



*KŪKULU KE EA A KANALOA*

## **KAHO‘OLAWE ISLAND RESERVE COMMISSION**

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### COMMISSION MEMBERS

MICHELE MCLEAN  
*Chairperson*  
AMBER NĀMAKA WHITEHEAD  
*Vice-Chair*  
WILLIAM J. AILA, Jr.  
N. EMMETT ALULI, M.D.  
C. KALIKO BAKER, PhD.  
HŌKŪLANI HOLT  
COLETTE Y. MACHADO

Michael K. Nāho‘opi‘i  
*Executive Director*

### **PUBLIC MEETING MINUTES**

**Wednesday, December 11, 2013**

9:00 am

Kalanimoku Building  
151 Punchbowl St, Room 322B  
Honolulu, Hawaii

#### **COMMISSIONERS MEMBERS**

**PRESENT:** Michele McLean, Chairperson; A. Nāmaka Whitehead, Vice Chair;  
William Aila, Jr.; N. Emmett Aluli, M.D.; Hōkūlani Holt

**EXCUSED:** C. Kaliko Baker, PhD.; Colette Y. Machado

**KIRC STAFF:** Michael Nāho,,opi,,i, Executive Director (ED); Ka,,ōnohi Lee,  
Administrative Officer (AO); Rowena Somerville, Deputy Attorney  
General (DAG); Terri Gavagan, Commissioner Coordinator (CC)

**GUESTS:** Eric Brundage (Zapata, Inc.); Josh Kaakua (OHA); Kylee Mar (PKO);  
Dan Purcell

#### **I. CALL TO ORDER**

The meeting was called to order at 10:15 am. A quorum of five Commissioners was established.

#### **II. INTRODUCTION AND WELCOME OF COMMISSIONER HŌKŪLANI HOLT**

Chair McLean welcomed the newest Commissioner, Hōkūlani Holt. She invited Commissioner Holt to say a few words. Commissioner Holt commented she is really looking forward to being on the Commission and seeing what can be done together at this juncture of Kaho,,olawe's history.

#### **III. APPROVAL OF MINUTES**

##### **A. Minutes of May 3, 2013 Regular Commission Meeting**

Vice Chair Whitehead noted one error on page 18 in the last full paragraph. She requested it be clarified that Commissioner Machado requested OHA staff Jonathan Ching be her replacement on the Commission after the expiration of her term.

Commissioner Aluli was pleased with the thoroughness of the minutes.

*Approved 4/15/14*

**MOTION:** Commissioner Aluli moved to approve the public meeting minutes of May 3, 2013 as corrected, the executive session minutes of May 3, 2013 and the minutes of June 12, 2013. Vice Chair Whitehead seconded the motion.

**ACTION:** The motion was approved by all Commissioners present.

#### IV. COMMUNITY AND PUBLIC COMMENTS

None were made.

Commissioner Aluli commented Mr. Kaakua needed to leave at 11:30 am and requested **Item V.C. Request KIRC Support for "Kaho'olawe: 2026" a Strategic Plan for Kaho'olawe** be moved before **Item V. B. Preliminary Discussion for 2014 Legislative Session.**

#### V. ACTION ITEMS

##### A. Review and Approve a Research Access Request from Texas Tech University, Department of Environmental Toxicology to Collect Soil Samples from Kahoolawe to Test for Metals and Perchlorate

A research request came through Commissioner Baker from Dr. David Klein to conduct chemical analysis on Kaho,olawe soil to see if chemicals from unexploded ordnance have leached into the soil. Similar testing was conducted in the 1980s during the cleanup. No heavy metals or inorganic chemical compounds were found. Dr. Klein has new test protocols and would like to see if chemical residues from unexploded ordnance can be found. A series of grab samples would be collected; he has also suggested staff can collect the samples. The request is to collect and remove samples from the island for the purpose of chemical testing for explosive chemical residue.

Staff would require that Dr. Klein be given a safety brief and orientation before his access. Appropriate EOD staff would also have to accompany him.

Vice Chair Whitehead asked if staff or Dr. Klein would be collecting the samples. ED Nāho,,opi,,i responded that has not been worked out. He would like Dr. Klein to collect them so he could see the dirt, the environmental conditions and develop an appreciation for the level of existing unexploded ordnance.

The Commission wanted to know how this would help in the Restoration Program and what it would mean to the Commission if residue were found. ED Nāho,,opi,,i replied it would depend on the chemical. If the chemical is regulated, hazardous and above a threshold limit, it could trigger Navy response to return and take care of it. In the long term agreement, the Navy is to respond to things discovered by the KIRC if the area was previously cleared. The Navy's position is that chemical and biological weapons were never used on the island.

Commissioner Aila asked if open burn or open denotation was used. ED Nāho,,opi,,i confirmed that there was and those pits were tested. Commissioner Aila asked if Dr. Klein was going to speciate the organic versus the inorganic. ED Nāho,,opi,,i was

unsure. Commissioner Aila recommended asking if he can change what he is going to test for and have him speciate organic and inorganic. The impact to living organisms is a factor to consider.

Chair McLean asked about Dr Klein's interest in doing this analysis. ED Nāho,opi,j responded he has an interest in looking at chemical residue from all training areas in Hawai,,i. It has been at least 10 years since the clean up so chemicals could have leached out.

Vice Chair Whitehead asked what the costs are to the KIRC for this type of research access. ED Nāho,opi,j responded Dr. Klein will pay the normal access fee for his stay on island. There will not be much staff cost except for the escort.

Commissioner Aluli asked if all soil samples will be returned. ED Nāho,opi,j responded the unused portion will be returned. Chair McLean commented testing should be done in areas where there are work sites or access areas in case there is anything the KIRC should remediate or be cautious about. ED Nāho,opi,j added staff will suggest samples be taken in areas where food crops are or will be planted.

Mr. Brundage commented there are different methods of soil sampling. It sounds like Dr. Klein is conducting multi-incremental sampling. A lot of small samples are taken from different areas and are homogenized into one sample. This will not indicate which areas are hot. If a hundred individual samples are processed separately then certain areas can be determined to be hot or not.

Commissioner Aluli noted that this type of research is becoming established. He felt if the KIRC gets more into the field it could mean supplemental income in the future. He felt the Commission should encourage the Reserve as a place to validate scientific studies. ED Nāho,opi,j added this research would add to the knowledge of the island. It will also expand the knowledge of how to manage it.

Vice Chair Whitehead noted the KIRC is still not charging researchers the real cost of their access to the island. If the Commission is looking to expand in this direction in the future, staff may want to find out the true cost of research access.

**MOTION:** Commissioner Aluli moved to approve the Right of Entry Request for Dr. David Klein to collect and remove soil samples from the Kaho,olawe Island Reserve for the purpose of testing for explosive chemical residue with the following stipulations:

1. The KIRC will provide a pre-visit safety and orientation briefing that will be attended by all personnel entering the Reserve.
2. A KIRC designated escort will be required at all soil sampling.

Vice Chair Whitehead seconded the motion.

**ACTION:** The action was approved by all Commissioners present.

**B. Request KIRC support for "Kaho'olawe: 2026" a Strategic Plan for Kaho'olawe**  
**1. Report from the Strategic Planning Working Group**

ED Nāho,opi,i expressed gratitude for Mr. Stanton Enomoto's assistance in organizing and spearheading the Strategic Planning Working Group (SPWG). Commissioner Aluli explained Mr. Enomoto could not attend today's meeting because he is attending a global warming conference in Puerto Rico. ED Nāho,opi,i provided some background. In June 2013, a planning process was initiated which involved developing and consolidating a plan for the island which is independent of the individuals that will be executing the plan. A series of meetings for information gathering has been held. There were 14 meetings on six islands. The planning update distributed to the Commission lists the dates and the number of participants. Two meetings are not included in the planning update. They were student-driven focus groups.

The facilitators solicited input from the participants asking what people will see in 2026 on Kaho,olawe. Phase 1 consists of collecting information and synthesizing it. These major thematic areas will form the goal of the Strategic Plan. This phase should be accomplished by this winter.

Phase 2 consists of going back to the public with those themes in the spring and summer. Facilitators will request public input on major projects and priorities to create objectives for the plan. Some examples are the completion of alternative energy conversion for Base Camp; replanting the entire hard pan; and development of the Kihei site.

ED Nāho,opi,i reviewed the synthesis of input received so far:

- 1) General Attitudes and Perceptions of Kaho,olawe:
  - a unique place
  - a place which is difficult to name or identify (the Working Group is still working on coming up with an appropriate name)
  - a destination-a place to go for a particular set of activities
  - access to the island is for a purpose
  - some consideration for permanent presence or residency but not on a large scale
  - keep island noncommercial
- 2) Preferences for Future Activities
  - stewardship and on-island sustainability (food security; mālama cultural sites)
  - religious center to honor Hawaiian nature gods, host spiritual Hawaiian leaders
  - general public access for healing, restoration, rehabilitation, spiritual growth, cultural purpose
  - education
- 3) Physical Infrastructure activities
  - small scale development
  - environmental restoration
  - re-use of on-island materials for human consumption
- 4) Mechanisms for implementing these Activities

- looked at potential funders
  - mechanisms
  - non-monetary resources
  - conditions (no commercial activities; preservation of "sanctity" of island)
- 5) Relationship of Kaho,olawe with the Native Hawaiian Governing Entity  
The Native Hawaiian Governing Entity could be established within this twelve year period. This would trigger the transfer contingency within the KIRC's statutes.
- acknowledgement this is a difficult issue
  - goals of Kaho,olawe must remain unchanged
  - is part of the sovereign land base

Vice Chair Whitehead clarified three broad themes that synthesized the input from all the focus group meetings: healing the island, connection to the source and the infrastructure.

The SPWG is now working on taking those themes and creating language that will be used in the plan.

ED Nāho,opi,i explained that the appendices distributed to the Commissioners contained the results from all the focus group meetings.

Commissioner Aluli stated this is first time that the KIRC and the „Ohana have really come together since the focus is on the island and not on individual agendas. The island is trying to tell us how to plan for it. One challenge is how to keep the plan Hawaiian; how to re-brand what has happened in the past and today it in a very different way. It is very nice to have the older groups come together as well as older individuals being welcomed back.

Vice Chair Whitehead stated the Working Group is requesting a statement of support and to see if the Commission thinks the SPWG needs to correct its course. She feels the SPWG is working very well. It has been very challenging at times to get things done in a timely manner since everyone is volunteering their time. The SPWG is a little behind schedule. She strongly encouraged the Commission to go through the notes. It has been a bit of a challenge try to wrap their heads around the vastness of the mana,o obtained through the focus group meetings. She also noted the Aha Moku was asked to participate based on the Commission's recommendations. They did participate for a time but a few months ago they decided participation was too much of a time commitment and would regroup with the SPWG at a later time. The core group has been: KIRC staff, „Ohana members, Vice Chair Whitehead and Commissioner Aluli (as KIRC Commissioners), Jonathan Ching from OHA and Stanton Enomoto.

ED Nāho,opi,i explained the focus groups were different, depending on who was hosting them. The meetings on Maui and Lana,i were run by KIRC staff. Some

were held by PKO such as the student driven meetings. He asked Ms. Mar to provide an update on those meetings.

Ms. Mar explained she was asked by the SPWG to get input from students. Two meetings were held on O,āhu during the Thanksgiving weekend. Host schools had teachers who were involved in Mālama Kaho,ōlawe, the curriculum created a few years ago. These teachers volunteered their time and facilities. She worked with the KIRC staff in generating a list of contact information for the O,āhu schools which have been to island within the last three years as well as those on the PKO mailing list. Information was sent out to both lists. The basic theme was: “what's your story”? This was to take a look at the millennial generation and how they communicate. There were students who had never been before to island and those who have been several times in high school and in college.

The first focus group was at UH Lab and it received unexpected news coverage from KITV. The methodology was based on four methodologies: futuristic, Kaho,ōlawe Cultural Use Plan, design thinking and building beloved communities. A ten-week student training project was consolidated into four hours. The students told their stories of Kaho,ōlawe and simmered it down to what were some of the needs that they heard from their partners as well as the feelings and emotions behind those needs. There is a lot of good information in the synthesis report which is still being compiled. After it is submitted to the SPWG prototypes of certain ideas will be developed and discussed in the spring.

The biggest thing that came out of the process was:

- 1) students do not want technology in their Kaho,ōlawe experience
- 2) they are interested in the careers involving the restoration of Kaho,ōlawe

They will meet again. Hopefully a group can be sent to Kaho,ōlawe to test some prototypes.

Chair McLean asked for the total number of participants. Ms. Mar replied there were around eight at the Mililani High school meeting. They ranged from high school juniors to college students. There were approximately 12 at the UH Lab School meeting. Vice Chair Whitehead asked how many schools were represented. Ms. Mar replied most participants were from the host schools - UH Lab, Mililani and UH Manoa. It could be expanded to include other schools.

Mr. Kaaua (OHA) explained he was here for three reasons:

- 1) to show support for the SPWG; he thinks it works well
- 2) wants to be a resource
- 3) take feedback from the community

The SPWG is still working on main themes, putting them into multiple levels and figuring out which people or organizations are best suited for specific tasks. The

update is the SPWG's draft working document which will hopefully be finalized prior to the legislative session.

Commissioner Aluli noted there is a need to find money to write up a business plan for a new funding base where everyone contributes. Mr. Kaaua added there have been creative ideas from focus groups regarding philanthropic group plans. Commissioner Aluli liked the idea of adopting a lele, etc.

Commissioner Aila stated the work is good but at some point the planning needs to stop. The input of people who have worked on the island or on this project must have higher value. It is not everybody's responsibility.

Mr. Kaaua noted some participants did want to defer these decisions to those who have been on island, but they did appreciate being asked.

Commissioner Holt commented that she had read all the notes and found them very interesting. She was good with it.

Chair McLean thanked everyone and was encouraged by all the themes. She skimmed through all the notes but did not get the chance to read them all. She requested a session for staff be held including Zapata because they have a large amount of respect for the Reserve. She also requested to have the legislators participate in a session. She thought the update is a great foundation for a document. She noted it seems that the role of the Reserve was narrowed to a cultural reserve according to the notes. She was concerned initially but was glad to see discussions were open. If the main theme becomes that the Reserve develops into a cultural reserve that is fine but let the discussions be open and let it be one of the outcomes of the next phase. She added that there is another \$25,000 grant in the proposed county budget for the next fiscal year which could be used for strategic planning. She would like help from other partnerships but that may not be practical. In her opinion there is nothing wrong with the KIRC providing funding for planning even though the plan is for Kaho,olawe. This can be discussed at a later time.

She did think at some point the KIRC should vote to adopt the plan for two reasons: 1) not every component in the plan will apply to the KIRC but for those that do she thought having the plan's final endorsement is important, and 2) otherwise, the KIRC will not have a strategic plan. A discussion is still needed about this. She stated at a previous meeting that she wanted to have more inclusion in the process. The process seems to be open but she did not want to lose credibility. The Commission will need to be prepared to respond to questions about the openness of the process.

Commissioner Holt stated believed it was the „Ohana“'s view that anyone who has gone to Kaho,olawe can be a member of the „Ohana. Therefore it is not so important whether the SPWG is primarily made of „Ohana members or Hawaiians

who have a stake in Kaho,,olawe. Perhaps that is another way to allay some feeling that it is only ,,Ohana people that are having input. There is no PKO ID card. It is people who have feelings for Kaho,,olawe who are having input. If they self-identify as ,,Ohana members that is fine but if they self-identify as Hawaiian and as being from Moloka,,i, Maui, O,,ahu, etc. that is fine as well. She did not know if the need to highlight people as ,,Ohana members at the focus groups is as important as identifying people who continue to have an internal need to help Kaho,,olawe. It is important to let the public know that people from Kona, Moloka,,i, Maui, O,,ahu, etc. want this to happen.

Commissioner Aluli noted there are assumptions such as that the KIRC will always be there; that the cleanup was for cultural use. Perhaps there should be a rebranding of cultural values. He thanked OHA for the use of their telephone conferencing services during the strategic planning process.

The SPWG will keep Commission better informed about their progress.

DAG Somerville asked for the definition of wahi kapu. Vice Chair Whitehead explained that it is a sacred place as opposed to wahi pana which is a storied place. It came from the desire to acknowledge the whole island as sacred. This was suggested in Hilo because participants did not like the use of the term cultural reserve or pu"uhonua. Commissioner Aluli noted one of the underlying themes from the focus groups is the rehabilitation of the self and family. Kaho,,olawe could serve as a place of the reintroduction of prisoners into society before returning to their family.

**MOTION:** Vice Chair Whitehead moved to accept the report and offer support for the continued work of the Strategic Planning Working Group. Commissioner Holt seconded the motion.

**ACTION:** Motion was approved by all Commissioners present.

### **C. Preliminary Discussion for 2014 Legislative Session**

#### **1. Report from Legislative Working Group**

Chair McLean reported she and Commissioner Aluli conferred with DAG Somerville as members of the Legislative Working Group (LWG) about limited interactions under Chapter 92 in the Sunshine Law. The LWG was able to meet with DLNR Chair Aila, OHA Chair Machado as heads of their department along with OHA CEO Kamana,,opono Crabbe regarding legislative issues and strategy. There was discussion and consensus that pursuing conveyance tax through the Legislature rather than through the administration would be a positive strategy for the Commission.

Commissioner Aluli added that the LWG was looking at bridge funding and preparing for the next legislative session. The idea is to work with Maui

legislators. It is important for him that there is a new venue of support with the Maui legislators. It will be difficult to obtain funding this year.

Chair McLean stated all three groups-DLNR, OHA and the KIRC are really standing well together right now. The best chance to achieve our goals is to demonstrate we support each other. Chair Machado did pledge the support of OHA staff when it comes to tracking things at the legislature; contacting the legislators and following through. This will be a huge help because OHA has a network the KIRC does not. The issues which have come up in the past will hopefully stay in the past. We can move forward by showing the work which has been done on Strategic Planning so far and keep it all positive this session.

Commissioner Aluli asked Commissioner Aila if DLNR's legislative package was already in and if it included the Conveyance Tax proposal. Commissioner Aila responded that the DLNR budget was already submitted; the Conveyance Tax proposal was not included.

Chair McLean stated she followed up with Senator J. Kalani English who is willing to introduce the Conveyance Tax bill pending Commission approval.

## **2. Proposed 2014 Legislative Issues**

ED Nāho,opi,,i reviewed three topics:

1) Support the development of a permanent funding source for KIRC operations: Staff would like to reintroduce the Conveyance Tax proposal through the Maui legislators. The Conveyance Tax has amounted to over \$50 million a year and is expected to remain the same over the couple of years. The Bureau of Conveyances suggests using \$36 million per year for planning purposes. The request would be for 10% of the Conveyance Tax which would include a \$3.5 million per year cap. There would also be a sunset date of 2026 to demonstrate it is bridge funding. Hopefully by the end of the Strategic Planning period there will be other funding.

Commissioner Auli suggested this would allow the nation some time to obtain funding. Chair McLean clarified the draft bill actually says the end date is 2026 or upon the recognition [of the sovereign Native Hawaiian entity] whichever occurs sooner.

2) Support CIP funding for sustainable infrastructure and operations: The funding would go to converting the power grid on island from diesel to an alternative energy source, most likely photovoltaic. A small 2 kW photovoltaic system has been completed on island which is powering the volunteer hut. The funding came from the County of Maui Mayor's office. A report is being generated. Plans are being made for the Mayor to go out for the day to inspect the new system.

In 2008 a power plan was generated by Parsons. There is also an engineering technical document by Zapata. The KIRC may want to think smaller or doing it incrementally. Zapata estimates it would cost approximately \$2 million for a total conversion to PV. Staff will need to think about whether to ask for the entire thing at once or incrementally.

Additionally, the funding would be used for energy conservation modifications to Base Camp such as was done to Hut 11. It was re-roofed, the air conditioners were removed and ventilation increased as well as modification of the ceiling and floorboards. The large energy consumers would be examined such as the refrigeration systems in the galley and converting them to energy star equipment. The RO system might also be replaced.

Future changes might be electric vehicles which would utilize portable charging stations which would be set up on the island. Staff would like to reduce the amount of gasoline on the island.

3) Support asset forfeiture as a KIRC enforcement tool:

This bill crossed over from the Senate to the House and made it to the Finance Committee. Staff thinks it can pass this session. Last session there were a lot of supporters who kept strengthening the bill. It was rewritten too many times. Staff hopes it can get reintroduced at the start of the session. A concession had to be offered last session. A one mile buffer would be established; asset forfeiture would start one mile from shore. This would give a one mile buffer for vessels that inadvertently drift into the Reserve. They would still be trespassing and subject to criminal offense. However, asset forfeiture proceedings would not begin unless the vessel is within one mile of the Reserve. This was to garner the support of the Ocean Tourism Coalition.

DAG Somerville noted DOCARE used to provide her with reports of violations. She has not received any for quite some time. ED Nāho,,opi,,i requested an update from staff. There has been only one violation in the last year. AO Lee explained DOCARE has not processed violators because there is a glitch in the administrative rules which is on today's agenda. Boats have been seen in Reserve waters particularly on the weekends. The Commission wanted to know if this is because people know the KIRC's schedule and avoids staff, and if there are more vessels registered to do permitted trolling than in the past. Staff responded there has been a slight increase in registrations. Boaters just know when and where to go.

ED Nāho,,opi,,i noted there were summaries of last year's legislation in the Commission packets.

Commissioner Aluli asked if Molokini will come up again. A discussion about Molokini was held. Chair McLean stated she thought Senator English introduced the bill to attach Molokini into the Reserve because it would allow the Molokini

user fees to go to KIRC. This would have combined them together. This would absolve the Legislature of setting the fees; it would be the KIRC setting the fees. She did not know if Senator English felt strongly about Molokini becoming part of the Reserve as a way of allowing the KIRC to generate revenue.

Commissioner Aluli asked Commissioner Aila for his opinion. He responded the Commission needs to decide about commercial use.

Commissioner Aluli commented he thought the Honua,ula families were initiating this connection between Maui where their pikos have been taken over to Kaho,olawe. This was where he thought Uncle Les was coming from. ED Nāho,opi,i pointed out this was prior to the Aha Moku being established. If there is a push to put Molokini into the Reserve staff stated the recommendation should be to establish a separate reserve with a separate set of rules for Molokini. Commissioner Aila commented that would be away to avoid the question of commercialization about Kaho,olawe.

Commissioner Aluli suggested the Kīhei site would be a perfect bridge to the Molokini Reserve and to Kaho,olawe. ED Nāho,opi,i responded staff wants to move forward on the Kīhei project but a funding source for the island first is needed. Then the Kīhei property can be integrated with Molokini and Kaho,olawe in the future. Commissioner Aluli felt it should happen now because Molokini would have stable monies.

Mr. Brundage asked if Molokini would be transferred to the Hawaiian sovereign entity. The Commission stated it would depend on how the law is written.

Chair McLean asked the Commission if that was something they wanted to go for this session. The Commission did not feel they were ready. Perhaps this issue will surface again during strategic planning.

ED Nāho,opi,i asked if the Commission has a position regarding Molokini if it does come up. The Commission is not ready to take a position on it this session because more open discussion is needed. ED Nāho,opi,i asked if legislation is proposed would the KIRC want to participate in the drafting of it. DAG Somerville cautioned it would be premature to get into drafting legislation since the Commission wanted to gather public input first and make it part of the strategic plan. Chair McLean added the Commission would need to work with the tour boat operators. DAG Somerville noted the KIRC would also have to have funds to manage Molokini.

Chair McLean asked if the bills listed in the summary were carryovers. Staff responded asset forfeiture bill was still alive and is at Finance. The Senate bill crossed over to the House. Commissioner Aluli asked why it did not come out of Finance. ED Nāho,opi,i explained by the time bill was edited Finance was inundated. It was a choice between asset forfeiture and the procurement

exemption. Procurement exemption passed. Chair McLean suggested trying to get Finance to hear it early. Staff responded they have already spoken to Finance staff. Vice Chair Whitehead thought staff wanted to reintroduce a clean version of the bill. Staff clarified it is clean now. Staff stated the other bills from last year are dead.

The Commission agreed on the draft of the Conveyance Tax bill with the sunset clause.

Staff is trying to consolidate the CIP package. The big challenge will be estimating the requested amount. Staff will be consulting DLNR Engineering since the projects will be run through it. Staff will ask Senator English and Representative Carroll to introduce it. The last CIP project has been completed. The KIRC has shown it can manage a CIP project.

Commissioner Aluli asked if the question of who represents Kaho,olawe been cleared up. ED Nāho,,opi,,i responded Senator English's district includes Kaho,olawe and Representative Carroll also represents Kaho,olawe and Molokini.

Vice Chair Whitehead asked if the KIRC will also be including photovoltaic for Hakioawa in the CIP request. ED Nāho,,opi,,i stated it can be included.

Chair McLean asked if the Hakioawa Hale project came in on budget. Staff responded there were no change orders. DLNR Engineering stated it was the fastest and most coordinated project they ever worked on. The project finished early and came in under budget.

ED Nāho,,opi,,i requested written feedback from DLNR Engineering. It could be included in the annual report and be used to demonstrate that the KIRC can handle CIP money properly.

Vice Chair Whitehead asked if the Commission should be considering any form of funding other than the Conveyance Tax given that the KIRC is almost out of funding. Staff responded the only alternative legislatively is the General Fund via a line item.

Commissioner Aila explained the Governor proposes a budget. The Legislature reviews it and changes it. The House of Representatives allots a certain amount of money for CIP, a certain amount for grants-in-aid, etc. They determine their priorities and write them in a line item. Grant-in-aid is a possibility for a specific project; someone will need to write a grant proposal. Commissioner Aluli asked the range of funding. Commissioner Aila stated it varies from \$50,000 to over \$1 million. He added the Legislature looks to see how much money is left. ED Nāho,,opi,,i stated the grant-in-aid request could be a back up plan depending on the status of the Conveyance Tax request. Chair McLean asked if the Conveyance

Tax proposal goes through the same committee as the grants-in-aid.  
Commissioner Aila replied they follow separate processes.

Commissioner Aila did not think grants-in-aid go through WAM. Money is set aside and then a decision is made on how to allocate it. Sometimes the department does not know about grants-in-aid until an applicant contacts them about the award.

Staff will check on the grants-in aid process and whether the KIRC could qualify for grant-in-aid.

**MOTION:** Commissioner Aluli moved KIRC's positions for the upcoming legislative session be:

- 1) if the Molokini bill comes up the Commission would like more time to discuss it; if it is pushed through, the Commission would like the opportunity to comment
- 2) support bringing out the asset forfeiture bill from last session
- 3) support the Conveyance Tax bill as drafted in the Commission packet
- 4) support the CIP measures listed in the memo with the addition of PV for Hakioawa
- 5) pursuing other funding options

Vice Chair Whitehead seconded the motion.

**Discussion:** ED Nāho,,opi,,i noted Conveyance Tax was the best relationship between the source of revenue and use of the revenue. Commissioner Aluli asked if Legacy Lands was comfortable with the KIRC pursuing funds from the same source. Commissioner Aila responded he did not think they would have any objections because it would not be coming out of their share. Commissioner Aluli asked if staff should check with them. Staff responded they have already spoken to them. They are supportive of what the KIRC is doing. Commissioner Aluli suggested staff encourage Legacy Lands to submit testimony regarding the Conveyance Tax proposal.

Vice Chair Whitehead suggested for future discussion an idea from one of the focus groups of some sort of landing fee for flights that came into Hawai,,i which would go to multiple purposes of which Kaho,,olawe could be one. Commissioner Aila commented that is not likely as all airport fees must be used in airport operations.

Commissioner Aluli stated there was discussion by OHA CEO Kamana,,o Crabbe about the availability of federal funds for the rehabilitation of Native Hawaiian inmates. This opens up a

potential funding source if the Commission is interested in rehabilitation. Chair Mc Lean asked if this issue has come up in any of the focus group sessions. Staff responded the utilization of inmates has come up.

ED Nāho,,opi,,i cautioned if the KIRC strays too far from its core mission for funding purposes it will dilute its focus and capabilities.

ED Nāho,,opi,,i also reported that Congresswoman Tulsi Gabbard's staff were presented with two federal funding requests from 2009. They read it and were very supportive of them. They are going to see what they could do with them. The two requests were for unexploded ordnance management which was to fund the UXO program and endangered species protection. Representative Gabbard's staff went to island on a pre-visit to try to figure out how to get her to island.

Vice Chair Whitehead stated she thought the Commission had delegated to the LWG the authority to make decisions that needed to be made quickly during the legislative session. Chair McLean stated the motion was for specific positions on specific issues. DAG Somerville stated it still stands.

Chair McLean noted one thing that was not included in the motion is if any bills come up regarding the transfer of the KIRC to OHA, DLNR or any other entity; the Commission can either not comment on it or it can establish a position at a future meeting. The Commission decided to support OHA's position against transfer. ED Nāho,,opi,,j would be able to convey this. He will send a draft of his testimony to the LWG for review if such a bill is scheduled for hearing.

**Amendment:** The Commission decided to amend the motion to include the Commission would support OHA's position with any transfer bill. Commissioner Aluli so moved.

Chair Whitehead asked if the Commission is really prepared to support OHA's position if it is to accept the transfer of KIRC to OHA, however unlikely. Commissioner Aluli commented he thought it would require amendments to existing legislation. It would require an entire process before it could happen.

Vice Chair Whitehead seconded to amend the motion.

There was no further discussion on the amendment.

**ACTION:** The amendment was approved by all Commissioners present.

There was no further discussion on the main motion with the amendment.

**ACTION:** The main motion with the amendment was approved by all Commissioners present.

Commissioner Aluli suggested the KIRC and OHA may want to be at the Legislature together and writing separate testimony. It would be a good idea to have the next generation learn the process.

ED Nāho,opi,i commented staff will be doing a civics lesson for the schools which attended the focus group meetings. Staff will be working with the teachers to teach students how bills are written and how they can participate in the process. The teachers will be creating a curriculum so students can follow the process of the Conveyance Tax bill.

Commissioner Aluli stated it is important that it also be reported in the KIRC newsletter so that the KIRC can eventually go to its constituents for support. Chair McLean added working with the „Ohana's mailing list, the volunteer mailing list as well as the strategic planning focus groups' participant mailing list would be important. Staff could draft a sample support letter.

**D. Authorize Executive Director to Begin the Process of Administrative Rule Changes to HAR§13-261**

ED Nāho,opi,i asked for authorization to begin drafting amendments to Hawaii Administrative Rules Chapter 13-261. No motion is needed to start drafting; this is informational. There are no drafts prepared yet. Chair McLean asked if the draft is just going to amend a typographical error. ED Nāho,opi,i responded staff would like to look at the administrative rules in their entirety since the correction of the numbers has to be done through rule making.

ED Nāho,opi,i provided background for the motion. The KIRC administrative rules were first adopted in 2002. There have been no changes since then. The Maui County Prosecutor's office and DOCARE have brought to staff's attention a typographical error in the published administrative rules. There are two sections 2s which were listed in the memo. They are unable to cite or prosecute as it is unclear which part of the rules is being cited. It is the staff's understanding that the error was made before it was signed. Therefore it was signed with the error in it, so the KIRC must go through the rule making process to correct it. Staff would also look to see if any rules need to be tightened, revised or clarified. Staff will look at the rules and make any necessary proposals.

DAG Somerville added that in 13-261-10(c) there is also a typographical error- instead of 13-361 it should read 13-261.

Commissioner Aluli stated he thought staff should confer with Dr. McGregor to see if the PKO has any other insights. He suggested staff read the legislative history behind these rules.

Commissioner Aila also suggested the draft be sent to the Maui County Prosecutor's office and DOCARE for review.

Commissioner Auli asked that the Commission be kept in the loop.

Chair McLean asked for clarification of the rule making process. Staff explained the Commission would need to approve the proposed changes before submitting it to the public. DAG Somerville will double check the process.

Chair McLean was concerned it might take a fair amount of time to look at all the rules. Perhaps only the clean up should be done now. DAG Somerville stated the permitted trolling should be done at the same time as the corrections since it is already being done. Chair McLean stated the permitted trolling could be done at the same time as the corrections if it will not take too long. DAG Somerville was confident it could be done.

Staff is to have draft for Commission approval at the next meeting then go out for public hearing. The findings of the hearings will need to be incorporated into the proposed changes. Then staff will bring it back to the Commission for adoption. It may take six months.

**MOTION:** Vice Chair Whitehead moved to authorize the Executive Director to begin drafting amendments to Hawaii Administrative Rules Chapter §13-261. Commissioner Aluli seconded the motion.

**ACTION:** The motion was approved by all Commissioners present.

Commissioner Aila was excused at 11:45 am.

**E. Review and Approve Proposed CY 2014 Access Dates for the Protect Kaho'olawe 'Ohana**

**F. Review and Approve Proposed CY 2014 Activities for the Protect Kaho'olawe 'Ohana**

Both items are covered in the memo with the subject Request by the Protect Kaho'olawe 'Ohana to approve access dates and activities for 2014.

ED Nāho'opi'i provided background. The following terminology is used by the KIRC and PKO for activity classification:

- 1) Authorized Activities-Activities permitted within the Reserve as specified in HRS 6-K
- 2) Stewardship Agreement Authorized Activities-Activities approved in the Stewardship Agreement Section 2
- 3) KIRC Approved and Authorized Activities-Activities that have been formally approved by Commission decision as meeting the criteria of Section 8 of the Stewardship Agreement

DAG Somerville advised the Commission go into executive session. It was not anticipated on the agenda so therefore two-thirds of the Commissioners were required to vote to convene into Executive Session to consult with their attorney.

**MOTION:** At 12:55 pm Vice Chair Whitehead moved the Commission enter into Executive Session to consult with its attorney. Commissioner Aluli seconded the motion.

**ACTION:** The motion was approved by all Commissioners present.

At 1:05 pm the Commission rose to report out of Executive Session. The Commission had discussion with its attorney and no votes were taken.

ED Nāho,,opi,,i reviewed KIRC Approved and Authorized Activities listed in Table 1 in the memo. Section 9 of the Stewardship Agreement specifies that access dates from February to January of each year shall be submitted each year in December. The PKO shall submit a report of activities, access participants and closing reports prior to the annual review in December. Staff normally receives a post access report that details what was done. Staff has asked the ,,Ohana to provide a year end report which explains how activities were done which is normally not covered in the post access reports. The year end reports should contain information about accomplishments. Examples include the Alaloa (the KIRC staff is creating maps), vegetation (staff would like to know the number of plants planted, survival rates, problems incurred), trail stabilization, helicopter pad landing, hale building, etc. A meeting on December 19 is planned. A report is currently being worked on.

Staff recommended approval for all dates and activities requested for 2014 with the exception of the Makahiki ceremonies occurring in November and February and the Ka,,apuni portion of the July access as KIRC approved and authorized activities. The Ka,,apuni portion would be authorized not KIRC approved. Once participants come on land they will integrate with the restoration activities.

Vice Chair Whitehead asked if it was necessary to include weather and other mitigating factors into the motion. DAG Somerville advised those conditions should be put into the motion.

Chair McLean asked for clarification of the December date on page 3 of the memo. Staff clarified it should read December 1, 2013. The dates were confusing to her

because the Commission approved dates for calendar year 2013 in the December 2012 meeting. The closing date for Mahahiki for 2015 was listed but the closing date for Mahahiki for 2014 should be in the memo. That is not highlighted in the memo on page three (February 28-March 9). Staff responded closing of Mahahiki 2014 was authorized by the Commission last year. Chair McLean was uncomfortable with approving access dates pending satisfactory acceptance of reports. One report for an entire year is insufficient. Ms. Mar responded the post huaka, reports are not in-depth. The PKO came up with a new matrix of activities and how to monitor them in 2012. PKO is currently pulling data together and is hoping to have draft by the Dec 19th meeting and to submit a report in January.

ED Nāho,opi, stated the motion could be changed to the approval of these dates are effective upon satisfactory staff acceptance of the report.

Chair McLean pointed out the motion is being made under the Stewardship Agreement which expires in 2014, the Commission should be approving only through April 2014 (the end of the agreement) especially if parts of it are going to change. DAG Somerville commented the PKO could come back in March or April. Commissioner Aluli commented the PKO is already planning, soliciting and fundraising for all the year's accesses. DAG Somerville stated the Commission can only approve within the term of the Stewardship Agreement. Commissioner Aluli asked if that means the PKO should put a hold on the other accesses. Staff stated the Commission could authorize the accesses beyond April 2014 but only approve activities up to April 2014 because accesses are separate from approval of activities. Chair McLean stated she does not want to mess up the accesses but she does want to be sure staff gets the report and she wants to make sure there does not have to be an emergency Commission meeting to approve the Stewardship Agreement. Perhaps it can be done in February. She was okay with approving the access dates through 2014 and including the closing of Makahiki in 2015, and the activities through April 2014.

There was a discussion about how the motion should be written. DAG Somerville stated that she preferred that the PKO come back before the Commission for approval of authorized activities.

There was a recess from 1:23 pm to 1:35 pm. while DAG Somerville and Vice Chair Whitehead authored a motion.

**MOTION:** Vice Chair Whitehead moved pursuant to HAR§13-261-13 and section 8 of the Palapala „Aelike Kahu,aina, approve the proposed access dates and activities for the duration of the Stewardship Agreement which will terminate in April 2014 as requested by the Protect Kaho„olawe „Ohana; pursuant to HAR§13-261-13 approve the proposed access dates as indicated in Table 2 of this memorandum; these dates can be modified by the Executive Director administratively; these accesses are contingent upon receipt of a

satisfactory end of year report by the PKO. Commissioner Aluli seconded the motion.

**ACTION:** The motion was approved by all Commissioners present.

## **VI. ADMINISTRATIVE BUSINESS**

### **A. Executive Directors Report**

ED Nāho,,opi,,i reviewed some highlights of the Executive Director's Report due to time constraints:

The biggest highlight is the grant funding staff has received:

- 1) Native Hawaiian Education Act which will fund the Hui Kāpehe Project in the amount of \$300,000; it will provide for interns within the five KIRC programs- Culture, Operations, Restoration, Ocean and Administration. The total amount of interns for one year is 60. Most of the money is for internship payments but some funding is for training.
- 2) NFWF (National Fish and Wildlife Foundation) Grant-Keystone Initiative-Faunal Restoration-\$131,000
- 3) NOAA-Coastal Debris Cleanup
- 4) Two Hawai,,i Tourism Authority grants for the Kīhei site; one is to begin the development of a cultural trail through the property and the other is to help start a culture garden and a hale. KIRC PIS McHugh has been doing a great job with getting the grants.

In the Hui Kāpehe program the interns will receive funding for school and for training. Commissioner Aluli asked how the interns are selected. The focus will be on Native Hawaiians since funding is from the Native Hawaiian Education Act. The application will be posted on-line at the KIRC website. The KIRC intends to partner with UH Maui College. Participants will have to be participating in a course of study which KIRC will supplement with field experience. Students have to apply and staff is still working on the selection process. Mr. Brundage will be compiling a course of instruction for when they came to the island about business management and logistics, as well as auto and heavy equipment repair. Administration will also provide experience in grant writing and archiving.

Commissioner Aluli asked about the Executive Order for the Kīhei property. Vice Chair Whitehead asked for staff to follow up. Staff has tried to contact the DLNR Maui Land office but has not received any response. Chair McLean will check into the land use entitlements for the site. Commissioner Aluli does not want to keep bringing it up if the regulations or staff do not support it. Staff commented that the use of the property for overnight stays is the issue. ED Nāho,,opi,,i stated it is not KIRC staff but there is a delay from other divisions. DAG Somerville stated she has made it known that the use has to be consistent with the Executive Order which is the AG's reservation. If it used for overnight stays DAGS is going to require insurance. Commissioner Aluli stated he understood but wondered if other opportunities should be examined.

KIRC is currently running under budget. It is projected to run 8% under by the end of the fiscal year. There is a list of interns who have been at the KIRC this year included in the Commission packet. One intern, Guiliana Johnson, passed away in a car accident in Makawao.

Commissioner Holt's term expires June 30, 2016. Commissioner Machado's term expired last term but she can continue as a hold over until the next legislative session. Either she needs to be reappointed or someone else needs to be appointed this session. ED Nāho,,opi,,i asked Commissioners to please notify staff about swearing in dates so the appropriate arrangements can be made as staff is not being notified by the Governor's Boards and Commissions office.

ED Nāho,,opi,,i has briefed the Commissioners via his monthly updates about Senate Water and Land Committee briefing for the legislative audit. The Water and Land Committee, chaired by Senator Solomon, wanted to know about the clean up, if it was completed and if the Commission was going to pursue future cleanup. They want the island to be more open; to have more groups to come to the island. They do not want just cultural accesses but all types of accesses. They would like the Commission to revisit HRS 6-K and expand the use of the Reserve to go beyond its current uses including limited commercial use. Chair McLean stated this was all the more reason to have them involved in a focus group session. Staff stated they were invited to the last one but it was in the middle of the special session.

DAG Somerville requested a change be made on page 3 of the Executive Director's Report under WAL Committee briefing on the Legislature Audit. In the last sentence of the first bullet it should read "The AG representative responded it would be up to the AG and the Governor to pursue that track."

Commissioner Aluli asked about the status of the film request. ED Nāho,,opi,,i responded Mr. Mike Gaffey had submitted a right of entry request to film a comedic drama originally entitled "Kaho,,olawe." This feature film is being co-produced by Q,,orianka Kilcher who played Ka,,julani and Pocahontas. Staff recommended Mr. Gaffey speak with Commissioner Baker because he has experience with filmmaking on the island. Mr. Gaffey has since decided to change the film title and the treatment of the film which no longer requires a visit to Kaho,,olawe. Commissioner Aluli stated he and Dr. McGregor invited Ms. Kilcher to Kaho,,olawe. She is one of the Sacred Lands narrators for the Peruvian episode. She was looking for input on the script. ED Nāho,,opi,,i added that Mr. Gaffey and Ms. Kilcher offered to do some public service announcements on behalf of the KIRC. Staff would like to take them up on that offer.

Two new staff have joined the KIRC-Ms. Anela Evans as Volunteer Coordinator and Ms. Kelly McHugh as Public Information Specialist.

The Commission packet also included the list of grants, expenditure report, contracts and long range planning schedule.

- Staff will begin to work on the budget for next year. Anticipated items include:
- overhaul of the microwave system (approx \$20,000)
  - PACHELO is no longer compliant; if they are not compliant in a month the contract will be terminated
  - the KIRC needs to closeout the Kober, Hanssen, Mitchell contract

## VII. PROGRAM STATUS UPDATES

ED Nāho,,opi,,i provided highlights of the Program Status Updates due to time constraints:

- 1) Restoration-two main grants are being worked on:
  - a) Department of Health-Clean Water Act grant which consists of planting on the slopes above Hakioawa; it is progressing very well; it consists of stone mounds with compost and soil in the middle; this is being done in Tier 1(surface-cleared only) areas. Vice Chair Whitehead asked where the stones are from. Staff responded there is a quarry down by Honokanai,a. They are loaded into trucks and transported to the worksite.
  - b) HCF grant-Honokanai,a coastal restoration; a lot of ,aki,aki grass is taking hold in the area down by the beach; staff plans to expand naupaka planting by the beach
- 2) Ocean Program: staff pointed out pictures of the large amount of roi caught by professional roi fishermen. Beach clean up projects are planned for spring break in Hakioawa. KIRC will be partnering with the PKO.  
Chair McLean asked where Pu,,u Tahiti is located. Staff responded it was the first beach from Kelaikahiki towards Base Camp. DAG Somerville asked where it came from. Staff was unsure. It is on Ms. Tsuha's list of names. A future project may be installing ocean buoys with remote sensing satellites in conjunction with the DOH III grant. Staff has been speaking with a UH professor who would like to place buoys within the Reserve. They would be put on the anchor block out in the bay. They could provide wave, height, current and wind data. This UH Professor is also involved with the ocean energy project and she is looking for remote places to conduct her study. It would be a good partnership since it would help supplement staff's data from the sediment tubes and staff's information could help supplement her study on ocean erosion.
- 3) Culture Program: Wattles are being established in the Pōkāneloa area. There is a major flow of water that comes down from the south side of the island and empties into the gulch by Pōkāneloa. A series of wattles of either geo textile or fabric wrapped logs has been established behind it. They are working. The stone is still there. Staff is hoping that at the next meeting Commissioner Baker will be in attendance so that they may ask for approval of the restoration plan for that area. Vice Chair Whitehead stated the Commission should schedule that meeting. She was surprised that the plan was already completed in October and the Commission is not discussing it at this meeting, knowing that this is a pertinent issue and that any large rainfall could result in Pōkāneloa falling. Staff explained Commissioner Baker asked to defer this item because he could not attend today's meeting. Vice Chair Whitehead asked if there had been any progress on moving it. Staff responded the primary focus has been on the restoration of the stone. A 3-D mapping has been completed. Vice Chair Whitehead

asked staff to review the approved motion regarding Pōkāneloa and to make sure Culture staff is aware of the timeline.

**VIII. ANNOUNCEMENTS/FYI**

There were no announcements from the Commissioners. The Commissioners decided to review the FYI materials on their own.

**IX. NEXT MEETING/FOLLOW UPS**

No decision was made on the date of the next Commission meeting. Staff is to follow-up on:

- 1) the Kīhei Executive Order
- 2) the grant-in-aid process
- 3) review of approved motion and timeline regarding Pōkāneloa

**X. ADJOURNMENT**

The meeting was adjourned at 2:30 pm.