

November 25, 2019

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>> CART Captioner: Hello, I'm on zoom link:  
<https://isleinterpret.zoom.us/j/875180003>. On silent hold for audio.  
Thank you.

>> Speaker: Before we spoke December 31st.

>> Speaker: And the required some sort of extra approval by the governor. For economy CIP money but it is not a CIP project. We're confused about that and getting that expedited for Governor signature was extremely difficult. We think that it should be saned by this week. Hopefully so that we can close that acquisition by December 31st. The Malachi has one coastal web lands for the McCoy portion which includes the -- on the McCoy side?

>> Speaker: Yes.

>> Okay. And then moving up to fiscal year 2017. The acquisition with Ala Kahakai Trail Association. We completed everything and ordered the check for \$2 million last week. So the check is on the way. There is a hard closing deadline of December 16 which we should be able to make.

>> Speaker: December 16. Check is all complete.

>> Speaker: No. No. Check is not in Dave's hand yet.

>> Speaker: It has been requested. And flagged for urgency.

>> Speaker: Congratulations on the closing.

>> Speaker: Public land and Ala Kahakai trails and we had to do a lot

of work on this one all the way through. We had a lot of twists and turns to it. It is going to happen.

Fiscal year 17 the grass remaining award is Hawaiian Land Trust for the low conservation easement at KNI and Maui. I have no news. Not going back to DLNR until 2023 for the review of grants holder five years.

>> Speaker: Was Kepler.

>> Speaker: Yes, Dr. Kepler's land.

>> Speaker: Is there a hold up?

>> Speaker: I think it is funding I'm not sure. Or not a high priority for them at the moment given everything else going on I'm not sure. Fiscal year 18, two wards that were tied for first place. The tiebreaker went to Wyandotte community redevelopment corporation for the farms [NAME] expansion.

21 acres on

>> CART Captioner: I don't have any of these names. I'm sorry.

>> Speaker: They just sent me more documents this morning. And we are almost ready to order the check for that. Checking off all the boxes on the due diligence requirements and they have a celebration schedule for January which should be done by then. If not sooner. And the green well garden friends of Amie.

>> Speaker: Get together?

>> Speaker: Supposedly but everybody else has been hearing bit. I didn't hear anything.

>> Speaker: I just heard they were closing.

>> Speaker: Supposed to close last week Friday. Two weeks ago Friday. Our check got there in time Federal money wasn't there yet. I did haven't -- you know, they worked on a press release for everybody. I have not seen it. I don't know for sure but all indications are that it is done and going to be done.

>> Speaker: I'm so excited for them.

>> Speaker: And then the fiscal year 19 grants awards we have five. They were approved and for which funds are encumbered. P of valley was No. 1 here on Oahu with Dofa moving along. Working on that with [away from microphone] for the Dofa site.

>> Speaker: We're getting that should be in -- within first quarter of 2020.

>> Speaker: I just did an aerial inspection of the project.

>> Speaker: We're getting on that one.

>> Speaker: That's great.

>> Speaker: That is basically a donation.

>> Speaker: Yes. If she was at the -- if she was at the appraisal and we still have to pay for the appraisal and winds came out high so we're working with the appraiser to see if we can knock that down.

>> Speaker: We don't really care about the appraisal if it is a gift.

>> Speaker: We do. Images still applies for all projects. 15,000 for an appraisal. But that is for the state that is 15,000 that doesn't go to something else. So we're trying to see if we can work with the appraiser to bring it down. They already have --

>> Speaker: From an applicant's standpoint comfortable larger piece of property that is not the reason.

>> Speaker: We are not in charge of the department's budget. We're working on getting it and is already been -- we have got new coming in that are below that -- far below that. Once we get one that, you know, they can do the work to the standards that are required and at a price that isn't as high as 15,000. Since we are getting it, you know, almost at a minimus value that kind of money on it. So we're just working through the process and it should be done by first quarter of 2020.

>> Speaker: Thanks. Anything else?

>> Speaker: Oh, yeah, we have No. 2 from 2019, Caspania to the county of Hawai'i. \$1.45 million. Getting ready to get that contract going. They have not been in a big hurry over at the county. There was a change. They discovered an error in the survey and the size of the property so there is an adjustment in the --

>> Speaker: How much?

>> Speaker: I don't recall exactly bit is okay. It is -- yeah. And so that one will be -- you know, we have to complete the contract by the end of the fiscal year. Do due diligence process and then the 19-03 to McCoy lands for \$2.25 billion plus. We have got the contract done. Due diligence is in progress. The land owner is putting a lot of pressure on the group to close the deal now. I'm doing whatever I can to help them beat that schedule but you know there is stuff that has to be provided on the due diligence side before we can authorize completion of the transaction. So that is what is in play. But it is -- you know, it is coastal lobby in Hana Maui and stars are lined up in the buyer

stable.

>> Speaker: I also heard from the group that the seller was starting to place additional restrictions or requests for restrictions on the projects that are up for funding in our current docket. So you feel for them having to deal with the seller. Doesn't sound like they're making it reasonable or easy for them.

>> Speaker: Sounded like such a good deal at first.

>> Speaker: That was No. 3 Dave?

>> Speaker: There is just two more.

>> CART Captioner: There is a document with all these names on it that I could get? So I could spell the names?

>> Speaker: From the Division of Forestry and Wild Life. I believe that is still in the fundraising stage. It is not under contract so we don't have that deadline. That is where the fund just get transferred into the state trust fond stay there indefinitely. Until the acquisition is either completed or is discontinued for whatever reason including the board says that is enough already. So that is focused and we civil several years to go before we go over that bridge. I believe that the Division of Forestry and Wild Life is still raising funds for the rest of that acquisition. And then the O'ahu fishpond we talked about \$50,000 is encumbered. We'll do a contract with that before the end of the year. So what happens with our next year's budget. Hopefully they'll reapply again. That is what brings us up to our next agenda item, for the miss 2022 grant unless there is any more questions.

>> Speaker: I have a question. I can't remember the name of the property but in central Oahu it was the front page of environmental Hawai'i.

>> Speaker: What is the question Wendy?

>> Speaker: The question is so are we going to be able to close on that?

>> Speaker: The only issue with that we discovered in the process after -- we went to our survey office. One of the final steps in the process is our survey office has to have a certified survey form to make sure that everything meets up. And come to find out that the face of the ravine was never actually -- was never actually sold. So it would revert to the sovereign which is the state so it would bow the -- so negotiating with all as how much refund from them to give back. That is outside technically the project.

>> Speaker: The only question is what will our 10% of the refund be?

>> Speaker: Right.

>> Speaker: Which will go back into the land conservation fund. I propose a brief break before we move on with the rest of the agenda.

[Break]

>> Speaker: Okay. You all caught up over there? I would like to call this meeting back to order. Going to resume 70 the legacy Land Conservation Commission at 12 noon. At this point, I believe we're going to be taking care of item No. 5 on our agenda regarding forms, time lions and process for fiscal year 2022 grant application process. Dave, would you like to update us on this?

>> Speaker: Yes, please. David Penn. Conservation Commission. Our mandatory step of consulting with the Commission about the timelines and forms for the next application cycle after we complete this then we have to go to chair to have they affirm. Chair is on a three week vacation and will be back at the end of December. So our plan is to take this input, go back and work with Casey in particular that is going to put together the new application forms and all of that and have that ready for chair's approval when she returns. I have passed out a January through May calendar which is basically the window that we're looking at for getting through the whole application process and some if not all of the field visits. And then after that, we would want to set another update for our final decision-making.

>> Speaker: Is that going to be before June 30th, Dave?

>> Speaker: Doesn't have to be. Recall that the purpose of this new schedule is so that we can have the Commission's recommendation in hand no later than early September so that we can fold it into our budget request the beginning of September is when our paperwork starts coming due for the next budget cycle. The purpose it was a little tight this year with our meeting on September 6. So I would like to back it up a little bit to so that we can do that.

It can happen any time between the completion of the field visits and the beginning of September.

>> Speaker: I'll just point out that there may be some complications with Commissioners terms expiring in this window and their contributions on the site visits and reports not being able to utilize for the decision process.

>> Speaker: So what is the -- this is Commission Commissioner Sinton. When do you want them in your office?

>> Speaker: I have an outline here that would put that at April 13th, close of the application period.

>> Mr. Penn: But those are the things that we wanted to discuss with the Commission and get everybody on the same calendar for this next application cycle. As far as the input from the Commissioners, I would think that we can wrap up the field visits by June 30th. It is possible that we could complete the decision-making meeting by then if that is what the Commission wants to do. I know there was some reluctance to do this previously because of summer schedules and stuff. We'll do tend of the year I checked the calendar.

>> Speaker: On the terms can they be extended? To get through this cycle? You know people --

>> Mr. Penn: Well, if -- I think butch is talking about himself. He's going to be resigning and so his term will end June 30th.

>> Speaker: But it is on [NAME] term expiring June 30th. That is a second Commissioner to have the same --

>> Speaker: I don't have a good enough excuse.

>> Speaker: Not just about [away from microphone]

>> Speaker: Should another Commissioner -- fortunate circumstance.

>> Mr. Penn: Personally I would like to see things

>> Speaker: I would like to see things move forward and have things completed by mid summer. Permanently. Rather than dragging it into September when I'll probably be traveling.

>> Speaker: Yeah. I know that based on my experience with summer schedules, earlier part of the seasons more likely to have full attendance than mid or Heather. At this the point, Dave, we don't need to make a decision when we're going to have that decision-making meeting scheduled yet do we?

>> Mr. Penn: We do have to put it in when we open the application -- when we get the chair the schedule and when we open the application in January, we have to have the due date for the applications and we should at least be able to give the applicants some indication of when that meeting is going to occur and where it is going to occur. We can finalize that when we have the next meeting to organize the field visits. So -- but it would be good to have an idea of what our target is.

>> Speaker: I don't see any problem trying to set the schedule for application deadline and field visits and tentative decision-making meeting.

>> Speaker: Could we -- is there any requirement of how long the application process has to be? I mean is there -- has there ever been or do applicants usually get 4 months between the time we say start and the time we

say get it here?

>> Speaker: I haven't done a historical analysis of that.

>> Mr. Penn: But it is up to us I think in general a longer amount of time is more comfortable for everybody but last time we had two application cycles squeezed into one. I have some things sketched out and some explanations for those dates. I wanted to see where everybody was at first before we went into that. And is this the part you wanted to comment on or something else?

>> Speaker: [away from microphone]

>> Mr. Penn: The on-line technical part of that was a technical thing but we had -- we did have available the text version of what those questions were going to be for the most part. That was available from the get-go. But yeah. We can hopefully freeze all of that. Yeah.

>> Speaker: What is going to be the opening for the RFP date?

>> Speaker: April the 13th.

>> Speaker: That is closing.

>> Speaker: I had it opening on January the 9th which is the day before the board meeting when we were going to ask for approval of the previous round. So it is somewhere -- that gives us time to get everything together, you know, after New Year's, after the chair gets back and we get the approval and all that. Not much time but a little bit of time. I'm shooting for that somewhere around January and then closing on April the 13th.

>> Speaker: That is 3 months.

>> Speaker: More than 3 months.

>> Speaker: Yeah.

>> Speaker: That would be adequate time for you as an applicant.

>> Speaker: And then there is intermediate guidance in there for submitting the form five to the outside agencies and getting that back and being able to incorporate that into the final application. It is kind of a two stage process for the applicant.

>> Speaker: Right. Is it possible that we could do the form five consultation, agency consultation deadline prior to the April 13th deadline so that we could get those consultations back by April 13th so that we could have complete packages to review by April 13th deadline?

>> Speaker: Yes. So what I had in mind was January 9th open the application period. February 10th submit the form five to the agency. And

then we want to leave the agency they need at least a month and more particularly in the case of forestry and wild life. I have to do all of the internal consultation with all of the offices in the Department of Land and natural resources and particularly the state historic preservation division always wants a lot of extra time for these. So I had it as send it out no later than February the tenth. Send it out earlier if it is ready but that is a whole month after the application sent out that form five and then to get it back by March 23rd. Which is almost six weeks. That is still leaves a couple more weeks to -- you know, three more weeks to get it into the final application.

>> Speaker: I think that -- I guess they need minimum of 45 days.

>> Speaker: And then Dave how long -- once the application deadline closes, on April 13th, how much time do you folks need internally to compile the applications and get them ready for us where we can then start our field visits?

>> Mr. Penn: If you are able to navigate the portal, the applications are available as soon as the deadline and we'll be working with Casey to see if we can come up with some better guidance and functionality on that, on the Weis side.

>> Speaker: I will say Dave the PDF versions of the applications you put together this year were very helpful. Very easy to utilize.

>> Mr. Penn: Yes. What that entail parties going into the wise hive and downloading each document separately and then recompiling them back into a portfolio that was sent out. And maybe there is a way that we can automate that. But we have got some time to work on that.

>> Speaker: That made it really easy.

>> Speaker: Because it would be nice to have two full months to schedule field visits in and then maybe during the month of July schedule our three day meeting. Would that work?

>> Speaker: Do we want to have butch so --

>> Speaker: End of June --

>> Speaker: If everything is in and available by April the 13th, we could do -- we could meet in late April. Schedule the site visits and they could mostly happen in May and even the first part of June. We could meet in theory before June 30th.

>> Speaker: Could do six weeks of field visits. That would be all of May and first 2 of June and then schedule the final decision-making the last week of June.



>> Speaker: I would like to ask that we don't have our decision meeting from the close of site visits we have at least a week. Preferably two weeks before we have our decision-making meeting. So we can get our reports in and digest the totality of what we're doing before we meet. But it seems to me we could completely do site visits by mid-June and meet in the last week of June would be separable and we look at our current Commissioners.

>> Speaker: And complete the whole process before the end of fiscal year.

>> Speaker: I feel like it is really tight. Especially on the back end from the 13 of April. And I'm really -- suggest this because the applicants have such a job applying. Would it be possible to have applications in little earlier. Seems like a big amount of work once the applications are in to get them all ready for us to review and then I mean, I like the idea of finishing before June 30th. I really do. And you'll go with it. I can see a lot. I see it as equally stressful as last year.

>> Speaker: So are you recommending that maybe applications are all in by the beginning of April? Florida I hate to say it but I think that would be better for us. For staff.

>> Speaker: It is either that or we don't have our decision-making field some time in July.

>> Speaker: Which I'm fine not being a part of that.

>> Speaker: It would be wonderful to have you. Strongly feel that. But we're also concerned not to put the pressure on you that in July we start this. We -- different Commissioners start rolling out to Patagonia.

>> Speaker: If we can schedule now for the last week of June I think that would help us keep our calendars clear for that.

>> Speaker: Yes.

>> Speaker: Okay. Start this and work our way backwards.

>> Speaker: Yeah.

>> Speaker: Do you have a response for the request or -- I was going to ask the same.

>> Mr. Penn: The dates I laid out was liberal as I could think to make it within the targets. So I think we could trim off on various places within that if necessary. But let's -- maybe let's do the June thing first and then come back to it if that is okay. So June 30th is a Tuesday. That would be the very last date of the meeting. I think you probably should -- we have three days last year

probably need at least two days. Hopefully we won't have to do the turtle thing but we might have to.

>> Speaker: We have done that in the past for the standard and it was two days which has always been adequate. What if we get 13 applications again?

>> Speaker: We don't have any control over the applications.

>> Speaker: So let's block off three days and hope we can get it done in two.

>> Speaker: Yeah.

>> Speaker: We're starting on Sunday?

>> Speaker: Is it bad to do Saturday if it is two days to do a weekend? Is that untoward? That is a hardship? I don't know.

>> Speaker: It is hard for the applicants.

>> Speaker: Right is hard for the staff.

>> Speaker: I was just wondering.

>> Speaker: How about Wednesday, Thursday, Friday. The 24th to the 26th.

>> Speaker: You think that is a wonderful idea.

>> Speaker: We'll block that out. Curtail it if necessary.

>> Speaker: That way you can go as long or go into the next week.

Do we have a location we would like to discuss? --

>> Sorry to interrupt. Because I thought it kind of depends on what applications we get, right? So last time we had three from Maui and we met on Maui. Until we know where the applications are coming from maybe we can't --

>> Speaker: That is a fair and reasonable recommendation.

>> Speaker: That was a new twist. I instigated. It always been in Honolulu. All prior to that as far as I can tell.

>> Speaker: I thought it was reasonable. I mean it was a little bit of hum bug for us. When I thought about it we got a lot of Maui and make it easy for the applicants. So in hindsight, I thought it was a good move. A fair move for the applications.

>> Speaker: We'll leave it open until we see the majority of the applications are. Our field visit meeting we should finalize the location of the decision. Give everybody time to take care of the travel arrangements.

>> Speaker: Yes.

>> Speaker: Well that kind of depends on the rest. Initially when I

was looking at April 13, I thought to give us at least until the following Friday so two weeks. The 24th. Or the 27th is what I had down on my draft schedule. But we can -- maybe those are still okay. I think when they were talking about is moving the application deadline earlier.

>> Speaker: Shall we try with it that move?

>> Speaker: The 6th.

>> Speaker: Could you say the date again.

>> Speaker: The date of what?

>> Speaker: You was looking at either the 24th or the 27th. And then we would -- maybe 28. Because we'll have to field in that -- put that turtle field visit in before. Because the build that we're trying -- that we're hoping will pass that would eliminate the need for that -- there is a bill from last year to streamline the process. Hopefully we'll go through. Won't have to do the field visit for turtle Bay. Bypass the entire application processes.

>> Speaker: [away from microphone]

>> Speaker: Maybe when you come back on your next term. Florida can I suggest that we -- complete the field visits by June 12th. That gives us ten days roughly before a decision.

>> Speaker: And then we work backwards from that? I mean how many weeks do we need to go over the sites?

>> Speaker: I'm going say in the past I always recall approximately minimum six weeks for site visits.

>> Speaker: So site visits begin --

>> Speaker: We had it down a month last time but that was crazy.

>> Speaker: That would give us May -- if we start at site visits in May, we would have May and first --

>> Speaker: Six weeks. Working backwards we could be getting site visits in early May.

>> Speaker: Let's do that. Before we get too far can I revisit the closing the application period sooner say the end of March?

>> Speaker: We're working our way back.

>> Speaker: I have another job. It is also on the calendar. So I am going to have to travel and I'm not going to necessarily know when and island but it would be during well, schools are in session. I'm hoping that there will be a good amount of time after in June so that I can absolutely participate. I'm not saying that I won't be able to do the ones in May but I'm saying I know I won't be

able to commit until a few weeks before. Most of the visits seem to get scheduled near the end of the review period anyway.

>> Speaker: Hopefully with a little work and time for everybody to figure it out we'll have a lot of opportunity in May that will be able to slide it in there somewhere.

>> Speaker: I will point out that oftentimes what we try to do is lump multiple projects on one island together and do a site visit. It is possible because each Commissioner can only do so many site visits in order to build out everybody. The availability that if you schedule me only for sure allow a couple of weeks to do the site visits it is so completely feasible to participate in all of your site visits easily within that time frame. But that helps with your mind at ease. If there is any in this year you can have them --

>> Speaker: What else do we have on the agenda?

>> Speaker: Go back to the meeting where we plan site visits.

>> Speaker: Close on April 13. Is this a reach weep couldn't meet the following week?

>> Speaker: We have to read it to be able to --

>> Speaker: We just schedule the site.

>> Speaker: I had not met them all this time before we started.

>> Speaker: They are now. Yeah.

>> Speaker: Last time we had a time getting it.

>> Speaker: Which I hope [away from microphone] so the question -- the question of how long it takes your shop to have things ready for us after April 13th or whatever date. I'm wondering how to answer --

>> Speaker: That is also kind of a function how many applications we get and what else is going on at the time so this is still going to be during the legislative session. During the time when there is a closing that is part or hard to predict. But the agenda today -- takes at least a couple of hours on the application. And

>> Speaker: Out depends.

>> Speaker: Commissioner Wiltse is going to have to leave in half an hour. Do you want to have a working lunch here and continue on the schedule so that he can still participate?

>> Mr. Penn: That was the idea.

>> Speaker: Anybody want --

>> Speaker: We need a two day to accommodate and still want

to -- you know I like having the applications due on a Monday so that there is a final week that is available. We could meet the following week in 2021 instead of 23 and 24 or 27 and 28. And everything out a little bit of time to look at it.

>> Speaker: Any reason why we could not assign Commissioners to turtle Bay project now. And just schedule that visit right after the applications come in? And then we typically schedule that now. And if the rules change we don't have to do a site visit just --

>> That should have been on the agenda today. Now that I think of it. So -- let's do that at some point. What it would take is we have to take a two-thirds vote to add the item to the agenda today that was not on the agenda today and because it is just pointing members of the Commission to do this skill visit it is not a matter of humongous public interest that somebody might want to come to the meeting to testify about that. It should be okay on this so do that thanks. That is a good idea. Let's finish off the other stuff first.

>> Speaker: If [NAME] is not here will we still have two-thirds? I don't know what the numbers are.

>> Speaker: That would likely happen just trying to clarify in my mind. Turtles Bay site visit could happen before our meeting to assign the other site and what not. Other sectors.

>> Speaker: Recently it has been the day before.

>> Speaker: A see. Okay.

>> Speaker: It has been the day before and the decision -- yeah.

>> Speaker: But -- no, it is not before the decision.

>> Speaker: Because I can probably figure it out looking back at my calendar to figure out.

>> Speaker: And that is subject to us being able to arrange that date with --

>> Speaker: They have to apply?

>> The department has to apply. And a non-specified nonprofit land conservation organization has to file the application. Which by common understanding is public land use.

>> Speaker: That is why we went to turtle Bay on August 29 and we had a meeting on the 13th. This last year. I guess that was -- then we met again -- oh, yeah, that was a final --

>> Speaker: So can I just schedule for the 20th and 21st? Would that -- field visit meeting on the 21st and --

>> Speaker: The consultation we'll go back and do it. Yeah.

>> Speaker: The deadline got pushed up to April 6 on the 13th and allow it on the field visit.

>> Speaker: That was the next question.

>> Speaker: That is my proposal. My recommendation. What do you think? Mod Maine feel like you need more than two weeks?

>> I like that. Because

>> Speaker: The applicants a minimum of two weeks to incorporate the agency consultation. Into the final application. -- generally and business development corporation has not had any standard. It commend heavily on the applications that proposed to preserve the property for agricultural use. And they want to know a lot about the historical use of the property. How big the herd of cattle and one thing that we can do the application instructions we can have application questions and flag that all the more heavily for the applicants. And then but for DLNR, it is all over the map. I have to circulate that from five to office of conservation and both the land and statute historic preservation, water Commission. Aquatic resources. And then hard to predict what they're going to come up with.

>> Speaker: Is out best to do field visits even though the last pieces have not come in to complete the applications and not allowed to go on field visits without complete applications.

>> Speaker: The purpose of the field visit is to investigate the completed application. For the and that is the other thing you need is, you know. The Commission -- when you get the completed application the team may feel it needs more information. And that is the component of the field visit at least to have looked at the application and you're requesting the applicant submit additional information. For the commissions. I have start on January the 9th. The 10th close the application period on April 6th. Have our meeting on April 20th for turtle Bay field visit and 21st for field visit and then we will also determine where the decision meeting will be held. And the decision-making would block out three days June 24, 25, 26. We can put that in the application. That will be for -- after this point and we have until late December.

>> Speaker: This is turtle Bay. The turtle Bay site visit.

>> Speaker: On the 21st is --

>> Speaker: So my schedule is --

>> Speaker: Is that turtle Bay thing and all day thing or half Bay thing?

>> Is this a challenge to get back in time to start --

>> Speaker: Will you make sure that Jacob and any other Commissioners get that scheduled.

>> Speaker: Yes. Jacob is the only one.

>> Excuse me. Okay. So maybe chair at this point we can get a motion to amend the -- to select a field visit for permanent interaction group for investigating the upcoming Turtle Bay application.

>> Speaker: You hereby move that we amend the agenda today to include the permanent interaction group for Turtle Bay for April 2020 field visit. Any discussion. All in favor. All opposed. Motion passes unanimously.

>> Speaker: What was the second one?

>> Speaker: Rick.

>> Speaker: So [away from microphone] now we're going to take up that item. Gleets go ahead.

>> Speaker: Just reminder the motion has to include appointing the action group stating the purpose of the group, what is its mission and its leadership.

>> Speaker: So moved.

>> Speaker: Who hasn't been to Turtle Bay? You're going.

>> Speaker: I have been there three times. I don't think I need to go a fourth.

>> Speaker: I went last year. I'm willing to go again if people don't want to go but --

>> Speaker: Well, I will reserve because I got go last year. Wonderful new things happen, John, the last time you visit. It is always stimulating.

>> Speaker: I will volunteer to go.

>> Speaker: I will also volunteer to go.

>> Speaker: Awesome.

>> Speaker: I have not gone for a couple of years.

>> Speaker: Two years for me.

>> Speaker: I think the hotel is doing remember sayings.

>> Speaker: That has never happened.

>> Speaker: I just got mine from September.

>> Speaker: So it can bow anywhere that you want it to be for --

>> Speaker: We have room for one more. Should we nominate

Jacob?

>> Speaker: Wait.

>> Speaker: I'll put down as the fourth. Up something happens.

>> Speaker: Can we have a motion on that.

>> Speaker: I hereby move that the permitted group of Turtle Bay should be composed of Commissioner Sinton and Commissioner Lucas and Commissioner Tavares and Commissioner Haase for Turtle Bay conservation easement what that is called? Debt service application for FY 2020. It is going to be 2022. All right. Commissioner Lucas. Anyone second? Everyone is seconded. How about just one? All in favor. Any opposed. Motion carries unanimously.

So this visit will take place on April 20th, Monday. 2020. Mark your calendars.

>> Speaker: Subject to comprehension.

>> Speaker: Yes. Just a point of housekeeping for the upcoming schedule for next season. They want to submit or prepare tentative site visit dates early on so that once the application comes in that we have a decent schedule to work from. I know this last season almost certainly -- certain applicants where their site visit days were so limited that it really made it challenging for the Commission to [away from microphone]

>> Speaker: Yeah. David, here, maybe we can make it a required part of the application.

>> That is not a bad idea. Good move. I see why you're in charge. Excellent idea. I'm going miss you.

>> Speaker: You know where to find me.

>> Speaker: You asked [NAME] to take that sassy bid out.

>> Speaker: I think they tightened it up.

>> Speaker: The forms. Are we moving on to the forms now?

>> Speaker: Sure.

>> CART Captioner: Too much paper moving I cannot clearly hear.

>> Speaker: Update. Didn't I see on the agenda where our Legacy Land Christmas picture is happening.

>> Speaker: Yes. It is not on the agenda today but we can do it. Do it before Commissioner Wiltse leaves. Before we get too enthralled with forms.

>> Speaker: Let's do it now.

>> Speaker: Commissioner a brief recess to get a photograph. I



hereby call a brief recess. It is 12:47.

[break]

>> CART Captioner: On standby.

>> Speaker: Let the record show that Commissioner Wiltse did not return after the break. And we're trying to wrap up by 3:15 or so, so everybody can get back to their flights. A couple more hours for the discussions.

>> CART Captioner: This gentleman is very far from the microphone. I can barely hear him. Please use the microphone please. Thank you.

>> CART Captioner: You're just far away. And the papers. I think once everyone gets settled it will be okay.

>> Speaker: I hereby call this meeting back to order. 12:59.

>> CART Captioner: Mr. Penn is very far away.

>> Speaker: So we're going to return to agenda today item 5 (c).

Forms. Review.

>> Speaker: 5 (c).

>> Mr. Penn: Five (b) is the forms general discussion.

>> Speaker: How about 5 (b), forms general discussion.

>> Mr. Penn: So just -- to -- I didn't get any feedback about in general about adjusting the forms. We did come up with a couple of ideas during this previous discussion including asking the applicant to provide the field visit window, if possible. And anything else.

>> Speaker: PDF discussion.

>> Speaker: Right. PDF. So that is something that we'll be working on. I'm talking more about what information do we request from the applicants in the various parts of the application and how do we request it?

>> Speaker: Just mock a form and make a suggestion.

>> Speaker: It is open for discussion. Whatever you got.

>> Speaker: Form two and probably others, the land use districts I believe missed three but I believe there are four districts. There is rural as well.

>> Speaker: True.

>> Speaker: State Level.

>> Speaker: Yes.

>> Speaker:

>> Speaker: My voice

>> Speaker: Please speak up. [away from microphone]  
recommended if you do it because we haven't had title reports ready by then?

Or by the time the applicants are submitting that should be a requirement versus it strongly recommended?

>> Speaker: Well, it is an expense. It could be several hundred dollars or more depending on the complexity of the assignment. And so you know for some applicants they have funding up-front to do that for others it may be a little bit of a stretch. So I don't -- we can make it a requirement but I think that is the main reason why we shied away from that. You know, the other -- we don't require an appraisal either. Just another expense item. And I think the plucks didn't know or will know that should your application be approved as we go into a grant situation then all that stuff has to be provided. But I think you know we have seen things entitled reports where it would be good if the Commission had that information and was able to discuss it because it could affect how we evaluate the application in terms of hurdles to overcome or rightness or whatever. But it is your decision at this point. If the Commission wants to make it a requirement it can look at doing that.

>> Speaker: Because that is what we're seeing a lot of and actually I would -- we're seeing right now is in the due diligence process some of these are coming up or we were aware or the Commission wasn't aware as we went through that application process. It seems like I wonder if we -- that should be part of our process including that within it. I know some of these organizing are probably waiting for the money to drop to them to be able to do this due diligence but that might be one of the things that we might look to now as a Commission to have that as part --

>> Speaker: To play devil's advocate to protect the public's investment, if an organization cannot get the funding together to get a title report done, can they really be expected to be sound financial stewards of the property that the public is investing?

>> Speaker: That goes back to the capacity of the organization as well.

>> Commissioner Haase: Correct.

>> Speaker: I can see it both ways.

>> Mr. Penn: The flip side of that we have been seeing a lot of applications that do have a title report. Just because you have the title report doesn't mean that everybody is studying it and [NAME] is what we asked her to do depending on what other workload she has and depending on how it was prepared whether it was prepared it may not be revealing the things that we're finding like this thing with the boundaries on how they [inaudible] going to be

discovered earlier if you really went deep into the whole history of the property and checked all the boundary descriptions against each other and offered the history of the conveyances of that property. So there is a portion in the application where we also ask if you were not able to supply a required form explaining the situation we could add something say, you know, if you're not able to provide the recommended title report what is the story? Or we could just plain require it. That is --

>> Speaker: I'm wondering about it from the whole length of time it adds to the applicant's putting together the application. I want to say another uncertainty for the applicant. So I just wonder if since we only have one -- no, we have two entities here that have applied, I wonder if it --

>> Commissioner Haase: For my organization, by the time we apply for Legacy Land funding we may be well over a year into discussions with that landowner. Part of how we're requirements on the organizations to request a title -- preliminary title report or recent title report from the sellers to demonstrate clear title because we will not, you know, normally -- last project was a little different -- normally we wouldn't even anticipate a project that was a quit title and it was not completely clear to us initially because we were provided -- were not provided a learn even stating that the title is clear. They had come back and cleaned up the title. That is why we moved along with that project in time.

>> Speaker: But you went ahead and applied with an unclear title situation and we went ahead and approved your project with --

>> Commissioner Haase: Because we had a plan how to clean that title up which was clearly stated and communicated.

>> Speaker: It was very clear.

>> Commissioner Haase: We're willing to go one step further and reunite this Hawaiian families with their property. Which is something that I think that was unprecedented, you know. That is why that is an unusual situation. It was conveyed to us originally. We requested that title report or proof of title quit title from the sellers prior to making this so that is how our organization works with that. We were misled. Or maybe the sellers were uncontrary to clear their title but we decided to come up with a solution that be would work that out. Have clean titles. That is how we handled it. I know trust for public land was our partner on that project and did a lot of the due diligence on understanding what the title issues really were there. But needless

to say we had a title report prior to applying the fund from legacy in order to help us understand the nature of that property and how we were moving forward with it. I think that is really important. I mean, I -- I'm torn, you know, some ways I want to say yes you must, you know, submit a title report but then again, sometimes there may be situations that are unforeseen that we inhibit a timely production of a title report for whatever reason. I don't know. Shit happens. But I'm -- but I think having a description like Dave was recommending if you're not providing title report please explain in detail why. What is your plan? I think that should include some sort of additional language that says, you know, this will be a closing required" requirement so please explain your plan to produce this title report and estimated deadline. So that, you know, they're not just left off the hook for doing that. This was my thought.

>> Speaker: Commissioner Blauch may I ask a question? Is out your requirement of your people seller provide a --

>> We usually require it because we wouldn't want to spend a lot of our resources on a legacy [away from microphone] unless we knew it was going to be fixed. It does take a while to get -- a look at the title report and it takes a lot of research to figure out what those issues are. What is up here on the title report. That does take a lot of work. I would say people who don't have our help on their applications are going to struggle with some of that and the department is not doing a thorough review of it then I don't see why you would want to require it at an Earl his stage. The fact that you're moving up -- that you now have moved up the application a year, right, now you just moved it up 6 months and now it is due in June. I would say we're going to struggle with coming up with a solid applications on this time line thinking about 2020 because even to submit a 2021 application in 2019 like we were just trying to figure out what lands there are that we don't know B what organizations, what lands are for sale, what kind of seller is going wait that amount of time for funding to come in? You'll have opportunity only really got pulled together like I would say like May right before kind of we had to do tons of research to even put -- that is why you put it in 2021. It does take a long time to put these things together to work with the seller. The fact that you're only making even more aggressively is going to make it harder to have solid applications that are going to be 2022 because you have to predict. Let's say something causes the market after June then you would be on the 2023 cycle right so it is just -- that is just something to keep in mind. No real perfect decision. A would -- I would say for the

applicants that don't have our resources [away from microphone]

>> Commissioner Haase: So the fact that we're looking at basically funding two years out, for an application from this coming up season, that could potentially jeopardize some projects because the sellers may not be willing to hold out that long for that project and the appraised value could change significantly in some unique situations over a two year period.

>> Speaker: Put the appraisal together and [away from microphone] until after that application. Takes so much money and [away from microphone] we don't really want to --

>> Commissioner Haase: We must have a ballpark estimate what the project cost.

>> Lock for example rate now we're getting [away from microphone] we know how much money we have -- you know we just don't know where it is going to land. Kind of how [away from microphone] I think in general these are very complex transactions. There is so many variables that -- like explaining all the complications [away from microphone]

>> Commissioner Sinton: I guess my take on this is that what we're debating is whether to change our wording from strongly recommended to required. And I kind of prefer to keep our -- our -- the Commission's flexibility here. We change to it require it is not there then I guess it is dead or -- I'm not sure exactly what happens but we're already strongly recommending and we often get title reports in our applications so I'm not sure I would be in favor in strengthening that language.

>> Commissioner Haase: What if we included strongly recommended required at closing.

>> Commissioner Sinton: I would have no objection to that. It is required at closing anyway is it not? You can't possibly close without that report. I don't think so. And that just convey to say the applicant you're going to have to do this sooner or later so might as well start getting your ducks in a row.

>> Commissioner Haase: Right.

>> Commissioner Sinton: I would have no objection to that wording. That way we don't kill it on a technicality. But I think makes a good point about this. ]

>> Commissioner Haase:

>> Mr. Penn: Strongly recommended required at closing. Is there

anything else?

>> Commissioner Haase: Commissioner Lucas and Commissioner Warshauer.

>> Commissioner Lucas: This was in regard to the [NAME] and I didn't think about it until we were going through it now. So just happened to ask a question about existing debt. And it came out that there was a huge debt almost -- that it was in the second more information and so the DOFA (sp) repetitive working on this for four years, she had no idea until that moment that this debt existed and so somehow another they're not filling out the forms right or there is a gap in the forms and it was -- it was unnerving because it was not only a huge amount of money but it was a private that could be called on and at a moment's notice and so I -- I was just looking over the form two and it says encumbrances and it is a whole bunch of alphabet soup. I don't know what all those things mean. Is it covered -- is there somewhere that -- that the applicant has to disclose debt?

>> Speaker: Wouldn't outstanding debt be income brans?

>> Mr. Penn: I don't think that we have included that specifically in those terms. What we see frequently on the title report is there is an encumbrance by a mortgage that has been worded right, right, but if it is not reported then you Ma not know about it which is the situation this would refer to [away from microphone] which application it was and yes. So -- so, you know, that could be, you know, again looking at it both ways that is great for us to know about and would certainly affect Commissions discussions made but really if we're paying the money to purchase that property and the debt is still on that landowner, it is -- we may be helping to relieve that situation. It could also be a -- to landowner to have to [away from microphone] so we can -- we can certainly rephrase the question to more explicit that type of situation. But we can't force --

>> Commissioner Haase: Let's just think about this for a second. Look at it -- a project which has imminent threat of development that has a bearing on urgency and funding for that project. Correct? So if there was a lending time constraint that could recall the note or recapture the property, that would be a threat to preservation of that property and would thereby potentially still qualify the same reaching as imminent development and loss for project as far as our purposes go. So and Dave you probably have the most bearing again and other Commissioners, my line of reasoning is quad hear please interject.

Therefore the reasonable to be made aware of any imminent threats to the property be it development or financial for helping us make our decision.

>> Mr. Penn: It cuts both ways. In this situation it was fortunately the Commissions' investigative team. And got the answer and was free to incorporate that answer into the rendering of the application. But yeah. I understand your reasoning there about that just be more impetus for the landowner to sell to whoever [away from microphone] and another certificate vagues --

>> Commissioner Lucas: The public funds could have been used to have bought it because it was such a large amount it could have been equaled on and then suddenly we okayed maybe -- it still has a conservation easement but that entity that we have vetted is no longer the owning entity because it now belongs to the person who had the second mortgage. That is -- that was the fear.

>> Mr. Penn: Right. Okay. Conservation --

>> Commissioner Haase: If they equaled that would be deemed disposal of asset of original recipient which would trigger the disposal clause in the grant agreement.

>> Commissioner Lucas: Woe, what was that?

>> Commissioner Haase: Is that correct Dave?

>> Mr. Penn: That is something we have been working on because definition of disposed of is not clarified by the rules. So the statute -- so for instance with Wikapona (sp) it also includes if the county comes in with a condemnation action and there is a sale or if those license agreements for the cell phone towers or pasture licenses are renewed or extended under substantially different terms than they current through exist --

>> Commissioner Haase: A new market situation where interest is transferred to a subsidiary holding company would that then be deemed not a disposal of assets?

>> Mr. Penn: Presently, there is an upwards there under the mortgage that -- but that kind of situation [away from microphone] that is the strong point of the conservation is it is still in place and they're protected no matter. What maybe we're not working with the same person that we should be working with but that is a possibility any time. The language of a grant for conservation easement does not -- the landowner doesn't require our approval to sell to somebody else.

>> Commissioner Lucas: Certainly the ability of -- what made it interesting was all the things that were happening there and up those go away then that wouldn't be the best use of state funds.

>> Mr. Penn: I think at this point without a whole lot more work between now and the application deadline the best we could do is to put more meat on those what is it --

>> Commissioner Lucas: Okay.

>> Mr. Penn: So it would be up to the pluck whether they know about it, whether they are going to put it in the application or not. Then the Commission can follow up during the directional phase.

>> Commissioner Haase: The only other way to deal with the question would be to just have another line on the form and just says listee outstanding debt. That would be straightforward.

>> Speaker: That seems reasonable to have on the form.

>> Commissioner Haase: Does that satisfy --

>> Commissioner Lucas: Completely. 100%.

>> Commissioner Haase: Simple thing to do and lets the Commission know what the financial status of the property is.

>> Mr. Penn: Just one other situation which calm up with [NAME] and which could potentially come up with other Commission as well is that when the landowner or the [away from microphone] limited liability it may be that the title to the property is an asset of that company and the company can change hands in that asset would change hands and wouldn't show up as a real estate transaction. The best example of that is Lanai. Because they have it --

>> Commissioner Haase: Corporation is still the owner.

>> Mr. Penn: So we did put special language into the contract for Koa and thank you determination of the LLC also counted as a quote-unquote disposition.

>> Commissioner Haase: That type of additional hang could be included in the grant agreement so that should there be any change of corporate ownership. Is there anything in the grant agreement about that?

>> Mr. Penn: Only the [away from microphone] disposition. So yeah. We can add that any outstanding debt.

>> Commissioner Haase: Do you want a description who was it held by or just outstanding debt?

>> Mr. Penn: Let's just start with that and then the interaction



group --

>> Commissioner Sinton: Ask that question and if they say yes you expand.

>> Commissioner Haase: That is where we can request additional. All right.

>> Speaker: Commissioner Blaich?

>> Commissioner Haase: Commissioner Warshauer is next and then Commissioner Blaich.

>> Commissioner Warshauer: I'm informed to -- it lists there are a bunch of specific things that are asked for. One is critical habitat. And that -- there is critical habitat, essential habitat. A lot of these things are unknown to most people. Maybe it would be better to put recognized report habitat. Because the state may recognize it as such in their priority factionaries but the feds don't. Not going to see a whole lot coming out of the feds in the future long these lines.

>> Mr. Penn: That is based on the statutory language that specifically calls out critical applicant.

>> Commissioner Haase: Is that Federally designated habitat? Just change that to Federally designated habitat. Or that have footnote No. 9. Is it in the footnote? Then we're good.

>> Speaker: And you think that is okay because there is many places in the applicant or there is a whole section in the pluck where you discuss your resources and values and then you can -- they go on and on about their habitat, important habitat. Group habitat. But I have a question that is maybe related but it is about the other forms. Sometimes I felt in reading the applications that there was a lot of repetition on the part of the applicants. I wasn't sure whether that was because it was hard for them to know where to put this history or where to place these resources. Because of the categories we were asking. And I sometimes wondered whether all of that shouldn't have just been instead of three separate forms, one form with maybe three -- be sure you discuss the following. I'm just throwing that out there. I would like to hear from an applicant on this issue.

>> Mr. Penn: So specifically you're talking more about the narrative like G and H and I and J --

>> Commissioner Haase: I understand where Commissioner Blaich is coming from. You experience the same situation. Maybe ask refresh my

memory. E, H and I asks what --

>> Mr. Penn: I'm pulling it up.

>> Commissioner Blauch: I looked at them again but they murdered. That is distinct. It gets repetitive.

>> Audience Member: [away from microphone] sometimes we have a generic paragraph. It summarizes you know habitat. Culture. Watershed, blah, blah. Then we'll list all so fire [away from microphone] hurricane, you know, development but usually we try to focus more on threats that section. That is probably what we're -- and then in the actual online application and ocean access like every single thing that and we have to put in the box and there is work in it. They all have [away from microphone] and sometimes it is a matter of we couldn't fit it in there. We put it here. It starts sounding I don't know what your preference is. You could just take out if you wanted I guess.

>> Commissioner Blauch: You think we better leave it like it is.

>> Mr. Penn: This is a lot of overlap online forms and the other forms and I think rigor and extent of the current form is partially a product of the audit situation. Show just how rigorous we really are about this. And so I think, you know, the ideal solution would be if -- if Commissioners would like to form a sub committee or a permanent interaction group to really, you know, dig in on revamping the application form, that would be something to consider. But the other thing is, the form is basically based on precedent going all the way back to the programs so in a we're also looking for consistency and fairness to applicants across application cycles. Inch I'm curious to know what section the Commissioners -- you change the narrative.

>> Commissioner Haase: He can't tell you that. Nice try.

>> Audience Member: [away from microphone]

>> Mr. Penn: That kind of leads into the next item on the agenda today. Is this anything else under the general concession?

>> Audience Member: I have a couple of comments about the forms. I mean, I kind of heard --

>> Commissioner Haase: Come up to the table. We have a little make phone here. We would love to capture your comments.

>> Audience Member: I heard Commissioner Blauch talk about the alphabet soup. It is a little bit like that for us especially form two is -- this is Reyna [NAME] from the trust republic land. Yeah, form two is especially his like hyper-technical. It does take a while to fill out so that is just something I don't

know if you want to deal with this time around but that is kind of why I asked like is it useful for the Commissioners like all of these designations in this form. And if it is not then -- I don't know if you want to make some optional or some -- you know, it is just -- I mean that is just something to note on the part of the applicant. We do end up going to the footnotes and we go to the websites and combing through a lot of data to get the specific alphabet soup that you need for this thing. This form. So it just -- one thing it is very time-consuming.

>> Commissioner Haase: Some cases you have to request this information from the county. From a department or division or county.

>> Speaker: Sometimes it is just not clear.

>> Commissioner Haase: I notice that from [NAME] county they don't seem to understand their own designations don't know. Don't have accurate maps. Don't get back to you in a timely fashion. Because they make a form and that never gets addressed. So from an applicant's standpoint on some of these classifications from -- I understand your -- coming from -- inch that is just one thing we wanted to flag. The other thing is questions 18 D and E about the agriculture resource lands. We couldn't find any online resources. You personally left those questions blank because I couldn't find anything. So that is also something that you could consider whether is necessary or not to your decision-making. David noted it is optional currently, I e-mailed you I could not find this information. You were like oh you don't have to fill it out. Something that is hard to find this information. You could make certain things optional.

>> Speaker: For some project I guess this could be easier or more important for some project. For the ones that you have been involved with but can you imagine other project it would be more pertinent and fill it out.

>> If the information was available I would be happy to put in the form. The problem is it is not available online. It would require calling a bunch of people at Department of Agriculture and the U.S. Department of agriculture and figuring out a lot of the specific classifications for specific T and Ks and I don't know how useful that is. When we know a classification, like state classification, that is easy to find. We're happy to put it on the form. But certain things are just not accessible.

>> Mr. Penn: We'll run those down. That was a recent addition to the application and the continuing with to say address the same questions that always come in from the State Department of agriculture. So that is part of the

connection with they're going to ask about this. They said there were comments and we might as well answer it up front. At that point it was one of the many things we were adding to the application that we can certainly improve that part for the next round: But overall, yes.

>> Audience Member: Yeah.

>> Commissioner Haase: We should have [away from microphone] classifications. But I guess --

>> Mr. Penn: We'll add that to the sources.

>> Audience Member: Yes. You would think it is easy. You would think it is easy to find. It is not.

>> Commissioner Haase: Contact issues [speaking at the same time]

>> Audience Member: The other comment I had on the online application just for the portal when we create -- when we have multiple applications which we often do, we have to create separate e-mail -- I -- David knows about a lot of these. As we're doing them these things come up and he has to deal with us. But if you could -- if we could create multiple user names or project names under a single e-mail address. Instead of creating I have to go to Gmail and create e-mail addresses for each project. I had five applications last year because of the two physical years. I had to check all of them, create passwords and create portal accounts for every single one. Just like a nightmare. If there could be a way we could do like a user account or some way -- I don't know. I'm sure the tech people can figure it out. Project name.

>> Mr. Penn: There is a way but it exceeds the amount that we're paying under our current contract. So we have to add on some more costs with the portal provider and so our contract runs through June. We may be able to do a Change Order to -- yeah. And able to accommodate that.

>> Audience Member: If it is cost prohibitive that is fine. That is just a potential. Not very often that we're submitting applications but -- we're going to talk about the other form next.

>> Commissioner Haase: Does that wrap up the general discussion?

>> Commissioner Warshauer: The [away from microphone] vary from form to form. It is a good way to identify the area for a lot of people and continue to use the [away from microphone]

>> Mr. Penn: Do you want us to make another drop down for the districts --

>> Commissioner Warshauer: Just make sure that the form has that.

The one that goes out for agency consultation [away from microphone] form two does. No. It does. The one that goes out to the different agencies.

>> Speaker: Are you referring to having that category?

>> Commissioner Warshauer: I'm sorry? Where are you?

>> Speaker: It is. Yeah. Face name. Footnote five. It says indicate Kate.

>> Mr. Penn: Where do we send them to find that out the proper location? They're putting in an application. That is what I use.

>> Speaker: [away from microphone] we want that on every place where we're asking for location? I heard it. Auto fill in all the place that that information required. You have a basic -- you could do this so simply on Google docs. I know you don't use that and you use this thing that you're paying for. But it is really clumsy. You should only to have put TMK in once and then it could be auto filled and -- this application. We shouldn't to have refill it every time on every damn form.

>> Commissioner Haase: I agree with Commissioner Sinton wholeheartedly and request that staff look into seeing if this is a way that these repetitive fields could be auto filled.

>> Commissioner Sinton: Some of that is not secure I guess but --

>> Commissioner Haase: That is a really reasonable request. I think it would make it a lot easier and then if we want Commissioner Warshauer was saying we want every document if it is an auto fill kind of situation then --

>> Commissioner Warshauer: Yep.

>> Commissioner Haase: Even act like a footer in the document.

>> Mr. Penn: [away from microphone]

>> Commissioner Blauch: Renegotiating the contract here. You are.

>> Commissioner Haase: The other major changes that we could make? Are there any other general discussion items on the forms agenda today item? Hearing none. Moving next to the specific forms so Dave document you're handing us is this --

>> Mr. Penn: Post outline for this agenda today item. You know just this way of background one of the things that we are seeing as somewhat of a disconnect or a -- in the area of improvement is the distinction between resource values and resources to be protected. So in our view, resource value is kind of a more generic characterization whereas resource to be protected is more focused on you go the specific resource A and resource B. This planned community.

You know, that cultural use area. Things like that. And the terms get you somewhat interchangeably throughout all the program documentation. For example, on form five, there is a section that asks about resources to be protected in the contract and B there is a section about the resource value documentation that uses the resources to be protected term. And so what I am proposing to do for this next cycle is to find ways within the application form to clarify those distinctions and to make it more clear to applicant about in your application there is resources to be protected. In the contract there is resources to be protect. In due diligence there is resource value documentation form which is somewhat bowing paragraphs and then in due diligence documents and in our follow up monitoring and compliance work there is Psalm question of resource value which is typically the value of conservation versus resources to be protected which is in most cases more specific to the Legacy Land conservation program and the state's interest in its -- you know, grant for the property. That is kind of what the two page handout that resource documents is the most subjective part of the application. It is the most subjective part of the due diligence. It is not what is the tax key number or how much money do you want on the property. It is what are we protecting and where is it and what is its condition at the time of getting ready to close the transaction? So on these recent closing that we talked about earlier in the meeting, applicants or awardees and we have been working closely. We have been hammering some of these things out. I don't always agree on every aspect of it. But that is typically how it goes is that applicants can see that there is some sort of disconnect or I'll see it and then we'll hopefully have time to fig it all out and to have things completed in a fashion that shows our taxpayers that we're really being serious about documenting these resources and doing whatever we can to assure the protection throughout the rest of the play for the property. So I'm just wanting to flag that for everybody. I know Rayna has something to say and see if what we can get from the Commission as well before we go back and work on it on the forms and potentially some of the other programmatic documents.

>> Commission Commissioner Blauch: Sometimes they say this is potential habitat for such and touch flower or this was there and Al Kahakai was an example of that. We had a strong belief there was hobble actual habitat but definitely potential habitat. But now if you get -- you can't be locked down too much in that situation. That still leaves the room that is needed when -- I mean, it is one thing to say this is the last on this property and year later it is gone.

And I don't want to lock anybody too terribly much is what I'm saying.

>> Mr. Penn: Not every application stage. Where the rubber meets the road is when we're closing the deal. You're finding resource documentation form which I also kind of pinch it this is where we have acquired about the property on the process. We go back five years from now and we have gotten to self-monitoring reports. Okay. We're going to go check this out. We don't have to go back through everything and recreate the universe. We can if we want to. But we have this resource value documentation of a time where these things stood at the time the new owner took possession.

And yeah. There is things that are known and things that are unknown and things that can be known and things that can't be known. And we also have --

>> Commissioner Haase: And things change.

>> Mr. Penn: We have provisions for writing into the grand agreement but we have not done it yet to say okay we have not covered everything in the resource value documentation form. Here is a time line after the acquisition to complete the rest of this work. We kind of discovered that as an option along the way on this process. But that is the real important thing for us at the staff level especially, you know, in 20, 30 years when most of us are not on the seat any more. Someone else picks it up has a clear view of what this is about. What am I supposed to be looking at when I go out to check on it.

>> Commissioner Haase: It is going to be very different. Unfortunately. As in the last 20, 30 years that I have been working resources. It changed dramatically. It ain't getting better. But I would say that, you know, having been an applicant that went through the resource documentation and going through the forms I have been monitoring the resources. They do change. And I as a recipient, I would say that you know, I don't feel like that we're beholding to try to hold the line against the presence on acquisition because there are so many variables out of our control. There is no way that I can prevent them from being present any more. So I don't feel like that -- I hear your concern but I don't feel like as an applicant recipient I have been beholding to that standard. Right Dave?

>> Mr. Penn: Yes. But I think the standard is -- if the last is there then where is it? Draw a circle around it or something.

>> Commissioner Haase: That may be unreasonable request from the state.

>> Mr. Penn: Where does your knowledge comes from?

>> Commissioner Haase: Monitoring bird situations and resource management. Try to track down and capture the last [NAME] in the wild and extreme rugged mountainous terrain is literally intake.

>> Mr. Penn: If you note how do you know it there is and you roughly know where -- like on this last round we -- there were several scientific surveys that were referenced in the application. It formed the basis for knowledge that transferred there. We didn't have those specific studies. Just had a syntheses. So we went back and asked the awardee to provide us with those and we got them and that was very helpful.

>> Commissioner Haase: I know the [NAME] project there were previous studies done that did document species that are no longer known to the present in that. But certainly makes viable re-establishment possibilities. Habitats.

>> Mr. Penn: Things happen and the conditions change. But you know the purpose of this is really like snapshot in time baseline kind of situation.

>> Commissioner Haase: Which is really important. I went back and looked at our baseline documentation imagery that we submitted for the kapoo in 2009 and it was document not by rose Apple and rest to a point where it deviled the entire population which base usually carpeted the mountain bottoms of all of them there. I went back and rephotographing recently. And it killed the rose Apple and it all collapsed and has degraded in the last ten years. To a point where the -- it is no longer presented in the imagery in the valley and the weed in its footprint. But nonetheless, radical visual alteration of the landscape in ten years since resource documentation since the result of an introduced fungal antigen introduced in the species.

>> Speaker: Are we talking about documenting the resource value on parcel of land in order to have a baseline in order to then provide -- that is the baseline for monitoring for future monitoring? Or I feel like the better -- the better way to monitor an organization's you know I guess benefit would be through their management plan.

>> Commissioner Haase: I don't think the case point was about tracking the organization's activities so much as documenting the resource status of property when the public investment is made.

>> Mr. Penn: There is one other dimension to this which came up is sort of the difference between a county or a flaunt applicant or fee title where



there is a conservation easement attached versus a state agency land acquisition where there is not a conservation easement and also regardless of who it is whether or not they actually possessed the right of entry presell to go on to the property to start documenting these things, you know, on the ground versus from -- from ark I'll knowledge or aerial imagery or something. So what we have started doing with the state applicants because this was also partially

Response to the audit which harp placed the fact that state agency has especially the Division of Forestry and Wild Life passed an advantage for other applicants in the way that grants our process and awarded so what we did and [NAME] the last two I worked with the dofa mix to put specific language in the board's submittal that basically committed to Division of Forestry and Wild Life. They have to do it anyway. They have to do a maturity plan for the land requirements or whatever to specify in there that the management plan is going to include a thorough systematic documentation of the resources that were identified for protection through the Legacy Land but process but -- so we have that on the record in the board submittal and getting others back to comment on the plan for the management plan and all of that. But because for instance with [NAME] the Division of Forestry and Wild Life did not range over the property. Right of entree to do certain thing lake phase I environmental investigation or the clean up action for public land. But you know it was not like yeah we can go in there and run all over document resources that is with regard -- whereas in other situations and they may have that. They may have a right of entry from the landowner that says go ahead and check it out because we know you have to do this stuff before you close the deal.

>> Commissioner Haase: Certainly feasible an applicant would not have necessarily that full range of access all the time in every situation. So it is hard to document stuff in advance.

>> Mr. Penn: It costs money to document it no matter what.

>> Commissioner Haase: Dave do you have anything on your handout that makes significant changes to the forms?

>> Mr. Penn: Here is for the areas we may just emphasize things with a little brighter line over it. So for instance particularly on form five resources to be protected. We might add a little exclamation there. On the application in question 12 affecter valuable resources maybe we would also, you know, qualify that with these -- this means of resources to be protected and then there is a corresponding section J associates with that. Section D I looked for places

where the words resource value or row source protection occurs and so and then the rest of it there the second section contract exhibit B that is the language from the contract and same thing with the resource value documentation form. So resource documentation form says truly accurate condition of the property not truly and accurate condition of the resources that are bowing protected and I think that is where there is a little bit of a disconnect n exhibit B which is part of the contract, it says condition of the resources for which the land is being protected. I think those are lost on many of our customers and staff sometimes. So and then in the self-report form post-acquisition monitoring this is on the flip side of the handout. It talks about purposes and activities and alteration of resources without distinction of resource values and things to be protected and also I would -- I generally don't talk about the internal guidance. This is from the [NAME] but interest that we still use. Legacy Land internal guidance for resource value and documentation which speaks to reviewing for consistency of the photo subjects with the resources proposed for protection in the project that would be so that is basically how I start the review of the resource documentation form. That is submitted for the due diligence. Land Trust alliance has own standards for conservation and easement baseline documentation. Which is not necessarily the same thing. What I tell the applicants if the conservation easement baseline covers all the same ground resources to be protected out of the application, it is sufficient but may not overlap completely.

>> Audience Member: Are you proposing that we change the language?

>> Mr. Penn: Just consider it. The contract language has been approved by the board. So we would have to go back to the board to make any substantial changes to the contract language. The resource value documentation form I think we could change the application we could certainly change and of course the Administrative Rules we cannot change without and the Legacy Land internal guidance is something that we are going to change overall. And I thought this was something that was worthy of the Commission's consideration input. We don't necessary live to solve it all today but any ideas how we should proceed I appreciate it. Up there are no more questions for me I would need some input on this.

>> Commissioner Haase: Would you care to provide us your input?

>> Speaker: Yeah. I think so a few points. There was some

confusion on the part of the applicant about -- because this is a form that we get. It basically says I certify that everything is true and correct. It represents the true and accurate position of the property. So what we have done in the past is my understanding is just include the baseline most of our projects have a conservation easement as part of the funding and so we include the baseline documentation form. And we were also asked to provide additional information after talking to David and so I think No. 1 it is making clear to applicants what the expectation is. And because it was not clear for it -- for us and because we were on such a tight deadline closing December 16. A lot of this happened at the end. We just didn't anticipate a lot of it. The second thing is just what is reasonable for an applicant to provide at that stage. I think he brings up a good point the line management plan is another venue for this to require things about it and within reasonable time frames. Like Waikapuna is over 2000-acres so the document that took so much time on the part of the applicant and Keoni spent so much time and he cares so much about these places. But also the thing that I think the applicant and the legacy program needs to consider is there is already so much stress in terms of looting and overuse of the resources and in terms of just theft, unsupervised access, sensitivity to cultural and burial sites. There is so many things for them to consider that I think whatever is required it should be up-front and it should be really reasonable and it should be done in a way that the resources are protected and not [away from microphone] to people coming in and doing the things that they have been doing, right? You think it has to balance that. Specifically if Christie is going to request maps and GPS points and things of that nature. Photographs are already revealing a lot depending on how a photograph was taken but it can also reveal things -- even if there is not a map but again it depend on the size of the property. What resources are on the property. I just think that you all need to just be mindful of what you require. It is not defeating the purposes of the program.

>> Commissioner Sinton: You're saying that we're asking for things that bad guys can use as -- okay. I understand. I agree completely.

>> Commissioner Haase: When you said that you submit a signed documentation reports that is part of your easements and then you're also being requested to provide additional information on top of that, that is because the baseline documentation report has case -- may not have referenced the protected resource

>> Speaker: Depending on the size of the property and the discretion on the part of the applicant to disclose information. And sometimes the county will just it is sufficient to them but for the state they're looking for more. So I think depending on what the program is looking for they're going -- if there is ways to put things under seal. If that is going to be a requirement to put things on file but I don't know how you would -- everything is submitted to the state is public information. So --

>> Commissioner Warshauer: One solution be to generalize some of this information that is particularly sensitive?

>> Speaker: I think one thing that we should be looking at in the instructions is except for highly sensitive, cultural sites. You know, burials. Particularly valuable native things that people are often [away from microphone] and I think something else to think about is again the location like specific -- specificity of location. Requiring maps and GPS points that is going to be --

>> Commissioner Haase: High opinion to --

>> Commissioner Warshauer: They require that?

>> Speaker: It is not clear on the form. David can I think that is what is up for everyone to decide is how to tell. Research is to be documented. A lot of times when we're writing applications we're pulling things from [NAME], talking to [NAME] really hold and a lot of those things we don't know where on the property this might be. Maybe talked about several times but we don't know where it is so certain things again like it is just -- we all know it may be impossible to document our resource. Maybe it is not there any more. So I think some flexibility around what is stated in the application because we're getting it from all [NAME] and talking about it versus is what actually -- what we can actually document. And then something else to consider is maybe the indicator photos. I know David had said that maybe in some instances it is not a best practice. Instead of taking picture of every single resource take a photo of that kind of represents the condition of this resources and take a photo of a really good house site but that is all the house sites are going to look that wait a minute but [NAME] has over 1000 cultural sites. So just thinking about how you can just -- again to balance it and the need to document versus what the applicant is able to do.

>> Commissioner Haase: I would hope the applicant wouldn't quote all resources for their internal records which are not public for baseline

documentation.

>> Speaker: And sometimes it is in the future right? Because a lot of applicants they're not going to invest significant amount of monetary and resources in time if they know that they're going to own the property. Right? Like so I think the land management kind of again is another mechanism to do that in the future once they do. And they can get a grant --

>> Speaker: The same within 12 months develop it after.

>> Speaker: Alliance standards

>> Mr. Penn: It is required for accreditation [away from microphone] Land Trust [away from microphone]

>> Speaker: I think it is just we have a lot to consider. I don't know that there is a perfect answer but there is definitely one that I think balances a lot of these criterias. -- these concerns.

>> Commissioner Blauch: To clarify there is the plucks and how much is specified in the application. That is more value. And then there is the documentation for future monitoring. That we're very concerned about. Which I have not even thought about as part of my responsibilities but hello I'm a part of it so I would -- I appreciate this. I would like to defer any final decisions on this, Dave. Sorry. It is a lot to think about. I think in way we were already starting to think about this even at [NAME] and same time we wanted to be protected and we felt like we were endangering them. We were offering protection but at the same time we were opening them up.

>> Commissioner Sinton: We were drawing attention to them.

>> Commissioner Haase: Just the mere activity of going into these remote areas to document stuff impacts the resources that he had managed and so with these very large parcels in remote areas, access areas, it is unreasonable to expect an applicant to thoroughly document every resource on the property. If that were the case I would go back and say the state needs to then show us that they have documented every single resource on every cinch of it and -- right? I mean --

>> Mr. Penn: Like I said for Legacy Land we're -- you know. Stipulations and it has to be renal. We have to have -- this has to be done in a reasonable way.

>> Mr. Penn: There is a couple more things I can say about that and realize I'm not the only person that has looked at this situation and walked in on it from a management perspective and legal perspective. And the -- what we

have done and what we've seen come in voluntarily from certain authorities is there is a base map. There is photo points on the base map. There may be coordinates associate with each one and there may be [NAME] with each photo taken from that photo point. This is going to come from a scientific background. It is the reproducible result. So we have strongly recommended that as a best practice. We have not absolutely required it. We're willing to work with awardee to say find a happy medium on this that will -- but for the program we have got to be able to show the state that you know we're taking this seriously on the resource protection site. And for you know for anybody who doubts it look at the contract exhibit B and this is -- this is what I would tell anyone when they call me up and say, what do we do about the resource value documentation? Look at exhibit B the contract. It says written statement and reflect the [away from microphone] resources for the land [away from microphone] that is -- regardless of what the form says this is what the contract says.

>> Commissioner Haase: My advice to applicants in this situation is be careful how specific you are about what resources you are saying is being protected. If you're talking about this rare plant and this rare plant you better be prepared to show me every location and population of that plant within the project area. A better way to do that is critical habitat supporting the rare plants. That makes it [away from microphone] and then all you have to do is take a photograph of the critical habitat on the mountain side and that is what resource you're protecting. So there is a way you can go about this where you don't have to beat yourself into tied into knots over all the specifics how you go about expressing the resources that you're trying to protect here and how you protect it. So I would just say in my experience in the past having provided some of this stuff I didn't find it overly burden especially sum because there was a way in which you recent information and makes it easy or heart to document. And we should maybe have a workshop on this and discuss these types of things and that may help prevent documentation of cultural sensitive resources and the sphere and look at the locations of the communities and help protect the resources in way that

>> Mr. Penn: The other aspects that came up are a couple of other dimensions. One is that you know the city already protects sites specific information so this information is public information but we don't publicize it and in general if somebody requests it we would say please file the request to access

the government record form both through the usual protocols and then you know we are certainly willing to redact or cover up information that could be -- how should I say it? Redact -- you know, not disclose the particulars but --

>> Speaker: Some of it is proprietary as well. Some cases I know working with -- we're not going to do [away from microphone] because of people of public trying to access it. And things like that. So sometimes it is going to be --

>> Mr. Penn: Not taking the state's money.

>> Speaker: Sometimes we do for certain projects. But at the same time, we're also saying that we're using some of the fancy money to say protect these resources but we're not divulging specifics in regard to that because of the fact we don't want them going there and thinking that they can geo cache and you know what mine? I understand. I fully see what you're saying.

>> Speaker: And we're constrained Bay what is in the contract as well. I think the contract standard tradition there is some stuff about pretty pry tarry information and what is and what isn't. But you know, the other flip side to that is that this has come up -- well, yeah. It may be you're good at protecting that information but request with somebody else and they made all kinds of mistakes on this stuff and --

>> Speaker: As I read this contract exhibit B it doesn't say that you have to provide the documentation for every site on the property. It just says that you need to have a statement and photographs so I think representative photographs should qualify. I'm sure some bookkeepers somewhere will go crazy but I agree. But you certainly --

>> Mr. Penn: I sit down with the whole report and the application process and I make a list of resources that need protected. Then I go seven through the document for those resources and I identify the gaps. That is what I have to do.

>> Commissioner Sinton: I think representative ones qualify whether or not it would satisfy all the bookkeepers or not. I don't know. But it also says that it is photographs taken from identifiable locations but it doesn't say we need to divulging those. In the past you could provide them. You agree with you I don't think they should be in the public report for readers to have access to and I think we are working against our own purposes here. We need to file some protection.

>> Commissioner Haase: Dave has a point here. Get back before I

take your question, Dave. If we listed as a resource we're trying to protect would you as a staff reviewing this look through and see if we provided a picture of a [NAME] on-site?

>> Mr. Penn: I would want to know how you know there is a hoery bat population and what it is.

>> Commissioner Haase: That is reasonable.

>> Mr. Penn: Maybe there was a paper referenced in the application and I want that on the back end.

>> Commissioner Haase: Not a problem.

>> Mr. Penn: What has been discussed in some situation is okay. The Land Trust has all that information. And if you're coming on compliance you can come to our office and we'll go over it. We can go out in the field and look at it but we don't want it to be in the DLNR records. That is okay up to a point. But the situation that I have to consider and that the program has to consider we hope the Al Kahakai trail state organization of Hawai'i. We have to look at the other way. What if Al Kahakai trail state association or Manakaa Valley and we have to step into the role and recreate the wheel all over again. Now I don't have a good answer but that is the kind of things that are pinching on this kind of situation.

>> Commissioner Haase: At this point I think we kind of had a thorough discussion and see all Commissioners nodding on this. I would say to Dave and staff that if -- at this point that you want to go ahead and follow through drafting some potential language in regards to the handout you provided us for us to review at the next meeting. I think that is the next step on if this that is what you're thinking.

>> Mr. Penn: In terms of the application we don't have a next meeting but I have picked up on a few things and we can make whatever adjustment is subject to chair as approval. And then in terms of the resource value documentation form probably be the best place to start and self-report form. So those two things. And you know that is the other misconception is -- and the internal guidance. The misconception we require the awardee to monitor. The self-report form is not in the statute. It is not in the rules. It is not in any department policy. It is basically a procedure that was initiated by my predecessors that has become sort of the standard practice. But that auditors seem to view more as a policy we should be implementing stringently and so we are going to have a lost internal discussion about if we were going to take this to



that level what would it look like but as it is now, the way that the Administrative Rules read if we ask for something you have got to give it to us. We did not ask for it.

>> Commissioner Haase: As a recipient I have received sail report form once or twice from the state for our one closed project. I was never under the impression that that was something I had to go ahead and generate on my own annually. Some of it u I provide that request. So I don't think it is necessarily a bad idea for, you know, if you're suggesting that you send out a self-report form on an annual basis from recipients. You want to deal that new level of paperwork on the staff side. Or have maybe a z ever yes three years or five years or whatever you feel comfortable you feel like the resources are being managed right.

>> Mr. Penn: We talked about this at a previous meeting talked about having we should be more involved. So maybe we'll have to defer it again to another -- more discussion about how should the program be addressed in this.

>> Commissioner Haase: I do know from applicants that having continued to be something in this very non--- easy to full means it is going to get processed quickly and regularly. Which I think it is helpful for the program. I just want to mock sure what I hear from the program side is staff time is very precious and stretched and so I want to figure out how up we add polities and procedures is staff going to be able to comfortably fit that into their workload. That is just -- those kinds of considerations. Staff is recommending any final decisions on those types of things right now.

>> Mr. Penn: Well in terms of revamping, self-reporting form and resource value documents form.

>> Commissioner Warshauer: Could you when you wind coming up with some recommendations for changes could you pass it on to Commissioners and then request our individual feedback just halfway?

>> Mr. Penn: For which changes in particular in

>> Commissioner Warshauer: Anything you come up with on the application. The application and these forms.

>> Commissioner Sinton: I think the resource documentation issue is important. If there is going to be changes to that it would be certainly be interesting to see. I think these are really strong ones and I don't think that we go down the road where -- for the sake of documentation we die valve important information. And what -- why are we doing this? Are we trying to prevent

fraud? Do we think they are lying to us that their resources -- I don't entirely understand the motivation for this level of documentation. I think that there is a representative level of documentation that should be satisfactory.

>> Commissioner Haase: I agree. I think you hit the correct terminology. Just representatives documentation and some of these project are so large it is literally burdensome and unreasonable to try to document everything.

>> Commissioner Sinton: I don't think Al Kahakai needs to give a GPS for all 1000 sites on komo. That is just unreasonable and asking for trouble u so I don't know what the right number is to show without these points or whatever the level is but certainly not all of them and certainly not for the level of specificity that is a guidebook for some.

>> Commissioner Haase: Maybe the resource documentation form needs to include language such as reasonably representative.com documentation.

>> Commissioner Sinton: Generalized distribution and --

>> Speaker: We're dealing here with the applicant for the most part. How it shouldn't distrust him.

>> Speaker: The importance of this is also whenever weave a tail end in the resource document we want to have a way to that way back at the start of the application

>> Mr. Penn: Process and whatever guidance is going out so applicant can see, you know, pretty much the whole --

>> Speaker: It is consistent. Yeah.

>> Mr. Penn: All right. We're going to talk about now, the process for field visit reporting. That is correct Dave?

>> Commissioner Haase: We can.

>> Mr. Penn: Do you want to?

>> Commissioner Haase: All I wanted to mention there is that we have not had a hard and fast requirement for a field visit work.

>> Mr. Penn: Other than the strict outline you gave us last time very specific. I thought so.

>> Mr. Penn: What is the penalty for not turning in the report? Real through I mean, it is very important I think for you to document the decision and also you to focus on saving all the presentation materials and having that be in the archive of the process. But that is -- that is just why I have it on there and

we could -- we could revisit it when we have our next meeting to establish a permanent interaction.

>> Speaker: It is super doable and we have to work on those. After the --

>> Speaker: And say it again. We have a standardized form when it comes to the project B. A bunch of stuff could be auto filled. And each Commissioner doesn't need to go back and look up the TMK number and probably going to make mistakes. May be dumb geologists and they don't do this kind of stuff. So there is just silly for us to put our time in to doing that and we are putting in the dollar amount of this and that. This all comes from some standard form. And this is a narrative of what we saw.

>> Mr. Penn: We did before but because of the time crunch it made them fall off the table.

>> Commissioner Haase: That would be helpful.

>> Commissioner Warshauer: Have one prepared by staff so you know how it is done the precision. Early in the game it would be useful. If it is --

>> Speaker: We fill in the narrative section.

>> Mr. Penn: Which specific information do you want on that summary form? Send me input on that. And you -- everyone participated except him on the forms this year. But -- but the -- the data, the metrics that were on the top half of the form like TMK and all that stuff we don't need -- I didn't -- I didn't find the need for other information. Did anybody else? So those are the type of metrics that could be on that pre-made form and be good and then basically other than that just fill in the Commissioners who are present the date and your summary and your photos. The questions and concerns over the last sections. Issues and questions. That is where -- that is where our knowledge is. And I thought the form structure was fine. I thought that if you wanted it lunchtime to want length that you're requesting when we had the metrics in the top half didn't leave much room for us to talk about the appeal so if you want it to be which is one to two pages or something. And then give us one to two pages to write. Not one to two pages including all of those metrics at the top.

>> Mr. Penn: Of course not, not every application is the same. You think is reasonable.

>> Commissioner Haase: I think one to two pages is fine. That is

how much we got to actually -- some places may need more. Some get way with less.

>> Speaker: Especially if everybody has been there multiple times already.

>> Commissioner Haase: Don't worry about that application.

>> Speaker: He sent you the e-mail.

>> Commissioner Haase: I think that we would all be understanding if there is an exceptionally complex or large project. Performance is three pages. I don't think that we can issue [away from microphone] default. Okay. -- I think the idea of having the staff the header for the form with all the project just fill in -- that would be great. I think the format we came up with last year it was good. And September 2 separate documents. I merged the two together and I sent that around.

>> Commissioner Sinton: [away from microphone]

>> Commissioner Haase: It was not the same.

>> Commissioner Sinton: But they were both good and fine as far as another Commissioner got the information out. Just grumpy.

>> Commissioner Haase: Don't worry won't happen. That takes care of our field visit reporting discussion. Any other discussion on this? We're going to move along. Perfect. Location for decision we decided we're going to take care of that once we get all the applications in. Move on to six, 2020 legislative session for this year. Dave, that sounds like your section. Oh, no.

>> Mr. Penn: This was some of the Commissioner's that asked to have this on the agenda today. The first part holdover bills from the 29 session so there are still a few bills that were introduced last session that are what I call -- and could begin moving again in the upcoming session. The ones that we spent the most high on last year was there is one bill in that house about forcing the department to implement some of the audit recommendations within certain time frames. So that one is asleep but theoretically it could wake up and keep moving. And then the other one that is also stuck is the bill to have the department be able to pay the subtler Bay debt service straight out of the land conservation fund and the ceiling without to having go through the application process. That is another year. Yeah. Yeah.

>> That is asleep as far as you know?

>> Commissioner Warshauer: That is house bill or Senate in

>> Mr. Penn: They were both house bills. So there are many other

bill that may also be asleep that have to do with those things under part B like you know shifting up the cap on the revenue or the distribution of conveyance tax revenue and those types of things and these are all the different kinds of things that we have to craft during the session after the bills are introduced. So I'm just kind of teeing it up for the Commission and I think last year after all the bills were introduced you sent out an abbreviated version of the department's tracking sheet showing what was the track for the Legacy Land conservation program and I'll do that again if that is available later in January. And you know if you have questions about that you can contact me individually.

>> Commissioner Blauch: We would have wish both of these bills would stay asleep. But I do think that department, you, David, have been working to address a lot of the audit issues.

>> Mr. Penn: We feel like we're making good progress. We have not conquered everything yet. But we accept that the auditors will be coming back around if not before the end of this year then early next year pay for checkup and then again two years from now when there is a more formal checkup period. So yeah.

>> Commissioner Blauch: Are we doing a self-monitoring form we're letting them know our progress before they're formally come to us?

>> Mr. Penn: Not yet. My Dad has suggested that type of an approach based on his business experience in audits. So what else did we have on this? New bills we don't know what they're going to be. We don't know. There were some department bills that were proposed for being included as executive package. We don't know yet whether or not those are actually going to be in or not.

>> Speaker: Talk about anything before we know for sure?

>> Mr. Penn: Not specific bills that is why it is only general. Create the Executive Branch until the Governor says [away from microphone] yes. So we'll be looking for any bills that have to do with land conservation funds. Legacy Land conservation program. Audit recommendations. Audit findings. Caps on revenue and spending for the land conservation fund. Adjustments in the conveyance tax rates and distribution that there is always a lot of bills on that. Get experts set of [away from microphone] tax revenue to y program that never got [away from microphone] those kinds of things and then special legislation and I probably shouldn't have written legacy court in there on the agenda but you know we have seen that on occasion where a legislator introduces a bill to

appropriate funds from the land conservation fund above the spending ceiling and purchase specific piece of property for a specific government agency so it is not a CIPI position from an executive agency. A legislative condition of to purchase that particular piece of property. So we always look out for those as well.

>> Speaker: Have any of those made it through?

>> Mr. Penn: Not that I'm aware.

>> Speaker: Can you -- a specific legislator asked for a specific amount of money to be added to the budget for the Legacy Land fund?

>> Mr. Penn: Yes.

>> Speaker: For a particular --

>> Mr. Penn: To be authorized.

>> Speaker: Would it then to have go through this program or not?

>> Mr. Penn: No. It would be a direct legislative appropriation to that particular item. And so if it was to be acquired for a state agency then would it go to land division for that acquisition.

>> Speaker: It would align for the purposes of a fund.

>> Mr. Penn: That would be the question for the legislators to address before they voted. Yes.

>> Speaker: That would be their rationalization.

>> Mr. Penn: And magic words from the statute are landing value as resource to the state. That language has to be --

>> Speaker: But the main point is distinct come out of actually this budget. It is this fund but not the budget that we all --

>> Mr. Penn: There is over \$20 million accumulated in the cash balance of the land conservation fund. We only access thank you our budget process software 5.1 billion report of that. And remainder is just sitting this until legislature decides to do something with it.

>> Speaker: That is the one that legislators specifically --

>> Mr. Penn: That is -- all of these bills affecting land conservation funds that is where the testimony comes from the chair. But the drafting of the testimony comes from the staff. And so you know and then item C we don't have the executive budget request available yet. I don't know exactly when it is coming out. Typically it is early December. And so the -- they notify you. I thought in the past I think notify the Commissioners when that is available and actually pointed you to the specific pages in the budget documents that are

pertinent to land conservation without telling you anything about what to do with that information. It is just information purposes only. And then on item D the question came up about you know how can the Commission weigh in on this to the legislature. Of course as individuals, you can say whatever you want as long as you're making it very clear you're not speaking for the Commission but in your capacity as an individual citizen. I thought about what the Commission could do as a body to speak with one voice. And could we still [inaudible]

>> Commissioner Blaiich: I would like to pursue that. If my fellow Commissioners feel that it is absolutely not useful or in any way too Chicago indicated, I guess I can step back. But my strong feeling and Jacob also we talked about this last time we were together. We feel we're stronger as an entity. I mean, we're happy to lobby as individuals but we feel that collectively we -- we should have more impact or at least we should -- that should add to the impact that we have. That is why I pushed on this.

>> Mr. Penn: So after thinking about it and you have not cleared this with anybody else yet. The way I thought about it is for instance I think that we're talking mostly about the budget and spending ceiling.

>> Commissioner Blaiich: The way I thought of it was that the Commission's recommendation is going to be on the record anyway and we can refer to it in our testimony from the department. What will not be in the record is you know Commissions direct communication with the legislators that above and beyond what is in the executive budget request we would like to see in the legislature provide additional funding to go further down the list of recommendations. And the only approach that I can think of that might be okay with that would be either for the Commission to draft something right now. That is why it is on the agenda today as a decision item. Something generic that -- but for the Commission it is also under the Executive Branch. Under the division of forestry and part of the Division of Forestry and Wild Life. The only way we can submit this to the legislature would be to forward it to the Commission to the chair and see if the chair was willing to either submit it as separate testimony or attach it for the department testimony. So that is one option to do it right now. The other option is for the Commission to authority somebody to draft that when the time comes but for the very bright line box around it. This testimony is basically going to a X, Y and Z. And then authority the particular person on the Commission to give them the discretion to submit that to the program for consideration by the [away from microphone]

>> Commissioner Warshauer: Who would be the drafting?  
Whatever we pick?

>> Mr. Penn: Whoever dug made by the Commission.

>> Commissioner Sinton: So the impetus of this of course is that we were -- received all these applications. We were so impressed by so many. We were -- disheartened that our funds only allowed us to consider a couple out of I would have halfway gone down the list three, four, five. We didn't even fully fund the first two the first fiscal year. That is what is so disheartening. Nobody knows better what the full compliment of the application were than just this Commission. This group right here. We know better than anybody. I think that is where we're coming from. The question for [NAME] who is not listening would this be successful.

>> Commissioner Haase: Do they want to relinquish --

>> Commissioner Sinton: I don't think that they want to -- I don't know. I'm really kind of stupid about such things. I don't know how the whole legislative process works.

>> Speaker: Do we vote? Do we vote? We're voters. When it comes down to it. And -- and we're more than just voters. We represent people from most all islands. Most islands. All counties. So I think that there is -- yes, exactly. We know the quality of applications. I think that we were -- we were universal in our belief that had a lot of great things. What a shame we can do more. But I don't know -- I don't know I guess it would be testimony that would -- I don't know.

>> I think it is really worth it every time they hear the message it goes in determining or bother to think it wait a minute either way it is repetition. I just really feel like it is -- there is not a downside on this. We're just might happening them of this. When you think about the public advocacy actions that really made a difference. They have had members and there is only nine of us. It is does. They have seen our resumes. They know we each come with support. Blah. Blah. Blah. But absolutely think that it -- it is a lot better. Knowing if there are deep community roots. I mean --

>> Speaker: [away from microphone] to be honest. To be as part of legislative work where we stand up as one collective group and one collective voice. To me either way I would submit testimony individually as well. If we as Commissioners can of all the record since we voted on this. We made a decision on this and we stand by this. I'm all for it to ensure that our voices are



there.

>> Mr. Penn: I can't guarantee is what going to happen at the department level. I can guarantee I'm staff for the Commission and I can advocate for what you want to do. But we have not done this before as far as I'm aware. It is interesting to see.

>> Commissioner Blauch: I have a question to all the Commissioners are we asking pay for specific amount? Are we saying we would want the ceiling -- we want another \$1.5 million or are we saying we think this is a general need to -- because you know that, can be --

>> Commissioner Haase: Here is my thought. No. 1, Turtle Bay should be pulled. Okay. At a fair amount. That is all that they gave us. That is a big one. No. 2 the Commission should have the ability to make legitimate recommendations for additional spending above the ceiling for qualified projects where we may lose the opportunity to get those projects done because of whatever circumstances. So -- that recommendation is based on the fact that we have money set aside by law for this purpose and by sitting on that money and not pending it for the purpose for which it was taken and at no recourse to the taxpayers, it seems like a violation of the duties and responsibilities which that law was set up. How long has that money been sitting that pot to get to 20 million? How long has the taxpayer's money been taken from them and not used for the purpose for which it was taken? With no recourse. And then it sets up the possibility for abuse. By law mockers. To curry favor by utilizing that money for personal projects. You know and so by spending the money at such time it is brought in for the purpose for which it was taken minimizes the possibility for abuse and you know --

>> Speaker: Setting up that risk.

>> Commissioner Haase: Right.

>> Speaker: Unless the people should get it down or the people that don't like the fund in the first place. You don't -- I mean, I don't know.

>> Commissioner Haase: I hear what you're saying. But whether they're should get it down for whatever reason doesn't matter. The money by law is being collected for this purpose and by law that money needs to be used for what it was taken for.

>> Speaker: The other thing to keep in mind is that the money cannot be used for any other purpose. The interest on the money can.

>> Commissioner Haase: By sitting on the money look at the

interest --

>> Commissioner Blaiich. Look at the opportunities.

>> Commissioner Haase: The interest of the fund going back -- [away from microphone] so bar that out.

>> Commissioner Blaiich: I have been told by an attorney that that was a use -- a permissible use, using the interest is permissible use. Of a fund. For other projects.

>> Mr. Penn: The legislature decides to do with the fund is permissible. Because they make the loss, route?

>> Commissioner Blaiich: Can the department use the interest in

>> Mr. Penn: The department can only use the interest in our village e-2 for the project or -- to advocate for spending increase which would somehow monitor. I see them come back from the state investment fund and it shows up as revenue on our accounting.

>> Commissioner Haase: That was my two thoughts on it. The money is being collected for the specific purpose and it should be used for that purpose and that Turtle Bay funds bare minimum should come -- [away from microphone] Florida quick question. With regard to the legislative process I'm wondering where is it that this is producing the hits this part -- hit the road block? Do we see it on the Senate? Do we see it on house? Where is the roll block hitting?

>> Mr. Penn: It becomes one of the horses being traded in the whole bigger picture of legislative budgeting, right? The governor's executive is what the department is asking for. That is just the start of the process. The house bill that is the respective budget q last year it was quite different with search thing being segregated out into other budget bills and looked at by other subject matter opposed to just financing way that it was a lot more confusing for the department to keep track of everything going on in general. But you know where the rubber meets the road is the hearings, the testimony and voting on the budget bills that have or whatever budget bills have the ceiling in it.

>> Speaker: Where have we seen it going through the process where the budget ceilings are not getting -- are bowing heard but not being passed? Are we seeing it on the Senate side or on the house side?

>> Mr. Penn: It varies because we -- this -- it is not all visible to the outside observer.

>> Speaker: We would be able to track the bill if going through

Landon water and Pope we can track the bills. Not until a vote is taken and a report comes out that you actually may see, you know, why this particular committee decided to do something without a proposal. And in -- and then in conference committee it all goes through another iteration.

>> Speaker: These are coming through on the governor's budget. So through presented --

>> Mr. Penn: Executive budget request is where we start.

>> Speaker: Yes. So I am not familiar with that because I'm always on the legislative side. Who champions the bills? The ones that are coming through -- like this one that is coming through and the governor's the administration does.

>> Mr. Penn: And supporters.

>> Commissioner Sinton: Things get decided is the wrong word but they go through the finance committee.

>> Mr. Penn: Tip usually the starts in the house finance committee. And we have been over and you know had discussions with Riley and [NAME] how does this fit together and what does it need? But they're -- but --

>> Commissioner Sinton: That is where we almost lost the fund completely a few years ago. It was going to be swept for Turtle Bay.

>> Mr. Penn: That was back before my time. Been in the 2015s.

>> Commissioner Sinton: That is where we almost lost the fund meetly, the same people are in charge there. I don't know --

>> Speaker: I was looking for -- where the champions are. The legislative side you have got your champions and you can target your advocacy tour champions. Not really seeing the champions are if it is in the executive budget.

>> Mr. Penn: That is part of the move with our new application time line. We now have this Commission's recommendation firmly and that that can be used not by the department but by other supporters to the champions, right, based on where you have recommended the fund would go where the additional ceiling lives.

>> Speaker: Like going to the north shore, talking to gill and he would -- it would make sense to me that he's a pretty good guy. You know what mine? That is what I meant by finding them. I don't know how the --

>> Mr. Penn: The department does that in its own way.

>> Speaker: Okay. I'm listening.

>> Speaker: Or past applicants. We can do it and justify and --

>> Commissioner Blaiich: It is hard to draft something at the moment. I sort of favored going with the second recommendation of authorizing someone to draft something I want would not -- I'm willing to participate but I feel it would be better if it is more like a permitted interaction group. Where there is maybe several heads work ago among those draft that and then it is submitted to the entire Commission to review.

>> Mr. Penn: You have a third option. We would have to have two more meetings of the full Commission before we were able to actually produce something that could be submitted.

>> Commissioner Blaiich. Would it be illegal for the people who are working on this to send it to individual Commissioners for their -- just check it out?

>> Mr. Penn: Yes.

>> Commissioner Blaiich: We cannot communicate with each other?

>> Mr. Penn: No. You would be deliberating towards a decision outside the context of a public meeting. That is what the group is for.

>> Commissioner Blaiich. The rules would become comfortable with two people at this point being responsible for writing a letter which will be given to the chair for the chair to consider will be given Dofa.

>> Mr. Penn: Just like Turtle Bay a point per mid in your action group for the purpose of drafting possible testimony and then have a meter and then members that could be -- between one and four. And then be permitted into a group that would be its investigation and drafting of the testimony would then bring it back and report to the Commission in a public meeting and then another public meeting the messing could then take action on what was reported on. So three public meetings and permanent interaction [away from microphone] before you get a decision. Which is the chair.

>> Commissioner Haase: Commissioner Warshauer.

>> Commissioner Warshauer: Could we since it is already agendaized, could we just authority one or two members to write on behalf of the whole Commission? And submit it on the path you just described for us?

>> Mr. Penn: That was essentially what I stated before.

>> Commissioner Warshauer: Yes. Sounds like that might be the simplest.

>> Mr. Penn: Rate now you can authority somebody to wait it and

send it in later or you can go and put nut a different direction.

>> Commissioner Blaiich: This would not be done until after the ceilings.

>> Commissioner Haase: It can be authorized, drafted, sent to staff and then staff circulate it to various Commissioners for review of comment. And then -- why not?

>> Mr. Penn: I don't like to go into administrative areas.

>> Commissioner Haase: Lea to it me to find the gray area.

>> Speaker: We have ten minutes left. Probably knowing us not enough time to draft anything. But we could make a motion to approve a person to draft testimony on behalf of the Commission with a couple of recommended bullet points. Three maybe. Some of them were already mentioned.

>> Commissioner Haase: Yeah. There is any other -- is there any other points that we're not brought up that any of the Commissioners feel like would be important to include in testimony.

>> Speaker: I don't think that we should be specific on the level to which the ceiling is lifted. I don't think we should say we want \$12 million this year. Just be what John mentioned earlier the Commission recommends an increase in funding the list of top applicants.

>> Commissioner Sinton: We could give an example. I keep looking back at our FY 2020 rankings and we could have gone down four on that list. We will come to I think about five mill or something. That is just an example that year. Where it is next year -- in an FY 21 it is not quite so clear. This is just an example of what we would have done with it. The thing that taping worries me a little about it is that I believe every year certainly last year went back and asked -- it was somewhere else and it has had no traction whatsoever. It has not gotten anywhere. So we're going to go back now with additional testimony and ask them to do that again. Do they care what we think? They don't seem to care what we think. And -- somebody didn't. That was the bill right?

>> Mr. Penn: That was a bill. Introduced by the house speaker.

>> Commissioner Sinton: Never got anywhere.

>> Mr. Penn: Still in committee.

>> Commissioner Sinton: So I hate to be cynical but --

>> Mr. Penn: That was for the application process.

>> Speaker: It is to have the bullet points would be to have the Turtle Bay [NAME] come above the loon is what you're calling it. Above the ceiling. And another point is to raise the ceiling. And what was the -- was this anything else? That was it?

>> Speaker: I think you speak to the value of the program. You speak to the applicants. The quality of the applicants and --

>> Commissioner Haase: The demand.

>> Speaker: That was an excellent example of how the numbers look in a really specific way. Another one is adding them up and you look at that one -- I'm really stuck on that [NAME]. Oh. less have this little pot of money over here be responsible for assuring that you have 80% of the drinking water. Yes, let's do that. There are other stories so if we could add the wage undescribed. There is this many. Adds up to this much. Tweaked that much good. To break it down and have it be less abstract. There is some group that wants to do pseuno's web.

>> Commissioner Sinton: Equality and diversity applicants is something [away from microphone] in the program. Amongst us the openness -- the open competition is a strength but I think that is not always true to this [away from microphone] open competition like [away from microphone] no offense sir.

>> Mr. Penn: On the spending ceiling that is one issue that would be reflected in the budget bill. On Turtle Bay we don't know whether or not there will be a bill introduced to something like what you say. The only thing we know is that there is a held over bill that has the department that bypasses the application process. The money still comes out below the ceiling. So testimony like what you're proposing could bow connected with that type of a bill but it is -- I just like to be clear what the Commission intends. It is just like we're not going introduce any -- from the executive side. We don't know what is coming in from everybody else

>> Commissioner Haase: I'm just seeing this testimony and is an opportunity for mission to make testimony so that our lawmakers write the laws based on the constituent's desires. So I'm not suggesting that the department write laws right now. But I'm assuming you want us to put our 2 cents in.

>> Mr. Penn: This was the Commission's wish to have this discussion. Who has planes to catch pretty soon?

>> Commissioner Blauch: Let me check.

>> Mr. Penn: Let wrap this up. I would like to have a very clearly stated motion on this if possible. I feel everybody is hitting on it.

>> Commissioner Haase: I tend to agree. The ability of this is --

>> Commissioner Blaiich: It is not going to be viable initially. But isn't it our responsibility I move that --

>> Speaker: Do we need to volunteer somebody or volunteer themselves?

>> Commissioner Blaiich: I'm volunteering with one other Commissioner. It is either going to be John or it is going to be Commissioner Haase has.

>> Speaker: Does that put us at risk of --

>> Commissioner Haase: That creates a --

>> Speaker: Better to have just one.

>> Commissioner Blaiich: It is you -- never mind. I mean underground. Underground. And we can't direct staff to do our will.

>> Commissioner Haase: So if [NAME] were to make a motion to nominate herself to draft the system. Once it is drafted is it then presented to an upcoming meeting for us to review in -- and discuss and be approved?

>> Mr. Penn: We could do it that way.

>> Commissioner Blaiich: We won't have a meeting until April.

>> Commissioner Haase: I can't wait until April to see you all again.

>> Mr. Penn: It is not the Commission's normal business but to have another meeting to focus on this issue is a little --

>> Commissioner Haase: I don't we have a meeting to review staff's changes to the form that they're going to be putting together prayer to the RFP for FY 2022 applications?

>> Mr. Penn: Unless you want to meet on New Year's Eve.

>> Commissioner Haase: Just think of another option.

>> Commissioner Blaiich: Do you want to write a letter?

>> Commissioner Warshauer: I don't feel qualified to write the letter.

>> Commissioner Blaiich: It is very uncomfortable to tell a Commissioner to write a letter for an entire Commission for collective letter.

>> Commissioner Haase: Automatic barred ward that we can discuss at a meeting.

>> Commissioner Blaiich: I don't mind a discussion and meeting but you feel very strongly that it is such a gang rule --

>> Mr. Penn: And I only brought up that alternative because I have seen it done by other boards and commissions in this way.

>> Commissioner Haase: Was it affective?

>> Mr. Penn: I don't know about that.

>> Commissioner Haase: Would you get back to us on that about you put the timed effort in this?

>> Commissioner Sinton: I look around this Commission and I think we have got nine people that are volunteering completely. They put a lot of hours in to this and it ought to carry some weigh. But then I think but I'm just not convinced it would.

>> Commissioner Warshauer: But one thing we as individuals saw and felt at the rankin meeting are the people that came to -- and it moved a lot of us and the depth of their concern. And I felt I could have represented them but underrepresenting them because we could only find a small portion. So I think that we're speaking for them as well as for ourselves.

>> Commissioner Haase: I hear you Commissioner Commissioner Warshauer but I also went to Federal congressional meeting with staffers recently discussing expenditures and ways to further do an investment in programs and projects through endowments, just down right blowing money. It was made very clear to me that government entities want to know -- want nobody dictating how the money gets spent other than themselves. That anything that would jeopardize that is pneumatically shot down. I fear this is one of those situations where we are asking the legislature to forego its control over this fund through this ceiling cap and return the power of its expenditures to the Commission and I think that is asking them to relinquish control. I think that is kind of where John is coming from. It sounds so feism but I just feel hike that unfortunately is what we're up against here. So I don't know how to --

>> Speaker: Commissioner I -- even if you're right do it any way. She's willing to do it. It is the right thing. We all know it is the right thing to do. Happen to listen to all the community members packed into that little room spilling out into the burning eat. And so let's -- can we at least even if it is -- if it means we don't have something until April so what. At least it will be in place. Then it will be -- if there is a pig then it is a pig in place.

>> Commissioner Haase: I hear you for the sake of time we have spoken our minds on this topic. I think [NAME] has a good comprehension about the points that are made in this. We just entrust her to go ahead and



draft this on our behalf at this point. Feel comfortable with that.

>> Commissioner Blaich: If it is a terrible letter the Department of Forestry and wild life will not want to it go to the chair and the chair will not want it to go to the ledge. But here is what I feel. Let's not -- I have more faith in the ledge. I do. I think that they don't care -- they don't get enough information maybe. It is our job to give them a little more information.

>> Commissioner Haase: Commissioner Blaich as chair I move that you draft testimony on behalf of this Commission based on the points discussed today that we can trust you shall deliver said testimony to staff to pass on to the chair on the Commission's behalf.

>> Commissioner Sinton: So what are the rules are we allowed to review and revise such a letter?

>> Mr. Penn: I'm against i

>> Commissioner Haase: I'm recommending we just trust that Beryl --

>> Mr. Penn: You're authorizing Beryl to draft --

>> Commissioner Haase: Yes.

>> Commissioner Sinton: Actually I have the picture on the board that I can mail those. Here they are again. All right.

>> Commissioner Haase: We've had a second on that by Commissioner Wilson. Right? Any further discussion? Hearing none. All in favor. All opposed. There is no opposition. Motion passes unanimously. Adjournment.

>> Commissioner Sinton: I move.

>> Commissioner Haase: All in favor. Aye. Super.

>> CART Captioner: Thank you.

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