know, and that was one way to do it. What we don't wanna do is let people think that they can continue to do site improvements without an SMA assessment. And that they will

just be able to get away with it, because either they'll sell the property or whatever, and then the next owner will just say, "Well I didn't build it, the previous owner built it." So I have -- I'm dealing with some of those right now, too. I don't know if -- leave it alone?

Ms. Buchanan: No, leave that for now. We'll put it onto the workshop whenever, but let's just leave that for now. It only came up, and it occurred to me, because she actually wants to purchase a home, and that has already been disclosed to her.

Ms. McPherson: Well, and in this other jurisdiction, they actually required resale inspections as well, which I think is a really good idea, and I would like to see that instituted for County of Maui also.

Mr. Kalipi: Okay, any more questions, Commissioner, for Nancy? If not, we're gonna have the applicant come up and comment or share his mana'o.

Mr. Rich Young: Aloha, Commissioners. Rich Young, the architect for the project. Just a little background further in this after-the-fact permit. This was really unknown to myself or the current owner. The owner's father built the house in the '70s. And as far as we knew and understood, this -- the entire project was permitted and built all with permits. And after a great deal of research, and we went back to the archives to try and find any remnant of history about the addition of the lanai, but evidently at that time, and I totally understand -- I mean, that's just came out of the woodwork, once we discovered that the lanai was built without the permits, we began the process to go through the process. And so here we are today. At least we're being able to process both the addition to the house and the after-the-fact at the same time so we wouldn't have to come back to the Commission again.

The septic system which is of course a current requirement, we're getting rid of the old cesspool. The -- in this particular case, we're filling on top of the existing ground to be able to do our leach field. So really, we're gonna have no excavation, you know, as you typically would for a leach field. A little bit of scraping where the new structure is gonna be and the driveway approach which is off the State highway. So really, I think the State Historic Preservation has just recommended that in case we do find anything significant that we're gonna raise our hand, and call the number, and stop work. But at this point, we're not planning on doing -- actually have an archaeologist onsite for the work that we're doing. So that's pretty much it. It's a -- you know, we are adding to -- we're connecting the existing house to this addition that we're doing which will encompass an attached ohana, 500 square feet.

Mr. Kalipi: Thank you, Mr. Young. Any questions? Commissioner Buchanan?

Ms. Buchanan: Yeah, Rich, the individual wastewater system, how -- you have to dig for that? You said you're filling in. What are you doing?

Mr. Young: We're -- in this case, the ground water's a little high, and so we're going to put the leach field on the existing grade, and then we're gonna fill around that. And we actually have to pump from the septic tank up into the leach field. It's just an oddity because the ground water table is quite high so --

Ms. Buchanan: Is this like where Mel Paoa lives?

Mr. Young: Yes.

Ms. Buchanan: Okay, so how long has the Marqueses has been a residence there?

Mr. Young: The beginning: '70s, '74, I think.

Ms. Buchanan: Okay, so the new driveway, it's not changing any grade of any kind, the new --

Mr. Young: No, the driveway is -- we have to -- we've gotten a permit from the State to do the paved approach. They want us to be compliant with a paved approach. And so we've gotten the permission from them and the sight distance is all approved. But it'll be six inches or so of excavation for that in the State right-of-way. And then the area where our actual driveway and parking area is, for the most part, it's already paved. We're just gonna be doing a little excavation where the house is gonna grow like about approximately, 16 feet or so.

Ms. Buchanan: Okay. so the Marqueses are aware since they're expanding for 500 foot ohana dwelling that all parking for the second ohana dwelling all needs to be onsite?

Mr. Young: It is onsite, yes. So we've made that as part of the site plan and concurrence with that. And we have to for Zoning Agency to make that final approval of that. So it's a pretty regulated process that we're going through to make everything fit into the Housing Code and be compliant so --

Mr. Kalipi: Any more questions, Commissioners? Seeing -- Commissioner Chaikin?

Mr. Chaikin: Yeah, I just wondered when you look at the -- I don't know if this is like the TMK map or something, it seems like when you look at all the frontages of the property, they seem like they pretty much follow the coastline or something. And then the subject property sticks way out beyond that.

Mr. Young: Yeah, several of the properties in that area have -- you know, back in the day were -- got accretion. You know, they -- the shoreline there are fortunately, is growing substantially. So several of the properties along the way there have actually gotten -- have

grown there, their land. Some have not taken advantage of that. These days, you can't apply for that any more, but that's -- it's just --

Mr. Chaikin: So these people actually applied to be able to get that on their deed or something, that extra land?

Mr. Young: Yeah, in the '70s, that was done so -- it's a real odd thing, but it does occur.

Mr. Chaikin: Okay, thank you.

Mr. Young: Okay.

Mr. Kalipi: Okay, thank you, Mr. Young. Seeing that there are no more questions from the Commissioners, we're gonna open public testimony on this item. Please step forward if -- public testimony.

Ms. Judy Caparida: Hi, again. My name is Judy Caparida. And I'm here to just ask how come you can have exemption for some and some you can't? I know that for one thing, Roxanne had a problem with her house. And it's an after-the-fact. This is an after-the-fact, and has a lot of readjustment to that after-the-fact that I think that what goes for one should go for all. You shouldn't be having problems with trying to adjust one and not do the same. So, Nancy, I want to ask you, what's the difference between this right here and the one about Roxanne?

Mr. Kalipi: Auntie, I'm sorry, this is like public testimony time. We're not able to dialogue. You testify. And if there's any questions, we'll ask you, but --

Ms. Caparida: Okay, because I don't understand how come. I read a lot of exemption that they -- this coming from Maui. You guys only say yes or no. What's the problem here? I mean, it is a problem for me because if they making all this exemption, exemption, and you guys cannot even make for our own, then what is the problem? We cannot get for our Vets. We cannot get over here, all those that live here. I mean, we should have some kinda adjustment where we can make some kinda rules for our own, not them telling you guys how to make exemption for those guys that is making plans for us over here. I don't think that's fair. So I needed to question that.

And can we put something on the agenda? I just wanna ask if this can be done? There is a problem on the East side of the island. There is a reservoir that is being built alongside the Waialua River. And it just came to my attention. And I mean, everybody knows about it. Everybody's talking about it, but I finally just got this information. We're having a meeting tomorrow at our community center, Mana'e, and it's gonna be brought up. And so I just wanted to know how can get it? Or is it something that supposed to -- you folks

can help about having this reservoir being built? It's a thing. It's a 800,000-gallon reservoir. And I would like somebody -- how can we find somebody to do something that we know is not right. Because I remember when Dunbar had one and it bust. It went all the way down to the highway, the water. So you know what? No tell me no more money for check on this. I think this is very important for safety's sake because when it rains, it floods on Molokai. And you can't hold the water. So if it's gonna cost somebody else to get hurt because of this, I think you guys should at least have something that we can do. Okay?

Mr. Kalipi: Thank you, Auntie. Any questions for --

Ms. Buchanan: No. I like know what time is your meeting and where.

Ms. Caparida: Six o'clock at Kilohana School.

Ms. Buchanan: I hope somebody can bring pictures, Auntie, of the whatever, the reservoir, or whatever, cause I never heard of that so --

Ms. Caparida: Yeah, I just heard that so I thought I can let you guys know about it, and if he can put it on the agenda, if we can stretch it more. I don't know. The more everybody know, the better. Thank you.

Mr. Kalipi: Thank you. Any more public testimony? Seeing none, we're gonna close this time of public testimony, and we're gonna take a motion on the floor for the -- what's before us if we were to concur or not concur for the Planning Department's recommendation. Commissioners? Commissioner Williams?

Mr. Don Williams: I make the motion that we accept the recommendations of our planner and the Department to concur on this.

Mr. Kalipi: Commissioner Williams had made a motion to accept.

Mr. Sprinzel: I would propose we accept -- second.

Mr. Kalipi: Second by Commissioner Sprinzel. Any discussion? Discussion, Commissioner Chaikin.

Mr. Chaikin: Yeah, I don't mean to beat a dead horse on this State Historical Preservation thing, but basically, we've received a letter back from State Historical Preservation that says that there's no historical properties will be affected. And then it goes on to say that if you do find some remains or something, contact them. So that would be fine in and of itself, but then the Planning Department has put down another recommendation, additional

recommendations, and added to that to say that if you are digging and you hit sandy soils, then you're going to need a monitor. And if you need a monitor, then you need a monitoring plan. So potentially, if they're digging and they hit sandy soils, you know, it could result in thousands of dollars more of cost. Now, this was not something that was asked for by State Historical Preservation. So I'm just for clarification, are we making their recommendation more onerous? Or is that something that is just always something that's necessary to be done, and not just stated from Historical Preservation?

Ms. McPherson: Well, it's been going up and down with State Historic Preservation. We're in dialogue about this. And again, I need to sit down and discuss with them so that we can apply these things consistently. But my communication from them, from Nancy McMahon, the head of the Archaeological Division, is that in these shoreline properties, normally you look at the soils. You determine if there's Jaucus sands, which is one of the types that has a very high likelihood of the presence of burials. And that triggers -- you know, this is kind of language is put in there so that there can be more care taken. Now, the other aspect is that if there are any finds that are made during construction activities, all work needs to cease. And we've had conversations. We have Commissioner Pescaia, who's on the Burial Council. We've had conversations about this before where we want to prevent burials from being disturbed. That's why we transmit things to State Historic Preservation because if there's a known burial there, if there's any way for SHPD to know that there's a burial there, then they can require this. But what they were finding was in areas where there's sandy soils, there's a lot of -- there's a high likelihood of burials. Whether or not this particular area or this particular lot is an area that was used for burials isn't known. So this is kind of like a little insurance policy. In this case, we can strike the language here if you'd be more comfortable with that. In this case, and what I wasn't totally clear on from the project description was that there is really basically no real excavation that's gonna be happening anyway. So this language is a little superfluous. So, yes, I did add it in. And if you'd like me to take it out, I'm perfectly willing to do that.

Mr. Chaikin: No, I was just making -- I had brought that up at the last meeting whether or not the County completely defers to State Historical Preservation as to what they should or should not do on a particular piece of property. And you said, yes, we defer to them. And I was just wondering that they're not requiring them to do that if they hit sandy soil, but the Planning Department, I guess, is. I mean, I don't have a problem with that. I'm just trying to figure out the process or figure out the system, so we kind of know how it works.

Ms. McPherson: Well, Commissioner Chaikin, so are we. And that's just where we're at. And I want to improve it. So that is actually a result of a dialogue between me, this Commission, and State Historic Preservation. I think we need to pursue this dialogue. And I think we need to develop -- because this Commission has a history, a track record, of being very, very concerned about burials, and cultural, historic and archaeological resources because Molokai is a very special place. We all know that so --

Mr. Chaikin: And rightfully so, and my only recommendation is that when you are talking to State Historic Preservation, if they feel that if they hit sandy soil, they should have a monitor, they should make that one of their recommendations.

Ms. McPherson: I agree.

Mr. Kalipi: Okay, Commissioner Pescaia.

Ms. Pescaia: My only comment is that we're privy to more information than the State Historic Preservation Department is. And what we take into consideration is Kawela was -- is historically known as a battlefield. Thousands of people died there. There -- I mean, the mountains, everything runs down. Of course, they're gonna wind up down on that area. It's happened. We've recently had a case of human remains being uncovered in the last six months. So just having that kind of added information that they don't have. You know, it's like local information. And all we're trying to do, I think, is -- I mean, right, we need to figure out a process in either giving -- I don't know whose job it is to go out and gather that kind of local information, and getting it registered on their end. I mean, that takes a lot of resources that we kind of don't have. So what we've been trying to do is just work with the landowners and developers to kind of have this good faith where it's not written into policy and law cause we can't be regulating every area. And as time goes on, and as new information comes forward, updating those things is gonna just take a lot of work. I think just having -- just knowing, okay, Kawela, you know, has happened. If you hit sandy soil, I mean, those are the things that -- I guess common sense kind of things and good faith that this community can operate on. It's gonna take too much work to try to get SHPD -- they don't even -- I'm sorry, they don't have their act together right now. They've got a lot of bigger problems to worry about. Their entire structure is at stake right now. The Burial Council hasn't been functioning for years. It's going on five years now of being dysfunctional because we don't have -- it's not working. So I'm just saying that this Commission then, the kuleana kind of informally falls on us to work with our community and kind of figure out ways. Yes, we don't want to undermine their authority or their integrity, but we just want to support it, and kind of back them up where maybe they don't have the information. I don't know. Does that make sense?

Mr. Kalipi: Yes, it does. Thank you, Commissioner Pescaia. Commissioner Sprinzel?

Mr. Sprinzel: Mr. Chair, it's been, certainly in the 27 years I've been here, there are many, many, many cases where remains are found, burial grounds are found long after Planning Commission, halfway through the construction especially, in Honolulu. And people have always admitted to finding them, and there's been a way found around. I don't think this is an exception asking people to -- if they find anything, to let the authorities know. I think this is pretty established in the islands. Thank you.

Mr. Kalipi: Thank you. Okay, we have a motion on the floor.

Ms. Buchanan: I have one last discussion. I'm sorry. I trying to be quiet. This Commission, and myself, and my testimony on this Commission has been very consistent. If you live on Kawela, if you live on the shoreline, then we want archaeological monitoring to occur especially, if you're digging an individual wastewater system, or anything more than a foot, or whatever it's previously, you know, disturbed. That's kinda -- that is consistent. That is fair. That is consistent. That's why I asked Mr. Young, "Are you digging for the individual wastewater system?" When he said no, that they building up around it, that was -- I was happy. Now, had he said, yeah, we going. Then I would insist at that point that he have the standard that we putting in. I feel it's this Commission's responsibility to make that rule. I not going give that rule to Maui cause it's my island, and this is our concern. That's our iwi. And we make the rules. And if we feel that that's what we like do and require of everybody that living on the shoreline -- this ADA thing up here, like the testifier, that's a no brainer. It's highly unlikely. And I couldn't see on there that they be digging out stuff, you know. So SHPD is inconsistent, and I gonna leave it up to Planner McPherson to work it out. And hopefully, with Ms. Conty coming here, we're gonna work it out. But as the Planner, when SMA permits come into her, she's gonna say this is what the Commission's gonna want. You either agree to it, or they not going concur with your single family exemption, period. That's it. Then you can turn into a major or minor permit where I can put conditions on you. So you either going be nice and say, fine, I going do the monitoring or not. That's the way I see it.

Mr. Kalipi: Thank you. So, Commissioner Buchanan, okay. Back to the motion at hand. We have a motion from Commissioner Williams, and second by Commissioner Sprinzel.

There being no further discussion, the motion was put to a vote.

It has been moved by Mr. Williams, seconded by Mr. Sprinzel, then unanimously,

VOTED: to concur with the Planning Department's recommendation for exemption.

Mr. Kalipi: Unanimous, motion carried.

Ms. McPherson: Mahalo, Commissioners. And I'll keep you posted with our discussions because archaeological monitoring, if you hire an archaeologist, the quote starts at \$3,000 for preparation of a monitoring plan, and some people on Molokai can't afford that.

Ms. Buchanan: Remember that this Commission was gonna accept monitors that we felt that we had trusted. They don't have to be an archaeologist.

Ms. McPherson: But they want a monitoring plan so -- they don't have to be an archaeologist but, you know, I'm gonna get into a discussion about that, and we will let you know.

Ms. Buchanan: And the monitoring plan can be the State Historic Preservation's remediation plan upon incidental find.

Ms. McPherson: Okay, I'll talk to you some more about it, Commissioner.

Mr. Kalipi: Thank you. Okay, we're moving on to agenda item Section G, No. 2, adoption of the written decision and order to take action of the 2009 Molokai Planning Commission meeting approve -- on the Feeter, Frances Feeter, and Bill Feeter. Go ahead, Nancy. Can I call you up here, and you give the introduction of what we're looking at?

2. **Adoption of the Written Decision and Order on the action taken at the March 25, 2009 Molokai Planning Commission meeting approving CHRISTI FEETER, FRANCES FEETER, and BILL FEETER's requests for a State Land Use Commission Special Use Permit and a Conditional Permit to operate the Hale Maluhia, a short term vacation rental in the State Rural District and the RU0.5 Rural District at 8770 Kamehameha V Highway, TMK: 5-7-007: 011, Pukoo, Island of Molokai. (SUP2 2001/0024) (CP 2001/0031) (N. McPherson) The Commission took action at its March 25, 2009 meeting.**

The Commission may vote to amend and/or adopt the proposed Findings of Fact, Conclusions of Law, and Decision and Order or Recommended Decision and Order for the Conditional Permit request.

Ms. McPherson: It's a marathon. Nobody to pass the baton to. Okay, this was requested. Normally, we turn these around within 45 days, but I managed to do it before the next meeting. And these are the decision and orders. Now, I may need help from Mike, our Corp. Counsel here because evidently, there's a special use permit that actually was approved for the Feeter vacation rental at the last meeting and that has conditions. And okay, I guess we have the wrong last page here too. Okay. Yeah, we were supposed to have the last page that just had Steve Chaikin's name on it, but anyway. So you have to --

Mr. Hopper: Nancy?

Ms. McPherson: Yeah? You have to approve both of these, correct?

Mr. Hopper: Yeah, just to clarify, the Commission voted at the last meeting to approve both of these permits subject to conditions. Because they weren't written out, and because it

was different than what the Department recommended, we had the Planner prepare written decision and orders with those conditions which you were given I know relatively recently. So if you're uncomfortable with approving these today, you can defer to the next meeting. But if you're okay with the form of these orders, and the conditions in them as written, you can vote to adopt these as your findings of fact, conclusions of law, and decisions and order with respect to these matters. The conditional permit is a recommendation to Council that will go up to them as written here. And no one really needs to sign that. The special use permit is a final decision by the Commission. And typically, the Chair would sign something like that. So that can be made available by Nancy for the Chair. He can even sign it after the meeting. He doesn't have to do it right this minute. But just to let you know, this is basically to put in writing into form the decision the Commission made at its last meeting. And the Commissioners that weren't there, you are still permitted to vote in favor of the approval of this form, or if you have changes, you can discuss the changes now. All the Commission needs is a vote of five Members to approve these as your decision and orders for these permits.

Mr. Kalipi: Okay, so just repeating what he said locally – nah, nah – he's saying that we made a decision. And we just made it in writing or the staff has just written it in writing. And if you find a mistake that isn't what we said in the last meeting, you need to point it out now. If not, we're gonna adopt the language and say this is the language that we wanted because it wasn't in writing. And then it's -- it will move on to I guess to the County Council as the request for a condition permit. We don't make that decision. The County Council make that decision. We already approved the special use permit. That was already decided on. And so we just concurring or we're looking over the language that was said to see if it's accurate.

Ms. McPherson: And just to let you know, I had -- Suzie digitally records these meetings and saves them for me. And I listened to the entire discussion on this item. I also looked at all three -- two or three sets of minutes on the item. And I added in the public testimony. So I revised the staff report. And so I put a lot of work into this. And I worked very hard to reflect exactly what the Commission's desire was at the last meeting, just to assure you, reassure you.

Mr. Kalipi: Commissioner Buchanan?

Ms. Buchanan: I have comments on this. And I kinda thought it was almost the same identical correspondence in both permits. So excuse me. I kinda off, but I am referring to the special use permit docket, the SUP2. And my comment is, I wanted to give kudos to our Planner McPherson. You heard that, Nancy? I wanted to give her kudos because this is why we have a Planner -- are you Planner IV or V? Planner V. This is why we have a Planner V. This is why I back her up when everybody like throw rocks at her because their current permits are not being handled quickly. And the reason why is I thought this was

well written. You did cover everything that you should've covered. I especially appreciated Sections 105 and 106 of the socio economic impacts. Thank you for putting that stuff in there. And just to reiterate to this Commission that under the decision and order Standard Condition No. 3 that the special use permit shall not be transferable. It is a non transferable permit. And so that was my main concern. And that would be if the residence got sold that that would not be transferable. But that is my stuff. I just wanted to tell you, thank you, Nancy. It was well written and well prepared. And I like it and I support it. And I did read through it.

Ms. McPherson: You just made my day, Commissioner. Thank you.

Mr. Hopper: Nancy?

Ms. McPherson: Yes?

Mr. Hopper: Very, very sorry. I just noticed No. 3.

Ms. McPherson: Oh, you found'em.

Mr. Hopper: It says, "The special use permit shall not be transferable unless the Molokai Planning Commission approves of the transfer by ordinance." You know, "approves of the transfer" could be probably be sufficient and then a period.

Ms. McPherson: Okay, we can strike that.

Mr. Hopper: I mean that would be for Steve. You don't have to reprint it now, but as long as they make that change authorized, Steve could just sign that later with that stricken. And the Council would still need to do it by ordinance for a conditional permit, but the Commission doesn't pass ordinances. So you could just take that out.

Ms. McPherson: Well, yeah, I actually had these combined, originally, and so I had to kind of spread them apart. It was like untying a knot, but I'm gonna get better at it.

Mr. Kalipi: Okay, any more questions for Nancy knowing that we have just made that change and we're gonna refer that when the motion is taken? But any questions? If not, we're gonna open for public testimony. Okay, seeing none, we're gonna open the floor for public testimony. If you wanna comment, this would be your time to testify on this issue. Seeing none, we're gonna close this time of public testimony, and we're gonna turn it back to the Commissioners. And we're gonna -- I'll entertain on the floor to amend or adopt the proposed finding.

Ms. Buchanan: I would like to move that we accept this as written with the correction of the ordinance as pointed out by Corp. Counsel and this be transmitted to County Council.

Mr. Kalipi: Okay, motion been made by Commissioner Buchanan.

Ms. Waros: I'll second the motion.

Mr. Kalipi: Commissioner Waros has second the motion. Any discussion?

There being no further discussion, the motion was put to a vote.

It has been moved by Ms. Buchanan, seconded by Ms. Waros, then unanimously

VOTED: to accept as written with the correction of the ordinance as pointed out by Corporation Counsel and this be transmitted to County Council.

Mr. Kalipi: Motion carried unanimous.

Ms. McPherson: Thank you, Commissioners.

Mr. Kalipi: Next item here on G-2 on our agenda, G-2-4, we have -- excuse me, G-2-3, we have status report on the processing of the Molokai Veterans Center, SMA assessment and change in zoning application. The initial report was made at the December 10th 2008 Molokai Planning Commission meeting. And we're gonna refer the next comments for our Staff Planner Nancy McPherson.

3. Status report on the processing of the Molokai Veterans Center SMA Assessment and Change in Zoning Applications. (The initial report was made at the December 10, 2008 Molokai Planning Commission meeting.) (N. McPherson)

The Commission may decide what future action it wishes to take regarding this matter.

Mr. Clayton Yoshida: Mr. Chairman, Members of the Commission, as we had stated at our last meeting, the applications were transmitted for agency review in the middle of March. We are receiving comments from the agencies. Hopefully, they are being distributed to the applicant. And it looks like we're on target to have a public hearing on the change in zoning at the first meeting in June, which was on the timeline that we distributed at the last meeting regarding Commander Helm's question about if the applicant was the State Department of Defense instead of the Molokai Veterans Group, they would still have to

comply with the Chapter 343 because they're still using State monies whether it's Department of Defense or the Molokai Veterans Group. They may not need a change in zoning because now it's a publically-owned building versus a building that's owned by the Molokai Veterans Group. They still need an SMA permit because it is a development in the SMA. So the only thing they would not have to do is possibly get a change in zoning. That's what we have to report. We're still on track for June 10th public hearing on the zoning change.

Ms. Buchanan: Good job, all ye Planning Staff.

Mr. Kalipi: Okay, any more question or comment, Commissioners for Mr. Yoshida? Seeing none, we're gonna take public testimony at this time of the updating status since it is on our agenda of what's going on with the process of the Veterans Center. Any public testimony? Seeing none, we're gonna close this time for public testimony of any comments of the Molokai Veterans Center. I do -- it's listed here on our paper here, "The Commission may decide what further actions it wishes to take regarding this matter." And so I turn to the Commissioners to say, what do you want to do? Do you want to keep it on the agenda? You want to keep on following? Or what's your input? Commissioner Waros?

Ms. Waros: I believe Mr. Parr spoke earlier and stated that they were ready to bring it to the Commission. Is that correct, Nancy? Sorry. You had a short break.

Ms. McPherson: It beats sitting on those benches the whole time. And I am gonna look into getting you guys some new seating or something one of these days. The -- okay, I'm sorry. Can you repeat the question?

Ms. Waros: We, Commissioners, were trying to determine whether we keep it on the agenda or not. And I remember Mr. Parr stating he believes it gonna come to us.

Ms. McPherson: It's going to come to you in the near future. What I need to do is follow up. Mr. Parr has been informed that their SMA assessment application needs to be amended to describe the museum use. And once they've submitted that, then we can transmit that to Zoning. I need to hear back from Zoning that they're for sure okay with this. And then based on what's been submitted, I can complete the assessment for the SMA minor permit and bring it to the Commission. So I'd say between two to -- well, let's say within the next three meetings, you know?

Ms. Waros: Chair, if I may? Just given everything, the complexity of this issue, I would suggest that we keep it on the agenda.

Ms. Buchanan: I gotta ask Nancy this question. I sorry, Nancy. You just said that they going have to amend to reflect the change to museum use. I thought that that was in order

to make them exempt from the change in zoning, but now we're actually getting the change in zoning, which they should've done in the beginning to have simply be who they wanted to be. Am I wrong?

Ms. McPherson: Well, there is an issue again of time. That's been expressed very clearly here that 15 Veterans have passed away since this application was originally submitted. And, you know, we were recommending that they wait for the change in zoning. And they have chosen to pursue this museum use option. We have also transmitted out the change in zoning application with an exemption letter from Chapter 343. We are giving agencies an opportunity to comment on that. And so we are kind of trying to give them 30 days which is coming up, oh, in a couple of weeks or so to -- they can choose to comment and say we don't think this is exemptible from Chapter 343. I haven't gotten any letters to that effect yet. So I'm trying to kind give it that comment period so that we can hear back. And if they're good to go on the exemption from Chapter 343, then we can go ahead and bring it as long as they are, you know, bonafide operating it as a museum. And then at the point that they receive their change in zoning, then they can change their use and they can go from there. Once, they have the change in zoning, they can let us know that they're -- you know, there's still gonna be a -- a portion of it's gonna be a museum, but now they're gonna add back in, you know, the counseling, and the other social gathering stuff, and all the other uses that they wanted to use it for. So it -- they will be limited in the different kinds of things that they can do there until they receive the change in zoning, which is not the most ideal situation, but we wanna -- we're trying to do the best we can at this point for the Veterans because of all that's happened.

Ms. Buchanan: Okay, so I'm assuming that's the way staff decided to counsel the V.A. But now I'm totally confused because if we already going hear the change in zoning, then there's really no need for the museum portion of that to be in, which kinda -- I didn't like it from the beginning that that proposal was made because if they saying that they wanna be "X," but they're trying fit through the hole if they're "Y," then I think they should just be "X," and get a change in zoning. And I thought that's the direction we was going in. And that only if they couldn't -- if the change in zoning was gonna be a huge and long process, then they were gonna go the museum route. On the other part of it, I understood at the last meeting from Clayton that the exemption from Chapter 343 was already issued. I didn't know we were still in the comment process and that that was still up in the air whether that would be accepted or not.

Ms. McPherson: Well, there is a process. We can issue an exemption for the project, but we are supposed to circulate that among pertinent agencies for comment, which is what we're doing right now.

Ms. Buchanan: So what if you get flack back from that? You going withdraw the exemption of that from them?

Ms. McPherson: I --

Ms. Buchanan: Let Clayton answer that because that's who said that --

Mr. Yoshida: I think we'd take a look at the validity of the comments raised, the concerns raised by the agencies. And we can address it under the existing Chapter 343 law. If we can, then we'll stick with the exemption. Again, another reason why the Veterans were pushing for the accelerated program was because they were under the belief that the new FEMA maps would become effective in October. And if that became effective, they would have to put in a lot of fill on the site. But we had reported at the last meeting that those maps would not become effective until 2010.

Ms. Waros: Excuse me for apologizing, but they also have an issue. Their time crunch is because of the funding of their project.

Mr. Yoshida: I think they have the monies. I mean, it's not --

Ms. Waros: No, they have a time crunch. They gotta spend the money by September.

Mr. Yoshida: They were trying to effectuate the project before the new FEMA maps became effective.

Mr. Kalipi: Okay, I'm gonna interject here to say that, I guess, Commissioners, we're gonna need to decide, do we wanna keep this further discussion on our next agenda? Again, there's some decisions or some things are just being -- just to understand, some of the things are being done prematurely because things are still changing or things are still going through the process, so we don't have the final decisions or the final positions. And so if it's the will of this Commission to keep it on the next agenda, then so be it, then we can move on, because that's the question at hand right now.

Mr. Chaikin: Well, you know, I concur with Commissioner Waros that we should keep this on the agenda cause it just gives us the flexibility to talk about it if we wanna talk about it. So -- and plus, when I was the Chair, I pledged that I would keep this on the agenda for them and keep this process moving forward.

Mr. Kalipi: I truly believe it's a consensus of the Commissioners. We don't need to take a vote on it. I'm just gonna ask Nancy to put it on the next agenda, and make a note of it, and keep it on the agenda until this Commission feels otherwise. Okay? So moving on to G-4, status of special management area assessment application for the Roxanne French dwelling. And Clayton?

4. Status of the Special Management Area Assessment application for the Roxanne French Dwelling at TMK: 5-5-001: 011, Island of Molokai. (SMX 2008/0393) (N. McPherson)

The Commission may decide what future action it wishes to take regarding this matter.

Mr. Yoshida: Yes, I believe at the last meeting, I was instructed by the then Chair to talk to the head of the Development Services Administration and Planning Director about the demolition, I mean, the fact that the house collapsed and what does that entail. In talking to the DSA Administrator, he felt that if the house fell due to natural causes that they would still need a demolition permit to remove the debris, but it would not be an after-the-fact demolition permit where the fee is increased because it was -- significantly, because it was an after-the-fact action. It's just a regular demolition permit.

Mr. Kalipi: Okay, Commissioners, any questions?

Ms. Buchanan: I just was thinking, so what that means? What does that mean?

Mr. Yoshida: I think there was a concern about, I guess, the house. The existing house had collapsed because of natural causes, you know, a storm or what have you. And they had to remove the debris to kind of clear it, the foundation, only the foundation would be left. So the clearing of -- in talking to Ralph, the clearing of the debris requires a demolition permit, but it's not like it's an after-the-fact action, after-the-fact demolition permit that -- where the rate is higher to -- the application fee is higher, significantly higher, to deter after-the-fact applications.

Ms. Buchanan: So what kind money we talking about? You still talking about a fee and a fine for something -- money.

Mr. Yoshida: No -- well, the demolition permit is kind of a negative building permit because you're taking down an existing structure. So they would pay like whatever the fee is for the demolition permit, but they wouldn't tack on this after-the-fact fee.

Mr. Kalipi: Mr. Yoshida, who did -- would they pay the demolition permit fee to, the County, one of the legs of the Department?

Mr. Yoshida: Well, part of it, I guess, was the demolition of the existing house, which based on the testimony, collapsed due to natural causes from a storm. And so they had to remove the debris. And what they're trying to do is rebuild the house on that foundation, as I understand it, within the footprint of what the existing house was at that time. So that

action, the removal of the debris, does require a demolition permit, but it would not be assessed for after-the-fact fees.

Mr. Kalipi: Okay, Mr. Yoshida, I guess the point or the way I'm going is that it has little or nothing to do with SMA properties. Getting the permit for the demolition permit, it's not with the Planning Department. Would it be for somebody else? Or am I wrong? She has to come to the Planning Department to get a demolition permit?

Mr. Yoshida: Well, I guess the ultimate goal is to build the house on the existing foundation, which was vacated because the existing house collapsed during -- because of natural causes. So that's the scope of, I believe, what the proposed action is.

Ms. Waros: Can I ask a question?

Mr. Kalipi: Commissioner Waros?

Ms. Waros: Okay, so when Ms. French came to us that last meeting, or two meetings, or last meeting, we didn't have any information in front of us. And I think that's how it got onto the agenda here. And as it's stated, this should be an update on the status of their application. Do we know where the application is and where is it in the process?

Mr. Yoshida: Nancy can probably report on where the SMA -- I'm just reporting on what I was instructed from the bench here to talk to the DSA and talk to the Planning Director about after-the-fact fees for the house, the existing house, that collapsed.

Ms. Buchanan: Clayton, does this have anything to do with that after-the-fact building permit, or fines, or stop work, or anything like that? No?

Mr. Yoshida: It's just the permit --

Ms. Buchanan: They're all treated separately?

Mr. Yoshida: Fee, yeah, just for the demolition, the removal of the debris.

Mr. Kalipi: Nancy, you wanna comment?

Ms. McPherson: Yeah, I did a site visit this week, and took a couple more photos. And the Frenches were very hospitable, and we talked. I -- after that, I went back to my office, and I consulted with our Cultural Resources Planner on Oahu, and asked him, you know, is there a way around transmitting this to SHPD for their review? And he said, no, there isn't. So I still have to transmit this to State Historic Preservation Division for their comments. So that's gonna -- and they're asking for 30 days right now. So, you know, I told Roxanne

that I would try to get it onto the next agenda, but if -- I mean, I have been pushing SHPD lately to turn these around much quicker than 30 days. They've been helpful, but what's triggering it is the excavation for the individual wastewater treatment system. That's what's triggering it. And that's being required for the building permit because they have a cesspool. And the Department of Health wants them to abandon the cesspool and build an individual wastewater treatment system. So that's what is happening right now.

Ms. Buchanan: So that's what's stopping you from moving the concurrence for an exemption here?

Ms. McPherson: Yes.

Ms. Buchanan: Okay, so on the other hand -- see, I'm lost now. I went lose my train of thought. In the meantime, if the house is ready for them to move in that -- so they cannot get -- because of this issue, they cannot get one certificate of occupancy?

Ms. McPherson: They can't because the SMA assessment -- the exemption hasn't been granted yet, and that's what this is eligible for. It's eligible for an exemption, but we have certain steps that we have to take as part of our assessment process. One of those is to assess -- if you'll look at the assessments that you received today, one of the things that we have to do is assess for any potential impacts to cultural or historic resources. That is part of the SMA law, Chapter 205A. And there's basically no way around it.

Ms. Buchanan: Okay, so --

Ms. McPherson: I tried.

Ms. Buchanan: Back to the certificate of occupancy, if there is none, is there a way of getting a temporary certificate of occupancy while this is being processed?

Ms. McPherson: I don't know the answer to that question. Clayton, do you have any idea if that's possible?

Ms. Buchanan: I guess this is all going back to the emergency exemption, yeah?

Ms. McPherson: And it's going back to Ralph and DSA also.

Mr. Yoshida: I don't believe that certificate of occupancies are required for single family dwellings unless they went say, through a plan review waiver process, previously.

Ms. Buchanan: What? One more time. Hana hou.

Mr. Yoshida: Unless they went through a plan review waiver. It allows -- if the -- I guess if the development is under a certain threshold, to expedite the permitting, the consultant, whatever, would come in to Building Permits and say I want a plan review waiver, and I will comply with all applicable governmental requirements, and obtain all -- I have obtained all applicable governmental permits. So after they get this fast tracked permit and build the structure, then to occupy, they would need a certificate of occupancy.

Ms. Buchanan: Nancy, has the stuff went up to SHPD yet?

Ms. McPherson: No, I still need to transmit it. It's all scanned and I'm gonna email it. If I have time today before we leave, which it doesn't look like I'm going to, I was going to try to send it today, but I can send it from Maui first thing in the morning. And I'll just ask them again if they could please expedite it.

Mr. Kalipi: Excuse me, Nancy. Speaking about time, how are we doing with time? What's -- when do we really need to wrap this up? Or is that the question for Clayton?

Ms. McPherson: I'm not -- I think we're leaving at 5:45 so --

Mr. Kalipi: Okay, your flight's at 5:45? Okay. Thank you. That kinda answers that. Okay so, Commissioners, any more questions for the Planning Staff? Any more questions for the Planning Staff?

Mr. Sprinzel: Could I ask how long Nancy's application has been before you?

Ms. McPherson: How long I've had this application? I have had this application since 8/27/2008.

Mr. Sprinzel: Oh, so not that long. Okay, thank you.

Mr. Kalipi: Okay, if no more questions for Nancy, at this time, we're gonna take public testimony. Seeing no more questions, the floor is open for public testimony concerning the update or the status of special management area application, Roxanne French.

Ms. French: Aloha. My name is Roxanne French, again, the applicant. I don't know what's taking so long for this SMA to go before the Historical Council. I only have one thing to say about that Historical Council. That home was built back in the 1920s. Now, if you guys wanna talk about what happened historically in the Hawaiian Islands, every step that you take on this aina, you step on our iwi, every step. And according to Historical Preservation, they have no, no consensus of that. I'm not gonna use my cesspool. Yes, we had to put in a new wastewater system, but there's also rules and regulations in place with Historical Preservation and the Burial Council of which I serve as a Commissioner on where if bones

are uncovered inadvertently, then they're to be brought before the Commission. Now, they wanna do a historic reconnaissance on my property when they just did an exemption on Kawela? On the beach? My property sits across the highway mauka of the highway. I don't know what their problem is here. As far as I know, none of my ancestors just came back and said you built on me, and that house has been there 80-plus years. Right here in the SMA process, it states, "The SMA permit system regulates all types of land uses and activities under a broad definition of development within the SMA. Some specifically defined land uses and activities may be exempt if they do not otherwise have a significant impact on -- in the SMA." What is excluded? Agriculture, interior alterations or non structural improvements, single family homes, underground utilities. Now, of that, which one do you think is more likely to uncover the bones? Underground utilities. What I hate about this whole process is, all I wanna do, and it's not a matter of occupancy, I thought I'd let you folks know, it's a matter of the fact that when I was cited in order to stop work on that home, I stopped. Okay? I'm trying to get permits to finish that home and I cannot get those permits without the building permit and this phony SMA procedure. I'm sorry. No, kala mae. But when I sat here and watched him say, oh, we're gonna exempt this guy to build an addition to his ohana-style living when I can't even get in my house with my ohana, I don't know. I don't know what you guys can do for me. I really don't know what you guys can do for me. All I'm asking from them is to give me the exemption or give me the permit. I said I'd sign all the waivers in the world. I told the County I'd sign all the waivers in the world. Why not? They don't give me County water. How much -- how many more times do I have to come before here? I'm gonna come before here for 50 more times just to -- another no brainer. Okay? You guys wanna bring these guys that move to our island and wanna build their homes. Fine and dandy. I wanna put my home back up and put my body back in it. I not asking you guys to let me build something that I'm gonna rent to other people to use. Instead, you know the tragedy of this all? If it was not for the kindness of people who were not born and raised on this island, it would've took me even longer to put the money together to build my home. And my home is, yes, being built by the blood, sweat of my boys. Why? Because you don't appreciate anything more than if you pound that first nail. But this family graciously allowed me to live in one of their homes with my son at no rent to me. What an example. What an example. And then we come, and stand here, and beg to get what I need to put my home up. I don't know what else. I mean, you know what? I can . . . (inaudible) . . . myself. I'm not done with this. Yes, I plan on talking to Danny Mateo. Yes, I tried to get an appointment with him, but he wasn't coming home. But if you all think that if I have to struggle more, then I will. And I understand that a lot of you are doing nothing but trying to help me. I'm not belittling you guys about that. No. I'm just saying I don't understand the process here. I really don't understand the process. Okay? How can I sit here and listen to an exemption, and I have to fight to get my home up? How? Tell me that. Just tell me that. Give me the person you need to talk to in Historical Preservation. I'll gladly talk to that person. Anyway, I'm just appealing to guys' conscience. You know what? These rules and regulations are bullshit.

Mr. Kalipi: Any questions, Commissioners? Seeing none, anyone else wanna testify?

Ms. Caparida: I'm here again. The thing is for me is if you have lived on a home for years --

Mr. Kalipi: Excuse me, Auntie, for the record, state your name, please.

Ms. Caparida: Judy Caparida. What else can we do for a house that you've been living in that was left by your great-grandparents, great-great-grandparents? The house been there. We've been going there. The house collapsed. Hello? The house caved in. It wasn't because of our -- because their house was old, it caved in. Now, they had to go and fix it. You cannot live in the house that the rain was coming -- we were having storms at that time. So to see, you know, the needs, and to see all these rules -- I seen -- man, I seen so many rules was broken. And you can see somebody come in here. That's their life. This is their home. And then they have to come and go through all this paperwork. And yet still yet no can finance. She telling us about the house fall down, and what? You gotta take the rubbish away. Now, she has to get a permit for that. Where can she get it from? I mean, the answer is not being . . . (inaudible) . . . is not being clear enough. Who do you see to go get it? I mean, where all these guys coming from? I mean, the answers is not clear. And for me, you know what? It's like our Mayor did. She couldn't wait for the money. She built MEO because the funds was gonna be runned out. They were gonna take away the funds. She didn't wait to get it legal. And that's our Governor today. So that's where the problem is. Everybody started to build all over the place. But this is somebody that lives here. We're thankful for the MEO building, but it didn't set up a good example. It didn't set one. So when somebody here that is in need and has a family to keep in the house, they don't have water from the County. The water comes from their well. They cannot put electricity on because they cannot have the building permit. They cannot have the water run, but nowadays you can go rent a toilet to go over there and sit down there and it passed. So all this kinda stuff, we have to think about what really makes the needs to be met for our people here, because I know a lot of stuff been going on all over from people all outside. And our own is begging that they wanna -- they need a home they wanna go back to. They wanna get back in their house, and we not having clear answers. How can we get answers, truthfully, answers with honesty and integrity? How can we do that? So this is what I needed to share cause I know how old that house was. And it wasn't because of their -- it's because when the storm came, the whole roof caved in. So I needed to let you know. Rules and regulations are made because of what? Lawless -- lawlessness. And this is not being lawless. Thank you.

Mr. Kalipi: Any questions or comments for testimony? No? Seeing none, thank you. Any more testimony from the public?

Ms. Manu: Aloha. I'm Ruth Manu. And like my sister say, we can help everybody else, and we no can even help our own. How you like that? What a sad case. You know rules, rules have been broken so many times. But this is our family. They belong here. They our family that need a house to stay. Me, I wouldn't give -- you know what? I tell you honestly with all my heart, I wouldn't even give a crap about the damn -- I'll move in and I'll live there. Cause you know why? Where else I going live? I not like some swatters out there camping around pitching a tent when I know I own my own land. That's my house. That's mine. That's my birthright. What you trying to tell me? That I don't have the right? That's my aina. That's my family. This is where I belong. No one take away that from me. No one. That's my blood line. That's my family. They belong there. They have all the right. So if we say that, you know, being examples that you automatically gotta get love in your heart. And if you don't, then you better start searching and tell God, what happened? Molokai was always to help one another. Always to help their own first too. No matter what the rules was. Get plenty loopholes in making where they can exempt, exempt, exempt. And come to our own, they can't? What is that? What that telling me? What that telling us as taxpayers, as community, within the community? If we don't voice, they going run us over. You know what? We believe in being pono. What goes for one, goes for all. So for me, I say, you know what? I going live in my house. That's mine. That's my birthright. I have the right, me and my family. That's our land. Then nobody kick us out or take us out unless we want them to. No, no, no. If we say that's ours, then that's ours. We take it back. Take it back. Take it back when you like. You know what? I can live there. I went build that house because why? Went collapsed. I needed a place to stay. Nobody going shelter me. I gotta care for me and my family. So what's wrong with that? I don't see anything wrong with that. Of course you gotta go through all this process. Us, Hawaiian people, gotta go through all this. And we no can even take care our own. We gotta do something. You know? I know you guys gotta listen to this all this kinda ...(inaudible)... but you know what? God help you guys. Forgive me. Kala mae. But you know what? That's my heart, man. We lived in the tent when we came to Molokai. We had no house. We started from the ground up. So when you talking about being grassroots, we came from the grassroots. This family came from the grassroots. They not anybody from outside. They belong here, on the Island of Molokai. Like how we fighting for Kalaupapa, that's the same thing. We are one. We are family. Thank you. Aloha. Any questions? Good.

Mr. Kalipi: Thank you, Auntie. Okay, anyone -- any more public testimony?

Mr. Scott French: Hi, my name is Scott French. All I'd like to really say is, if you guys can help us. Try and help us get it exempt because it's basically ridiculous that people can't use common sense to make a judgement on something as simple as this. That's it. Thank you.

Mr. Kalipi: Thank you. Any questions or comments from the Commissioners? Commissioner Sprinzel?

Mr. Sprinzel: We are terribly sympathetic, but we don't have any authority until something comes in front of us to give an exemption or not. I'm sure you do understand that. It's not that we're trying to stop stuff. It's nothing been presented to the Planning Commission.

Mr. Kalipi: Any more comments? Sure, why don't you come on up, Mrs. French.

Ms. French: Though what you say may be true, and I do understand, but what I say holds a helluva lot more truth. And the fact of the matter is, you really don't need to say a whole lot of this. It is a simple, single family dwelling. I would no more disrespect my ohana of this island, and there is not a one of you that sits on this Board that has lived upon that land. I have. So I not saying that all -- you can't tell me that you guys can't make a request. You made a request to go investigate this demolish thing ...(inaudible)... went back and do it. Yes, you can. If you're here to help us out -- you have that power, then exercise it. You mean to say you can't direct them to contact this whatever agency? It's a real simple matter. I'd sign anything. I told the County I'd sign anything. As far as I'm concerned, I'd rather sign a waiver and not them have any responsibility for my home, because with the conditions that are supplied to my family in that area, they have no value to me. The only service that I respect of the County of Maui is the ambulance service. The Fire Department, God bless them. I have the world's biggest holding tank right in front of my house -- oh, well, across the highway. Let me get that corrected. Okay? But I own that side of the road too. The Police Department, let's not even go there. Okay? I'm sure you all have your own experiences. None of mine's are very good. So as for the County and for their services, I would sign anything to get them out of my backyard. I pay their taxes that they want. And what do they give me? The Police Department, the Fire Department, to no fault of their own, they can't even put my fire out. Hey, you two, all I'm asking you guys is to speed the process for me so that I can have on that piece of paper the next time I come here it says -- to ask the Commission to concur or agree with the fact of the exemption. Really simple. Really simple. Now, you cannot tell me you guys don't have the power to make that recommendation to the Planners of this community. Because if you don't, then I am spinning my wheels here. And my original thought is confirmed: go put my tent out there, hang my big puka panties in the front for everybody to see, and really impact this island. See how the tourists like that. I get some big panties.

Mr. Kalipi: Okay, Mrs. French, thank you. At this time, we're gonna -- any more public testimony? Seeing none, we're gonna close this part of public testimony. And we're then gonna turn back to the Commissioners. And if you look at your agenda items which states that the Commission may decide what further actions it wishes to take regarding this matter. And so we -- I wanna open the floor for discussion. Commissioner Sprinzel?

Mr. Sprinzel: Counsel, could you advise us as to the situation here whether we can do anything or not do anything?

Mr. Hopper: You can exempt the project if the application's finalized and sent to you. But if you support the requirements where you wanna see things from SHPD every time with every application just like the last two exemptions, then you're gonna have to wait for them to get back to you, have a full application, and do that evaluation. If you wanna instruct Nancy that for exemptions, you don't want to see that information any more, or you don't want to see, you know, certain things, or you don't need agency comments, then she can get all these to you more quickly. But your rules, Section 12-302-13.1 goes over Commission review and final determination of SMA area exemptions. That's the rule section you just acted on the last two exemptions. And it says, "All proposed actions within the special management area recommended exempt under Section 12-302-12(F)(1) shall be placed on the agenda for review and final determination at the next Commission meeting." So the first thing that has to happen is the Planner recommends that the project be exempt. And at this point, the Planner is telling you she's not going to make that recommendation until she gets more information. And if she gets that information, makes that recommendation, and it comes to you, which is what she did in the last two cases, then you can make that determination. You can change the rule process if you like, if you think this is taking too long. Maui, for example, once the Planner determines something is exempt, it's exempt, and it doesn't need to come to you for approval. And so the Planner might not have to get as much information as they have to for Molokai. But this was a clear rule change made by this Commission to make sure that the Planner does a thorough review, and that it comes to you, and that you, as the Commission make the decision. So until Nancy makes a recommendation for exemption -- and if she does not recommend exemption, then it's gotta come to you for an SMA permit. So -- but in this case, she's doing an assessment. If she does recommend an exemption, which she could since it's a single family dwelling, then it would come to you, and you'd have to approve that. But until it comes to you as an exemption, you cannot make that decision cause your rules say, she has to make that determination which is exempt first. And that's what's happened with all these other exemptions. They recommended exempt after they go through all the process that Nancy needs to go through to be able to make that exemption to you. And if you would like to instruct her on how to differently process these, if you don't need certain information, or if you want to let her decision be a final decision and not even come to you, those are things that could potentially expedite the whole process.

Mr. Sprinzel: So, Nancy, are you going to recommend an exemption?

Mr. Kalipi: Commissioner, Commissioner Sprinzel, just to add to our Corp. Counsel, Staff Planner did say there are some steps that she's following the assessment to. She's waiting for the Historical comments. So she's following a generic form that we actually created. And so she's not being able to complete the form. When the form is complete, then she

can approve exemption. So she's already leaning and she commented that she's already leaning towards the exemption. However, she needs to follow the process. So what we're hearing or what we're saying is that we have a process in place. And we put -- we basically put that process in place. And this is good for newcomers and locals. And sometimes, you know, it doesn't work in our favor, or in a local person's favor that lived there all their life, and this is that incident right here that what we're speaking of. However, the process in place is to protect this aina, this SMA properties. And so it's kinda heartbreaking, and you hear the comments and so forth, but this is what we set down the guidelines and rules to protect further development or further destruction on the resources. And so I know we wanna do something. I did hear something earlier that Commissioner Buchanan asked Mr. Yoshida that can expedite it. And that might be something that we wanna probably talk about. Commissioner Buchanan, did you remember what that was you asked Mr. Yoshida there?

Ms. Buchanan: No, I just think it's irrelevant at this point because the applicant said that a certificate of occupancy is not the issue for her. And so I was just thinking that she could occupy the home now while the process to get the exemption was in line. That's where I was coming from. But I can -- yes, go ahead, Nancy.

Ms. McPherson: Well, I just wanted to offer that there is another application. I'm not going to go into details yet because it isn't before you yet, but there is another application from a Molokai ohana with long time ties to the place, the ahupuaa, where they are. And, you know, they're near a fishpond and all of that stuff. And their application was transmitted to State Historic Preservation Division. SHPD came back with all this stuff about wanting them to do an archaeological survey and yada, yada, yada. And they responded with their land grant, original land grant, in Hawaiian, a copy of which that they sent to State Historic Preservation Division. They discussed the fact that their family had been on that land for a hundred years, and knew exactly what was there, and exactly what had happened. Yes, they filled in the loi at one point with boulders. And they described, you know, all of this. And SHPD turned around and said, "Okay, no problem. We're not gonna require anything." And that is what is happening. So each situation has to be looked at individually, but there are options here. I'm gonna use that as an example with SHPD when I transmit this to them. And I'm going to say again, this is a Hawaiian family that's been on this land for a very long time. They know exactly what is there. They know whether or not there's iwi there. And we need to modify these requirements in certain situations. And so that's what I'm going to do. I'm also going to beg them to expedite yet one more application, and describe the situation, and describe why this needs to be expedited. I do have a good working relationship with them, but again, that has been discussed before -- they're under siege right now themselves. So we're all having a hard time -- none as hard as Roxanne as her family, though. And it breaks my heart too. And I'm just gonna try to do the best job I possibly can now that I have all the facts. So that's where we are. I'm going to push it.

Mr. Kalipi: Commissioner Waros?

Ms. Waros: Thank you, Nancy. And I would like to ask once again that we could keep this on the agenda for the next meeting just so that you could update us where the process is. I think by keeping it here, then that just gives us an update cause we're all very invested in this. And we all feel your ohana's -- if you'll carry this back to your mom, cause she left already. But we're very concerned about your well-being and that this continues as expeditiously as possible. And so if I may, if we could keep this on the agenda, and just update us next time where are we, what was SHPD's response, and etc.?

Ms. McPherson: Okay.

Mr. Kalipi: Commissioners, are you comfortable with that? Because here it says, Commission may decision what further actions you -- you wanna follow this? So seeing that there's some nods in the Commission, and there's no objections, we're gonna keep this on for an agenda item just to follow it as it takes its course.

Ms. Buchanan: Chair, can -- I wanted to direct Nancy to have a discussion with the archaeologist coming over since she'll be here next week? If she could discuss this with her and see if they could expedite it less than the days that they give them to review.

Ms. McPherson: And I may ask Roxanne if it's possible to come over with the archaeologist and talk story with them so that they have actually met someone who works with State Historic Preservation Division.

Mr. Kalipi: Can you also give us an update when you come back in this because it's on the record now? So the next time it comes back, let us know what happened.

Ms. McPherson: Yes, I will.

Mr. Kalipi: Okay, thank you. Okay, we're pressed for time. We're gonna probably close because of time -- 4:30. So we have about 10 minutes left because of the staff people need to catch a flight. We have one more under G-5 to discuss and it's gonna look like we're gonna table the rest of the discussions for the next meeting or put it on the next agenda. So at this time, G-5 is a request of Mr. Samuel Lemmo, Administrator of the Office of Conservation and Coastal Lands, Department of Land and Natural Resources requesting comments on the after-the-fact conservation district use permit. Nancy, can you just comment a bit, and then we'll have some discussions?

5. **MR. SAMUEL J. LEMMO, Administrator of the Office of Conservation and Coastal Lands, DEPARTMENT OF LAND AND NATURAL RESOURCES requesting comments on the After-the-Fact Conservation District Use Permit Application (CDUA) MO-3503 by MR. KELSON POEPOE, Resource Manager of HUI MALAMA O MOOMOMI for a cement boat launch ramp located on submerged land offshore of Moomomi, Island of Molokai located makai of TMK: 5-2-005. (N. McPherson)**

The Commission may provide comments on the application.

Ms. McPherson: Okay, last lap. Well, this application is because there was a ramp poured, I believe, at one time. They were cited for that, and told that they needed a conservation district use application for an after-the-fact cement boat launch ramp on submerged State land. So it isn't actually within my jurisdiction. There's no permit from the County that's required, but I believe they're just soliciting your comments on this because you have local information and knowledge. And if there's any feedback -- if you'd like to -- I think there's a time constraint. That's why we were trying to get this onto the agenda. Acceptance -- well, 180-day expiration date -- September 8, 2009. I think they want comments by -- Clayton, do you know what date they want comments by?

Mr. Yoshida: Twenty-one days from March 23rd.

Ms. McPherson: Twenty-one days from March 23rd. So I think that's why we're trying to get your comments today.

Ms. Buchanan: Chair, I am prepared to give comments at this time.

Mr. Kalipi: Okay, Commissioner Buchanan, go ahead.

Ms. Buchanan: I support the after-the-fact permit application for a CDUA permit for this site at Moomomi. I am aware of the situation. I was aware of it some time ago. This has been going on for I think over two years. And while I had hoped that Hui Malama O Moomomi would've tried to do it the right way, I can see where the bureaucratic process -- and this is my request. This is my comment part, Nancy, is the Department of Land and Natural Resources continue to not open dialogue with the community of Molokai. They continue to not come to this community for comments. They continue to show this community that they have a top down approach in their administration. And I'm very dissatisfied with the Department and the way they handled all their permitting processes on the Island of Molokai. Let's not forget that they gave a CDUA permit to the only residence built in Wailau as well. So with these requests for comments, I would like them to continue asking this Commission for comments on all CDUA permits on the Island of Molokai, and that they

should improve their public relations with the Island of Molokai. I'm supporting this after-the-fact permit now because of the very important use by Fire Rescue being the only access area other than Kalaupapa on the northwestern shores of Molokai.

Mr. Kalipi: Thank you, Commissioner Buchanan. Commissioner Chaikin?

Mr. Chaikin: Yeah, Nancy, I know this is kind of out your area, so let me just throw it out anyway, and maybe Corp. Counsel, is this permit application for after-the-fact construction, or for actually to have that thing, or to operate it, or all three, or do we know?

Ms. McPherson: No, they poured it already.

Mr. Chaikin: No, I know that, but I guess I'm trying to figure out if this is also for operational actually to use it in that area, or just to construct it, or --

Ms. McPherson: Yeah, I believe in the conservation district use permit process, they evaluate all of the above: the potential impacts to natural resources from use of the facility as well as the construction itself.

Mr. Chaikin: Okay, if this is for the use, I just throw out -- I don't know legally if it makes any difference, but the group, Hui Malama O Moomomi is the one that holds the lease of that land, and then an individual went to get this permit. I just was wondering if actually it should be the organization that gets their name on the permit so it can go on in perpetuity rather than having some individual as the applicant. But I don't know. I just throw that out. I don't know how legally that works.

Ms. McPherson: I'm really not sure how that works, but it says "Interest in Property, Resource Manager, Hui Malama O Moomomi." I think again it's like with the Feeter application rental, they're the applicant. They're the one that's gonna be the holder of the permit if -- I'm not sure what the transferability is with this. Again, this is a State DLNR permit so --

Ms. Buchanan: I think that is all covered. If you read the lease between DHHL and Hui Malama O Moomomi, those licensing issues and transferability issues are outlined within that lease. And I think our understanding and I think the understanding of the DLNR is that Kelson Poepoe is the applicant on behalf of Hui Malama O Moomomi because it's spelled out as attached by the DHHL lease the parameters of which Hui Malama holds the lease is very specific and how they forfeit that lease. And I think the liability also is included in that.

Mr. Chaikin: Alright, well, thank you for that. Yeah, I just wanted to clarify that just to make sure that there wasn't any problem down the line or liability issues specifically for the person who has their name on the application.

Mr. Kalipi: Okay, Commissioner Pescaia?

Ms. Pescaia: I just wanted to add another comment that Hui Malama O Moomomi has spent several years now assessing -- I mean, doing their own environmental impact statement-type work, assessment work, on the entire bay and the coastline in that area. And I would just trust that local knowledge and that kind of devotion. You know, they go down there every day unpaid to do a lot of that work. And the conclusion was that there needed to be a cement -- this little cement slab to benefit the community, to protect the area, to make it safer for operations of recreation, and boat operations. And I'm sure that they took everything that we would've wanted, the community would've wanted, the same concerns. They really take it to heart in making that decision. I support what Lori said: we wish the process and the permitting had gone -- you know, they had followed the protocols. I not condoning, or endorsing, or telling people to go out, and be radical, and do what you like, you know, but at the same time, sometimes this community does things. They have to protect their pono. And they do what they have to do and they know the price that it comes with. You know, they'll take the gas from whoever because they see the bigger pono, and we just do that. So I just putting that on the record so that they know that we support the after-the-fact, or I do, at least, support the after-the-fact application. I know that this whole packet is just full with all that kind of data that we like to see, but with my own eyes I've seen the improvement that little patch of cement has made in that area, and it's made it a lot safer for people to be down there. Thank you.

Mr. Kalipi: Okay, any more comments from the Commissioners? Okay, seeing none, we're gonna open the floor for public testimony on this item. Okay, alright, let the record show that Judy Caparida said, "Imua. Go for it." Auntie Judy. Okay, if no one else, we're gonna close this time for public testimony. And any more --

Ms. Buchanan: For Clayton, if he has a minute, I want him to highlight what I want him to report on, on the open projects for next time.

Mr. Chaikin: We still gotta finish up this agenda item cause we should take a vote on what we recommend to DLNR.

Mr. Kalipi: Yes, that's what -- can you read that back, Nancy? We'll bring Nancy just to read back the comments that was said. And then we're gonna take a vote to say that's what we agree on. That's gonna be adopted as comments.

Ms. McPherson: And I hope that you'll trust that I will craft this accurately. And, you know, Suzie can put the digital file on the network for me so if I didn't capture it in my notes, I can craft it a little bit better. Commissioner Buchanan supports the CDUA, is aware of the situation, and wants to direct comments to DLNR that they have not been having an open dialogue with the Molokai community, and not coming to this community for input. So she would like them to continue to ask the Molokai Planning Commission for comments and improve public relations with the Molokai community on these issues. Was there anything else, Lori? And then Commissioner Pescaia stated that she concurred with Commissioner Buchanan's comments. She knows that this group has been assessing natural resources and doing environmental assessment work on that entire area. And with the use of local knowledge, they have made the best decision on what to do to protect those resources, including the boat ramp, and that it has made it safer for people down there, so that she feels that they are making good decisions and should be allowed to continue to do so. Is that close?

Mr. Kalipi: Commissioner Pescaia, you're happy with that? Okay, I guess you can put it writing, and bring it back, and then we'll review it again to --

Ms. McPherson: We might not have time. We might have to send it on so --

Mr. Kalipi: I'm sorry. I'm sorry. Okay, we're gonna take a motion, if that's alright.

Mr. Chaikin: I'd be willing to make a motion.

Mr. Sprinzel: I'll second it.

Mr. Chaikin: Yeah, I'd make a motion that we ask DLNR to give a permit for the after-the-fact conservation district land use application. That we support the application. We would like to submit the comments as stated by Nancy.

Mr. Kalipi: Second?

Mr. Sprinzel: And I'll second it.

Mr. Kalipi: Commissioner Sprinzel.

There being no further discussion, the motion was put to a vote.

It has been moved by Mr. Chaikin, seconded by Mr. Sprinzel, then unanimously,

VOTED: to ask DLNR to give a permit for the after-the-fact conservation district land use application. That the Planning Commission supports the application. And that the Planning Commission would like to submit the comments as stated by Planner Nancy McPherson.

Mr. Kalipi: Unanimous, passed.

Ms. McPherson: This is gonna be a good year. I can tell already.

Mr. Kalipi: It's getting long.

Ms. McPherson: As long as you all show up.

Mr. Kalipi: Okay, Commissioner Buchanan, you had a pressing part of the agenda that you wanted to make sure we cover before we dismiss or come to a close.

Ms. Buchanan: I just wanted if the open projects, if Clayton can take one yellow pen and highlight, or you like I just give you my paper?

Mr. Kalipi: Okay, if that's alright with Clayton, if you can highlight that real quick?

Ms. Buchanan: Maybe you can report on them the next time?

Mr. Kalipi: And make a report on them the next time. And I have a -- Corp. Counsel wants to make a comment also about his orientation for the next go-around also so --

Mr. Yoshida: I guess before you adjourn, Mr. Chair, can we talk about Item J-4, which is the agenda items for the next meeting?

J. DIRECTOR'S REPORT

4. Agenda Items for the April 22 Meeting

Mr. Yoshida: We had intended to provide some orientation today starting with Deputy Corp. Counsel Mike Hopper on the Sunshine Law, etcetera, but we can postpone that to the next meeting on the 22nd. We also were gonna talk about the land use regulatory framework, and SMA and shoreline setback rules. And I guess Nancy may have a couple of SMXes to -- one, she has, which is -- oh, okay. So we have one SMX and that training.

And the next meeting on -- the following meeting on May 13th, we plan on bringing in the Long Range Division to talk about the community plan update; and Francis Cerizo to talk about the flood hazard district, and FEMA maps, and whatever.

Ms. Buchanan: At the next meeting, Long Range coming? May 15th, 13th?

Mr. Yoshida: So I would -- you know, because this summer we're gonna be -- I think the three major public hearings we have probably are gonna be the Molokai Veterans Center change in zoning, the Molokai Federal Credit Union SMA major, and the Kawela Bridge Replacement SMA. So that's what we have to report. If there's -- oh, I guess there's a carryover item on the Molokai Veterans Center and I guess the status of the French Dwelling. That's all we have, Mr. Chair.

Mr. Kalipi: Okay, any comments or questions for Clayton? Commissioner Buchanan?

Ms. Buchanan: I was wondering is Clayton was alluding to the fact that we might need more time. It seems like it's too much stuff. We looking at you, Nancy. We barely -- we just barely rushed through today's one without even getting to the stuff that was -- I knew this agenda was too long today.

Ms. McPherson: I think the Commission is already operating very efficiently. And I think if you continue to do so, and focus on the matter at hand that we can get through some heavy lifting in the next few meetings, and hopefully, get caught up on a lot of stuff, get everyone trained and oriented, and get going on some of these big public hearing items too. I have faith in you all.

Mr. Kalipi: Thank you, Nancy. Okay, I'm gonna turn the floor over to Corp. Counsel Michael Hopper. He's gonna have comments.

Mr. Hopper: I'll give a full orientation at the next meeting. Just a couple critical things for the new Members and just to refresh. You're gonna be involved in land use decision-making. And because of that, the applicants have due process rights when they come up to you, which means they expect unbiased decisions from you guys. What you have to avoid doing is forming opinions on projects either for or against them before that application comes to you. It's one reason why I would not recommend having continuous projects come before you that are not fully ready for you as we're continuing to do here. But as a more important point, while you are outside of these meetings, avoid making statements for or against any particular project prior to that project coming to you as a project. Otherwise, you might have to recuse yourself in voting for that project. You won't be able to vote for it. As Commissioners, you may be approached, newspapers, or other people asking your opinions on things. And if a project hasn't come before you, hasn't been

formally presented to you, please try to avoid making any statements or forming an opinion until you've got all of that information in front of you.

And also the other thing just for the Sunshine Law, which is the State law that applies to you, it requires that no more than two Members can discuss any Board business outside of a meeting. So you can discuss it with one other Member, but more than two Members cannot get together and discuss Board business. Board business is something that's on an agenda, or that we're almost certain will become on a future agenda: someone needs an SMA permit or certain other permits. This also means the Office of Information Practices has determines this means attendance at meetings as well if they deal with Board business. So if you've got more than two Members of the Commission at a meeting dealing with an issue that's Board business, the OIP considers that to be a Sunshine Law violation potentially, even simply being at the meeting, which is a pretty restrictive reading, but they've advised the County Council of that, in fact. So I wanted to get those on the record because those issues could come up prior to the next meeting especially for the new Commissioners. The orientation's a lot longer, but those are the key points I wanted to touch today.

Mr. Kalipi: Thank you, Corp. Counsel. And again, he's gonna go over it more in detail during the orientation. And one more thing from Corp. Counsel.

Mr. Hopper: Also, if you haven't already, please submit those financial disclosure forms. Those are critical. Because of some issues earlier this year, that's gonna be something the Departments look at a lot more closely, and might send out warning letters if you don't send those within a certain period of time, and may actually take action against you if they're filed late because of previous issues. So just make sure that those are filed.

Ms. Buchanan: Suzie, check if I went send mine in. I cannot remember.

Mr. Hopper: Do you know when the due date is for those forms? I don't know. Maybe Clayton can advise us.

Ms. Buchanan: Supposed to be January of every year.

Mr. Hopper: Do we know that right now? I just don't know that offhand. Okay, that's a very important date, and hopefully, it should've been in your packets. I will find out and let you know, because there's certain other issues the Board of Ethics will be looking at this very closely, and could actually look to take enforcement against people if they file late so --

Mr. Kalipi: Okay, thank you again, Corp. Counsel. Okay, we're gonna call this meeting adjourned. Mahalo.

G. NEXT REGULAR MEETING DATE: March 25, 2009 (Wednesday)

Mr. Chaikin: So our next meeting is gonna be March 25th 2009 at 12:00 noon here at the Mitchell Pauole Center. Thank you all for your attendance. Thank the Commissioners for your continued commitment. And at this time, this meeting of the Molokai Planning Commission is now adjourned.

L. ADJOURNMENT

There being no further business brought before the Commission, the meeting adjourned at 4:41 p.m.

Submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards and Commissions

RECORD OF ATTENDANCE

Present

Joseph Kalipi, Chairperson
Steve Chaikin, Vice-Chairperson
Mikiala Pescaia
Don Williams
Lori Buchanan
Teri Waros
Napua Leong
John Sprinzel

Others

Clayton Yoshida, Planning Program Administrator
Nancy McPherson, Staff Planner, Molokai
Michael Hopper, Deputy Corporation Counsel