

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

DATE: FRIDAY, FEBRUARY 26, 2016
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

Chairperson Suzanne D. Case called the meeting of the Board of Land and Natural Resources to order at 9:00 a.m. The following were in attendance:

MEMBERS

Suzanne D. Case
Stanley Roehrig
Ulalia Woodside
Thomas Oi

James Gomes
Christopher Yuen
Keone Downing

STAFF

Russell Tsuji-LAND
Kevin Moore-LAND
Marvin Misaka-LAND
Sheri Mann-DOFAW
Carty Chang-ENG

Curt Cottrell-PARKS
Candace Martin-LAND
Dave Smith-DOFAW
Steve Bergfeld-DOFAW
Rob Hauff-DOFAW

OTHERS

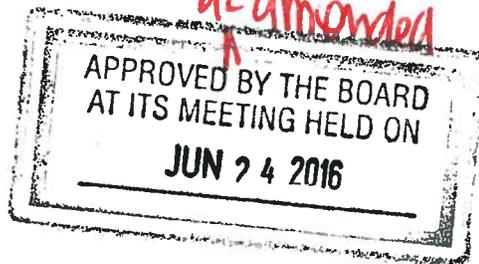
Linda Chow/Deputy AG
Cara Camia/E-2
Mike Cutbirth/D-14
Abby Lareau/DOT-AIR
Ethan Tomokiyo/DOT-AIR
Mr. Neves/DOT-AIR

Tom Micik/D-15
Charity Naea/E-2
Stephan Jost/D-13
Carol Young/DOT-AIR
Casey Reamer/M-27
David Bettencourt/M-27

Chair Case announced that items C-2, M-26 and M-10 were withdrawn.

ITEM C-2 Request to Conduct a Public Hearing Regarding Amendments to Title 13, Chapter 209, Hawaii Administrative Rules: Rules Regulating Activities within Natural Area Reserves.

Withdrawn



ITEM M-26 Amendment No. 1 to State Lease No. DOT-A-09-0001, Addition of Spaces, Smoky Mountain Helicopters, Inc., Port Allen Airport, Tax Map Key: (4) 1-8-08: Portion of 4.

Withdrawn

ITEM M-10 Issuance of a Revocable Permit for Air Cargo Operations, United Airlines, Inc., Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 19.

Withdrawn

ITEM D-15 Issuance of a Revocable Permit for Aircraft Parking, Jess Turnbull, Waimea-Kohala Airport, Tax Map Key: (3) 6-7-001: Portion of 08.

Russell Tsuji Administrator for Land Division-LAND presented this on behalf of the Chief Justice of the Judiciary as well as the Comptroller. There were a number of people that have worked on this. LAND is asking the Board to approve this as well as delegate to the Chair the authority to execute the final closing documents that will be negotiated between QLT and through the lawyers, AGs, etc. Along with approving an immediate construction right of entry to the Department of Accounting and General Services-DAGS so they can proceed with construction.

There were a number of people present from the Judiciary and DAGS.

Tom Micik head of the Policy and Planning Department of the Judiciary spoke on behalf of Rod Maile, Administrator of the Court who could not be present today. Micik read their testimony in support of this action.

Member Gomes asked Micik how long he thought it would take and what the square footage was. Micik said they hoped by fiscal year 2019 and 144 thousand sq. ft approximately.

Member Roehrig asked how many courtrooms there would be. Micik said right now it's built for 5 courtrooms. 2 Circuit court judges and 3 district court judges.

Unanimously approved as submitted (Roehrig, Gomes)

ITEM E-2 Requesting Approval for the Chairperson to Negotiate and Sign a Memorandum of Agreement (MOA) Between the Board of Land and Natural Resources and the County of Maui for the Operation, Management, and Maintenance of the Central Maui Regional Sports Complex, Maui; and

Requesting Approval for a Right of Entry for the County of Maui to Operate, Manage, and Maintain Completed Phases of the Central Maui

**Regional Sports Complex, For Waikapu, Wailuku, Maui, Tax Map Key: (2)
3-8-007: 104.**

Written testimony was submitted by Lieutenant Governor Shan S. Tsutsui.

Curt Cottrell Administrator for State Parks-PARKS introduced Russell Kumabe, Chief of the Planning and Development section.

Cottrell thanked staff from the Engineering Division, State Parks and staff from the City and County.

Cottrell explained the ultimate goal of this project was to transfer the management to Maui County and that this was time sensitive was because March 12 is opening day for baseball in Maui County. Everyone involved wants to get the County on property by March 12th so that there can be an event where everyone gets together to acknowledge this relationship.

Member Gomes commented that he has been to the site and commended all parties concerned and thought this was a great project.

Cottrell had an amendment to page #1 reference to replace chapter HRS184 with 171-55 so the sentences revised should refer to 171-11 and 55.

Cara Camia introduced Charity Naea. They were both with the Office of the Lt. Governor testified in support of this action. The Lt. Governor supports and appreciated the Board's consideration of this action.

Naea read their testimony in support.

Member Gomes made a motion to approve as amended, Member Oi seconded.

Unanimously approved as amended (Gomes, Oi)

ITEM D-14 Amendment of Development Agreement between the Board of Land and Natural Resources and Na Pua Makani Power Partners, LLC (NPM) Regarding Kahuku Wind Project, Kahuku-Malaekahana, Koolauloa, Oahu, TMK: (1) 5-6-008:006; Set-Aside to Division of Forestry and Wildlife (DOFAW) of Approximately Five Acres for Mitigation and Recovery of *Abutilon menziesii* Purposes; Issuance of Right-of-Entry Permit to DOFAW over Approximately 5 Acres for Mitigation and Recovery of *Abutilon menziesii* Purposes, Kahuku-Malaekahana, Koolauloa, Oahu, TMK: (1) 5-6-008:006 por.

The proposed amendments to the Development Agreement are to reference Governor's Executive Order No. 4482 issued on March 23, 2015, include two additional one-year options to extend the Development Agreement up to March 31, 2018, require the Habitat Conservation Plan and Incidental Take

License to be secured after the Board acts on the request for issuance of a lease to NPM, allow the conditions of obtaining a Conditional Use Permit and providing evidence of financial ability to construct the project to be satisfied within two years after execution of the lease or by March 31, 2018, whichever shall first occur, and provide for the subdivision of approximately five acres of the subject lands from the larger parcel for use by DOFAW in *Abutilon menziesii* mitigation and recovery.

Russell Tsuji Administrator for Land Division-LAND introduced Assistant Administrator Kevin Moore and told the Board that Counsel for the Windfarm was present to answer any specific questions. Tsuji explained that normally they don't ask the Board to approve and execute a lease prior to the final acceptance of a habitat conservation and incidental take license, however later LAND became aware in order for the windfarm projects to secure those permits, part of the requirement required them to have an interest in the land and such, the execution of a long term lease. In the lease there is a special provision that should those permits not be secured after the execution of the lease, that the lease be null and void; if agreed to that provision.

Kevin Moore –LAND asked for one proposed amendment, the attorneys for the State and the applicant fine-tuned the language. The amendment was to amend the last sentence on page #8 of the proposed development agreement.

Mike Cutbirth Manager of Na Pua Makani said he was available for questions.

The Board amended the last sentence of section 8 on page 4 of the proposed Amendment of Development Agreement, attached as Exhibit IV to the staff submittal, to read:

The State shall present the Habitat Conservation Plan to the Board for approval at a public meeting within a reasonable time. For purposes of this provision, 30 days after the later to occur of (i) the Endangered Species Recovery Committee recommending approval; or (ii) execution of the lease, or longer for good reason, shall be deemed reasonable.

Unanimously approved as amended (Yuen, Gomes)

ITEM D-13 Report on the Proposed Expansion of the Honolulu Academy of Arts, Kulaokahua, Honolulu, Oahu, Tax Map Key: (1) 2-4-002:020.

Tsuji-LAND explained that the Honolulu Academy of Arts is a current nonprofit lessee and they want to share with the Board their plans for the expansion of the structure to a back area under the lease. The current parcel is flat and doesn't have a structure on top. This is a non-action item, they are just giving a report, the idea is they will proceed with the Environmental Assessment-EA and will come back to the board to seek a new 65 year lease.

Stephan Jost Director of the Honolulu Academy of Arts gave history and background of their school. They have been leasing the school from the state from 1990. They would like to expand the school by building a second building. This is a 9 million dollar project and plan on raising 11

million dollars. They have a grant in aid from the State and have raised \$1.75 million from a private donor. The private donors are asking that they explore the opportunity for a longer term lease, they want to make sure the majority of this building is privately funded.

Chair Case clarified that since the Board can't give a lease more than 65 years, they wouldn't be extending their current lease, they would be canceling the current lease and requesting a new lease at 65 years. Jost confirmed.

No action taken

- ITEM M-1 Issuance of a Revocable Permit for a Construction Staging Area, Ralph S. Inouye Co., Ltd., Honolulu International Airport, Tax Map Key: (1) 1-1-003: 001 (Portion).**
- ITEM M-2 Issuance of a Revocable Permit for an Operations Office, Hawaiian Airlines, Inc., Central Concourse, Honolulu International Airport, Tax Map Key: (1) 1-1-003: 001 (Portion).**
- ITEM M-3 Issuance of a Revocable Permit for an Airline Lounge, Hawaii Island Air, Inc. dba Island Air, Ewa Domestic Extension, Honolulu International Airport, Tax Map Key: (1) 1-1-003: 058 (Portion).**
- ITEM M-4 Issuance of a Revocable Permit for Vehicle Parking, Worldwide Flight Services, Inc., Honolulu International Airport, Tax Map Key: (1) 1-1-003: 001 (Portion).**
- ITEM M-5 Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, No Ka Oi Aircraft Services LLC, Honolulu International Airport, Tax Map Key: (1) 1-1-076: Portion of 22.**
- ITEM M-6 Issuance of a Revocable Permit for Aircraft Parking, No Ka Oi Aircraft Services LLC, Honolulu International Airport, Tax Map Key: (1) 1-1-076: Portion of 23.**
- ITEM M-7 Issuance of a Revocable Permit for an Airline Office, Jin Air Co., Ltd., Honolulu International Airport, Tax Map Key: (1) 1-1-003: 051 (Portion).**
- ITEM M-8 Issuance of a Revocable Permit for Warehouse Storage, Neptune Construction Group, Inc., 2825 Ualena Street, Honolulu International Airport, Tax Map Key: (1) 1-1-4: 03 (Portion).**
- ITEM M-9 Issuance of a Revocable Permit for Maritime Purposes to The State of Hawai'i, Department of Transportation, Harbors Division, Kapālama Military Reservation, Honolulu International Airport, Tax Map Key: (1) 1-2-25: 002, 116, 120, 121 (Por) and 73 (Por).**

Abby Lareau and Carol Young representing the Department of Transportation-Airports Division-DOT-AIR presented items M-1 through M-9. The Board had no questions, there was no public testimony.

Unanimously approved as submitted (Gomes, Yuen)

- ITEM M-11 Issuance of a Revocable Permit for Preferred Holdrooms in the Main Terminal, Hawaiian Airlines, Inc., Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 19.**
- ITEM M-12 Issuance of a Revocable Permit for Space for a Training Room in the Main Terminal, Hawaiian Airlines, Inc., Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 19.**
- ITEM M-13 Issuance of a Revocable Permit for Spaces for Contract Services Operation for Airlines in the Main Terminal, Aloha Contract Services LLC, Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 19.**
- ITEM M-14 Issuance of a Revocable Permit for a Storage Room for Tools and Parts, Main Terminal Building, Vanderlande Industries Inc., Hilo International Airport, Tax Map Key: (3) 2-1-12: Portion of 90.**
- ITEM M-15 Issuance of a Revocable Permit for Aircraft Parking, Jess Turnbull, Waimea-Kohala Airport, Tax Map Key: (3) 6-7-001: Portion of 08.**
- ITEM M-16 Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, Big Island Air, Inc., Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43: Portion of 40 (Space No. 403-109).**
- ITEM M-17 Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, Big Island Air, Inc., Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43: Portion of 40 (Space No. 403-111).**
- ITEM M-18 Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, Hawaii Pacific Aviation, Inc., Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43: Portion of 40.**
- ITEM M-19 Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, Skycraft Air Maintenance, Ltd., Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43: Portion of 40.**
- ITEM M-20 Issuance of a Revocable Permit for an End Room for Fixed-Base Operations, Bradley Pacific Aviation, Inc., Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43: Portion of 40.**
- ITEM M-21 Issuance of a Revocable Permit for an Office Space to Support a Fixed-Base**

Operation, Bradley Pacific Aviation, Inc., Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43: Portion of 40.

ITEM M-22 Issuance of a Revocable Permit for Commuter Terminal Operations for an Air Carrier, Big Island Air, Inc., Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43: Portion of 40.

ITEM M-23 Issuance of a Revocable Permit for Commuter Terminal Spaces to Accommodate Airline Operations, Mokulele Flight Service, Inc., Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43: Portion of 40.

ITEM M-24 Issuance of a Revocable Permit for Warehouse Space for Storage, Sunshine Helicopters, Inc., Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43: Portion of 40.

ITEM M-25 Issuance of an Office Building and Land Lease for Aeronautical and Business Purposes by Public Auction, Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43: Portion of 003.

Ethan Tomokiyo with the Department of Transportation Airports Division-DOT-AIR reviewed items M-11 through M-25. The Board had no questions and there was no public testimony.

Unanimously approved as submitted (Roehrig, Gomes)

ITEM M-27 Issuance of a Fixed-Base Facility Lease, Jack Harter Helicopters, Inc., Lihue Airport, Tax Map Key: (4) 3-5-01: Portion of 8.

Written testimony was submitted by Curtis Lofstedt, President of Island Helicopters Kauai, Inc.

Member Yuen asked if there was an exemption for the statues that apply to this. Tomokiyo didn't think so, but noted that they did consult with counsel; it was counsel that pointed this out to them. He detailed that all fixed based operators need to be at the same rate.

Member Yuen then asked how this was done and under what provision. Tomokiyo explained that it was done under a direct lease, 171-59 as encouraging competition. Not many lots are left (maybe 4 or 5).

Member Yuen asked howcome Jack Harter and if there was anyone else interested. Tomokiyo said it was because Jack Harter had a vested interest in this. In 2009 he built a hanger that cost the company approximately \$800,000 and they were allowed to build it on a revocable permit-RP; DOT allowed it. Tomokiyo explained that it was a helicopter hanger. What was supposed to happen was, he was to come in apply for a land lease for the hanger, he would need to qualify, then once he qualifies, then DOT drafts a direct lease. In this case however he was allowed to build it on a RP; which is not the way it should've been done.

Member Gomes read a letter that came in to Mr. Neves. Tomokiyo said they didn't see that

letter.

Chair Case asked them DOT to look over that testimony and they would take other oral testimony in the meantime.

Member Roehrig asked Tomokiyo why DOT didn't understand the federal grant condition and allowed this to happen under a RP. Tomokiyo didn't what to speak for the applicant (who was present), but thought it was because Jack Harter thought this way would be easier.

Tomokiyo said that they want to clean this up and get them on a long term lease. Member Roehrig commented that if this legislature passes this bill then these types of things won't come to the Land Board anymore. If there aren't checks and balances these are the types of things that happen. He said that the BLNR's responsibility was to make sure that other departments uphold their trust responsibility over State land.

Chair Case expressed her concern that if other operators wanted that same opportunity, where was their opportunity to compete for that space. Tomokiyo said there were other lots available.

Member Downing asked if this was the same company that came to the Board 2 months ago, they were offered a space and they declined it at that time. DOT-AIR confirmed.

Member Roehrig expressed his concerns about the language. If this is to say this increases competition, it's not accurate because financially Jack Harter is as big if not bigger than others. He felt this should go to public auction.

Chair Case explained that DLNR is responsible for the oversight of land dispositions, but DOT has special rules and if they have a rule that says public auction is not the way to go, and then the land board needs to understand that.

Member Roehrig understood that the special rule was treating everyone the same.

Chair Case confirmed that this operator built a hanger, so they have the right to remove it. What DOT wants to do is charge the same price for the land, if this is changed to a lease, then it becomes a fixture and then this becomes a fixture and the lease requires the option to leave it or remove it. Tomokiyo confirmed.

Neves explained that there is enough space out there for anyone that would want to build a hanger. This is a case if the hanger wasn't there they would be coming to the Board for the lease of the hanger or put it out for public auction; the problem is there is a building on it.

Member Yuen asked if the grant was specifically for the use of this as a fixed based operator. DOT confirmed.

Member Yuen asked if there were lots that were rented out to non-fixed based operators on a different basis. DOT confirmed; there are direct leases.

Member Yuen expressed that his main thing is that they show how it encourages competition. The submittal does have the finding that encourages competition; he just wanted an explanation

on how or why they came to that conclusion.

Casey Reamer, General Manager and Vice President of Jack Harter Helicopters gave brief history of the company. He explained that the hanger was not large enough for them to do the work they were capable of doing. Negotiations began in 2009 with DOT-AIR to build this facility; construction didn't start until 2012. In the interim, they applied for a lease, they qualified for a lease. They were ignorant of the process of the Land Board, they made an application, a lease was drafted by DOT, it was passed by the Land Board, they didn't accept that lease because it didn't have broad enough scope. They were told that they could be issued a revocable permit for the construction of this facility to get the process done, and then they could come in and do the lease; that's what they are doing now. Reamer addressed some of the issues that come up earlier.

David Bettencourt appearing on behalf of Safari Aviation testified that Jack Harter could put in and get a lease on two adjacent helipads. He checked and Mauna Loa has been stalling on signing their lease so pads 106A&B are available. Some pads are spoken for, they spoke for a pad, but without their knowledge it was given to a competitor that had no prior operations at Lihue. Bettencourt presented a letter where Reamer was told exactly what he needed to do; they wouldn't sign it. Safari tried to get in as a FBO years ago. When you set the definition of FBO, you are also setting economic factors. An FBO provides services other than tours. Bettencourt said Jack Harter was an air taxi commercial operator, not an FBO. They don't intend to provide any services to the public because in the lease negotiations, that was a factor. In Nov 2007 Jack Harter got their letter from the State, they have avoided signing a lease. It has always been their intent to have all their facilities done at one location. Every operator wants to do the same thing, but no one can get a huge hanger at the heliport itself. This has been the first time anyone has been able to operation off the general aviation ramp without having any connection with the heliport. Since they continue to not sign leases, and if they continue not to someone else can put in for that pad and sign a lease for it.

Bettencourt asked that this meeting be continued until the attorney general that came up with the view of the grant assurances, which he felt had no foundation in reality. He said if this lease got approved it would be in violation on of the grant assurances. Bettencourt went on to detail that Jack Harter is at a huge advantage.

Attorney General Michael Lau came up with the idea of a 2 pad limit, it was the perfect solution; it pissed everyone off in Lihue and it satisfied everyone; and it worked. Then no one wanted to sign the leases because they were too expensive, so the State DOT abandons the two pad limit without telling anyone takes the two pads away from Safari Aviation because they refuse to sign the lease and gives them to Blue Hawaiian Helicopters. Safari Aviation had to get revocable permits for 2 other pads and eventually a lease. When DOT did that they broke the competition, now there is no limit on pads and Blue Hawaiian has six pads; they are trying to control the market.

Bettencourt/ Safari Aviation is suggestion there be a delay of two weeks so that Lau can come down and defend this.

He felt like they had a right to a contested case #1 the airports lack of standings on how they

award property and determine competition #2 the lack of board standards, on how they are going to judge submissions by DOT-AIR and #3 now because they applied to have an FBO lot were turned down for trying to do things the way Jack Harter did.

Member Downing asked Bettencourt if they were given the same thing as Harter if they would be happy. Bettencourt said they had to abandon their business plan 10 years ago in light of that. He's not sure what they would do now.

Member Yuen asked if the Blue Hawaiian was allowed to load helicopters and fly off the lease. Tomokiyo said no. Member Yuen asked if Jack Harter was allowed. Tomokiyo said not under the lease, but under a revocable permit. Neves said if the revocable permit was terminated then they would not be able to do that.

10:55AM RECESS

11:24AM RECONVENE

Chair Case asked if anyone wanted a deferral.

Member Gomes and Member Yuen suggested a deferral and asked for advice from the Attorney General in transportation.

Chair Case asked if anyone wanted to request a contested case.

David Bettencourt said he did, but he would withdraw if the Board deferred for 2 weeks.

Member Roehrig wanted to get the bottom of this, but would be okay for a deferral if all parties involved came back for this.

Member Roehrig said he would like there to be some solutions; 1) what are the long term solutions 2) whether this should be a 35 year lease or a 15 years lease 3) whether there should be a 2 pad limit 4) do they need new Land Board standards.

Chair Case said she would appreciate come clarity on the rental requirement of a ground lease vs. the improvements that have been made under the RP. Also, weather there is any other space available and if anyone else is interested; that to her goes to competition.

Member Yuen wanted 1) to hear from AGs about FFA grant assurances 2) can this be justified as a methods that can be justified as competition. He also didn't think it was a good idea to allow an internal decision of these because there is no public notice. He suggested these types of things go to a designated Board for approval.

Chair Case had one more request that DOT bring back the proposed lease terms so if there were questions they can be answered at that time.

Member Roehrig made a motion to defer for 2 weeks, Member Gomes seconded.

Unanimously moved to deferred (Roehrig, Gomes)

ITEM D-10 Issuance of Revocable Permit for Agriculture Education Program and Allied Purposes to the State Department of Education, Kula Elementary School, Keokea, Kula, Maui, Tax Map Key: (2) 2-2-003:003.

Tsuji-LAND reviewed item D-10. This was a new program that the school would like to implement.

Chair Case thanked everyone who has agreed to participate on the Revocable Permit Task Force. The goal is to have good review and good discussions. The task force has agreed to continue to bring revocable permits-RPs to the Board.

Member Gomes commented that he knew the area, it's near Kula Elementary. He was for this, this is a good program and liked that it's month to month.

Chair Case highlighted that the one of the things the task force was looking at was the reason as to why something would be on a RP verses something on a month to month.

Member Gomes said that this month to month was good for this project because it's a good start up venture and would be good to see if it's going to be successful.

Chair Case pointed out that the rent was gratis because it was to another government agency (DOE).

Unanimously approved as submitted (Roehrig, Gomes)

ITEM D-7 Deny Lessee's Previous Request for a Month-to-Month Revocable Permit upon the Expiration of General Lease No. 3157, Natalie Marie McKeen, Lessee, Ocean View Lease Lots, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-1-007:023.

Written testimony was submitted by Natalie McKeen.

Tsuji-LAND explained that in April 2015 staff brought to this to the Board at that time recommended that this not be approved because the tenant's request for a 1 year holdover lease and a permit there after because of the various defaults. The Board ultimately approved the continuance and gave her a holdover of a year said that any request for a RP would be brought back to the Board for consideration after the 1 year holdover. It also placed 3 conditions on the time period 1) negotiate a payment plan with the County of Hawaii on the delinquent real property taxes 2) apply for and obtain a permit for electrical work for the front structure 3) apply for a building permit for the front structure.

Tsuji indicated that after checking with the County, staff member Candace Martin found out that McKeen had made some payments, but has missed some payments on the real property tax. More importantly however, as far as the electrical permits there has been no indication of a permit for an application for an electrical permit.

Martin is bringing this back and recommending that the Board not allow a revocable permit to continue after the holdover expires on March 14, 2016. This would give the tenant another 30 days roughly. The applicant submitted photos, but was not present.

Tsuji said that the purpose of Martin's submittal was that there was evidence of new electrical work, but not permit.

Member Roehrig asked Martin if she talked to McKeen after this docket was prepared. Martin said no.

Member Roehrig asked Martin whether she knew if McKeen had any contact with anyone from the County. Martin said that the County Planning department indicated that they had no request from McKeen.

Member Roehrig commented that he knew McKeen well and she was a very emotional person. She is a single parent and is still having a hard time. He wanted to know if she made some kind of an effort. He said he would feel more comfortable waiting on making a decision until someone has talked to her.

Martin said according to the planning department she will not get a permit from them. Member Roehrig suggested maybe she come to a meeting here on Oahu. Martin said that they have no contact with her; she calls the Chair's office.

Member Roehrig asked if someone from the Chair's office has had any contact with her. The Land Board Secretary Ku'ulei Moses stated that McKeen called yesterday and Moses told McKeen to call LAND. Moses told her that if she had any testimony then she could send that in.

Tsuji noted that last time this was brought to the Board, it was a resubmittal because the first time she said she didn't know about it. The meeting was reset for several months later and she still never came in, she sent it written testimony only. Everyone else who was granted the holdover status then RP was required to purchase the building. The idea was that LAND didn't want to own the building on this kind of lot because of the resident code. Because of all the violations LAND doesn't want to be in a situation where they are leasing a building and land.

Member Yuen commented that last time this was before the Board they did try to help McKeen. Member Yuen didn't think Member Roehrig was in on the discussion; Member Roehrig said he wasn't.

Member Yuen said that in the last discussion, the Board asked McKeen to get permits, not have everything complete; but it looks as though McKeen did more electrical work without permits. He said he was inclined to go with staff recommendation, Member Gomes agreed.

Chair Case asked if there were plans to tear down the structure, it doesn't look livable. Martin said yes.

Member Roehrig said he would recuse.

AG Linda Chow suggested he abstain since he knew McKeen.

Member Roehrig abstained.

Chair Case suggested adding a verb in the second action on page #3.

Member Gomes made a motion to approve as amended, Member Oi seconded.

The Board amended the Recommendation section on number 2 by adding “ confirm that”, to read as follows:

“2. Confirm that any and all occupants shall vacate the property upon expiration of the General Lease No. 3157.”

Member Roehrig abstained.

Unanimously approved as amended (Gomes, Oi)

ITEM D-1 Issue Revocable Permit to Dale Nagamine, for Intensive Agriculture – Taro and Other Wetland Crop Use; Hanapepe Rice and Kula Lots, Hanapepe, Waimea, Kauai; Tax Map Key: (4) 1-9-003:006.

Tsuji-LAND explained that the son has been paying and would like to continue him as a tenant.

Member Yuen questioned that this went out to auction in 1992, in 2005 the draft lease documents were ready.

Marvin Mikasa-Kauai Land agent disclosed that they have been back logged.

Member Oi explained that Dale Nagamine couldn't qualify and in order to you have to wait 5 years.

Chair Case clarified that LAND wants to put Nagamine on revocable permit to get him up to date, which is not intended to be long term because it should go over to the Board of Agriculture. To Case, it seemed that it should only be to a certain term like a maximum 6 months then it should come back.

Chair Case suggested setting up a meeting to talk about this conceptually.

Member Oi suggested amended the submittal to go to public auction in the event that the Department of Agriculture doesn't take it.

Member Roehrig asked if there were any more properties in Kauai that were in limbo like this one. Mikasa wasn't aware of any.

Member Yuen suggested adding a clause that that asks why is it under a revocable permit and

why doesn't it have a plan.

Member Yuen asked if sending this over with someone with an RP give them an advantage. Tsuji said that have the ability to issue direct negotiated/ long term leases. There was dialogue between Member Roehrig and Tsuji about how appraisals were done.

Chair Case committed to discussions with the dep. Of Ag and ongoing discussions about how the department appraises ag lands.

Member Roehrig wanted this done in 2 months.

Chair Case committed working on this, she felt appraisals differ, and what has been appraised is agricultural use.

Member Yuen was concerned that there could be someone could come in for a RP for a piece of ag land, then the permittee could go to the dep. Of Ag and get them to take it over then, get themselves into a nice negotiated long term lease.

Chair Case said that's why she felt there should be notice in competition for RPs.

Member Yuen approved with the amendment that it be brought back to the Board with the status in 6 months.

The Board amended the Recommendation section by adding sections 3 and 4 to read as follows:

“3. Continue to work on transferring the land and subject revocable permit over to the Department of Agriculture pursuant to Act 90; if the Department of Agriculture refuses to accept this parcel or permittee, then staff should proceed on working on issuing a longer term lease by public auction.

4. Staff should report back to the Board in six (6) months on the status of the discussions with the Department of Agriculture about accepting this parcel and permittee for transfer.”

Unanimously approved as amended (Yuen, Gomes)

ITEM D-11 Set Aside to State of Hawaii, Department of Land and Natural Resources, Division of Forestry and Wildlife, for Wildlife Sanctuary Purposes, Kula, Maui, Tax Map Key: (2) 2-2-007:005 & 006.

No changes. No questions. No public testimony.

Unanimously approved as submitted (Gomes, Woodside)

ITEM C-1 Request for Approval of the Revised Waiakea Timber Management Area Forest Management Plan on Hawai'i Island South Hilo and Puna Districts

Tax Map Key Portions of: (3) 1-8-012:001, (3) 2-4-008:001, (3) 2-4-012:003, (3) 2-4-008:006, (3) 2-4-008:010, (3) 2-4-008:019, (3) 2-4-008:022,

Acceptance of the Final Environmental Assessment for the Subject Plan, Issuance of a Finding of No Significant Impact for the Proposed Project,

Authorize the Solicitation of a Request for Information (RFI) to Assess the Interest of the Forestry Industry Market,

Authorize the Solicitation of a Competitive Sealed Process/Request for Proposal (RFP) for the Potential Issuance of New Timber Land License(s) in Waiakea Timber Management Area.

Written testimony was submitted by Nicholas Koch, HFIA President, and Marius Ellis.

Dave Smith Acting Administrator for the Division of Forestry & Wildlife-DOFAW presented item C-1. DOFAW staff was available for questions.

Member Yuen asked if this had the possibility of having several different people coming in. Smith explained that he would like to break it up smaller into smaller operators to diversify it. The idea is to go value added on the timber; cut it locally, and use it locally.

Member Gomes asked if anyone looked at the communities around the timber area.

Shari Mann forestry manager explained that over 200 people in the area were contacted; local residents, agencies, etc. They met with constituencies, there hasn't been a public hearing, but they plan on doing so and getting public input.

Chair Case said that the Forest Service came out to acknowledge Mann's work; she has done an outstanding job.

Member Woodside asked if there were initial thoughts of the reforestation or replanting plan after the first harvest and would DOFAW have the responsibility of determining what the next generation of this forest will look like and what we might learn from that. Mann said that they have thought a lot about that, one thing they know they know for sure, is they are not going to allow the industry to plant known invasive trees. There has been lots of interest in the last 3 years in companies that are interested in using this wood. Depending on what the goal is, they don't want to limit/impose on what the market does and doesn't want. DOFAW doesn't have the staff to replant and replant. Ideally they want to get involved with companies that have that included in their perspective and their goal.

Member Woodside suggested bringing in other State agencies. Mann disclosed that they have started talking with DHHL and Kamehameha Schools.

Member Woodside asked if any select harvest was done to see what the marketability might be. Mann explained that some of the trees have been taken down and milled for flooring. Some logs are dying, and some are in their prime. DOFAW personally hasn't taken wood down and sent it out to markets, but they know there is a variety of interest.

Member Woodside was excited about seeing the State work together with others that have larger tracks of land that are looking on developing a more sustainable forest market.

Member Gomes asked how DOFAW was going to handle the effects of gathering rights. Mann said the initial plan was to inform the public of where DOFAW plans to harvest and give them time to go in and utilized the land for a period of time, then make it clear that the harvesting is going to be required in a 40 acre plot. Most hard woods will be made selective cut.

There was no public testimony.

Unanimously approved as submitted (Woodside, Yuen)

ITEM C-3 Request Approval for the Department to Enter into a Right-of-Entry of Agreement with the Trustees of the Estate of Bernice Pauahi Bishop for Management Access to State Lands, Manowai'ōpae, North Hilo, Hawai'i, TMKs: (3) 3-6-006:047 (Por.), :050 (Por.), :066 (Por.), :92 (Por.), and :093 (Por.); and to Authorize the Chairperson to Finalize Terms and Sign the Agreement;

And

Request Approval of Declaration of Exemption from Chapter 343, Hawai'i Revised Statutes, Environmental Assessment Requirement for the Right-of-Entry of Agreement.

Smith-DOFAW reviewed item C-3.

Member Woodside disclosed that she was previously employed with Kamehameha Schools, but has no financial interest.

Member Yuen disclosed that he was on the Advisory Counsel for the Experimental Forest and had an ongoing question about this. He asked if this road was the only access to the Jose State lease.

Steve Bergfeld with DOFAW from Kauai Island told Member Yuen that the Jose' have access to their State lease from lands they privately own on the Hilo side.

Unanimously approved as submitted (Yuen, Gomes)

ITEM C-4 Request for Approval to Enter into a 2-Year Contract with the Zoological Society of San Diego to Provide Services to Operate the Endangered Bird

Captive Propagation Facility on Maui, the Maui Bird Conservation Center, and to Provide Expert Avicultural Services to Conduct Related Forest Bird Propagation Projects at the Keauhou Bird Conservation Center on the Island of Hawaii and Throughout the State

And

Request Approval of Declaration of Exemption to Chapter 343, HRS Environmental Compliance Requirements for the Project.

Smith-DOFAW presented C-4.

Member Gomes asked what the success rate was. Smith said they haven't gone extinct and have been able to maintain the species. These folks are the best in the world and do a great job.

Chair Case noted that DLNR has a shared interest with the Department of Health-DOH now so we have coordinated discussions.

Unanimously approved as submitted (Gomes, Woodside)

ITEM E-1 Amendment of General Lease No. SP0110, Sybil Baldwin Frances, Lessee, Waimea Canyon State Park, Lot 5 Koke'e Campsite Lots, Waimea (Kona), Kaua'i, Hawai'i, Tax Map Key: (4) 1-4-003:016, The Purpose of the Amendment is to Correct the Termination Date to Read December 31, 2028;

Consent to Assign General Lease No. SP-0110, Sybil Baldwin Frances, Assignor, to Thomas Gerald Goff and Cynthia Janet Goff, Assignees, Lot 5, Koke'e Campsite Lots, Waimea (Kona), Kaua'i, Hawai'i, Tax Map Key: (4) 1-4-003:016.

Curt Cottrell administrator for State Parks-PARKS conveyed item E-1.

Member Downing asked if this was being passed down to family and how these leases work.

Member Oi explained that these were just passed on to family or friends.

Unanimously approved as submitted (Yuen, Gomes)

ITEM D-2 Request for Consent to Assignment of a One-Half Undivided Interest in General Lease No. S-4575, Estate of Hiroshi Azeka, Deceased, Assignor, to Fran Shizuno Miyake, formerly known as Fran Shizuno Azeka, Assignee, Nawiliwili Harbor Lots, Lihue, Kauai, Tax Map Key: (4) 3-2-004:014.

ITEM D-3 Amend Prior Board Action of October 14, 2010, Item D-3, Cancellation of Revocable Permit S-7176 Bernadine A. Soares, Widow, and Issuance of Revocable Permit to Bernadine A. Soares and Bernadette Uyesono for

Storage and Landscaping Purposes, Kapaa, Kawaihau, Kauai, Tax Map Key: (4) 4-5-015:037. The purpose of the amendment is to correct the Tax Map Key to (4) 4-5-015:045 por.

ITEM D-4 Amend Prior Board Action of May 22, 2015, Item D-4, Grant of Term, Non-Exclusive Easement to Uluwehi, Inc. for Access and Utilities Purposes, Waioli, Hanalei, Kauai, Tax Map Keys: (4) 5-5-008:002 and (4) 5-6-002:001.

The Purpose of the Amendment is to include Easement Term of Fifty-five (55) years to the Board Submittal.

ITEM D-5 Amend Prior Board Action of May 22, 2015, Item D-5, Grant of Term, Non-Exclusive Easement to Ursula Lamberson, Trustee for Ursula Lamberson Revocable Trust for Access and Utilities Purposes, Waioli, Hanalei, Kauai, Tax Map Keys: (4) 5-5-008:002 and (4) 5-6-002:001.

The Purpose of the Amendment is to include Easement Term of Fifty-five (55) years to the Board Submittal.

ITEM D-6 Amend Prior Board Action of February 27, 2015, Item D-4, Authorize One-Year Holdover of General Lease No. S-3155, Maya Nicole Baylac, Lessee; Issuance of Revocable Permit; and Issuance of a Bill of Sale Transferring All Improvements Upon the Premises to the Lessee, Ocean View Lease Lots, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-1-007:021.

The purpose of the amendment is to add Witold Markiewicz as a co-permittee on the revocable permit and a co-buyer on the bill of sale. The holdover, which expires on March 14, 2016, will remain in the name of Maya Nicole Baylac.

ITEM D-7 Deny Lessee's Previous Request for a Month-to-Month Revocable Permit upon the Expiration of General Lease No. 3157, Natalie Marie McKeen, Lessee, Ocean View Lease Lots, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-1-007:023.

ITEM D-8 Amend Prior Board Action of February 13, 2015, item D-2, Authorize a One-Year Holdover of General Lease No. 3162, Scott Tadashi Hayashi, Lance Hiromu Hayashi and Terry S. Sakaitani and Kinue Sakaitani, Trustees under the Sakaitani Family Trust, Lessees, to be Immediately Followed by the Issuance of a Month-to-Month Revocable Permit and Issuance of a Bill of Sale Transferring All Improvements on the Property to the Lessees, Ocean View Lease Lots, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-1-007:028.

The Purpose of the Amendment is to Request Issuance of the Revocable Permit to Kyle Sakaitani.

ITEM D-9 Amend Prior Board Action of June 27, 2014, item D-3, Authorize a One-Year Holdover of General Lease No. 3165, Roderick Q. Hickman and Gloria L. Colden-Hickman, Lessee, to be Immediately Followed by the Issuance of a Month-to-Month Revocable Permit and Issuance of a Bill of Sale Transferring All Improvements on the Property to the Lessee, Ocean View Lease Lots, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-1-007:031.

The Purpose of the Amendment is to Request Issuance of the Revocable Permit to Roderick Q. Hickman and Gloria L. Hickman as Co-Trustees of The Hickman Family Trust dated 8/9/2006.

There were no more questions, comments or testimony on the remaining D items.

Unanimously approved as submitted (Gomes, Oi)

1:08 PM RECESS

2:23 PM RECONVENE

No Chair/ No AG.

ITEM L-1 Declare project Exempt from Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawaii Administrative Rules Job No. D01CK62A, Camp 10 Access Road Bridges, Waimea, Kauai.

ITEM L-2 Declare project Exempt from Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawaii Administrative Rules Job No. D00CK68A, Division of Forestry and Wildlife Kauai Base Yard Improvements, Lihue, Kauai, Hawaii.

ITEM L-3 Kailua-Kona, Hawaii Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawaii Administrative Rules, Job No. G75CH18B, Keopu Deep Monitor Well Improvements, Kailua-Kona, Hawaii.

ITEM L-5 Approval to Enter Memorandum of Understanding with the U.S. Department of Interior U.S. Geological Survey for the Canvassing of Mineral Production Data in Hawaii.

Carty Chang Chief Engineer had no changes to items L-1, L-2, L-3 and L-5. No public testimony.

Unanimously approved as submitted (Roehrig, Oi)

L-4 Cancellation of Geothermal Exploration Permit H-01, Hualalai West Rift Zone, Hawaii, Issued May 7, 2015 and Rescind BLNR Approval (July 10, 2015, Item L-5) for Additional Geothermal Exploration Permit, Hualalai West Rift Zone, Hawaii.

Chang-ENG gave background explaining that only one permit was issued, the second time it came back to the Board there was a request for a contested case. The Board denied that request due to lack of standing and they filed a lawsuit which is still pending. UH wrote a letter and asked to rescind those actions due to lack of funds.

No public testimony.

Unanimously approved as submitted (Roehrig, Oi)

Chair/AG returned.

C-5 Informational Briefing on Rapid 'Ohia Death.

Rob Hauff, State Protection Forester for DOFAW introduced himself, then played a video created by Dan Dennison for outreach purposes. Hauff presented a PowerPoint and answered questions the Board members had.

The video that was played during this presentation can be viewed at www.dlnr.hawaii.gov/his/news/rapid-ohia-death.

(No Staff Submittal/Non Decision Making)

There being no further business, Chairperson Suzanne D. Case adjourned the meeting at 3:36 p.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,

A handwritten signature in black ink, appearing to read 'Ku'ulei Moses', written in a cursive style.

Ku'ulei Moses
Land Board Secretary

Approved for submittal:

A handwritten signature in black ink, appearing to read 'Suzanne D. Case', written in a cursive style.

Suzanne D. Case
Chairperson
Department of Land and Natural Resources