

**MOLOKAI PLANNING COMMISSION  
REGULAR MEETING  
JANUARY 14, 2016**

*\*\* All documents, including written testimony, that was submitted for or at this meeting are filed in the minutes' file and are available for public viewing at the Maui County Department of Planning, 2200 Main St., Suite 315, Wailuku, Maui, and at the Planning Commission Office at the Mitchell Pauole Center, Kaunakakai, Molokai. \*\**

**A. CALL TO ORDER**

The regular meeting of the Molokai Planning Commission was called to order by Chairperson, Michael Jennings, at approximately 11:00 a.m., Thursday, January 14, 2016, at the Department of Hawaiian Home Lands Conference Room, Kulana Oiwī, 600 Kamehameha V Highway, Kalamaula, Molokai.

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

**B. PUBLIC TESTIMONY** - At the discretion of the Chair, public testimony may also be taken when each agenda item is discussed, except for contested cases under Chapter 91, HRS. Individuals who cannot be present when the agenda item is discussed may testify at the beginning of the meeting instead and will not be allowed to testify again when the agenda item is discussed unless new or additional information will be offered.

**C. APPROVAL OF MINUTES OF THE DECEMBER 10, 2015 MEETING**

Chair Mike Jennings: Good morning, and welcome, it's 11:00, and everybody's here, we have a quorum, so the public testimony, I will wait and do that when it calls for it at the end, at the right item, so we'll go move to C, approval of the minutes from the December 10, 2015 meeting. I hope everybody had a chance to look at those and if so, I would have a motion to accept the minutes. A motion by Bill. Second? Second by Ron -- Ron, geezus, Doug. Any questions anybody have?

***It has been moved by Commissioner Buchanan, seconded by Commissioner Rogers, then unanimously***

**VOTED:** ***to approve the minutes of the December 10, 2015 meeting as circulated.***

Chair Jennings: Motion carried. Section D, Clayton.

*Mr. Clayton Yoshida read the following agenda item into the record:*

**D. COMMUNICATIONS**

1. **KAMEHAMEHA SCHOOLS submitting their 2015 Annual Report as required by Condition No. 11 of their Special Management Area (SMA) Minor Permit for after-the-fact (ATF) improvements for an aquaculture operation of a former lessee D&J OCEAN FARMS consisting of the construction of a 1,680 square foot storage building and hatchery, 160 square foot pump house structure, 2200 linear feet of road improvements, and grading for shrimp ponds, ditches, and drainage improvements at TMK: 5-6-006: 008, 024, and 034, Keawanui, Island of Molokai. (SMX 2011/0002) (SM6 2011/0004) (Valuation: \$24,000) (S. Lopez)**

**The Commission approved the SMA Minor Permit by action taken at its November 9, 2011 meeting.**

**Condition No. 11 of the SMA Minor Permit reads:**

**“That the applicant shall submit an annual report to the Department and the Commission for review addressing the status of compliance with each of the conditions set forth in this SMA Minor Period for a period of five (5) years.”**

Ms. Sybil Lopez: Good morning, Commissioners and the public. So we are here -- I'm the staff planner on SMX 2011/0002, SM6 2011/0004, which Kamehameha Schools submitted their 2015 annual report, as required by condition no. 11 of their special management area minor permit for the after-the-fact improvements. I do have here today Mark Alexander Roy, on behalf of Munekiyo Hiraga, and Kalani Fronda, from Kamehameha Schools, and I'll come up Mark, Mr. Mark Roy, right now to kinda give you a little bit more about the report. Okay, thank you.

Mr. Mark Roy: Thanks, Sybil. Good morning. Good morning, Chair and Members of the Commission. My name is Mark Roy, I'm representing the owner of this property, Kamehameha Schools. I'm joined today by Kalana Fronda, Senior Land Asset Manager for the Schools. This report, as I think most members know, is concerning the 150-acre former D&J Ocean Farm property located in Keawanui, just makai of the Kamehameha V Highway. The facility is currently under lease to John Austin, who is being operating the facility since 2010, under the name of "Keawa Nui Farms." John currently raises marine shrimp and broodstock, and produces products for sale both locally on Molokai as well as to both domestic and international markets.

The Schools has been working for over six years now with various governmental agencies to address after-the-fact permitting requirements for some improvements that were put in place by the previous tenants during the establishment and early phases of operation of

the shrimp farm. The overarching goal of the Schools has been, and continues to be, to have the aquiculture facility, excuse me, continue to operate and support Molokai's economy into the future.

Just a bit of background. The aquiculture facility was originally established by Ohia Shrimp Farm Corporation in 1986. Ohia operated the facility through the use of six shrimp ponds for a period of about five years, until 1993. After a couple of years of inactivity, D&J Ocean Farms then took over the lease from '95 up until about 2007, and further expanded the aquiculture operation by creating ten additional ponds as well as some related drainage improvements. As I mentioned just now, John August, of Keawe Nui Farms, the new tenant, took over in 2010, and has since been refurbishing the facility into a productive operation. The bulk of the improvements on the land were put in place by both, as I mentioned, Ohia Shrimp Corporation and D&J Ocean Farms over the course of about 20 years. This work consisted of various grading alterations, including the completion of a total of 16 ponds, ditches, drainage improvements, a storage building and hatchery, pump house, brackish ground water well, a farm dwelling with accessory storage structure, and also the erection and removal of two shade cloth structures, as well as improvements to a dirt gravel road that runs along the coastal side of the property. An SMA application requesting after-the-fact approvals for all of these improvements was submitted to the Planning Department for processing back in 2010, following some early consultation meetings with the staff of the Department of Planning.

Following review of the application, at the end of 2011, the Commission granted the SMA approvals for the facility. The SMA minor permit issued for the project included 13 conditions of approval. One of these conditions required submittal of an annual compliance report for a period of five years, essentially documenting the progress of the Schools in complying with the conditions compliance work. This report is submitted to the Planning Department each year, ahead of the anniversary of the permit itself, and this year's report, as Sybil mentioned, is the fourth annual report. We're happy to be here today to present that report to you.

As been documented in the previous three reports, there's been quite a considerable amount of work put into complying with the various SMA conditions that were attached to the permit. We're happy, today, to report to the Commission that there has also been quite substantial continued progress on the work necessary to comply with the outstanding conditions over the course of the last 12 months, since we were before you last year.

I'd like to just highlight some of the main accomplishments that Kamehameha Schools has achieved this year that adds on top of the previous annual reports that we've submitted to the Planning Commission. The first is in regards to a Wetland Mitigation Plan that had been submitted a while ago to the Environmental Protection Agency, and there had been work completed by the schools to do the work under the compliance report, and when we

came back before the Commission last year, there had been a compliance report submitted to the EPA documenting all of the work that had been completed to day in compliance with the EPA Wetland Mitigation Plan itself. And over -- since we were here before you last time, the EPA has now issued a closeout letter for the administrative order that had been issued to Kamehameha Schools previously. A copy of the EPA letter is included in the annual report as an exhibit, actually Exhibit E, it's the last page in your annual compliance report. And with that letter, it's quite a significant accomplishment, EPA essentially writing to the Schools to release Kamehameha Schools from any further obligation regarding compliance with the administrative order and the Wetland Mitigation Plan, so that's been one of the more significant accomplishments over the past year that we wanted to summarize for the Commission today.

Secondly, as we mentioned over the past couple of years to the Commission, we have had to file building permits with the County of Maui for some -- couple of the structures on the site. Those building permits continue to be in process today. We would love to be here today to say that we've actually pulled the building permits and that process has been completed. The reason that those permits are still ongoing or in process is that Kamehameha Schools received a letter from the State Historic Preservation Division during review of an after-the-fact grading permit application for the facility very recently actually, and SHPD is requiring the Schools to prepare an archaeological inventory survey for the entire area that was disturbed by the original improvements, so we've been working with SHPD over the last couple of years very extensively to define the scope of the archaeological inventory survey itself. It involved, before any work could move forward, it involved putting together what's called an "AIS," an archaeological inventory survey, plan, which essentially is a proposal as to how you're going to do the field work and how you're going to do the analysis itself, and then that goes into SHPD and goes through a review process, and there's comments, and we're happy to say that AIS plan was approved and the AIS work itself now is proceeding. Cultural Surveys Hawaii is the archaeologist completing the AIS report. That report will need to be fully completed and submitted to SHPD for review and acceptance, and once the report is accepted, then the County of Maui will be able to complete the processing of the remaining steps associated with the building permits that I mentioned just now. So that's really the main holdup on the building permits themselves, there's a lot of work going in, continues to go into completing the AIS for the property.

Couple of other items or achievement over the last year, we had a certified shoreline survey map prepared, processed by the State of Hawaii for the shoreline along the property, and that recently came in as a certified map, which is a good document certainly for the Schools to have because it delineates the boundary between private property and the State of Hawaii beach lands, and we are continuing now to work with the Department of Land and Natural Resources, Land Division, regarding compliance with the condition in the annual report regarding the removal of some gravel deposits that were placed along

the shoreline by one of the previous tenants. So we're in discussions with DLNR at this point to essentially establish the limits that the state would like to be removed from that area of shoreline, and we're currently awaiting a report by another consultant, AECOS, who are coastal experts, and have gone in and looked and surveyed the area of the material involved, so that's actually an ongoing work effort with the Department of Land and Natural Resources, and that will continue over the next year to, hopefully, get to a point where we can comply with the SMA condition that requires to remove those gravel deposits and essentially return the land back to how it was before.

Finally, when we were before the Commission last year, Commissioners may recall there was an SMA application or an SMA permit that was granted for removal of some old dilapidated camping structures that had been placed on the island portion of the property quite a number of the years ago, we believe by one of the previous tenants, and the Commission, when we had gone through the after-the-fact SMA approval process, had indicated their desire to cleanup that area of land and have Kamehameha Schools remove those improvements from the island, so the last year has actually been a defining year for that condition because we were able to get the permits and Kamehameha Schools hired a contractor, went out and fully removed all the structures from that area of the property, so we have fully complied with that condition, and there no longer is any of those dilapidated camping structures in that location.

Obviously, cultural, archaeological resources are a primary concern for Kamehameha Schools, and in conjunction with the archaeological inventory survey that has been moving forward, the removal of the camping structures is an example, was also monitored by the archaeologist to ensure that there were no impacts to any cultural archaeological resources in that area. Same thing for the area of the gravel deposits along the shoreline, there were some initial testing to define the limits of that gravel area, and Cultural Surveys Hawaii was also very much involved in that process to monitor the testing activities that took place, and SHPD was also consulted ahead of that work taking place as well, so we're making sure that that's all linking into the archaeological inventory survey work that's, hopefully, going to be completed this coming year for the property.

So with that, that concludes my updates from the previous report and really what has been accomplished over the past year. We will be back before the Commission next year with the fifth and final compliance report and we'll document additional progress made throughout the course of 2016. I'd like to thank you all for allowing us to be here today. I'm happy to answer any questions, and before we conclude, if it's okay with the Chair and Commission Members, Kalani was hoping to just say a few words from Kamehameha Schools.

Chair Jennings: Please.

Mr. Roy: Thank you.

Mr. Kalani Fronda: Thank you. Aloha, Chair Jennings and Commissioners of the Molokai Planning Commission. As you guys have heard from Mark, there has been some substantial work done in this particular year compared to previous years, a lot of background work that was done prior to that, so we're pleased to report that. I just want to share with you guys, there are several things, one is, and I've come to you before but I want to kind of assure you guys on this, and that's that Kamehameha Schools is committed to complete the necessary permits associated with those items listed in the matter before you and all mitigation work that's required by law. Number two, we want to provide you also the assurances that we have been and continue to be in communication with the governmental agencies at various levels, and also assure you that we have been and continue to be in communication with the community, especially those that are adjacent neighbors of the property, such as Uncle Milton and Aunty Linda Place. And so providing that to you, in closing, I just want to let you guys know that we want to be pono in making sure that what's been done on the `aina, we want to continue to malama it, but do it in the right way, and go through the process and continue to inform you, and this is our fourth year of fifth, and so thank you again for the opportunity to be able to present these findings. Mahalo.

Chair Jennings: Gentlemen, thank you. We appreciate both of your comments on this. Is there any of the Commissioners would have any questions for either one of these two gentlemen? Billy.

Mr. Billy Buchanan: I've been following the situation because about seven years ago ...(inaudible)... out there with D&J and ...(inaudible)... however, the last month-and-a-half, I've observed all of the work that Kamehameha Schools -- in fact just this past Monday, the archaeological group was there, they were doing their diggings and stuff like that, so, you know, I can verify a lot of stuff that I've seen Kamehameha Schools are doing with the project, I mean, literally, I've seen it being done. So just mahalo for complying with what we've been asking you guys to do.

Ms. Zhantell Dudoit: I was going to wait until we actually make a vote, but I just wanted to say to Mark and Kalani, I was here from the first time we took this up and the overall feel of the controversial type misunderstanding type stuff from the community and the Schools and the different ownerships was so apparent in the beginning, but I think this is a wonderful example of what happens when you get all different partners that care about where they are, and I just wanted to say I won't be here when you do your next review next year, but I just am so appreciative as one keiki o ka `aina of Molokai and also as a Commissioner for you guys doing the tremendous amount of work, I know it takes a lot of money from the Schools, I know a lot of things wasn't your fault in the beginning, you know, but I so happy to be able to witness such a remarkable effort on your part and on the part

of the different landowners, and I just grateful and thank you guys, and it's been an honor to work with you.

Mr. Lawrence Lasua: Mr. Chair, I'd like to say for the record that the two gentlemen who did the report, I appreciate your report from Kamehameha Schools, and with that said, I'd like to make a motion to approve the report as submitted.

Ms. Dudoit: Second.

Chair Jennings: There's a motion and a second.

***It has been moved by Commissioner Lasua, seconded by Commissioner Dudoit, then unanimously***

***VOTED: to approve the report as submitted.***

Chair Jennings: Motion carried. Thank you, guys. Appreciate it very much.

Mr. Roy: Thank you very much.

Ms. Lopez: Thank you, Commissioners. And just for the record, that they, Munekiyo Hiraga, did submit the draft AIS report to the Planning Department, so if you would want to see the 192-page report, I do have it. By request, I can offer that to you. Thank you.

Ms. Dudoit: Is it electronic?

Ms. Lopez: Yes. It's electronic if you want me to email that to you?

Ms. Dudoit: Yeah.

Ms. Lopez: Sure. Okay. I'll put that down. Any other Commissioners interested in the report? Okay, three. Okay, thank you.

*Mr. Yoshida read the following agenda item into the record:*

## **E. DIRECTOR'S REPORT**

- 1. MR. WILLIAM SPENCE, Planning Director notifying the Commission pursuant to the provisions of Section 12-302-13.1(a) of the Molokai Planning Commission's Special Management Area Rules that the following proposed action located within the special management area**

**is not a “development” and therefore exempt from the requirements of the Molokai Planning Commission’s Special Management Area Rules:**

**FRIEL ENTERPRISES INC. submitting a Special Management Area Assessment (SMX) for interior renovations (replacement of flooring material, damaged windows, and cosmetic refurbishment) exterior painting (painting includes the use of same materials and color), installation of a new ventilation hood through the roof located at the former Molokai Drive Inn site, 101 Kamehameha Highway, TMK: 5-3-002: 154, Kaunakakai, Island of Molokai (SMX 2015/0486) (Valuation: \$75,000) (S. Lopez)**

*The Commission shall acknowledge receipt of the application. The Commission shall vote to either waive its review of the application or review the assessment application at the next available meeting after receiving notice.*

Ms. Lopez: Hello again, Chairman and Commissioners. I do have Luigi Manera, who is the consultant on this project if you have any questions regarding this project, he is in the room to answer any questions. However, I would just like to point out that they are doing exterior and interior. The exterior would be only to painting. I know the question came about regarding a CTB application because they’re in the CTB area, however, they -- because the request to do -- to paint the whole outside, they’ll paint it exactly the same color, in compliance with the design guidelines so, therefore, they don’t have to come in for the application because it’ll be the same color, no gloss, matted, and they’ll stick exactly to what the design guidelines say. They’ll change the replacement of the roofing where it leaks, and the gutter system, but everything else on the exterior will be the same; inside would be just regular interior renovations that needs to be done to that building. So if you have any questions, he is here.

Ms. Dudoit: And I just like be educated. So when a building like that, I’m assuming that it was grandfathered in as far as building code is determined for that flood inundation zone where it is, when the original use doesn’t exist anymore, that came with the exemption, does the building still -- is a building grandfathered in no matter what use goes on in there or does that -- do you need to come back into comply to the new standards?

Mr. Luigi Manera: No, because we -- the use of the building is the same. We don’t change the use. So it’s going to be the same. If we have to change it to office building, that’s different.

Ms. Dudoit: Oh, okay.

Mr. Manera: But in this case, it’s going to be same.



Ms. Dudoit: So the grandfather clause would be --

Mr. Manera: Right.

Ms. Dudoit: The same as long as the use was the same?

Mr. Manera: That's correct.

Ms. Dudoit: And when the use changes, then the building would have to come up to code?

Mr. Manera: Then there's some change. Yes.

Ms. Dudoit: Okay. Okay. Thanks.

Mr. Manera: Thanks.

Chair Jennings: Is there any other questions for either Sybil or Luigi? Okay, do I have a motion?

Ms. Dudoit: Motion to accept.

Mr. Lasua: Second.

Chair Jennings: There's been a motion and second.

***It has been moved by Commissioner Dudoit, seconded by Commissioner Lasua, then unanimously***

***VOTED: to accept to waive review of the application.***

Chair Jennings: Motion carried. Thanks, guys.

Ms. Lopez: Thank you.

**2. Agenda items for the future regular meetings**

- a. January 28, 2016 meeting**
- b. February 11, 2016 meeting**

Mr. Yoshida: Okay, item 2, under the Director's Report, agenda items for future regular meetings. The next meeting is schedule for January 28. We don't have any items for the regular meeting. We realize that the Commission has a special meeting scheduled during

the next three months, so in all likelihood, we'll cancel the January 28<sup>th</sup> regular meeting. You'll still have the January 28<sup>th</sup> special meeting on the community plan update. So on February 11<sup>th</sup>, we have some special management area assessments to bring forward, including the Paddler's Inn solar panel project. Are there any questions or comments?

Chair Jennings: Yeah, the question is I -- Zhantell brought, we will have that special meeting on January 28<sup>th</sup> still at 3:00?

Mr. Yoshida: Yes. Yes, we would just cancel the 11:00 regular meeting.

Chair Jennings: Okay, and that meeting will be at Mitchell Pauole?

Mr. Yoshida: Yeah, I believe the January 28<sup>th</sup> meeting is.

Chair Jennings: At 3:00?

Mr. Yoshida: Yeah.

Chair Jennings: Okay. Okay. Any board members?

Ms. Dudoit: We didn't agree to move to different locations? We did yeah? So I thought one was supposed to be in Manae, and one was supposed to be up on the west? Okay, okay, so we don't really know yet where the January 28 meeting going be, yeah? Okay. Okay.

Chair Jennings: Excuse me, Clayton. So we do not know that the January 28<sup>th</sup> meeting will be here the East Side, is that correct, or where it will be? And that decision will be made -- oh, okay, okay. Okay. Okay.

Ms. Lopez: I think Long Range will let you know with those meetings.

Chair Jennings: Okay.

Ms. Lopez: As for our regularly scheduled meetings here, I don't know, Clayton can speak to that part.

Chair Jennings: Okay. Thank you. Thank you.

Mr. Yoshida: Yeah, I believe, well, they probably can -- Long Range can report at the 3:00 meeting as to where the January 28 special meeting will be.

Chair Jennings: Okay.

3. **Pending Molokai Applications Report generated by the Planning Department (Appendix A)**
4. **Closed Molokai Applications Report generated by the Planning Department (Appendix B)**

Mr. Yoshida: So moving to pending and closed Molokai applications, are there any questions on the department's report on pending and closed Molokai applications?

Ms. Lopez: I have one.

Chair Jennings: Sybil, please.

Ms. Lopez: If I can? Thank you.

Chair Jennings: Yes.

Ms. Lopez: Just in your packet that you received, I know you requested the communications regarding the comments, so probably in the back of one of your packets, you received the comment in regarding the consultation request for comments, which they I guess they held up indefinitely, so that was that letter to address that, just for your information.

Mr. Yoshida: Okay, if there aren't any questions on the closed and open Molokai -- pending and closed Molokai applications report, the next meeting date, regular meeting date is going to be February 11<sup>th</sup>, but you have your special meeting this afternoon at 3:00, and you'll have a special meeting on January 28, at 3:00.

Chair Jennings: Okay. Diane, go ahead.

Ms. Swenson: ...(inaudible - not speaking into the microphone)...

Chair Jennings: Yeah, this after is at 3:00, it's at Mitchell Pauole. Okay? Any other questions?

Mr. Lasua: Yeah, Mr. Chair. Regarding the email that I received for the training, that they were giving out for the --

Chair Jennings: Yes.

Mr. Lasua: Native Hawaiian lands, yeah, and I had sent a memo back to -- what's -- the county regarding the training for us if we can do it here as well or get it at a later date, instead of us flying off-island so --

Ms. Dudoit: ...(inaudible - not speaking into the microphone)...

Mr. Lasua: Yeah, right, but just to be fair, 'cause I can't leave, so I just put that in a memo to Nina, and she was going to check with the county.

Chair Jennings: That's --

Mr. Lasua: It's just a point of information.

Chair Jennings: Yeah, and I never thought about that. I think it would be nice if we could have it here instead of all of us, you know, going off-island and then we'll -- you know, we pay for ourselves and, no, that's very good, Lawrence. Very good.

**F. NEXT SCHEDULED REGULAR MEETING DATE: January 28, 2016**

**G. ADJOURNMENT**

Chair Jennings: Okay, anything else? Then meeting adjourned, and we'll see you all, hopefully, this afternoon at 3:00. I know there's some that can't make it. I think Ron is one. And yes, Doug, I will be there so you don't have to do anything. That's not true. Okay.

Ms. Lopez: Thank you.

Chair Jennings: Thanks you guys. See you this afternoon.

Respectfully submitted by,

SUZETTE L. ESMERALDA  
Secretary to Boards & Commissions

**RECORD OF ATTENDANCE**

**Present**

Michael Jennings, Chairperson  
Douglas Rogers, Vice-Chairperson  
Billy Buchanan

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Ron Davis  
Zhantell Dudoit  
Lawrence Lasua  
Marshall Racine  
Diane Swenson

**Others**

Clayton Yoshida, Planning Program Administrator, Current Division  
Sybil Lopez, Staff Planner, Molokai