

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

DATE: THURSDAY APRIL 22, 2016
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAI'I 96813

Chairperson Suzanne D. Case called the meeting of the Board of Land and Natural Resources to order at 9:05 a.m. The following were in attendance:

MEMBERS

Suzanne D. Case
James Gomes
Ulalia Woodside

Chris Yuen
Stanley Roehrig
Keone Downing

STAFF

Curt Cottrell-PARKS
Maria Carnavale-PMNM
Alton Miyasaka-DAR
Ed Underwood-DOBOR
Dave Smith-DOFAW

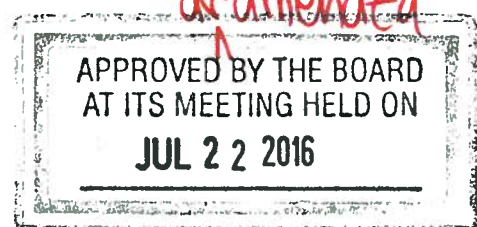
Carty Chang-ENG
Kevin Moore-LAND
Tiger Mills-OCCL
Bryan Tanaka-DAR

OTHERS

Bill Wyhnoff /Deputy AG
Ethan Tomokiyo/DOT-AIR
David Bettencourt/M-10
Anthony Richey/L-1
Gia Lee/F-6

Ross Smith/DOT-AIR
Denis Neves/DOT-AIR
Casey Reamer/M-10
Bonnie Kahapen-Tanner/F-2
Michael H. Chan/K-1

- ITEM M-1 Issuance of a Revocable Permit for Aircraft Parking, Federal Express Corporation, Honolulu International Airport, Tax Map Key: (1) 1-1-003: 001 (Portion).**
- ITEM M-2 Issuance of a Revocable Permit for Space to Park a Trailer to be used as a Field Office, NAN, Inc., Honolulu International Airport, Tax Map Key: (1) 1-1-003: 001 (Portion).**
- ITEM M-3 Issuance of a Revocable Permit for the Purpose of Airline Operations, Delta Air Lines, Inc., Honolulu International Airport, Tax Map Key: (1) 1-1-003: 001 (Portion).**



- ITEM M-4 Issuance of a Revocable Permit for Storage Space, Passenger Check-In Counter and Office Space for Airline Operations, All Nippon Airways Co., Ltd., Honolulu International Airport, Tax Map Key: (1) 1-1-003: 042 (Portion).**
- ITEM M-5 Issuance of a Revocable Permit for Operations Office, Primeflight Aviation Services, Inc., Diamond Head Domestic Building, Honolulu International Airport, Tax Map Key: (1) 1-1-003: 053 (Portion).**
- ITEM M-6 Amendment No. 1 to Revocable Permit No. 8439, Request to Include Additional Area to Revocable Permit, Robert’s Tours and Transportation, Inc., Ualena Street, Honolulu International Airport, Tax Map Key: 1-1-04: 6 (Portion).**
- ITEM M-7 Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, JS Planning International LLC, Honolulu International Airport, Tax Map Key: (1) 1-1-76: Portion of 21.**
- ITEM M-8 Issuance of a Revocable Permit for Aircraft Parking, Kolea Leasing, LLC, Honolulu International Airport, Tax Map Key: (1) 1-1-76: Portion of 23.**
- ITEM M-9 Issuance of a Revocable Permit for Space in the Main Terminal for Airline Operations, Westjet, Lihue Airport, Tax Map Key: (4) 3-5-01: Portion of 8.**

Ross Smith Property Manager for the Department of Transportation Airports Division-DOT-AIR reviewed items M-1 through M-9.

Member Gomes thanked Smith for giving more detail on item M-1.

Member Yuen asked what the figure for tenancy was during low holdover tenancy it’s a daily rate based on the monthly rate.

Unanimously approved as submitted (Roehrig, Gomes)

- ITEM M-10 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 Island Helicopters.

Chair Case noted that testimony was handed to her 2 minutes before the Board meeting. She didn’t want to consider this testimony because it was too much information too late. The Board had no time to review the information before the meeting. She did pass it around for the Board members to look at.

Member Roehrig asked if DOT wanted a direct lease. Smith confirmed.

Member Roehrig asked Smith about the email that he asked to Board Secretary to forward to him. His email said in order to have a direct lease the Senate conference committee report says that the small guy has to compete with the big guy, the other reason is it will increase competition. That was what Member Roehrig wanted in writing. He asked if Jack Harter was the small guy trying to compete with the big guy.

Smith explained that everyone there on Kauai has been in business for a long time. Member Roehrig asked if it was fair to say that they were all the same size. Smith agreed; it wasn't the small guy verses the big guy.

Member Roehrig asked if this would increase competition. Smith said that they would all have leases. Member Roehrig didn't agree that that would increase competition, that wasn't in writing.

Member Roehrig asked "Tomo" if all Jack Harter's competitors had leases. Ethan Tomokiyo, Property Manager for the neighbor island airports introduced himself and said that Smith was his supervisor. He explained that the fixed rate plans and different rates from the helicopters because the leases occurred at different times. Smith clarified that rates were updated periodically.

Member Roehrig asked Tomo if it was fair to give this person a direct lease a direct lease and why. Tomo said it was because the lease and terms would be the same, DOT wouldn't risk their grant issuance. Member Roehrig was worried that this wasn't fair and that there was some kind of violation.

Member Downing asked if this space was offered to people that have leases now, would they want the space. Would they have the opportunity and have they been offered that space. Smith said that unless they know that a lessee is looking for a new property.

Member Downing asked if Jack Harter was offered space. Smith said he was renting space from DOT.

Member Downing asked what the beef was with Island Helicopters and Jack Harter. Denis Neves, Kauai Airports District Manager explained that they all had a beef with each other, they all get along, but all have a beef.

Neves explained that everyone was offered a lease, prior to that Harter built a hanger on the area that DOT wants to lease to them. All they want to do is lease the area they built the hanger on. Neves thought it was fair that they get the lease the land they built their hanger on. He said there are other leases available if anyone else wants. They aren't being offered a lease to conduct their tours, they are being offered a lease to do their maintenance.

Member Woodside asked if there was a concern about enforcement of the use of their space only for maintenance as opposed to tour operations. Neves said no; a RP was given for a temporary tour operation because the heliport is full.

Member Roehrig asked if there were contested cases in this area. AG Bill Wynhoff said no; based on the case law, their recommendation is that the Board deny it, but if one is asked then the Board has to deal with it.

Member Woodside asked for confirmation that they are looking to expand the heliport so that Jack Harter tour operations can be part of the heliport. Neves confirmed.

Member Yuen wanted to make sure that if someone else wanted a fixed base site at Lihue Airport, there is space available and there is not another applicant floating out there other than Jack Harter. Neves confirmed.

Member Yuen was concerned that there has been a miss communication. In the submittal it says that at the December 11, 2015 meeting the State Land Board decided the lease requests must satisfy the public notice by auction process first before a direct lease is entertained. Member Yuen didn't feel that was ever said. He said to justify a direct lease you have to present a showing that it encourages competition.

David Bettencourt, an airport tenant representing Safari Aviation testified that the minutes from the November 13, 2015 meeting left out a critical fact that the Airport management at Lihue admitted that they had a two pad rule when he came on to the job and he decided to eliminate the two pad rule. Bettencourt explained that the two pad rule developed by attorney general Michael Lau; it satisfied everyone and pissed everyone off. It was accepted; everyone just wanted to move on. Bettencourt explained that Jack Harter was #1 in seniority and he wanted to get a maintenance facility on the main ramp. As of 2011, he was still trying to get "lot K" on the ramp under an RP. If someone wanted to lease the RP he was on then he would move to a different two pads until there were no two pads left. Last summer Jack Harter came back to the Board and said he couldn't operate off helipad anymore and says give me four helipads at the end of my lease lot, and that was what happened. The Board gave him 4 helipads at the end of this lot K; they got 35 years. Everyone else had a 15 year lease, no one else had the same prevision as Jack Harter.

Bettencourt presented the Airport rules for 3 different airports and suggested our State to follow. They all agree that fixed based operators are operators that provide services to other aircraft and operators. Hawaii has no rules of what a fixed based operator is and there is no fixed based operators on Kauai.

Member Roehrig asked Bettencourt what his recommendation was. Bettencourt suggested looking at how other airports do it; we need rulemaking.

Casey Reamer, General Manger for Jack Harter said the State FAA has rules that they need to follow. There have been changes; he said the heliport was now full, they don't have a lease there, they need a place to operate, and this is a solution. Reamer agreed with Bettencourt that there was no definition of a FBO (Fixed Based Operator), but there was a definition of an air carrier; which Safari was.

Reamer explained that as far as the two pad limit DOT said that there would be two pads per operator; the most of operators did not sign the leases but Blue Hawaiian went in and signed

leases. They wanted to sign leases for more than two pads, DOT said okay, no one else wants to sign leases they, Blue Hawaiian could have more. He said there was a change in policy.

Smith indicated that the way it actually played out was that when DOT first designed the heliport, the old heliport was full so DOT said everyone gets two pads. When DOT opened this heliport there were big gaps in the usage, some pads weren't used at all so DOT agreed to giving additional pads.

Reamer disclosed that they just needed a place to operate, they don't expect anything different as far as rates and charges; they are willing to pay what everyone else is paying even though the earlier lease that they were offered would've given them a much lower lease rent.

Chair Case asked Reamer if he knew what their risk was of making a capital improvement on a revocable permit.

Reamer understood, they needed to move ahead and were assured by DOT that they would be able to get a lease. There have been changes, but they are just trying to continue their operations.

Member Downing asked Reamer if he was willing to do a 15 year lease instead of a 35 year lease to be like everyone else.

Reamer believed that if he approached the owners of the company then they would probably say yes.

Member Roehrig gave the letter submitted by Island Helicopters and asked him to read it and explain the context of the letter in the face of the docket today.

Smith said that the 2007 letter did establish a two pad limit.

Member Roehrig asked if there was any other letter to like affect today or is it still the rule. Smith said no it wasn't the rule now.

Member Roehrig asked to see the new rules in writing.

Chair Case asked if this company had access to preferable space that the other companies would want to have if they had a choice; do all the operators have the chance to get the space too.

Smith believed that Jack Harter was being offered the lease as a fixed based operation, not just commercial tour operation.

Chair Cased asked if this was really a fixed based operator or are they servicing their own helicopters.

Smith said they were servicing their own equipment, most do their own. He further explained that the heliport was intended to be self-contained entity; but has not be built out that way.

Chair Case said she wasn't comfortable with a lease here and would rather just leave it as an RP until there is a longer term solution or until everyone has the opportunity to consider.

Smith said their long term solution is expanding the heliport and requiring the heliport operations to be conducted there.

Member Yuen asked what would happen if someone came in and wanted a fixed base operation right next to Jack Harter lease and have the same operation as Jack Harter, would that be available.

Smith said they would have to look at the aeronautical use.

Tomokiyo said that the lease request for maintenance for himself as well as others, the other four pads is unrelated to this lease; he's restricted.

Member Roehrig asked Smith what the future plans were to resolve this.

Smith said DOT was acquiring land.

Member Roehrig asked if Smith knew when the airport authority bill would kick in.

Smith wasn't sure.

Reamer wanted to add the he forgot to put in his comments earlier that they understand that the other operators objection is to them operating their operator tours from the general aviation lease lots, if that is correct; when new heliport are available they would be willing to put in terms and conditions in the lease that they would no longer do any helicopter tour operations form the general aviation ramp.

Chair Case asked if their FBO operation served companies other than theirs. Reamer said that at the present time they don't have the security in the lease.

Member Yuen made a motion to go into 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 Gomes seconded.

10:28AM Executive Seccession

11:25AM RECONVENE

Member Woodside asked Reamer what was involved for him and when he thought the FBO operations would be starting.

Reamer said they could have mechanics work on their own equipment but they didn't do it because it's not on their insurance. They can put it on their insurance as long as the cover the named employees. In the big picture, the things to do a large scale operation would need a repair station certification. Their time frame was 3-6 months.

Member Yuen made a motion to approve with lease term of 15 years rather than 35; the reason being that there was testimony that a 35 year lease term is unfair to the other operators who are operating on a 15 year lease. The rates need to be equivalent or higher than the other operators have. As stated by the rep for Jack Harter that they move their tour operations if space become available. Finally that the lease require the lessee to offer maintenance or other services on a commercial basis to other aircraft operators (commercial or noncommercial) at the commencement of the lease (1 year). The basic idea was that this not be a more favorable lease then available then to the people that have gone into the heliport. Member Woodside seconded.

Reamer asked if the Board was allowing them to do tour operations on this lease. Member Yuen said no, this was with respect to the pads that are outside. Recommendation #2 was that the operations on those 4 pads would be moved if other space became available. Reamer explained that with the current situation at the heliport, they are allowed to do air tours with a 15 year lease; if they are going to be restricted then that lease should allow them to be fair and equitable.

Member Yuen asked DOT if they would require Jack Harter to move from those four pads irrespective of the existence of this lease if space became available.

Neves said yes.

Member Yuen then said that part of the motion was not necessary, because they are only with a lease of a fixed based operation. That part of the motion is addressing something that he didn't want which was that they would be allowed to do the operations out of a fixed based lease.

Member Roehrig asked if it should be added that they are not permitted to do air tour operations. Tomokiyo agreed to adding the language.

Member Yuen withdrew the clause that said Jack Harter if the lease became available because that was already covered by DOT's policy. Member Woodside seconded.

Member Yuen said that his concern now is the difference in terms at the heliport operations and the terms of this lease. He asked DOT if this was a problem.

Smith and Tomokiyo said no.

Member Yuen said that the rates should be equivalent to similar operations.

Chair Case apologized to everyone for a long discussion and noted that they would look at reordering the agenda in the future. She said she was comfortable with this and if it doesn't work out then DOT can come back with another proposal.

Member Roehrig said he supports, but he would like Tomokiyo to look at the airport rules from other jurisdictions.

Chair Case again noted that the Board received a stack of testimony with Island Helicopters Letterhead about 5 minutes before the meeting started. She said that was too late for the Board members to digest, but she would give it to DOT to look at.

Reamer commented that the testimony that was received was not from Island Helicopters.

Chair Case call for the vote; all were in favor.

Unanimously approved as amended (Yuen, Woodside)

ITEM E-1 Request for Authorization for the Chairperson of the Board of Land and Natural Resources to Sign, Execute, and Amend Contract(s) for the Capital Improvement Project as Appropriated by Act 119, Session Laws Of Hawai'i

2015 to the 501(C)(3) Nonprofit Organization, The Friends Of 'Iolani Palace On The Division Of State Parks Tax Map Key: (1) 2-1-25:02 in 'Iolani Palace State Monument, O'ahu

And

Request Approval of Declaration of Exemption to Chapter 343, Hawai'i Revised Statutes, Environmental Compliance Requirements for the Capital Improvement Project.

ITEM E-2 Request For Authorization for the Chairperson of the Board of Land and Natural Resources to Sign, Execute, and Amend Contract(s) for the Capital Improvement Project as Appropriated by Act 134, Session Laws of Hawai'i 2013 to The 501(C)(3) Nonprofit Organization, the Friends of 'Iolani Palace on the Division of State Parks Tax Map Key: (1) 2-1-25:02 In 'Iolani Palace State Monument, O'ahu

And

Request Approval of Declaration of Exemption to Chapter 343, Hawai'i Revised Statutes, Environmental Compliance Requirements for The Capital Improvement Project.

Curt Cottrell Administrator for State Parks-PARKS told the Board that the Director for the Friends of Iolani Palace did not anticipate the big discussion on helicopters and he had a meeting at 10:30am so he had to leave.

Cottrell reviewed items E-1 and E2 he noted that the will go through chapter 6E.

There were no changes and there was no public testimony.

Unanimously approved as submitted (Roehrig, Gomes)

ITEM L-1 Request Acceptance of the Final Environmental Assessment and Approval for the Issuance of a Finding of No Significant Impact (FONSI) for the Proposed Mana Drag Race Strip Electrical and Lighting Upgrades, Mana, Kaua'i, Hawaii.

Carty Chang, Chief Engineer from Engineering-ENG told the Board that there was a process issue that was encountered. On the March 23rd issue of the Environmental Notice, there was a publication of the EA and FONSI for this project, which was done inadvertently prior to the Board taking action; so if the approval is granted today, ENG is going to withdraw the March 23 publication and request for republication of the EA/FONSI in an upcoming issue. The AG and OEQC is okay with this.

Chang gave more detail about the project, highlighted concerns and how they would be mitigated.

Chair Case disclosed that this was originally scheduled for an earlier meeting and she wanted to review all these environmental things with staff. She did, and was satisfied with the answers.

Member Yuen asked this would come back to the Board.

Chang explained that in July of each year, ENG asks for the Board's approval to award construction contracts for a variety of CIP projects, so there is a blanket for a number of CIP projects like this so they wouldn't be coming to the Board for that.

Chair Case noted that they do want to make sure the delegations are consistent through all the divisions. She said she would take a look at it and be sure the Board is comfortable and the delegation.

Member Yuen said sometimes the EA will come before the Board ever approves the project. Chang said that normally the 343 analysis is brought to the Board before the project is approved.

Member Woodside commented that technically in a planning sort of process you want to do your environmental review before you approve the project.

Member Yuen understood, but in this case the project was approved to go to bid last July. He said they need to have a discussion on when the Board needs to be involved in this fonsi decisions and when it should be delegated to the Chair.

Chang agreed.

Anthony Richey President of Garden Isle Racing Association said that they were also stewards of the land. He heard from the last meeting that there were questions; he said they were proud of the raceway park, they loved being stewards. Richey thanked the Board for the overall site; this was something that was very important in their community. He said that it was more than just racing; it's about motor sports and safe driving.

Chair Case thanked Richey for working with the environmental measures in the EIS and wanted to verify that they would have an operations plan that they would be able to make sure all elements are incorporated.

Richey committed to not allow any racing during fledgling.

Unanimously approved as submitted (Roehrig, Woodside)

ITEM F-1 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Native Hawaiian Practices Permit to Ms. Bonnie Kahape'a-Tanner, Māna Maoli/ Kānehūnāmoku Voyaging Academy, for Access to State Waters to Conduct Activities for the Ola I Ke Au a Kanaloa Voyage and Maritime Vocation Program.

ITEM F-2 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Special Ocean Use Permit to Ms. Bonnie Kahape‘a-Tanner, Māna Maoli / Kānehūnāmoku Voyaging Academy, for Access to State Waters to Conduct Documentation of Halau Holomoana’s “Ola I Ke Au a Kanaloa” Voyage and Maritime Vocation Program.

Maria Carnavale State Co-Manager for Papahānaumokuākea-PMNM asked to take item F-1 and F-2 together, they were for the same applicant. Carnavale had one amendment, the applicant has asked to remove the request to use the unman areal system for the filming. It’s a matter of getting other approvals from the FAA. Any approvals today would be without that activity going into the joint permit.

Bonnie Kahapea-Tanner Executive Director for Kanehunamoku Voyaging Academy explained that this would be their 2nd trip taking youth to the monument to study navigation and to do cultural ceremony there. There will be 15 youth and 10 adults.

Member Woodside thanked Kahapea and encouraged the other Board members to watch the video the Kanehunamoku Voyaging Academy made.

Unanimously approved as amended (Woodside, Gomes)

ITEM F-3 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit to Dr. Eric Conklin, The Nature Conservancy, for Access to State Waters to Conduct Nearshore Reef Fish Assessment Activities.

Carnavale-PMNM presented item F-3.

Member Woodside recused; Member Woodside was Dr. Eric Conklin’s supervisor.

Chair Case disclosed that Dr. Cocklin was a former colleague of hers at TNC, but had no reason to recuse.

Carnavale had one amendment; the logistics have been pushed back for this year. The current submittal says May 1st-April 30th 2017, they would like to change the dates to start at August 1st, and end July 31st 2017 in order to catch what would be an August logistical trip this year.

Unanimously approved as amended (Gomes, Roehrig)

ITEM D-7 Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach on April 28, May 14, and May 19, 2016, Waikīkī, Honolulu, Oahu, Tax Map Key: (1) 2-3-037:021 (Portion).

Kevin Moore Assistant Administrator for Land Division-LAND explained that after the March meeting for another fireworks display, the Board asked staff to contact the Department of Health-DOH clean water branch about the issue of fireworks entering near shore waters; staff did that and DOH responded with a memo that they don't require an NPDES to be issued for these types of displays. Staff did request an AG opinion on whether not removing the material constitutes a clean water act violation; staff hasn't heard back.

AG Wynhoff said he knew what the response was and could provide testimony on that; the response has been drafted.

Moore continued that the Board asked the Hawaii Explosives & Pyrotechnics clear up their procedures, that's attached as exhibit D. The Board also asked information about the weight of the explosives pre and post explosion; the representative for the company may be able to answer more.

Moore noted that DOH was provided the cleanup procedures and they seemed satisfied.

Member Roehrig commented that this was okay for Duke Kahanamoku Beach, but for any other beach with undertow, he would like to refine what they think is appropriate.

Member Downing asked if the deposit for cleaning should be under the submittal. Moore didn't think it mattered because it's been incorporated in the right of entry permit form.

Unanimously approved as submitted (Gomes, Downing)

ITEM D-4 Issuance of Right-of-Entry Permit to Pacific Motivation Advisors, Inc., dba Hawaii Meetings + Events to Provide Hawaiian Cultural Education for a Corporate Group at Wailea Beach, Wailea, Maui, Tax Map Key: (2) 2-1-008: seaward of 109.

Moore presented item D-4, there were no questions, and there was no public testimony.

Unanimously approved as submitted (Gomes, Woodside)

ITEM F-6 Request for Approval to Enter into a Grant-In-Aid Contract Agreement (\$29,830 State Operating Budget) between the Board of Land and Natural Resources (BLNR) and the Hawaii Nature Center for a Project Titled "The Green Machine: Efficient Technology of Wastewater Treatment for the Hawai'i Nature Center".

Alton Miyasaka with the Division of Aquatic Resources-DAR reviewed item F-6 there were no changes.

Gia Lee Executive Director for Hawaii Nature Center added another staff person; they are splitting the one position up into two part time people.

Unanimously approved as submitted (Gomes, Downing)

Chair Case noted that the Board was going to recess until

12:13 PM RECESS

1:39 PM RECONVENE

ITEM K-1 Conservation District Enforcement OA 16-127 For the Alleged Unauthorized Release of Soil into the Honolulu Watershed Forest Reserve Tax Map Key: (1) 2-5-019:008 and the Alleged Unauthorized Grading and Construction of A Pool by Michael H. Chan, Co-Trustee, and Stephanie L.Q. Chan, Co-Trustee, of the Michael H. Chan Trust and the Stephanie L.Q. Chan Trust Located at 3838 Pu'u Kakea Place, Tantalus, O'ahu, Tax Map Key: (1) 2-5-018:032.

Tiger Mills with the Office of Conservation and Coastal Lands-OCCL began to present K-1, but Member Yuen suggested informing the Chan's of their right to a contested case hearing.

Chair Case explained the contested case process; she told them that if a contested case is made it needs to be made by the end of the meeting in that event no decision will be made.

Chan didn't have his attorney present and was unsure.

AG Wynhoff suggested deferring.

Wynhoff disclosed that he know Chan's attorney and would contact him.

Member Yuen made a motion to defer.

Unanimously moved to defer (Yuen, Gomes)

ITEM J-1 Request Approval to Issue a Five-Year Concession Contract with an Option to Renew for One Additional Five-Year Term for the Purpose of Operating a Parking Concession at the Maalaea Small Boat Harbor, Maui, Tax Map Key: (2) 3-6-001:002. Declare that After Considering the Potential Effects of the Proposed Disposition as Provided by Chapter 343, HRS, and Chapter 11-200, HAR, this Project will have Minimal or No Significant Effect on the Environment and is Therefore Exempt from the Preparation of an Environmental Assessment.

Ed Underwood Administrator for the Division of Boating and Ocean Recreation-DOBOR explained that everything is going well so they want to go out to a long term concession.

Member Roehrig questioned the financial strength of these parking concessions.

AG Wynhoff commented that financial strength was a little less of an issue because these concessions are just performing a service by collecting the money and pay the department. It is important in other concessions.

Chair Case noted that there was no one left in the room to provide public testimony.

Unanimously approved as submitted (Gomes, Roehrig)

ITEM F-4 Request for Approval of Special Activity Permit 2017-20 for Dr. Kim Holland, Hawaii Institute of Marine Biology, University of Hawaii at Manoa, to Cause Limited Damage to Corals and Live Rocks in those Instances when a Fish Aggregating Device Breaks Free of its Mooring and Comes Ashore.

Miyasaka-DAR mentioned that the project has been over 20 years in existence and there was never an case where a buoy damaged coral in Hawaii. There was a case were the buoy came loose in Maui and 3 years later it came up in the Marianos Island 3,700 miles away; that was the only case that DAR knows of coral damage.

Unanimously approved as submitted (Gomes, Yuen)

ITEM F-5 Request for Approval to Enter into a Grant-In-Aid Contract Agreement (\$142,500 State Operating Budget) between the Board of Land and Natural Resources (BLNR) and Friends of the Future for a Project Titled “Ha Ola O Waipi’o Valley Project to Develop Community Capacity to Maintain Rivers and Streams in Waipi’o”.

Written testimony was submitted by Noland Eskaran, Jim Cain, and Christopher Rathburn,.

Miyasaka-DAR reviewed item F-5.

Member Gomes asked if \$142,000 was enough to purchase an excavator and a truck. Bryan Tanaka-DAR said the truck was needed first, and whatever is left they will use to purchase or rent an excavator. The State would own the truck.

Member Woodside suggested getting a standard agreement were heavy equipment is owned by a company that can purchase it, have insurance, etc.

Member Gomes suggested renting both pieces of equipment so the work is done and it’s a done deal.

Member Roehrig said to look into using this equipment for other divisions/projects.

Chair Case asked to have a follow up to be sure there liability issues are covered.

Unanimously approved as submitted (Roehrig, Gomes)

ITEM E-3 Amendment of General Lease No. SP0168, Back to Eden, Inc., Lessee, Waimea Canyon State Park, Lot 79, Koke'e Campsite Lots, Waimea (Kona), Kaua'i, Hawai'i, Tax Map Key: (4) 1-4-004:063, The Purpose of the Amendment is to Correct the Termination Date to Read December 31, 2028;

Consent to Assign General Lease No. SP-0168, Back to Eden, Inc., Assignor, to Christine R. Wilkinson, Assignee, Lot 79, Koke'e Campsite Lots, Waimea (Kona), Kaua'i, Hawai'i, Tax Map Key: (4) 1-4-004:063.

Curt Cottrell Administrator for State Parks-PARKS detailed that this was a resubmittal, last time this was before the Board, the Board asked PARKS to check with the AGs to determine if having a commercial entity where the principal has deceased and the reassignment went to his widow. The AGs determined that was okay. Cottrell pointed out that the interest was not commercial interest, they just held the lease. Finally Cottrell wanted to correct the deficiency on the date so it matches the 20 year term.

Unanimously approved as submitted (Woodside, Gomes)

ITEM D-1 Sale of Lease at Public Auction for Business Purposes, Lot 11-B Hanapepe Town Lots, 1st Series, Hanapepe, Waimea, Kauai, Tax Map Key: (4) 1-9-005:053; After-the-Fact Issuance of Revocable Permit to Saim Caglayan and Maggie Lea, Lot 11-B Hanapepe Town Lots, 1st Series, Hanapepe, Waimea, Kaua'i, Tax Map Key: (4) 1-9-005:053.

Moore-LAND said this was a 10 year lease that expired last year, there were delays because LAND asked them if they wanted a lease extension. LAND agreed to do this RP until they can get out for another public auction.

Member Yuen thought there was a statement from LAND that public auction on Kauai was backlogged x number of years. Moore said ideally they should be able to get out to auction within 6-12 months. He said this would probably be competitive in auction.

Member Yuen asked why there were 3 unsuccessful bids at public auction. Moore said there was no interest, but felt there would be now.

ITEM D-2 Issuance of Right-of-Entry Permit to Big Island Invasive Species Committee onto State Lands at Kukuau, South Hilo, Hawai'i, Tax Map Key: (3) 2-5-006:001 & 159.

Moore-LAND no changes no questions.

Unanimously approved as submitted (Gomes, Roehrig)

ITEM D-5 Amend prior Board of Land and Natural Resources action of August 10, 1990, under agenda item F-7, as amended: *Direct Sale of a Perpetual, Non-Exclusive Easement for Repair and Maintenance of Existing Seawall Seaward of and Fronting Tax Map Key: (2) 3-9-11:7 and 8; Waiohuli-Keokea Homesteads and Beach Lots, Waiohuli-Keokea (Kihei), Wailuku, Maui, Hawai'i.* The purpose of the amendment is to change the Applicant requesting the easement as to Parcel 7 to Garry A. Weber, include an exemption notification under Hawaii Revised Statutes Chapter 343, amend the term of the easement from perpetual to 65 years, include requirements that Applicant obtain a concurrent resolution from the Legislature for the issuance of the easement and provide an updated survey map, and authorize the issuance of an immediate management right-of-entry to Garry A. Weber.

Moore-LAND presented item D-5.

Member Yuen asked if it was correct that OCCL was okay with this even though there were no permits issued.

Moore explained that in 1990 the owner was fined for the encroachment and they paid the fine.

Member Yuen didn't understand why they were fined, but not directed to get any permit or after the fact permit. Member Yuen, didn't want to hold it up, up he had to think about it.

Unanimously approved as submitted (Gomes, Roehrig)

ITEM D-6 Issuance of a Right-of-Entry Permit to MC&A Inc. for Storage and Use of Recreational Equipment for a Beach Day Event for the Toyota Dealers Family Program, at Fleming Beach, Kapalua, Lahaina, Maui, Hawai'i, Tax Map Key:(2) 4-2-004: seaward of 015.

No questions, no public testimony.

Unanimously approved as submitted (Gomes, Roehrig)

ITEM D-8 Amend Prior Board Action of July 11, 2014, Item D-5; *Grant of Term, Non-Exclusive Easement to Clifford J. Tillotson and Renee Tillotson for CRM Wall, Landscaping Area, Floating Dock, and Concrete Pier Purposes; Assess Administrative Cost of \$500 and Fine of \$500, Kaneohe, Koolaupoko, Oahu, Tax Map Key: (1) 4-4-022: Seaward of 007.*

The Amendment is to Allow Payment of the Consideration in Installments.

Moore-LAND made one amendment to correct the annual interest rate charged on the declining principal balance from 5.25% to 5.50%.

Member Roehrig asked if the statute allowed to the Board to charge this type of interest. Moore wasn't aware of one; this rate has been charged for about 8 years.

Member Downing pointed out that this doesn't seem like the right section when it talks about late vendor payments. Moore said this case wasn't a fine, it's a purchase price for the easement; Moore thought staff may have wanted to treat the applicant similar to a lender.

Member Roehrig read that the interest rate says it applies to goods delivered or services preformed, he wasn't sure how it applied. AG Wynhoff explained that he was working on a case and it's when the State doesn't pay its obligation it's the prime rate +2%; so that's where he thought the 5.5% came from. Wynhoff gave another example.

Member Roehrig asked Wynhoff what his opinion was. Wynhoff said that his opinion would be that it's an open question and that this Board would have the authority to agree to this. Wynhoff said the Board could also get the Attorney General to approve the settlement as well, but he would support this motion from a legal view. Member Roehrig was good with that.

Member Roehrig made a motion to approve, Member Gomes seconded.

Approved as amended; the Board amended recommendation 1 to correct the annual interest rate charged on the declining principal balance from 5.25% to 5.50%.

Unanimously approved as amended (Roehrig, Gomes)

ITEM C-1 Request for Approval to Enter into a New Long-Term Cooperative Lease with the Zoological Society of San Diego D/B/A San Diego Zoo Global for Operation of the Olinda Endangered Species Facility Located at Olinda, Maui

And

Request for Authorization for the Chair to Negotiate and Sign the Lease After Approval as to Form by the Department of Attorney General's Office.

Dave Smith Administrator for the Division of Forestry and Wildlife-DOFAW conveyed item C-1 and gave background information.

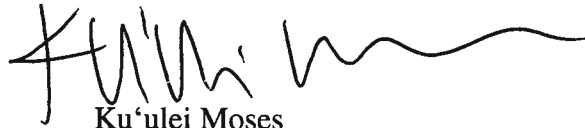
No questions, no public testimony.

Unanimously approved a submitted (Gomes, Roehrig)

Motion to adjourn (Gomes, Roehrig)

There being no further business, Chairperson Suzanne D. Case adjourned the meeting at 2:27p.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', with a long, wavy horizontal line extending to the right.

Ku'ulei Moses
Land Board Secretary

Approved for submittal:

A handwritten signature in black ink, appearing to read 'Suzanne D. Case', written above a horizontal line.

Suzanne D. Case
Chairperson
Department of Land and Natural Resources