

**MINUTES FOR THE
MEETING OF THE
BOARD OF LAND OF NATURAL RESOURCES**

DATE: FRIDAY, JULY 24, 2015
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAI'I 96813

Chairperson Suzanne Case called the meeting of the Board of Land and Natural Resources to order at 9:02 a.m. The following were in attendance:

MEMBERS

Suzanne D. Case
Thomas Oi
Keone Downing
Christopher Yuen

James Gomes
Ulalia Woodside
Stanley Roehrig

STAFF

Dan Quinn-PARKS
Keith Chun-LAND
Kevin Moore-LAND
Carty Chang-ENG
Alton Miyasaka-DAR

Sam J. Lemmo-OCCL
Ed Underwood-DOBOR
David Smith-DOFAW

OTHER

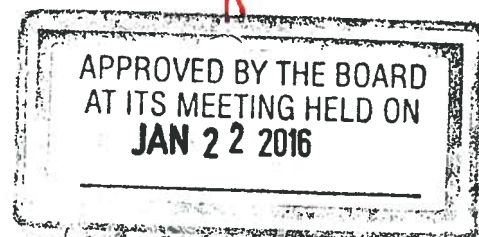
Colin Lau/AG
Ross Tsukenio/LT.GOV
Dave Weiss/ K-1
Riley Coon/K-1
Eric Sthal/K-1
Tina Prettyman/ J-3
Carol Cox/ J-3
Chris Cramemer/D-12
Jeannine Johnson/D-12
Inga Gibson/F-1

Kelly Okumura/DOT-AIR
Throne Abbott/ K-1
Gabe Lucy/ K-1
Jeffery Strahn/K-1
Wilson Keahi/J-3
Robert Green/ J-3
Carl Okuyama/D-5
Kauai Lucas/D-12
Marlene De Costa/D-6

Member Roehrig and Member Yuen arrived at 9:05A.M.

ITEM A-1 Approval of April 10, 2015 Minutes

Unanimously approved as submitted (Gomes, Downing)



- ITEM M-1** Issuance of a Parking Permit for Vehicle Parking, Azuredee Sproat-Nahale, Moloka'i Airport, Tax Map Key: (2) 5-2-04:Portion of 008.
- ITEM M-2** Issuance of a Direct Lease for Land for an Aviation Fueling Facility, Hawai'i Fueling Facilities Corporation, Hilo International Airport, Tax Map Key: (3) 2-1-12:Portion of 090.
- ITEM M-3** Issuance of a Revocable Permit for Land to Store and Park Shipping Containers and Vehicles, Kona Transportation Company, Inc., Hilo International Airport, Tax Map Key: (3) 2-1-12:Portion of 090.
- ITEM M-4** Issuance of a Revocable Permit for Storage of Rental Car Vehicles, EAN Holdings, LLC dba Alamo Rent A Car, Kona International Airport, Tax Map Key: (3) 7-3-43:Portion of 003.
- ITEM M-5** Issuance of a Revocable Permit for Aircraft Parking, Helicopter Consultants of Maui, LLC, Lihu'e Airport, Tax Map Key: (4) 3-5-01: Portion of 008.

Kelly Okumura representing the Department of Transportation- Airports Division-DOT-AIR was available for questions.

There were no questions and no public testimony.

Unanimously approved as submitted (Gomes, Oi)

- ITEM E-1** Grant of Perpetual, Non Exclusive, Utility Easement and Issuance of Immediate Construction Right-of-Entry Permit to Maui Electric Company Limited for Electrical Utility Purposes, Central Maui Regional Sports Complex, Waikapū, Maui, Tax Map Key: (2) 3-8-007:104 (por.)

Written testimony was submitted by Shan S. Tsutsui.

Dan Quinn from State Parks-PARKS, discussed the park utility easement request, Maui electric wanted one dedicated to them.

Ross Tsukenio from office of LT. Governor said they stood on their written testimony.

Unanimously approved as submitted (Gomes, Yuen)

- ITEM K-1** Conservation District Use Application (CDUA) MA-3738 by Maui Dry Dock & Storage LLC for a Trailered Vessel Facility on State lands managed by the Division of Boating and Ocean Recreation (DOBOR) at the Kahului Harbor West Breakwater, Wailuku District, Mau'i, Tax Map Keys (2) 3-7-001:023 and 021.

Written testimony was submitted by Jeffery S. Strahn, Alan M. Arakawa, Basil Oshiro, and David Barker (w/petition of 174 signatures).

Sam Lemmo Administrator for the Office of Conservation and Coastal Lands- OCCL explained that the CDUAs processed in their office are some of the most important in the land use district. County is responsible for urban rural and Agricultural-A lands. Process of getting permit on conservation land with higher process and review there is transparency. Lemmo wanted the public to be engaged and informed that OCCL's purpose is to preserve conservation lands and is responsible to protecting resources, creating a more intense, transparent process. In this case there is a CDUA on Maui and OCCL has to assess it to make sure everything is complete.

Lemmo indicated that the application is complete and was sent out for comments and with outreach to give everyone an opportunity to weigh in on the public. Based on comments the FONSI was not issued for the project. The level of response was sufficient enough for continuation, to a finding of no significant impact on environment. There were concerns to the project scope being changed and people had issues and concerns on the dry dock; in addition to the EA content was bolstered, there were more mitigation measures and concerns addressed primarily the potential of air pollution from the sanding and painting of vessels.

Member Woodside asked what would happen if the BMP's are implemented as laid out but not as effective and would the department be able to provide some adaptive BMP's. Lemmo was sure the conditions allow for OCCL to intervene and seek better controls.

Member Gomes asked how OCCL would enforce if they are not on Maui and how OCCL would address and/or mitigate or stop that. Lemmo explained that they have a partnership with land division and other divisions in DLNR. They go out and look at this issue, and then they give OCCL a report.

Member Gomes added for the public one major concern was the particulates in the air. He was concerned about how it would affect the surrounding areas. Member Gomes asked what were above the tarps and if there is a canopy to cover over it to contain. Lemmo responded that there is a representative here that would articulate the questions.

Member Roehrig asked who was going to address the drifting of particulate matter. Lemmo said OCCL is recommending approval, not considering DOT, and asked to recommend based on what was given with the exceptions of changes. It is an existing boating facility, even if it is conservation land. It is also in an area that is not pristine conservation district land. OCCL seeks approval because all the mitigation measures have been determined. Lemmo still felt comfortable with the recommendation.

Chair Case asked if there is an air quality problem beyond what is handled and if there were DOH regulations that apply. If so would DOH will follow up and regulate it. In addition, she reminded everyone that the DLNR is not the regulatory body to regulate air and asked if there is a legal process for address air quality and if we were to approve this use. Lemmo said the section of the DOH did not apply on this, since it is a commercial property; DOH has the authority to be involved in this.

Thorne Abbott a Coastal Planner used to be the coastal planner for Maui County. Abbott met with Jim Coon, from trilogy excursion, he advocated putting sewage pump and boat ramps enlargements. There is a small dry dock and restricting mobility with a hill backing it on the highway towards Lahaina. 150ft away from the water's edge. Abbott and Coon are on the whale sanctuary advisory council together. Coon approached Abbott 3 years ago, serving in different capacities and asked for help in developing this project. The US army corps of engineers maintains the harbor and keeps the break wall in good shape, the rest by State of Hawaii on one Tax Map Key. In 2006, the BLNR voted to add 3.5 acres to DOBOR facility, to expand the boat launch ramp at this location and that there is plans and policies to put a haul out facility in the north shore of Maui.

Member Gomes asked, if all the talks from 1997 to the present that there was any documentation on this facility being used as a dry dock. Abbott answered, that there is implementing action from the Maui island plan, the ocean resource management plan, and other reference plans. Abbott got statistics from US Coast Guard Lieutenant Commander Eric Sthal, which endorses the project. There is about 300 commercial boats in Hawaii. 98 in Maui County, with a capacity of 8200 passengers daily. 2,000,000 passengers take trips in Maui County. The USCG requires inspections every 2 years which are done in open waters.

Member Gomes asked what was the USCG inspect. Abbott responded that the applicants are here and they can specify to be inspected and has to be in a dry dock; Maui County currently does not have one. In addition, some boat ramps are limited in space some as narrow as 20ft wide. The original intent was to have a 1.45 acre footprint for this project to allow for parking of vehicles and boats. Thus public discussion occurred with sierra club, Maui nui resource council, trailer club, Hawaiian canoe club, DOH, clean air branch, and also air pollution branch in Oahu and Maui. The clean air branch reported, since 2011 there is 20 call outs. DOBOR harbor master issues permits, some of those are for the hui, some use BMP's and some did not.

Chair Case asked, how is going to be enforced. Abbott responded that there is an enforcement office on Maui and that they are addressing full containment

Member Gomes asked, how do you move the dust from containment after it is done?
Abbott responded, it is transported in a bag to the appropriate waste hauler.

Chair Case asked if this would be available for non-commercial vessels to use as well. Abbott clarified that they are taking 12000 square ft. and creating 16800 square feet which is currently not used, covered in trash. We are currently improving and re-using areas in the harbor.

Member Roehrig asked that in #13 in the end states "use of DR shrink is recommended" What is mandatory. Abbott clarified that if you are spray painting or operating creating fugitive dust. You have to use the system

Member Roehrig was concerned that when one is not required to use the system, what would be recommended. Abbott clarified that they were to rely on DOH and EPA's recommendation and have it streamlined it to you.

Chair Case added that if it says for containment of fugitive dust that means if it is going to be escaping the property you have to contain it. Whereas if you use a vacuum sander in a small area than it won't create fugitive dust. Member Roehrig showed concern and was not particularly impressed with this matter.

Member Oi commented that looking at the water quality, the three would hit water already. Abbott clarified that the elevation is 9^{ft} above sea level. You would technically not hit it according to engineer dept. Abbott also explained that the boaters also are forced to park their boats on the street in a result to inadequate parking. They burn through fuel and brakes from long commutes, if they are able to park their boats in designated parking stalls at the harbor this will allow for some parking lot relief. These trailers at time take up 3 parking stalls that could be used for cars.

Member Roehrig expressed that he would rather hear the benefits of the proposal. Abbott was concerned that currently there are few trucks parked along the highway it is very dangerous. There are also no restrooms, the nearest one is half mile away. The lease from this could fund portable restrooms. The issue is not parking, it is management of space. The harbor has signs posted all over stating no parking. What has happened in the past is, cars are parked where boats are designated to park. The car parking should be kept separate from trailer boats. If you add up all potential parking spaces, there are 30, we will add 16 plus 24 and parking boats overnight, there is a fenced area with key card entry.

Dave Weiss vice-president of Terelani sailing adventure out of Ka'anapali introduced himself and disclosed that he has been before the board several times on the same subject and would like to address real life scenarios. The hulls of his 65ft catamarans have to be completely out of the water in order to be inspected in a normal course of dry dock. They have to schedule with coastguards, which is very busy, at times 2 months in advance to get on their calendar. If everything goes as scheduled, on the day of inspection, get the rig lowered, hulls inspected, shaft inspection. If the timeline is met we leave the same day. However, we are prepared for weather purposes. If delays occur, the coast guard inspection may not be rescheduled. Damaged boats can also hinder the process, as they are not fit or safe to make the journey across to the dry docks on Oahu or Big Island. The boat captain does not want to risk the lives of the crewmembers on board. Weiss lives in Wailuku and use the channel a lot. Being there for 30+ years he strongly believed this dry dock facility and Recreational community can exist.

Member Roehrig asked what months of the year are the safest to go from Kahului harbor to Kona. Weiss said currently most boats go in fall and spring; Mid-September to early October. The boating community does it in the fall or spring because that is slower.

Member Oi asked Weiss what his best management practices were as far as protecting the environment. Weiss responded that the last dry dock we did the scaffolding over the boats. Twice landscape netting, wrapped twice.

Gabe Lucy testified that all companies and administrator do use a degree of lead paint, now they are changing to a bio paint which is considerably more expensive. This was in response to people complaints.

Member Gomes asked about the bio paint, does it take more work when you take it to dry dock. Lucy said that it does not take more work and that we are waiting this November to see if there is a difference in growth or cracking.

Member Gomes asked if the toxins would be less. Lucy said there was none, they have made a commitment to be more environmentally friendly.

Gabe Lucy, resident of Wailuku, dry dock manager for trilogy for 5 years introduced himself and testified. He has always felt a need for a facility on Maui. The dry dock utilizes local welders, painters, crane operators, security, and trucking company. There were complaints from fisherman and surfers parking in each other's stall. There are also a lot of frustrations in Maalaea to the parking spaces. Lucy utilizes the park across the docks. He has been to every facility in Hawaii, and do not feel they do not compare to the sustainable practices as compared to here in Maui. It is hard for them to carry out our practices on other islands when we have the ability to stay on the island to stay sustainable, we could be an example for the entire state.

Member Downing asked Lucy when he goes off island to work on the boat, what was the cost of the company to go off island. Lucy responded the added cost per boat is 30000 dollars.

Member Gomes added that the coon family has done a great job for Maui and the people of Hawaii, it is a great company.

Member Downing asked if there is there out there a portable containment unit out there. Lucy responded that there is, on Kauai they use a facility that is similar to an aircraft hangar, and you have to pull your mass down. There is a few facilities here on Oahu that does it that do it regardless.

Member Downing asked what the cost is. Lucy responded that they are slightly different, the vacuum wrapping is significantly expensive. While it is great product. The facility cost 10k dollars and can house 2 boats. You will run into opposition whether it is permanent or temporary.

Member Roehrig added that the board has to make a decision for you and local residents. This issue is not every boat is on every ramp in Hawaii, this is the first time we are called as to what is in the public interests. Whatever the Board does here they have to repeat over again, so the best management practices will help better our decision making as well. There has not been enough research or study conducted on this new paint.

Member Gomes asked if the 10k containment could be re-used. Lucy responded that the vacuum system is one time use only.

Member Woodside asked if the CDUP and EA contemplate a more permanent facility. Lucy replied that he saw a mention of a more permanent facility, hanger type facility, not proposed course of action, but as a temporary type of solution a scaffolding.

Member Downing asked how long he planned on working the dry dock. Lucy responded that Jim and Randy Coon come down and inspect the docks. He said the dock meant a lot to them. He wants to be able to stay home on island to see my kids instead of boating to neighbor islands, he wants to be able to bring back business to our locals.

Riley Coon, son of Jim Coon, 3rd generation sailboat captain introduced himself and disclosed that he live on Maui all my life. He testified that he considered myself a steward of the ocean, and sparked passion to visitors and locals alike. People travel all around the world to our island.

Member Roehrig asked if this location better than the DOT land. He asked Coon if he wanted to get the DOT involved in this, or if he was satisfied with the location. Coon responded that it is the best land. The DOT is arguing to just go on the other side of the rocks. It is zoned for DOBOR area.

Coon ended that they were asking for trust in this, thank you for the nice comments in regards of my father. He did have a vested interest to the island, not economic. They will improvise and make it better

Jeffery Strahn, one of the members of the HUI proposing the dry dock facility prepared written statement. Few items that Strahn wanted to address are that we operate the largest sailing catamaran. 65ft in length. The only place that is wide enough is Hanakawao on the big island and Kahului harbor if approved. It would be ideal work in Maui. Riley reiterates his passion for the island. He would like to comment on the permanent and temporary. Structures and air quality. The system that thorn presented, “DR shrink” is the far above what the standard is, and most secure system that is the positive. The negative is it is very costly. There is a lot of best management practices whether it is vacuum sanding, or a permanent structure on Kauai a big U-shaped frame. The problems with those are, is there going to be an issue with a view. He said if the department was going to build a building which is 14ft below sea level, in order to bring it up to code, they have to pile 14ft of dirt, which is unreasonable. He thought the best system that is cost effective, but may not be as secure, but addresses all the pros and cons. Is the scaffolding system, it can be bought one time and re-used. Put away hidden by the vegetation, put up 2 stories similar to what landscapers use and use vacuum sanders, the measure has been evolving over time and new measures will come up. He asked how are they going to be ensured what is being done in this facility, will be determined be the DOH and the EPA. As long as the best management practices follow both agencies, he thought that it should follow the best management policies. Strahn has been doing dry docks for several years. There is a lot of planning and away time but it is something they love to do, it is a service to the community, and we want to do it the right way.

Chair Case asked OCCL to double check on how they drafted the proposal. Has a section in here on the EA, Pg. 6, section 3. Assuming they’re recommending that the board adopt this conclusion as the submittal. Lemmo responded that if the finding is confirmed than yes.

Chair Case proposed that the board would motion to adopt this proposal as amended as to also approve adoption of the environmental analysis conclusion on pg. 6 section 3.

Member Gomes proposed that before the motion, he asked Underwood to give background on the testimony that was brought up about the boat ramp. Underwood from DOBOR, responded that he was on site, several weeks ago, and did not see any issue on the ramp. There were some concern of straps and cables being used on the ramp.

Member Gomes stated that the last time the Board had testimony, the trailer was dragging on the ramp and that this morning it was stated that in the water on the approach coming up, there was deteriorating.

Underwood responded that he had not received any report and that he can have his engineers go and take a look.

Member Yuen asked if he had heard what's being proposed and asked how does that compare to the management plans that are going on in Honokahou, was it equal, better or worse. Underwood responded that he did not know what they are doing. But there are stringent requirements from DOH, they are doing the same in Waikiki, the storm water runoff, and you have fugitive dust that you have to contain.

Member Yuen commented that the BLNR had heard testimony that there is a dangerous situation now. That impressed him, it seems to be because people think safety first, but get pressured commercially. It is the kind of thing that makes people take a chance. He asked if the Board concurred. If it is on the record here, DOBOR would be in favor. Underwood responded that he would.

Member Oi added what was the best manage and practice and if they are doing that on Kauai. The Board should put it state wide so that they are all following the same process, if they are going to put ridges on these people.

Chair Case requested to the board if there are any other questions, and if the board is looking for a motion to adopt staff recommendations, amended to specifically adopt, as well the staff environment review recommendation in pg. 6, paragraph 3.

Member Gomes made a motion to approve, Member Yuen seconded the motion.

Chair Case asked if there were any other comments and acknowledged the petition that came in, specifically respect to movement of vehicles and capacities and multiple use and concerns, resulting in safety, trade winds, water runoff. Chair Case was impressed with the proposed best management practices to set new standard and raise the bar. The BLNR does have practices in place currently to mitigate this potential environmental impact. Chair Case asked for clarification if this is part of this process. Or should we ask that be a directive to DOBOR, so that it has adequate review. Lemmo added that is not articulated in this condition and that the board might want to entertain a condition that the applicant would work with dobor.

Member Yuen added that this is going to come back and DOBOR is going to renew the lease. He didn't think it belongs as a condition on conservation use permit.

Lemmo asked if they were to minimize work times to 7am to 7pm. He was asking because it is a definitive BMP. Strahn added that it is recommended that be kept the work times within this frame because of the moisture in evening time is bad for painting, in addition to lights attracting bugs. Day time hours work better because it is dry.

Unanimously approved as submitted (Gomes, Yuen)

**ITEM J-3 Renewal of Boating Revocable Permits and Revocable Permit Rent
Increases, on the Islands of Oahu, Maui, Moloka'i, Hawai'i, and Kaua'i.**

Written testimony was submitted by David S. Case.

Ed Underwood administrator for the Division and Ocean Recreation-DOBOR presented item J-1. DOBOR is currently working with land division by having 2 staffers come over to assist. There have not been any fees or thoroughly looked at. They want DOBOR to use the CPI index. Mr. Keahi is here, worked the RP for the Maalaea boat facility for over 30 years and started back in 1981 at \$18 a month, currently it is \$634 a month. There have been reports of issues on whether he was in the designated area or not. Subsequent to that, DOBOR worked with DOCARE and went down and took care of the deficiencies.

Underwood asked to amend the submittal title to match the agenda title.

Member Gomes agreed with the holdover up to a year, but wanted to put this out for a long term lease where we come up for bid. Best use of practice in the area. Wilson Keahi asked what the time frame was looking like. Member Gomes said a year or sooner, so DOBOR can be in order.

Member Gomes also wanted to talk about the leased premises and if it is on the boating area. Underwood said that it is adjacent from the premises, there is a tax map key and they carved a section out.

Member Roehrig asked Underwood how much time he would need to check out the marina. Underwood replied that currently they have no property manager and staff and cannot give an answer. Part of the reason this is done is the RPs are so old, they need to be changed and the language needs to be updated.

Chair Case wanted clarification on the status as hold over RP.

Member Roehrig added that it is in the public interest, the Board has a fiduciary duty to put it to public bids.

Member Yuen commented that he did not read this giving a year automatically. It is on a month to month. As a board member he found it distasteful to scold DOBOR for bringing up a situation, when they bring in a temp and propose a solution. As the board, they should notify DOBOR that this is a priority item. He suggested coming back in no more than 6 months.

Member Downing asked if they were going to have either and that all of this is moot without one.

Underwood said this has been an issue for some time and that they have a plan in place to the state legislature to get funding. All these recruitments are in personnel office going on at the moment. DOBOR is doing collaboration with Land Division to get bodies over. Underwood asked if the board wants to hold over for a year.

Member Yuen added that he could make a motion to separate to #33 which is Mr. Ahi's.

Member Roehrig thought that it was pre-mature and the Board should hear Gentry first.

Chair Case added that she feels uncomfortable about carving it up.

Member Yuen added that the RP's need to be approved every year, and go about separating them and updating the wording.

Tina Prettyman General Manager, introduced herself and testified on the behalf of Gentry Kona Marina. Gentry manages a boat yard facility under this permit. It is separated from the ramp. Some history on this project is that it was on a 5 year lease at the time it was rough land, full of trash, debris.

Chair Case asked when this was. Prettyman said back in 1996 they had to go through an EA process. Prettyman also disclosed that it took a year to get a permit to get the fence up, taking 10 years to develop the business. In the beginning there were only had a handful of clients and have a lot of abandoned boats that are not easy to sell or dispose them. She was here present to request what they have been requesting a long term to DLNR for the past year. It is related to item 1 on the agenda; they can't do much on a 30 day revocable permit.

Member Gomes asked if this was just storage area. Prettyman confirmed, it was just a storage area and we have 250 boats.

Member Gomes asked if that is for repairs or for storage. Prettyman clarified that they have repairs. They have had to go in and repair poles. The area is numbered and poled, the fence is electrified for security purposes.

Member Roehrig asked how big the area was. Prettyman said it was total of 9 acres, 7 is being used approx. Underwood clarified that GKM was under a long term lease it actually were in some litigation regarding the property. The RP was issued in 2012 and does not go back in 10 years. It was issued because DOBOR proposed the parking plan into the harbor, at that time there was a lot of opposition, they have been asking for expansion of the leased area. DOBOR agreed and issued the RP to accommodate more room.

Member Roehrig asked Prettyman what she recommended the Board do with their RP for 9 acres. Prettyman said they commented on the submittal and recommendations on item 1 which were to speed up the process under rec. 3 to have authorized DOBOR to procure the license

appraiser on this RP. Their concerns are if it is before the tenants improvements. They are unable to work on the boats and were only able to store them on a month to month tenancy.

Chair Case added that it should be clarified.

Keith Chun, from Land Division added that he and another employee of LAND have been assisting DOBOR and have been trying to clean up several issues and come up with interim measures. One recommendation was that there needs a comprehensive evaluation of the RPs, whether the areas are economic units, and whether some should be put out for long term leases. With respect to the proposed rent increases, he said they have looked at different indexes and went back 5 years; He noted some forms are outdated. They did notice there are pending requests in file for long term leases. They wanted to help DOBOR understand the long term issues so that when they get their new property manager they can move forward. They noted that one of the issues with the long term leases within a boating facility was that they are not subdivided lots. By law, long term leases of unsubdivided lots are invalid and it is hard to get a building permit.

Chun added that the recommendation of the AG was to request a renewal given until August 1 to be up to speed on rent.

Chair Case asked Chun if the submittal were left as is an extension of the RP for a year if some of these are appraised and go up. Was it refreshed use and is that allowable. Chun clarified that it is a continuation of the RPs for up to one year, but terminable with 30 day notice. They are trying to clear up the back log. Chair Case thought the language was confusing.

Member Downing asked what happens if nothing gets done for these people. Chun said they hope to share some of the suggestions and issues with DOBOR, and as DOBOR hires his new staff, DOBOR takes knowledge and shares it with his new staff.

Robert Green owner of Surf and Sea in Haleiwa testified that they have been on one year lease for that long. They have done numerous repairs and rebuilt the building from top to bottom. There was an agreement made if we spent 200k on repairs to the building, that we would be able to get a longer term lease. So they did that, showed proof, it would increase their rent, and waited for something to happen.

Chair Case asked when Green when he did the repairs. Green said it was during the late 1980's but that has been continuous. Chair Case said that this has been 30 years, so they have already gotten the benefit. Green was happy for 50 year lease. If anything he want to step up. His daughter will be taking over and they will do whatever we have to do. Green concluded by thanking the board.

Chair Case asked for public testimony on this item.

Carol Cox, a concerned citizen testified specifically on concerns regarding the Keahi lease. In about January of this year Cox requested the UIPA, an investigated report on DOCARE, reported violations. They were completed in Sept. 30, 2015 then everything just stopped. He wanted to submit testimony but did not get a copy of the investigation. He learned in the last year about this

matter. He told the Board if they move to approve the permit with the violations identifies, then the public should get a copy on the investigation. He asked why wouldn't the state rent to the people, instead of Keahi leasing land and renting it to other boaters. Cox had concerns and asked that before moving on Keahi's matter, the Board look at the investigation. It is not exempt and is releasable. If it cannot be provided, then the Board should not move until the matters are resolved with Keahi and have transparency with the public. DOBOR needs to be revamped. It is not an isolated incident.

Member Yuen asked DOBOR if they had any comments. Underwood responded explaining that the UIP was denied because the investigation was ongoing. Jason Redulla from DOCARE told Cox that once finalized then the department can release the investigation. DOBOR inherited this lease and are taking it over. Since there is a Tax Map Key, there is a portion for this RP. Other alleged issues are being looked by DOCARE.

Member Roehrig suggested DOBOR give part of the report done, regardless or not it is finished, give it to the chair for review. If the chair thinks it is of interest to the public, it should be available.

Chair Case clarified that the matter before the Board was the proposal J-3, to amend the title to match the agenda title and to approve the submittal. She asked if there was a motion.

Member Roehrig made a motion to go into executive session to Executive Session pursuant to Section 92-5(a) (4), Hawai'i Revised Statutes, in order to consult with its attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities. Member Yuen seconded the motion.

All were in favor

Chair Case called for executive session and lunch and back in session at 1:30PM

12:39PM Executive Session

1:33PM Reconvene

Member Yuen made a motion to approve with amendments. 1. Title as discussed before. 2. DOBOR report back in 6 months progress in hiring a property manager and converting the RP's want to see a specific report on #33(Keahi property) and gentry property in Kona.

Member Roehrig added to also make a report on Haleiwa and seconded the motion.

Unanimously approved as submitted (Yuen, Roehrig)

ITEM D-5 Forfeiture of General Lease No. S-3597, Sure Save Supermarket Ltd., Lessee, Waiākea, South Hilo, Hawai'i, Tax Map Key: (3) 2-2-032:064.

Kevin Moore Assistant Administrator for Land Division-LAND detailed that the reason the lessee was not able to pay rent was due to loss of liquor license. Lease is set to expire next year.

Discussions with district land agent in Hilo included the possibility of using a portion of their performance bond to cure the rent. This cannot be brought to the board because the lessee has to be in good standing with the board. Staff recommendation stands.

Member Gomes asked when last rent was paid. Moore said it was back to January 16 to July 15 of this year. Second installment came due on July 15th as shown on page 3 of the submittal in \$8880. Member Gomes clarified that the total amount due is \$13760.

Chair Case asked if the applicant want to testify.

Carl Okuyama, President of Sure Safe Super Market LTD, introduced himself and testified that he believed the information is correct. The next payment due is the July, for the remaining period of January 2016. Okuyama talked to Gordon Heit last week and mentioned that they would not be curing the default. Okuyama asked to please continue and cancel the lease, they cannot pay it. Okuyama would like 30 days to go ahead and clean out the building. There is inventory/property in there. This would give them time to liquidate and sell items on the premises. They would revert the building to the state of Hawaii. There are a lot of people requesting to use the building. It would probably go to public auction. They would like to forfeit the lease according to terms and laws.

Member Gomes asked if it was because of a bad area, down economy, since it is in Hilo. Okuyama said it had been like this over the years, having opened up 12 stores.

Member Gomes asked how many of them were left. Okuyama said this is the last one. Okuyama has a LLC as a business however; in 2010 they had a large embezzlement roughly \$380,000 from the stores that did well. They lost the leases.

Member Yuen asked if the rent would be from July 15, 2015 to Jan 14, 2016 would be pro-rated. Moore told Member Yuen the board has some flexibility, normally would be collected through the lease term or at end for flexibility.

Chair Case wanted to clarify that the recommendation is to be effective July 24. Moore said effective today's meeting date.

Member Roehrig asked if they were going to leave it vacant for 2 weeks. Moore answered that Gordon Heit talked to a neighbor and they wanted to use the lot for parking. LAND wants someone occupy it for security reasons. If cannot, then they need to just board it up for security reasons.

Okuyama added that Kens has no parking and that has been the biggest issue.

Member Roehrig disclosed that he was a lawyer for Ms. Quineva and good friends with Okuyama. He felt he could vote objectively.

Member Yuen moved to approve as recommended to change lease to Aug 24, and terminate the rent as of Sept 15, 2015.

Unanimously approved as submitted (Yuen, Roehrig)

ITEM D-12 Amend Prior Board Action of February 22, 2013, Item D-11, Issuance of Right-of-Entry to Maunalua Fishpond Heritage Center for Scientific Study, Educational, and Conservation Purposes, Honolulu, O‘ahu, Tax Map Key: (1) 3-7-002:018 & 077.

The Amendment is to Request a 12-month Extension to the 24-month Right-of- Entry Permit Approved at the Prior Meeting.

Chris Cramemer from the Mouanalua fishpond heritage center, introduced himself and Item D-12. He wanted to come today and give report on what they been doing. They had to do an EA/ management plan we were told that we could get an extension. The fishpond they were at is Kalauhaehae fishpond, part of a fishpond complex, in Niu valley. Education groups and community groups are brought. The area was always known for fishponds since ancient times. When statehood happened, we have lost so many fishponds. Kalauhaehae is the last fishpond in Honolulu that is on the shoreline, outside Mokuwaea Island and near Alan Davis area. This is where the Kapu system was broken on the island. It was given to Captain Adams, Thompson and Lucas family, the konohikis from King Kamehameha. For many years it was with state DOT, what happened, the water is damaged, the mid 90’s the lava tube was hit, when they were widening the highway. The pond went dry, the fishery and all freshwater disappeared. Invasive algae occurred. There were 2 families that lived in the fishpond. The State would first fix the problem but they purchased the fishpond, rather than fix the lava tube, a very dramatic experience to the families. The state sat on it for years and were going to auction it off, we had to get the law changed to prohibit sale of publicly owned fishponds, which took many years at the state leg. DOT tried to call it a water feature to get it around the law. They have right of entry for the last 2 years. There have been huge demands from schools that would like access and learn from the fishponds. They have been doing hydrological monitoring with scientists and student interns; doing cultural impact assessments and they are still awaiting community input.

Member Oi asked what kind of fish or things you find in the pond. Cramemer explained that before there was awa and mullet and ole ole, opu, hapawai. Then everything died, all the fish tried to jam down the lave tube.

Member Oi asked how they were going to mitigate the fishpond and what the ultimate goal at the end of this project. Cramemer explained that they are trying to figure out a solution with the tools we have. They have had students and scientists come down to assist, but there are several goals. One is to have an ocean classroom. So it won’t be land based. They would be able to connect on ocean with canoes. The other is to turn back the freshwater. Right in that area there is a group called Malama Maunalua and the Nature Conservancy-TNC and they removed by hand 26acrs of guerilla grow. A lot of that came in when the freshwater got cut off.

Member Downing commented that in regards to the tube of the spring that was bringing the water, when they cracked the tube while widening Kalaniana’ole. The cold water stopped flowing and invasive species came in. The tube being smashed and million gallons of water going into

our sewer system is clogging it. This is when they tried to go to the DOT and state to put back the tube and connect it back to the fishpond. Cramemer clarified that in 2011 there was a joint resolution done. In 2014 the legislature appropriated 500k to the restoration of the fishpond. It is currently at the Governor's office pending approval.

Kauai Lucas introduced herself and stated that they were an all-volunteer organization, very small. We do move slowly at time. Chris is a teacher, in his spare time he is all about this fishpond in scheduling community groups participating.

Chair Case asked what agency is working on this study. Cramemer explained that the funds got appropriated to DLNR. They had an engineer firm to evaluate what it would take to get the water to fishpond. State Representative Mark Hashem was the introducer.

Member Roehrig added that there should be another meeting scheduled with this docket, and invite the DOT and TNC to discuss this. This is a health emergency and the Board need to solve it right away.

Member Yuen added that because the money came to DLNR, he would want Carty Chang in Engineering to take a look at it since they have the expertise in the matter.

Member Roehrig suggested subject matter back in 60 days? This is a health safety emergency.

Member Woodside made a motion to approve

Member Gomes seconded the motion

Member Roehrig added that as a condition to this approval, they want the subject matter of the emergency health situation to be brought back to land board in 60 days. He wants involved public entities involved.

Chair Case requested staff come back in 60 days to the board on the briefing on what is happening to the funds on the water study and the involved agencies.

Unanimously approved as submitted (Yuen, Oi)

ITEM D-11 Approve the Memorandum of Agreement between Hawai'i Public Radio and the University of Hawai'i; General Lease No. 5909, Hawai'i Public Radio, Lessee, Kalāwahine, Honolulu, O'ahu Tax Map Key: (1) 2-5-019:Portion of 005.

Kevin Moore-LAND reviewed item D-11, there were no questions and no public testimony.

Unanimously approved as submitted (Roehrig, Oi)

ITEM D-6 Grant of a 65 Year Term, Non-Exclusive Easement to Roman Catholic Church in the State of Hawai'i (RCCH) for access and utility purposes;

Issuance of a Right-Of-Entry Permit to Roman Catholic Church in the State of Hawai'i, Kaūmana, South Hilo, Hawai'i Tax Map Key: (3) 2-5-003:021 por.

Moore-LAND conveyed item D-6. Staff had one concern; it is agriculturally-AG zoned, but in the future it may cause development issues. LAND asked to amend the recommendation in 3A to include provision on easement relocation. So if needed to in the future, they would do that and give them another alignment, coming from the western edge of the property and not causing any interference.

Chair Case asked who would pay for the relocation. Moore said it would be applicant's expense to develop the new access, the state won't charge; it would just be a one time payment.

Chair Case asked if it was a one time relocation. Moore said the provision does not state but it seems that it won't move too many times in a 65 year easement, they brought the amendment up just now.

Marlene DeCosta, real estate director for the Roman Catholic Church clarified that she did not hear about it until now. The reason she chose this location was the road has been there for years and years. They thought they had the right of way and never know it was truly land locked.

Moore added that board members in Big Island might be familiar with this road, as there are some treacherous curves on it. DeCosta clarified that it is not used actively as AG lot. She thought DLNR had a lease on it.

Moore commented that the submittal talks about the last lease.

Member Roehrig asked if they had present use or if they were going to put up a new church. DeCosta said they did not and were trying to make a decision on whether to lease or sell.

Chair Case asked if someone wanted to use it, would they want the option to move the easement; however in that case they would need a new EA and who would pay for that. Moore clarified that if anyone proposing a new use adopting an EA they could include the relocation of the easement as a part of the study, there still would be the physical development cost.

Member Roehrig made a motion to approve the docket, subject to the conditions listed by staff, with amendment to condition 3A to provide add time to time and including possible easement and relocation from west end of parcel 21, in the event the applicant or application for lease or disposition from parcel 21 in the future.

Member Oi seconded the motion.

Approved as amended. The Board amended recommendation no. 3 to add the following at the end of subparagraph 3.A: "including possible easement relocation to the west end of Parcel 21 in the event an applicant leases Parcel 21 in the future for a use that requires such relocation."

Unanimously approved as submitted (Roehrig, Oi)

ITEM C-1 Acceptance of Hearing Officer's Report on a Public Hearing for Four Proposed Additions and One Proposed Withdrawal to the Forest Reserve System on the Island of O'ahu.

Approval and Recommendation to the Governor Issuance of an Executive Order for Addition of Tax Map Keys (1) 2-2-053: Portion of 001; (1) 2-2-053:002 and 003; (1) 2-5-010: Portions of 001 and 003; (1) 2-5-019: Portion of 005; (1) 2-5-019:013; (1) 2-9-031:Portion of 002; (1) 2-9-049:004; and (1) 3-4-033:001, Comprising Approximately 127.818 Acres, to Honolulu Watershed Forest Reserve, Pauoa, Mānoa, Tantalus, and Pālolo, Kona, O'ahu.

Approval and Recommendation to the Governor Issuance of an Executive Order for Withdrawal of Tax Map Keys (1) 1-4-014:001 and 026; (1) 1-4-016:003; (1) 1-4-018:001, 003, 006, 009, 010, AND 011; (1) 1-4-018: Portions of 012 Through 016; (1) 1-4-020:013, 039, and 053; (1) 1-9-007: Portion of 001; (1) 2-2-041:003, 008, and 013; (1) 2-2-054: Portion of 001; (1) 2-2-054:002; (1) 2-2-055:001; (1) 2-5-019: Portions of 003 and 016; (1) 2-5-024: Portions of 001 Through 003; (1) 2-5-024:004 Through 020; (1) 2-5-024: Portion of 021 and 027; (1) 2-5-024:028 Through 033; (1) 2-9-051:002; (1) 2-9-054:010; (1) 2-9-055:002; (1) 2-9-055: Portion of 006; (1) 2-9-055:007, 008, 009, and 013; (1) 2-9-057: Portions of 006, 011, and 012; (1) 3-3-056:001, 004, and 005; (1) 3-3-056: Portion of 006; (1) 3-3-058:066 and 067; (1) 3-4-010:019; (1) 3-4-020: Portion of 003; (1) 3-4-022:006; (1) 3-4-031:023; (1) 3-4-032:055; (1) 3-5-024:023 and 032; (1) 3-6-004: Portions of 001 and 014; (1) 3-6-019: Portions of 035 and 038, Comprising Approximately 2736.898 Acres, from Honolulu Watershed Forest Reserve, Kalihi, Nu'uanu, Pauoa, Mānoa, Tantalus, Makiki, and Wa'ahila, Kona, O'ahu.

Approval and Recommendation to the Governor Issuance of an Executive Order for Addition of Tax Map Key (1) 3-7-004:002, Comprising Approximately 263.000 Acres, to Honolulu Watershed Forest Reserve, Niu, Maunalua, O'ahu.

Approval and Recommendation to the Governor Issuance of an Executive Order for Addition of Tax Map Key (1) 8-5-006:005, Comprising Approximately 300.000 Acres, to Wai'anae Kai Forest Reserve, Wai'anae, O'ahu.

Approval and Recommendation to the Governor Issuance of an Executive Order for Addition of Tax Map Key (1) 4-2-010: Portion of 001, Comprising Approximately 1,744.538 Acres, to Waimānalo Forest Reserve, Waimānalo, Ko'olaupoko, O'ahu.

David Smith from DOFAW conveyed item C-1 and noted a discrepancy on the agenda title and submittal title, the agenda title is correct and changed some wording into the Mokus. In the agenda end paragraph 1, Honolulu was taken out and Kona was added, end paragraph 2. Honolulu was take out and Kona added. End Paragraph 3. Honolulu was taken out Maunalua added, paragraph 4. After Waianae, Honolulu was removed. In paragraph 5, Honolulu was removed and Koolaupoka was added. Smith requested submittal title to reflect agenda title.

Unanimously approved as submitted (Woodside, Gomes)

ITEM C-2 Request Approval for Selection of the Competitive Sealed Proposal Process and Authorize the Chairperson to Award, Execute, and Extend Contracts for the Implementation of Watershed Management Plans Negotiated with Private Landowners for Fiscal Year 2016.

Member Yuen disclosed that his daughter is named as a member of the committee that would be appointed by board action. Member Yuen recused.

There were no questions and no public testimony.

Unanimously approved as submitted (Roehrig, Gomes)

ITEM D-10 Authorize Cancellation of Irrevocable Standby Letter of Credit No. SB000018 from HSH Nordbank for \$1.5 Million and Consent to Issuance of Irrevocable Standby Letter of Credit No. XXXXX226, from Bank of America, for \$1.5 million; General Lease No. S-5731, Kaheawa Wind Power, LLC; Kaheawa, Lāhainā, Mau‘i, Tax Map Key (2) 4-8-001:001 por.; And

Authorize Cancellation of Irrevocable Standby Letter of Credit No. S320635M from UnionBank for \$1.5 Million and Consent to Issuance of Irrevocable Standby Letter of Credit No. 68111616, from Bank of America, for \$1.5 million; General Lease No. S-6003, Kaheawa Wind Power II, LLC; Kaheawa, Lāhainā, Mau‘i, Tax Map Key (2) 3-6-001:014 & 4-8-001:001 por.

Withdrawn

ITEM D-7 Issuance of Revocable Permit to Punaluu Ranch, LLC, for Pasture Purposes, Kaalaala Mauka, Kaalaala-Kapapala, Kau, Hawaii, Tax Map Key: (3) 9-6-011: portion of 002. (HDLO) Wesley

Moore-LAND made note that Member Yuen pointed out an irregularity in exhibit b in in-house pasture lease evaluation, so in second par. it says, “It was determined that only 100% of the subject property is useable” it does not make sense, the land agent copied the language from D-8 using the same template. The following sentence, “remaining land” should be stricken.

Approved as amended. The Board amended recommendation A.9 to read as follows: “Permittee may conduct non-commercial animal control hunting on the premises.”

Unanimously approved as amended (Yuen, Roehrig)

ITEM D-8 Issuance of Revocable Permit to Punaluu Ranch, LLC, for Pasture Purposes, Kaalaala Makai, Kau, Hawaii, Tax Map Key: (3) 9-6-013:002. (HDLO) Wesley

Member Gomes asked why there was no game management plan in place. One of the stipulations in the request is he is not to have hunting on property. Hunting should be allowed so he could have management of his property. Feral Pigs can bring in invasive species. Hunting should be allowed to the owner.

Member Woodside added that Non-commercial hunting be permitted.

Member Yuen asked if you could apply to hunting through DOFAW. Member Gomes answered that it is just for night time. The least he should be able to do, granted he abides all rules. Chair Case asked if the board should propose to amend 7 and 8 the hunting provision, condition 9 to say non-commercial animal control/hunting will be allowed.

Member Yuen was confused when did the last RP end and how long as this property been vacant. Moore added that it is not in the submittal he would have to go back and pull the records.

Member Yuen asked for all these RP's the guy is required to put in fencing for month to month use. Moore said that most of the permits allow the permittee to pull the fence out.

Chair Case asked the Board if they were going to leave the fencing alone. Member Yuen commented that if they were going to put it out to lease, put it out the lease and then they don't have this situation anymore.

Chair Case added that at a minimum they are clarifying that it is his to take at the termination of the RP.

**Approved as amended. The Board amended recommendation A.9 to read as follows:
"Permittee may conduct non-commercial animal control hunting on the premises."**

Unanimously approved as amended (Yuen, Roehrig)

ITEM D-2 Sale of a Portion of Ditch Easement G to Clement T. Esaki and Amy I. Esaki, Trustees of the Clement T. Esaki Trust and Amy I. Esaki Trust, Kapahi Farm Lots, Kapaa, Kawaihau, Kauai, Tax Map Key: (4) 4-6-011:028.

Member Oi felt uneasy about charging a onetime lump sum equal to the fair market value, and that they are going to get an independent appraiser if no one appraise on today's value, there is no ditch, all they are doing is purchasing the easement. They own the land under the easement. He didn't think charging them for something that has been 50 years. Moore clarified that the appraiser would look at the value as encumbered by the easement.

Chair Case added that appraisal would cover by taking in account that it has not been operating for 50 years. Moore stated that he did not know if the appraiser would look at that they are just going to look at the legal encumbrance of the parcel.

Chair Case asked if this was a situation where the cost of the appraisal would cost more than the value of what's getting appraised. What is the estimate appraisal likely to cost. Moore acknowledged that it occurred before and costing somewhere between \$3,000 and \$6,000.

Chair Case added that the board had other situations where the applicant pays for the appraisal. She felt like they should pay for what they are getting.

Member Roehrig added that they reflect Member Oi's concerns and ask the appraiser to consider the history of the reservation of the easement, year of 52 would be in the price. Since the technique to keep the interest in the territory was cheap to do. It would be a different situation if the territory had to sell the whole thing and buy back the easement they would have to pay more.

Chair Case commented that would be reflected in the appraisal and it would be a different in price with the value of the easement. It would not be a big of a difference.

Member Roehrig concurred but given the unique circumstances to consider it, but if they do it already no harm, no foul. Member Oi's concern was when the appraisal is on fair market value.

Approved as amended. The Board Member Oi made a motion requesting that the appraiser who is procured to value the easement being disposed of consider that the easement was created in 1952 by reservation in Land Patent Grant 13,300.

Unanimously approved as amended (Oi, Woodside)

ITEM D-1 Authorize Negotiation and Execution of Memorandum of Agreement between the Board of Land and Natural Resources and the Department of Education for the Ko Road Rockfall Mitigation Project - Makai Section, Part One, Eleele, Koloa, Kauai, Tax Map Key No. (4) 2-1-001:006 (Parcel 6)

Written testimony was submitted by Jan S. Gouveia.

Unanimously approved as submitted (Roehrig, Gomes)

ITEM D-3 Request for Issuance of Right-of-Entry Permit to Hawaii Sand Festival c/o Julian Miller, for a Sand Castle / Sand Art Contest at Hanalei Bay Beach, Hanalei (Makai), Hanalei, Kauai, Tax Map Key: (4) 5-5-001: seaward of 11, 12, & 13.

Unanimously approved as submitted (Roehrig, Gomes)

ITEM D-4 Grant of Perpetual, Non-Exclusive Easement to Benjamin F. Frazier and Edie M. Manzano-Frazier for Access and Utility Purposes, Old Volcano Trail, Olaa, Puna, Hawaii, Tax Map Key: (3) 1-6-033:999. (HDLO) Wesley

Unanimously approved as submitted (Roehrig, Gomes)

ITEM D-9 Sale of Remnant to The Church of Jesus Christ of Latter Day Saints; Assignment of Board of Land and Natural Resources' Interest in Grant of Non-Exclusive Easement, Land Office Deed No. S-28,625, to The Church of Jesus Christ of Latter Day Saints, Onouli, South Kona, Hawaii , Tax Map Key: (3) 8-1-004: Remnant (E-4).

Unanimously approved as submitted (Roehrig, Gomes)

ITEM L-1 Delegation of Authority to Certify the Election of Soil and Water Conservation District Directors to the Chief Engineer of the Engineering Division.

Carty Chang from engineering decision introduced item L-1 and stated that ENG are looking for ways to reduce paperwork. Allow the directors to continue business as soon as possible and allow the public to participate in the process.

Unanimously approved as submitted (Gomes, Oi)

ITEM F-1 Report to the Board on Discussions on Sustainable Harvesting of Marine Life in Hawai'i Following Adoption of Hawai'i Administrative Rules, Chapter 13-77, O'ahu Aquarium Life Management, Approved by the Board at its Meeting of October 24, 2014.

Alton Miyasaka representing the Division of Aquatic Resources- DAR introduced item F-1 and asked to make a change. The title of the submittal needed to be adjusted so it is consistent with the agenda; this is a report back to the board. They have submitted in the submittal reasons why we were delayed. We are not ready to provide the board with a full detailed explanation. Miyasaka acknowledged that the 6 month request was made. Discussions will be forthcoming in the next several months.

Member Yuen commented that in the Kona coast there are lots of closed areas. What other managed areas on Oahu would aquarium fishing not be allowed other than Hanauma Bay. Miyasaka gave some examples that included Pupukea, Northshore, Waikiki, and explained that there are areas in harbors in Haleiwa where only netting is not allowed.

Member Yuen was concerned that there was a general net prohibition so Big Island has more protection than the other islands. Miyasaka clarified that major collecting areas are on the west side of Big Island and Oahu. No commercial collecting on the other islands. Conflict areas are on the west side of Big Island.

Chair Case asked if the science is done or is it going to be a part of the process to the stakeholders. Miyasaka clarified that the original group is going to reconvene again and discuss what was discussed at the science group meeting, the further discussion is how to measure and find once the department figures that out and are going to use a quota system and set limits. Then that group would report back to staff to make a recommendation to the board.

Member Woodside's concern was the wide range of stake holders that should be in the conversation and if it was from the department side. Miyasaka clarified that DAR did not have everyone in the conversation.

Member Woodside understood that it makes it more simple data wise but added that the conversations would be different in region areas. Miyasaka clarified not in the aqua fishery but in the commercial fishery. That discussion is occurring; there are different regulations for different species. The aqua fishery does not have too much but west Hawaii is different and has statutory change.

Chair Case added that the purpose of this process is to figure out what are the right numbers to take, for the industry to make sure the fish are health.

Inga Gibson, Hawaii director humane society, introduced herself. Gibson stated that 98% of testimony was in opposition of rules. They were not based on stake holder input and science. The rules were never a produce of community input. She said that Miyasaka reached out to her, it was their opportunity aside from public comment in Hawaii but around the world. This industry has never been under an environmental review, it has to go through HEPA and an EIS. They were asking the board and chair to support ongoing discussions, stake holder and science meeting. Rather selling these fish to mainland aquariums, they could have the fish stay here and further help flourish our tourism economy.

Chair Case's recollection of the fish data/catch data from west Hawaii inside and outside the aquarium prohibited areas are 5 plus years that the catch data recovered so the protected area would be keeping the population going. Chair Case had assumed it is part of the science discussion. There is data on the past 100 years but if you accept the baseline, the fish line has gone down is sustainable.

Member Yuen asked why 40% of the fish die on their way to the destination. Gibson clarified that it is up to 40% there is 8 steps in chain of custody when they end to their final destination, it is up to 5% each step on the chain of custody, you lose 2-5% of fish.

Member Yuen asked Miyasaka why they need a commercial license. Miyasaka answered that if you are commercial aqua collector selling fish, you need a license, \$50 a year for residents 200 for nonresidents. They make a report back to DAR. The only value DAR make sis, what the collector level is being paid. It is probably about 700k dollars annually.

Member Yuen asked Miyasaka if he thought through the studies that there could be a possibility of over harvesting in a variety of species. Miyasaka said there are some species in need of more management. There are some species are fine in terms of the catch. The value of the fish sold in aqua industry, they would argue that who they are selling too are people that would normally come to Hawaii. It has that kind of attraction value that is not very obvious that someone does not understand. If we look at the population that does not compete with the food fishery. Only aquarium people are taking this fish. It is very specific in the market at who is going to take it. There is a limit in the number.

Member Yuen asked what species need more management and what was the evidence was. Miyasaka explained that certain species, endemic, highly valued and sought after. The info DAR has is the population is very low. The current regulation is minimum size, but it may be that we need to impose stricter regulations. In the last round of aquarium regulations. There were list of prohibited species.

Chair Case asked Miyasaka if he was going to continue this process and come back to give us a report in 6 months to a year. Miyasaka said DAR hopes to come back soon and wanted to come back and explain what the sustainability means and the measurement. That is for a later discussion.

Report back from DAR *Pending*

Non action item.

ITEM J-1 Request Approval to Adopt Amendments to Hawai'i Administrative Rules (HAR), Title 13, Section 256-152, Kahalu'u Bay, Swimming Zone in Order to Update Location Designations, Limit Commercial Surf Instruction, and Revise Swim and Surf Zone Restrictions Within Kahalu'u Bay.

The rules can be reviewed online at: <http://ltgov.hawaii.gov/the-office/administrative-rules/> and <http://dlnr.hawaii.gov/dobor/draft-rules/>, or can be reviewed in person at any small boat harbor from 8:00 am to 3:30 pm, Monday through Friday, except Holidays. Location and contact information for DOBOR offices is available online at: <http://dlnr.hawaii.gov/dobor/contact/>.

Ed Underwood administrator for DOBOR introduced item J-1 and recommended they come up with a number towards the commercial surf schools in the bay. What was discussed was limitation to the 4 commercial operations in the designation in Kahalu Bay. There were 16 people opposed, 25 people who signed in. Through DOBOR is banning public use of the area, the intent was to limit the number of commercial entities. In conjunction to the county permit issued.

Member Downing passed out photos and asked Underwood how he came to the capacity. Downing's main concern was regarding safety, safety for public or private sector. He asked where the current goes and where he got these numbers. Member Downing asked if the Board should defer until a better plan was worked out. He also commented that there is no real parking in zone A other than on the road. He asked how many surf schools are there now. Underwood answered that this was all done in the community in the area. This was brought to DOBOR and they asked if permits could be issued in conjunction. DOBOR facilitate the means and meet with the county, but did not do a capacity study. Right now it is a free for all. DOBOR just wants to get it under control. Underwood wasn't sure how many surf schools there were.

Member Downing concern was that right now if the board does not know these things and they make a commitment and someone gets injured. The liability falls on the Board. Without knowing

capacity he didn't know how many permits and was trying to understand the liability side. Underwood responded that it gets very crowded and the number proposed is supposed to bring it down to a manageable level.

Member Woodside added that the Kohala center has been down there in time doing a lot of survey in ocean and resources.

Member Roehrig commented that it is a very crowded place, very dangerous for surf schools. Once surf schools are put in effect, the Board/Department has a duty to make sure they don't get hurt. Member Roehrig echoed what Member Downing had to say.

Member Downing commented that it is a start, but he still had a hard time with it being a final. He said there has to be discussion.

Member Downing was also very concerned about a 1 to 4 ratio. Downing asked where this number came from. For some reason this number came about because that instructor had to figure out how much money is to be made.

Chair Case inquired about the possibility of a vote and revisit.

Member Roehrig added that there is a lot of canoes that go both ways in this beach. When the waves are 2-4 feet his concern is the canoe clubs have pass rights for canoe racing. Something needs to be added to rule to transverse this area as long as the paddlers give due safety to the surfers and swimmers. He was cautious of us to give the county lifeguards power to regulate where to swim, paddle, or surf.

Member Yuen suggest that the board could defer and ask for more input, or pass it as is.

Member Woodside asked if they were asking to defer until DOBOR gets more info to come back and help us understand, or if they are were asking to defer it to go through a whole new rule making process. It seems we want to get more data.

Underwood asked if DOBOR could make that a condition in the permit. They don't have a specific permit for this, but there is a requirement that all surf schools acquire a permit through us.

Member Roehrig felt these rules are dangerous and asked what if the Board put these rules to a brand new public hearing and put it into effect. Say that they propose new rules, 4 to 1 with a catcher. That makes it a lot safer and clearer that the canoes can transverse the area in both directions as long as it is done safely.

Member Downing asked if the board is fine with Underwood's recommendation. He didnt agree with it because he felt it to be a lump sum that every break is treated different, size, swell, wave is all different. Even though you mentioned the community, he didn't feel enough info came out of one meeting.

Member Woodside commented that if this is deferred that she would want to make sure that staff guidance in what would be helpful in terms of numbers and data.

Chair Case added that the issue here we are dealing is making it more restrictive.

Member Yuen asked to make a motion to defer and to hear from the community.

Member Downing asked if there is a record of people that came and if there was a way to contact them.

Member Woodside added that the board should make it clear that they want them to come back again.

Member Yuen suggest going through another 6 months, then make this 30 days.

Chair Case added that the message is that whatever package they came up, board concern is that it is not safe enough.

Attorney General-AG Colin Lau stated that there was testimony at the public hearing that “this was a correct way of action”: then you would need to change the action now.

Member Roehrig felt that the board should look at the testimony before doing anything.

Chair Case asked if they through the testimony and called for people with testimony with sustenance. Underwood clarified that 16 were opposed because they we were limiting public access, but public access remains in the surfing area. 8 were in favor.

Member Downing added first wanted everyone to think of the capacity surf breaks how many people it can handle. It starts the dialoged on how much commercial you can have, versus how much public can co-exist. As for as permits, 2 instructors 8 kids, why does it have to be 4 to 1 as to permits. He asked why it couldn't be 8 permits. If 32 is the magic number why can't there be more permits, less students to achieve more money and make it safer. Make it closer to one on one. Capacity will tell you what you can do in a surf break.

Chair Case added that since there is no regulation, if the capacity is 40 and asked does that mean no commercial surfing if there is 40 surfers. Member Downing responded that it is up to the public's trust.

Member Roehrig made a motion to defer this for 30 days, so Underwood could go back to Kona and contact the people there. First see the written testimony, second get in touch with the testifiers and lastly recognize the capacity problem for the number of students and instructor in the surf school zone. Third, should there be 4 permits with 4 or 2 students of 8 permits with only 1 or 2 students and lastly regardless of the amount of students, should it be mandated to have one catcher per instruction.

AG Lau informed the Board that if they are going to have DOBOR go back to the community, he cannot have new testimony, may as well go back to new rule making.

Member Roehrig added that his intent was that there is testimony already given whether verbal or written. Doing this could be a time and money saver.

Unanimously moved to defer (Roehrig, Downing)

ITEM J-2 Write off of Accounts Owed Under Boating Revocable Permit No. B-93-39, dated September 24, 1993 and License No. 74 Between the State of Hawai'i and Ala Wai Marine, Ltd., Permittee/Licensee, Honolulu, Hawai'i. Tax Map Key 2-6-10:09.

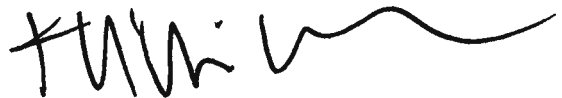
Underwood-DOBOR hand noting to add and there was no public testimony.

Unanimously approved as submitted (Gomes, Oi)

Member Woodside moved to adjourn meeting; seconded by Member Downing

There being no further business, Chair Suzanne Case adjourned the meeting at 5:20p.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Ku'ulei Moses
Land Board Secretary

Approved for submittal:



Suzanne D. Case
Chairperson
Department of Land and Natural Resources