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KŪKULU KE EA A KANALOA
KAHO'OLAWÉ ISLAND RESERVE COMMISSION

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MEETING MINUTES

Thursday, April 26, 2012

9:00 am

Department of Land and Natural Resources

Boardroom

1151 Punchbowl St, Room 130

Honolulu, Hawaii

COMMISSION MEMBERS

PRESENT: Michele McLean, Chairperson; A. Nāmaka Whitehead, Vice Chair; William Aila, Jr.; N. Emmett Aluli, M.D.; C. Kaliko Baker (arrived at 11:05 am); Ka,,iulani Murphy

EXCUSED: Colette Y. Machado

KIRC STAFF: Michael Nāho,,opi,,i, Executive Director (ED); Ka,,ōnohi Lee, Administrative Officer (AO); Rowena Somerville, Deputy Attorney General (DAG) (arrived at 9:50 am); Dean Tokishi, Ocean Resources Program Manager; Terri Gavagan, Commission Coordinator (CC)

GUESTS: Manuel Kuloloio; Stephen K. Morse (First Landing Film); Stanton Enomoto (PICC); Eric Brundage (Zapata, Inc.)

I. CALLED TO ORDER

Chair McLean called the meeting to order at 9:25 am. A quorum was established with 5 Commissioners.

The Commission decided to move **Item II. Approval of Minutes** after **Item V. Action Items** and to hear **Item IV. B. Review up to March 2012 Expenditure Reports** and **Item IV. C. Presentation of proposed FY2013 Budget** before **Item V. Action Items. Item IV.A. Executive Director's Report** and **Item VI. Program Status Updates** will be heard time permitting.

III. COMMUNITY AND PUBLIC COMMENTS

There were no public comments made regarding any agenda item.

IV. ADMINISTRATIVE BUSINESS

B. Review up to March 2012 Expenditure Reports

ED Nāho,,opi,,i reported KIRC is currently at 5% under budget; there was a variance in the Ocean non-personnel cost which would be discussed later in the meeting. The

budget is still expected to remain under 5% of the approved budget. Commissioner Aluli asked for more information regarding the budget variance report. ED Nāho,,opi,,i explained that staff reports any budget variances at the program level. The budget is broken down further into the projects of the various programs. The projects are further subdivided into labor, travel, materials and equipment and other direct costs.

Staff clarified that the heading “2nd Qtr FY10” on page 1 of the February and March ’12 Budget Report at the top of column 7 under “Fund Development” should be “2nd Qtr FY12.”

Commissioner Aluli asked Commissioner Aila if this was close to how DLNR reports its expenditures. Commissioner Aila responded it was pretty close. Commissioner Aluli asked about the pending audit. ED Nāho,,opi,,i explained the budget is more detailed in order to generate management reports. Chair McLean said the budget format helps to track expenses on a daily basis and allows staff to follow encumbrances.

Commissioner Aluli asked if anyone else other than Harmer bid on the communications contract. Staff responded that there were no other bidders. Harmer has repaired several modules on island. The radios have been upgraded to Kenwoods. The largest parts of the contract are the maintenance of the microwave relay system to Base Camp from Lana,,i, which is working fine, and the satellite TV set up.

The Commission asked about Pacific Helicopter’s compliance status. ED Nāho,,opi,,i said they are still not compliant. Currently, CDF Engineering is being used for cargo and Windward Aviation is used for passengers. Commissioner Aluli asked for clarification on Status of Solicitations and Contracts regarding the amount column (\$50,750.00) for CDF Engineering. Staff explained that the contracted amount has been used so there is no balance.

Office rent is currently being renegotiated. It is now paid on a month to month basis. Department of Accounting and General Services (DAGS) has taken over negotiations as it is a new contract not an extension. The Commission asked if DAGS has asked staff to help with negotiations. Staff responded DAGS only asked what space staff needs. It was suggested that staff let DAGS know what has worked in the past. The Commission asked what the market is like on Maui. Staff responded that a lower price might be negotiated because the market is depressed. Commissioner Aluli asked for the square footage of the current office. Chair McLean estimated 4700 square feet. Commissioner Aluli asked if leases follow the procurement process. Chair McLean said she did not think leases went out to bid; DAGS has another process for leases.

C. Presentation of proposed FY2013 Budget

ED Nāho,,opi,,i reviewed KIRC Budget Planning Document, FY2012, April 26, 2012. The FY11 budget of \$3.59 million was reduced to \$2.86 million for FY12. A major area of savings has been in Reserve Operations. There has been \$200,000 in savings due to the dark week schedule. Staff anticipates ending this fiscal year at 5% under

budget. The dark week schedule has not been fully utilized in this fiscal year due to prior commitments. More truly dark weeks with no boat runs are scheduled in September when the 'Ohua is placed in dry dock for maintenance. Staff proposes keeping a similar operating tempo for FY2013.

A 5% pay reduction will continue for personnel. All funded positions will be filled for FY 2013.

Proposed changes in program budgets for FY13 include:

- ❖ Ocean Program: The completion of the NOAA marine debris grant will result in a decrease of \$30,000-\$40,000 in expenses. Staff is working with the Hawai'i Air National Guard to help with the heavy lift of marine debris removal. Commissioner Aila asked if the Guard is seeking reimbursement for the fuel. ED Nāho,opi,j responded no; it would be part of their training program.

Commissioner Aluli asked if there are plans for the Japan tsunami debris. KIRC staff Tokishi responded that there is one beach cleanup scheduled for this fiscal year. There are two cleanups scheduled for FY2013. The Guard wants a large amount of debris ready to be picked up. The debris will be categorized. The arrival of non-local household goods could be an indicator of incoming tsunami debris. Radiation could be a concern. Commissioner Aluli asked if the Ocean Program would need to have more money next year. KIRC staff Tokishi responded that a large part of the labor would be provided by volunteers and he is hopeful that the extraction of the debris can be provided by the Guard. Commissioner Aluli stated he wanted the KIRC to be prepared. He is also hopeful that there will be more grant opportunities because there is more publicity about this issue. Commissioner Aila commented it is hard to tell when the debris will arrive. He did not foresee any federal monies becoming available for the cleanup in the next two years. KIRC staff Tokishi commented that it will be very interesting to see what accumulates at Kanapou and at what rate now that Kanapou has been cleaned; it will give staff a baseline. Commissioner Aila added it also depends on if it is an El Niña or El Niño year; if it is an El Niño year it is more likely that there will be more trash. Commissioner Aila asked what type of debris has been collected. KIRC staff Tokishi responded mostly plastics. Commissioner Aila asked if staff has considered uses for the debris rather than hauling it to the landfill. Staff responded it tries to keep as much as possible out of the Maui County Landfill. In the past, collected cargo netting has been used for erosion control in the gullies. Staff also had looked at the possibility of sending debris to the H-Power plant on O,ahu but the fuel costs to transport it were prohibitive; however, if 15 tons of debris can be collected for pickup it might be worthwhile to take it to the H-Power Plant via the Guard.

- ❖ Restoration: Nonpersonnel cost for the NRCS grant was overestimated in the FY 2012 budget. Staff has not had to purchase native plants because the volunteers have been donating the plants resulting in an overall reduction.

Commissioner Aluli asked if the plants were Maui genetic plants. Staff explained that the volunteer groups purchase the plants from many of the same Maui vendors that KIRC uses. There is also the possibility that the KIRC will be receiving a grant of \$25,000 from the County of Maui which will probably be put into the Restoration Program's budget. Chair McLean clarified she does not think that the grant necessarily needs to go only to the purchase of plants.

- ❖ Reserve Operations: Staff anticipates an increase of approximately \$50,000-\$75,000 in expenditures due to the increase in fuel prices, rising 'Ohua repair costs and returning the Hakilo to operations. However, there will also be a reduction in Base Camp operations costs by approximately \$50,000 due to the new contract. The continuation of partial Base Camp closures and long range scheduling should keep most other non-personnel costs for Reserve Operations at the current level. Staff anticipates being under budget based on the adjusted end of year figures which include projected spending for the rest of the fiscal year.
- ❖ Culture: No changes are anticipated.
- ❖ Administration: No changes are anticipated.

Staff anticipates presenting a budget of approximately \$2.86 million for FY 2013 to the Commission at the next meeting. Chair McLean requested clarification of the FY2012 projection; if it just included expenditures and if the graph of the trust fund balance adds the revenue. It looks like, because of the NOAA grant in FY12, the KIRC would have revenue of \$150,000, meaning approximately \$2.6 million in terms of net spending. ED Nāho,opi,i confirmed that this was not net spending on the end of year projection; the spending is reflected on the graph on the Statement of Revenues, Expenditures and Changes in Fund Balance, Kaho,olawe Rehabilitation Trust Fund. He clarified that the adjusted end of year projection reflects anticipated expenditures. The end of year projection is \$2.73 million; approximately \$138,000 or 5% under budget.

ED Nāho,opi,i explained that the purple line on the Statement of Revenues, Expenditures and Changes in Fund Balance, Kaho,olawe Rehabilitation Trust Fund reflects the trust fund balance. Starting in FY 1995, there were increases which peaked in FY 2003. There were decreases from FY 2004 to FY 2008. The red line on the graph reflects expenditures. Peak expenditures were in FY 2007 and since then staff has been slowly decreasing them. ED Nāho,opi,i projected that the trust fund has enough money to last until FY2015 based on the current budget level including modest grant revenue, estimated interest rates, contributions as well as fees. Staff is planning to make a presentation for a line item in the DLNR budget as well as pursuing legislation for a portion of the Conveyance tax.

Commissioner Aluli asked if the current Strategic Plan ends in 2013. Staff stated yes. Commissioner Aluli asked if strategic planning was included in the budget. ED Nāho,opi,i stated that money was not needed for that; staff will be used.

Commissioner Aluli stated it should be looked at because it needs to have a broader focus. It needs to look at worst case scenarios and the most essential programs. In his opinion, a facilitator is needed to guide the planning process. He would like to have a task force to help work with staff and the community in this process. He would like to place this item for discussion on a future agenda. ED Nāho,opi,i responded that staff has plans to do strategic planning in FY2013; it will be incorporated into the existing budget of the Commissioners traveling to the public sessions. Consultants were not included in the budget. Chair McLean stated that the Commission needs to have a meeting on the FY2013 budget before July; perhaps the only two items on the next agenda will be the budget and discussion on strategic planning. If there is discussion about how to approach strategic planning during FY 2013 and if there is budget associated with that, those two items can be discussed at the next meeting.

Staff will present a more specific budget with program details at the next meeting. Commissioner Aluli requested that information on consultant costs during the last strategic planning process be provided at the next meeting. Chair McLean suggested that other Commissioners bring any ideas about potential facilitators to the next meeting.

Vice Chair Whitehead asked at what point will the Commission consider shutting down operations. She understood from previous presentations it would cost a great deal of money to decommission and leave equipment ready to function if operations were to restart. ED Nāho,opi,i responded if there is no help from the legislature by the end of the legislative session in 2014, the FY 2015 budget would be the decommission budget unless the Commission decides to let another agency takeover operations.

Chair McLean asked ED Nāho,opi,i to approach Hawaii's Congressional delegation to help put funds into the Department of Interior's and the Department of Defense's (DOD) budgets for native species habitat protection and management control of a former bombing range. Staff is to report back to the Commission at the next meeting. She also asked staff to garner local support from the local US Fish & Wildlife office and local military. ED Nāho,opi,i will check on an expected NOSSA letter as that inspection was supposed to be the precursor to funding from DOD.

Vice Chair Whitehead asked what would happen to the staff in a decommissioning scenario. Staff responded that there would be no justification for keeping employees. Staff are not civil service employees; therefore they would have to go through the open competitive process or apply for exempt positions within DLNR to continue working for the State.

V. ACTION ITEMS

A. Authorize Executive Director to enter into a Base Camp Management Contract with Zapata, Inc. in the amount of \$699,541.82

Staff explained that the solicitation was initially sent as Request for Proposals (RFP). The RFP was withdrawn when the State Procurement Office determined that staff did not have the proper training to post a RFP. The solicitation was reposted as an

Invitation for Bid (IFB). There were responses from several vendors, and Zapata, Inc. submitted the lowest bid from the qualified bidders. Chair McLean asked who else submitted a bid.

Chair McLean asked staff and Mr. Brundage what the difference was between the current contract and the last contract. Mr. Eric Brundage of Zapata, Inc. explained the company was able to lower the contract price due to lower labor costs. The labor hours have been adjusted based on his past labor hours. The company also reduced the hours of their administrative assistant. Now that there is a good schedule for dark weeks, the Base Camp manager will be used more often when employees go on vacation. Mr. Brundage attends monthly KIRC staff meetings at no cost to the KIRC to learn the needs of the staff.

MOTION: Commissioner Aluli moved to authorize the Executive Director to enter into a contract with Zapata Incorporated in the amount of \$699,541.82 to manage base camp and other facilities on Kahoolawe for a one year period starting on July 1, 2012 through June 30, 2013. Vice Chair Whitehead seconded the motion.

ACTION: The motion was approved by all Commissioners present.

B. Approval of the Management Plan for *Kanaloa kahoowawensis* (Ka palupalu o Kanaloa)-2011 and Memorandum of Understanding regarding the restoration of the plant Ka Palupalu o Kanaloa (*Kanaloa kahoowawensis*)

Staff is asking for approval of the management plan for *Kanaloa kahoowawensis* and to authorize the Executive Director to enter into a Memorandum of Understanding (MOU) with cooperating agencies involved in the propagation, management and restoration of Ka palupalu o Kanaloa (*Kanaloa kahoowawensis*) in accordance with the KIRC's management plan. Staff has been actively managing the Kanaloa plant since 1996. There has never been an agreement as to what the goal is in collecting seed and propagating the plant. The goals are to take care of the on-site plant on Kahoolawe, to gather enough seeds from the off-site plants to take back to repopulate Kahoolawe, and establish a second population on Maui to insure the continuation of the species. The MOU would insure that the plant will not be commercially distributed or go to other places. Each planter must commit to these goals.

Chair McLean asked if this MOU was modeled after others or just created by the staff. DAG Somerville responded KIRC staff James Bruch created the MOU and she reviewed it with him.

There was a recess between 10:50 am and 11:15 am.

ED Nāho,opi, explained that entities propagating the plant would need to agree to the sharing of genetic material between the propagators. Vice Chair Whitehead asked if staff is collecting pollen from the plant on Kahoolawe as well as the off-site plants and if the on-site plant is currently being cared for. Staff confirmed that they are watering the plant, conducting a pesticide spray program, and trying to eradicate mice—mice traps have been placed near the plant as there has been evidence of

gnawing. AO Lee responded pollen is being collected. Staff is to check if there is a pollen exchange being conducted between the three plants. Vice Chair Whitehead suggested staff conduct the pollen exchange in both directions—between the on-site and off-site plants if possible.

Vice Chair Whitehead expressed serious reservations about sharing seeds with the National Tropical Botanical Garden (NTBG) given what happened last time they had a plant. They should be the last resort after all the other facilities have gotten genetic material. Chair McLean suggested that Commission approval be sought if staff wants to share genetic material with other organizations or individuals other than Ho,,olawa Farms and Maui Nui Botanical Garden. Vice Chair Whitehead asked if staff is planning to get live material soon to Lyon Arboretum in addition to Maui Nui Botanical Garden and Ho,,olawa Farms. ED Nāho,,opi,,i stated staff is anxious to get material over to Lyon to get the tissue culture.

Commissioner Aila asked if there was a procedure for an emergency such as a hurricane, lightning strike, aphids, etc. when it might not be wise to wait for a Commission meeting. Given that there is only one plant left in the wild, the vegetative material should be held onto for as long as possible so if something does happen the material can be taken to someone that does have tissue culture abilities. He would rather delegate that authority to the administrator on island so that it can happen in a day or two versus a month. Vice Chair Whitehead commented that the Commission should be thinking about collecting vegetative material and sending it to a tissue culture lab now so that the Commission is not put into that position. Commissioner Aluli agreed with Commissioner Aila to give the island person the authority to address an emergency situation.

Vice Chair Whitehead agreed with giving the ED authority to address emergency situations with the on-island Kanaloa plant provided the Commission is updated when material is distributed at the following Commission meeting. She also wanted to know if the plants on Maui were propagated from the one remaining on-island plant or from the two on-island plants that have since died.

Commissioner Aluli asked for clarification about the genetic material. Commissioner Aila explained if the two plants that are outplanted came from the one plant that is on island then genetically it is the same material. Vice Chair Whitehead added that there originally were three plants at one point on island and two of them died. She was unsure if the off-island plants are genetic replicants of the survivor. Staff thinks they may be the replicants from the surviving plant. Staff will verify.

Commissioner Aila asked if there has been an attempt to vegetatively reproduce the plant—air-layering. Staff will double check and have Restoration provide an update on the Kanaloa plant to the Commission at the next meeting.

Commissioner Aila supported giving ED Nāho,,opi,,i authority to address emergency situations with the Kanaloa plant with the requirement to report back to the Commission.

Chair McLean stated the date of the management plan needs to be changed to 2012 and an additional category of Commissioner Notification could be made to page three stating the Executive Director shall notify the Commission prior to the execution of any additional Memorandums of Understanding.

Commissioner Aluli asked how the sites on page three were chosen for potential outplantings: Kilauea Point National Wildlife Refuge, National Tropical Botanical Garden (Kaua,,i), etc. Staff responded that these areas have fenced enclosures and figure more into long term plans. A minimum of 100 viable plants needs to be generated to get to the outplanting phase of the management plan. Chair McLean commented she interprets item 4 under the Ex-Situ Recommendations on page 3 of the management plan as not being limited to the four areas listed; there could be other appropriate areas. ED Nāho,,opi,,i stated that staff will have a discussion with the Commission before the first outplanting. Vice Chair Whitehead asked if it was necessary to have items 4 and 5 under Ex-Situ Recommendations in the MOU. ED Nāho,,opi,,i stated it was important to have the first sentence of Item 4 (stating the number of plants). It would trigger when the outplanting could occur. The Commission suggested that the next sentence be changed to “Other appropriate areas subject to Commission approval.”

DAG Somerville explained that Item 5 in the MOU tracks the language and recommendation in the management plan so if things are changed in the MOU it would need to be changed in the management plan. Commissioner Aluli asked who comprised the working group. Staff responded Fish and Wildlife, the KIRC planters (Ho,,olawa Farms and Maui Nui Botanical Gardens), and Ken Wood. Commissioner Aila said that a review should also be done to determine if the plan is working.

Vice Chair Whitehead asked about Item 2 in the MOU regarding pollen. Staff responded it tracks the same way as the other items to those in the management plan. She asked if it could be expanded to include the pollen from the plant on-island. Staff explained it does not need to be in the MOU because the MOU is between the KIRC and the growers. Staff can always do the pollen exchange. ED Nāho,,opi,,i clarified the MOU is between the KIRC and the growers. Any entity that is going to receive genetic material will also need to sign the MOU.

Vice Chair Whitehead stated that the KIRC may want to enter into negotiations with Lyon Arboretum now. ED Nāho,,opi,,i commented if the Commission approves this motion he can enter into an MOU with them and keep the Commission updated on that process. Commissioner Aila asked if the MOU could be executed quickly in the event of an emergency. It was his opinion that the Executive Director should have the flexibility to make an executive decision quickly to agree to some interim curation of the material. He felt that adding the phrase “subject to approval by the Executive Director with reporting requirements to the Commission” to item 5 on the MOU and item 6 in the management plan regarding propagation facilities would be sufficient.

The Commission requested the following changes to the MOU and management plan:

- 1) Change date of management plan and MOU from 2011 to 2012;

- 2) Addition of the word “solely” to the first sentence in the second paragraph of the MOU to read “. . . to the Cooperating Agency with the condition that the material be used solely in accordance with the *Ex-Situ* recommendations . . . ”;
- 3) On page 3 of the management plan under Ex-Situ Recommendations, item 4.) and condition 4.) in the MOU the second sentence to read “Other areas in the State of Hawai,,i would also be appropriate subject to Commission approval”;
- 4) Inserting into the MOU Addition of Item 5.) under *Ex-Situ* Recommendations in the management plan regarding annual review of propagation techniques to the MOU as condition #5 so that the recommendations in the management plan and the conditions in the MOU track together;
- 5) Amend item 6.) in the management plan and MOU to read “Propagation facilities should also be expanded to include other qualified agencies subject to Executive Director approval”; and
- 6) On page 3 under Recommendations in the management plan, addition of another category Commission Notification requiring the Executive Director to notify the Commission of the execution of additional MOUs.

MOTION: Vice Chair Whitehead moved to approve the Management Plan for Kanaloa kahoolawensis (Ka palupalu o Kanaloa)-2011 and to authorize the Executive Director to enter into a Memorandum of Understanding (MOU) with cooperating agencies involved in the propagation, management and restoration of Ka Palupalu o Kanaloa, in accordance with the KIRC's Management Plan, as amended above. Commissioner Aluli seconded the motion.

ACTION: The motion was approved by all Commissioners present.

C. Delegate to the Executive Director the authority to approve limited take of plants, wildlife and aquatic life for the purpose of voucher specimens

Staff asked the Commission in the past for permission to take voucher specimens for identification or preservation purposes. The time period between receiving Commission approval and trying to retrieve them has sometimes resulted in not being able to find them. ED Nāho,,opi,,i explained the Commission has the authority to delegate to the Executive Director the authority to collect limited voucher specimens based on Hawaii Administrative Rules Chapter 13-261-14. The voucher specimens would be used only to identify the species. KIRC Staff Tokishi used an unidentified coral disease discovered four years ago and the dinosaur shrimp as examples of when this delegation of authority to the Executive Director would have been beneficial.

Vice Chair Whitehead said the Commission had already done this after the dinosaur shrimp incident. DAG Somerville said the authority was granted only in emergency situations and staff would like to expand this beyond emergency situations.

ED Nāho,,opi,,i explained that staff comes across many unknown species, including alien pests. Currently, staff is unable to take alien pests off island for identification by an entomologist. By delegating this authority to the Executive Director, he would be able to decide if the plant or animal could be taken, determine the number to be taken

and the parameters of the take. This has been requested by all the programs. They would need to justify the take to the Executive Director. The sampling would be done for identification purposes only. Requests for larger takes at the program level will continue to come before the Commission. He anticipates that this will be a very rare occurrence. KIRC Staff Tokishi noted that the take of the animal or plant does not necessarily mean it cannot be returned.

Commissioner Aluli commented the marine mammal and take policies should track together. The KIRC should be able to track the use, the study, and the benefit to the island of these samplings; to safeguard the intellectual property. Commissioner Aila asked if there was a policy regarding bioprospecting. ED Nāho,opi,i responded that the plant or animal is to be returned unless it goes to a program collection. An example is the approval for a moth collection. The scientist sent the KIRC samples of the moths but there is also a sample of them at the Bishop Museum as part of their permanent collection. ED Nāho,opi,i added that this authority would not supercede the KIRC's marine mammal policy.

Vice Chair Whitehead stated the Cultural Resources Project Coordinator should be required to review the request. Staff explained that currently all requests for take are brought before the Commission and include a Cultural Program review.

Commissioner Aila asked about the KIRC's policy regarding beached marine mammals. Staff explained the marine mammal policy. If the animal is alive, National Oceanic and Atmospheric Administration (NOAA) is contacted to rescue it. If it is dead, a necropsy and tissue removal are allowed but no bones or teeth can be removed from the Reserve. The involved personnel must be escorted by the Cultural Resources Project Coordinator. Everything but tissue samples must be returned to the Reserve. Additionally, euthanasia is not permitted within the Reserve.

Commissioner Aila asked what happens if Staff discovers a new plant and wants to give a sample to a researcher. When custody of that sample is transferred to the researcher, is there a form documenting the transfer that contains a provision it cannot be used for bioprospecting without the Commission's permission? Staff responded it can create a waiver or MOU similar to the one for the Kanaloa plant. Commissioner Aila suggested that the Commission develop a policy on bioprospecting.

Commissioner Baker observed that the Commission does not have any authority once the animal is outside of the Reserve. He asked if the transporting agency signs an MOU with regard to marine mammal removal. DAG Somerville responded that staff has never had to implement this in the past; it had been done via e-mail. He suggested a generic waiver or MOU with bullet points of the receiving agency's responsibilities. DAG Somerville stated it is difficult to have NOAA sign the MOU or waiver because it needs to be completed within 48 hours. NOAA has been more cooperative lately. Commissioner Baker asked if there was a standing MOU with NOAA. ED Nāho,opi,i responded no; he believes that NOAA is trying to get a statewide agreement.

Commissioner Baker asked what would happen if some unidentified plant was found on island. ED Nāho,,opi,,i responded staff would determine if there is more than one and if it is native. Staff would contact ED Nāho,,opi,,i and explain to him the situation and where they would want to send it.

ED Nāho,,opi,,i confirmed that he would write up a policy with the criteria and procedure for the take of voucher specimens. Commissioner Baker agreed. KIRC Staff Tokishi added the invasive limu found off Maui is a good example of a situation in which the Executive Director would be contacted to see if a voucher specimen could be removed for verification.

Vice Chair Whitehead stated that a policy and procedure should be implemented and in the meantime the Commission has already approved the delegation of the authority to the Executive Director for emergency take. Chair McLean asked what constitutes an emergency, and if a lost opportunity would be considered one. Staff will double check the policy.

Commissioner Aila asked if this recommended motion would give the Ocean Program staff the ability to send an unidentified limu to a lab for identification. Staff stated yes.

Commissioner Whitehead stated that her concern was the inclusion of a cultural review and when the policy could be created. ED Nāho,,opi,,i commented that the focus of the next meeting will probably be on the budget. The policy could be drafted and sent out to the Commissioners after they finalize the FY13 budget. The policy could be discussed and approved in either June or July, depending on when the budget is approved.

MOTION: Commissioner Aluli moved to delegate to the Executive Director the authority to approve limited take of plants, wildlife or aquatic species for the purpose of voucher specimens for the sole purpose of identification. Vice Chair Whitehead seconded the motion.

Discussion: Chair McLean commented that it would be up to ED Nāho,,opi,,i to ensure that whoever receives the voucher specimens are confined to just identification and that everything is returned. Staff will develop the policy with these points and come before the Commission with another motion to amend this policy.

ACTION: The motion was approved by all Commissioners present.

This policy is to be added to the Executive Policy Manual.

D. Request Approval for funding reallocation to Ocean Program FY12 Budget

KIRC Staff Tokishi explained the federal grant of \$100,000 from the NOAA for marine debris removal was for an 18 month period which spanned over two fiscal budget years (FY11-FY12). The contract with Pacific Helicopters for cargo helicopter service expired before all marine debris could be removed. Staff was unable to secure

a new contract until FY 12 with CDF Engineering. The hourly rate in the new contract was more than the rate used in the FY12 budget. This has resulted in a budget shortfall of approximately \$25,000 in the approved FY12 Ocean Program budget. Staff is recommending that \$25,500 be reallocated from the following:

- 1) \$4,000 from Native Polynesian and Coastal Plantings/Other Plantings line item from the Restoration Program. Volunteer groups have been providing the plants for the island.
- 2) \$10,000 from the Restoration Program's Faunal Restoration-Other Direct Costs
- 3) \$11,500 from Administration's Outreach/Fund Development personnel costs.

ED Nāho,,opi,,i explained this action would not increase the overall budget.

Chair McLean observed that this would not have happened if the contracted helicopter company was in compliance with the State and the debris had been removed when scheduled.

Commissioner Baker asked if the shortfall from the helicopters was 42 hours. KIRC Staff Tokishi responded \$58,000 was budgeted for the entire 18 month period. Staff used approximately \$12,000 of that amount. The rest of it was unused until December 2012. He was unsure of the helicopter's hourly rate. Staff explained the rate depends on what the helicopter is being used for.

MOTION: Vice Chair Whitehead moved to approve the reallocation of \$25,500 to the FY 2012 Ocean Program budget; \$4,000 to be taken from Native Polynesian and Coastal Plantings/Other Plantings and \$10,000 from Faunal Restoration-Other Direct Costs for a total of \$ 14,000 from Restoration Program projects; and \$11,500 from Administration-Outreach/Fund Development personnel cost. Commissioner Baker seconded the motion.

ACTION: The motion was approved by all Commissioners present.

II. APPROVAL OF MINUTES

A. Minutes of February 16, 2012 Regular Commission Meeting

ED Nāho,,opi,,i explained the Sunshine Law requires that minutes be available to the public within 30 days after the meeting.

Commissioner Aluli commented that he asked CC Gavagan to clarify what is included in the public comments section in the meeting minutes. DAG Somerville responded that she had contacted Office of Information Practices (OIP) regarding this issue. Their response was if the testimony does not pertain to an agenda item then it does not need to be in the minutes. If the matter is on the agenda already it is noted as testimony at that point. All discussion between the Commission and the person testifying will go in the minutes; however, if the item is not on the agenda but is anticipated to be on the agenda at a later date, Commissioners are not to ask any questions or make any comments.

Commissioner Aluli asked how an item can get placed on the agenda. DAG Somerville responded that Commissioners can request an item be placed on the agenda by contacting ED Nāho,,opi,,i.

Chair McLean added that an item labeled "Next Meeting" could be added to the agenda in the future in which a meeting date and future agenda items can be discussed. Commissioners can still contact ED Nāho,,opi,,i in between meetings regarding agenda items.

ED Nāho,,opi,,i added that OIP has stated that minutes do not need to be approved.

Vice Chair Whitehead requested a grammatical correction be made on page 12 in the second paragraph to indicate that there was consensus among the Commission that there continue to be no commercial use within the Reserve until the KIRC reaches out to the Hawaiian community.

MOTION: Commissioner Aluli moved to approve the minutes of February 16, 2012 Regular Commission Meeting as amended. Vice Chair Whitehead seconded the motion.

ACTION: Motion was approved by all Commissioners present.

B. Minutes of February 16, 2012 Executive Session

MOTION: Vice Chair Whitehead moved to approve the minutes of February 16, 2012 Executive Session. Commissioner Murphy seconded the motion.

Discussion: DAG Somerville reminded the Commission that contents of the Executive Session must remain confidential until otherwise notified by her Department.

ACTION: Motion was approved by all Commissioners present.

IV. A. Executive Director's Report

1. Status Update on Budget, Finance and Funding

ED Nāho,,opi,,i stated that there was a budget variance generated for the Ocean Program in non-personnel costs and referred the Commission to the Budget Variance Report.

2. Status Update on Plans, Policies and Procedures

ED Nāho,,opi,,i stated the long range schedule was included in the Commission packet. The Commission has access to the schedule via a secured website.

3. Status Update on Administration, Staffing and Personnel

The position of Public Information Specialist has been filled by Daniela Maldini who started on April 18th. Staff and Commissioner Baker will be interviewing the one applicant for the Cultural Project Coordinator position.

Commissioners Aluli and Baker had their confirmation hearings and were confirmed by the Senate. Commissioner Baker's term will expire on June 30, 2013. Commissioner Whitehead will remain on the Commission based on the holdover clause. Commissioner Aluli commented that individuals have applied for the Native Hawaiian Organizations (NHO) seat.

4. **Status Update on Public Information, Outreach and Government Relations**
ED Nāho,opi,i reviewed the legislative update: Senate Concurrent Resolution 63 Senate Draft 1 which urges the KIRC to require stewardship programs to obtain liability and property damage insurance and list the State as an additional insured has been sent to the House.

Commissioner Aluli had concerns about the anticipated audit of KIRC. AO Lee responded the regular audits happen through the DLNR fiscal office in Honolulu.

Commissioner Aluli asked why the State is asking for indemnification. DAG Somerville explained the difference between indemnification and additionally insured.

Chair McLean commented that the KIRC was not on top of the legislature this session. The procurement bill fell through the cracks, for instance.

Chair McLean stated that the KIRC needs to do a better job of monitoring the legislature.

ED Nāho,opi,i commented there seems to be a blurring between the KIRC and PKO within the legislature. There is a need to clearly define what the KIRC is.

5. **Status Update on Capital Improvements, Reserve Operations and Logistics**
ED Nāho,opi,i reviewed the timetable for the Hakioawa Hale project. Staff is hoping to receive the final design by next week.

Staff provided support to the Division of Boating and Ocean Recreation (DOBOR) installing swim buoys in Lahaina. Commissioner Aila was in attendance on both occasions. Commissioner Aila thanked the KIRC staff for their assistance and said he was very impressed with the boat's captain and crew; they did an outstanding job. ED Nāho,opi,i said DOBOR will be reimbursing the KIRC for fuel and labor costs. Commissioner Aila stated he would like to see more collaborative work between the KIRC and divisions within DLNR.

Vice Chair Whitehead requested ED Naho'opi'i include an update of the Kihei Executive Order in his next Executive Director's Report.

VI. Program Status Updates

- B. Status Update on current Ocean Program Projects: On Island Field Surveys; Outreach and Education; Reverse Osmosis Maintenance & Moorings; Vessel Maintenance and Crew; Permitted Trolling Vessel Registration**

KIRC Staff Tokishi reported that surveys were conducted in February for shell identification and cataloging. Ocean staff has been able to utilize the University of Hawaii's online catalog to identify some of the shells. A group of volunteers from Kauai and Ni,ihau identified some of the shells as being similar to those found on Ni,ihau. Ocean staff also assisted the Restoration staff in working with a group of volunteers from King Kekaulike High School's Hawaiian immersion program.

Ocean staff participated in "Kids Whale Day" sponsored by the Pacific Whale Foundation. Staff spoke to 4th and 5th graders about the negative impact marine debris has upon ocean resources and what alternatives there are to using plastics as well as the benefits of recycling. Staff has been invited to do a presentation at a hotel in Lahaina. The details are still being organized.

Two moorings were floated on February 27th for use by an independent vessel in March. The moorings will be put back for the Hokule'a.

There are currently 55 registered vessels in the permitted trolling program. Ninety percent of registered owners are from Kihei. There has been improved reporting about catches.

Commissioner Aluli asked what the poaching rate is. KIRC Staff Tokishi responded it is hard to say. Staff has caught the first violator of the year in Honokanai'a Bay. The vessel Kalepa Kai was not registered with the KIRC.

A. Status Update on current and planned Restoration Program Projects: NRCS Wetland Restoration and Faunal Restoration.

ED Nāho,,opi,,i reported that Restoration is currently working on catching up on NRCS requirements. KIRC Staff Lyman Abbott is serving as grant manager.

Chair McLean asked how ma'o seeds are being distributed. Staff responded they are put out in seedballs.

VII. Announcements/FYI

The Kumu Kahua Theatre has requested permission to show "Mai Ka PikoMai" via letter included in the Commission packet. A corrected letter was hand-issued to the Commission.

The next meeting was tentatively scheduled for May 15th at 9:00am in Honolulu. Another meeting was also tentatively scheduled for June 19th to possibly be held on Maui.

VIII. Adjournment

Chair McLean asked if there were any objections to adjourn the meeting. There were none. Meeting was adjourned at 1:40 pm.