

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

DATE: FRIDAY, MAY 27, 2016
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAI'I 96813

Chair Suzanne Case called the meeting of the Board of Land and Natural Resources to order at 9:01 a.m. The following were in attendance:

MEMBERS

Suzanne D. Case
Thomas Oi
Keone Downing

James Gomes
Ulalia Woodside
Chris Yuen

STAFF

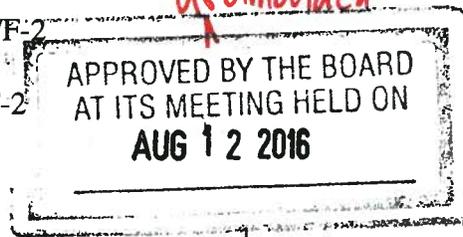
Bruce Anderson/DAR
Bill Walsh/DAR
Tiger Mills/OCCL
Curt Cottrell/PARKS
Ian Hirokawa/LAND
Carty Chang/ ENG

David Sakoda/DAR
Russell Tsuji/LAND
Jason Redulla/DOCARE
Dave Smith/DOFAW
Alton Miyasaka/DAR

OTHERS

Colin Lau/Deputy AG
David Chai/F-2
Kekaulike Tomich/F-2
Malia Kipapa/F-2
Garth Yamanaka/F-2
Paola Pegan/F-2
Eric Arakaki/F-2
Ekolu Lindsey/F-2
Teddy Blake/F-2
Greg Lind/F-2
Jeff Rodgers/F-2
Mike Nakachi/F-2
Pamela Lota Fujii/F-2
James K. Kamana Sr./F-2
Lance Lincoln/F-2
Makani Christensen/F-2
Charles Young/F-2

Jason Jeramiah/F-2
Laina'ala Lightner/F-2
Hannah Springer/F-2
Keli'i Alapai/F-2
Leonora Oupuni/F-2
Sol Kaho'ohalouala/F-2
Presley Wann/F-2
Jay Carpio/F-2
Maka'alaka Ka'aumoana/F-2
Ronald Tam/F-2
Michael Lee/F-2
Shyla Moon/F-2
Sterling Wong/F-2
Francis Ruffle/F-2
Mike Sur/F-2
Shade Kamakaala/F-2
Tony Costa/F-2



Maile Carpio/F-2
Max Phillips/F-2
Vince Krog/D-3
Eric Leong/M-1
Ann Kobayashi/K-1
Derwin Hayashi/K-1
Dale Kobayashi/K-1
Gordon Awaioi/K-1
Daniel Trockman/K-1
Jolyn Okimoto Rosa/K-1
Ulalu/K-1
Sarah Preppel/K-1
Lucy Inoue/K-1
Theresa Parsons/E-2

Raphael Burtsomn/F-2
Chad Wiggins/ F-2
Sharron Wong/D-3
Luana Froiseth
Wally Miyasaki/K-1
Ellen Watson/K-1
Dawn Kobayashi/K-1
Mike McFarland/K-1
Christina Lizzy/K-1
Pat Ching/K-1
Stephen Apenhighmer/K-1
Raphael Burgerstom/K-1
Melia Kealoha Lindsey/K-1
Ross Smith/DOT-AIR

ITEM A-2 Approval of March 11, 2016 Minutes

No changes or comments to the minutes.

Unanimously approved as amended (Gomes, Woodside)

ITEM F-2 Request For Final Approval To Amend Hawaii Administrative Rules (HAR) Title 13, Chapter 60.4, “West Hawai‘i Regional Fishery Management Area, Hawai‘i,” To Establish The Ka‘ūpūlehu Marine Reserve To Allow For The Recovery Of Nearshore Fishery Stocks.

The Rules can be reviewed online at <http://dlnr.hawaii.gov/dar/rules-and-public-notice/> or can be reviewed or obtained in person at the Division of Aquatic Resources (DAR) offices on Oahu at 1151 Punchbowl St. Room 330 Honolulu, Hawaii 96813 from 8:00 am to 3:30 pm, Monday through Friday, except Holidays.

Written testimony was submitted by Daniel L. Roudebush, Gary Beals, Nathan Abe, Simmy McMichael, Adan Rodrigues, Patti Aoki, Eve Bernstein, Alex Gersznowicz, Bobby Camara, Shane Chiquita, Ikika Chong, Charlene and Orin Edson, Pamela Lota Fujii, Aric Arakaki, Terrence R. George, Jonatha Giddens, Uilani Okanoeula Hao, Cory Harden, Chisa Hiraishi, Hualalai Development, Hualalai Resort, David Chai, Ku‘ulei Keakealani, Sherley Keakalani, Diane and Roger Kanealii, Mark Lanois, Leina‘ala Keakealani Lightner, Malia Lightner, Lilinoe Klask, Nicole Lowen, Randy Mori, Rebecca Most, The Nature Conservancy of Hawaii, Leonora K. Oponui, Robert Most, Wendy Most, Eugene Namnama, Cynthia Nazara, Paola Pagan, Tamara Paltin, Doug Perrine, Christopher Peters, Gordon Piianaia, Norman A. Piianaia, George Pereira, Sally Reeve, Adan Rodrigues, Jacqueline Roses, Michael Sack, John Saul, Lauren Sauer, David Sasse, Wilfred Sulliban, Loyden Tabbada, Elizabeth Theriault, Shuan Tsukazaki, Cyndy Urry, West Hawaii Fishery Council, Garth Yamanaka, Malia Akutagawa, OHA, and Marjorie Ziegler.

Bruce Anderson, Administrator for the Division of Aquatic Resources DAR introduced himself and summarized the high points of item F-2

Member Woodside disclosed that the Nature Conservancy-TNC has supported Kaupulehu and she recused herself from this discussion.

Chair Case disclosed that TNC was her former employer and has participated in the process but has no interest in this matter.

Anderson amended subsection 5(f) to insert June 30, 2026. Anderson informed the Board that there was overwhelming support at the public hearing and that the only opposing testimony came from the fishermen.

Jason Jeramiah, member of Kaupulehu advisory council representing Kamehameha Schools, introduced himself and highlighted his written testimony.

Member Downing asked what the value was to Kamehameha Schools-KS. Jeramiah responded that their keiki go to Kaupulehu to engage in cultural activities, resource management and land management side; KS is active stewards of the land.

David Chai, Director of Natural resources Hualalai development and resort, introduced himself and testified in support.

Member Oi asked how much miles of beach front do they have. Chai responded about a mile, with 2 public access.

Member Downing asked if they run snorkeling tours and if they are willing to stop all tours. Chai responded that it was a tour and just observation.

Leina'ala Lightner testified in support. Lightner expressed that as a native Hawaiian practitioner, it is taught not to take but to Malama and educate.

Member Downing asked how long they felt it would take to make a management plan. Lightner responded that that was one of the reasons for the 10 year plan to have the science aspect advise us.

Member Oi asked how they felt of the taking of akule and opelu. Lightner+ responded that it was part of their tradition and sets within the boundary that does not impact the fisherman. Lightner+ explained that their proposal was to just stay within the reef area.

Kekaulike Tomich testified in support.. Tomich expressed that when he started diving, fish were plentiful in Kaupulehu. Tomich stated that he would not resume fishing until the resources are healthy again.

Hannah Springer testified in support.

Malia Kipapa, speaking on behalf of West Hawaii Fishery Council testified in support.

Keli'i Alapai testified in support. Alapai expressed the traditional practices of his family on taking care of the resources especially younger generations and teach them the ways to Malama.

Member Oi asked how long it took to gather the plan. Alapai responded that it took over 10 years of gathering data; meet with different entities, we request fisherman to respect the rules.

Garth Yamanaka testified in support. Yamanaka expressed that the Kaupulehu community commitment was to watch over the natural resources and ensure the long term health of its fisheries and coastal resources.

Leonore Oponui testified in support. Oponui commented on the decrease in amount of fish in the 90s when public access was picking up. Oponui informed that she teaches elementary school children and expanded that she did not want to be the last generation to tell her children that there was an abundance of fish.

Paola Pagan testified in support.

Sol Kaho'ohalahala testified in support. Kaho'ohalahala expressed that we need to be more mindful of these kind of areas that need to be replenished.

Member Gomes asked if they were managing the area in Lanai. Kaho'ohalahala explained that they could not harvest limu, opihi, no fishing or spearing, only bamboo and hook and line was allowed, it was never their intention to look at it as a marine protection area.

Aric Arakaki, Superintendent for Ala Kahakai National Historical Trail testified in support.

Presley Wann testified in support and expressed appreciation for the protection of proposed 10 year ban.

Ekolu Lindsey testified in support.

Jay Carpio testified in support. Carpio indicated that he seen the decline and echoed to restore the natural resource.

Teddy Blake testified in support and expressed that he felt empowered of the restoration of Kaupulehu.

Maka'alaka Ka'aumoana testified in support.

Greg Lind testified in support and expressed strong support for Kaupulehu in protecting its resources.

Ronald Tam introduced himself as a fisherman who was there for clarification. Tam commented on how they would validate a fisherman that is 3 miles out and violating the fathom rule. Tam requested that the Board consider establishing the seaward boundary at 20 fathoms and that there must be stronger language in the proposal.

Jeff Rodgers a charter fisherman in Kona testified in opposition. Rodgers commented that Kaupulehu was known as “the grounds” to other fishermen, this 100 fathom line is where fish is normally caught. Rodgers informed that he had tagged many Kahala and Ulua than anyone in the state and concluded that they were highly migratory. Rodgers expressed that he wanted the 20 fathom rule and families of fish added to the list.

Chair Case asked if he had provided public testimony during the comment period. Rodgers said no, and did not know about the comment period.

Chair Case clarified that the 3 miles is federal jurisdiction and the boundary is consistent. Rodgers acknowledged.

Chair Case expressed that time was spent reviewing the questions that was asked with staff.

Member Gomes asked how much affect it would cost. Rodgers responded that as charter fisherman their near shore fishery is trolling for mahi mahi and ono, generally when fishing for ono, they stay at 40-60 fathoms.

Member Gomes explained that this is an attempt to sustain a life-style and asked if the fisherman would go somewhere else. Rodgers said that he was for protecting the shoreline and there was no reason to fish in the 25 fathom boundary.

Michael Lee, introduced himself and added to Member Gomes question that the reason why the fisherman cannot go to different places is due to the shelf and freshwater, creating limu, the foundation food source of small fish that is eaten by larger fish on the outside. Lee explained that the freshwater that is now being intruded is not in the study.

11:10AM RECESS

11:21AM RECONVENE

Mike Nakachi testified in support.

Shyla Moon, Board Member of Hunting Farming Fishing from Kauai testified and questioned about the rules of Kaupulehu.

Pamela Lota Fujii testified in support.

Sterling Wong, Public Policy manager for OHA testified in support.

James K. Kamana Sr. testified in support, but was concerned that protecting fishes beyond the limits of 40 fathoms.

Francis Ruddle testified in support. Ruddle explained the decline of fish since opening his small business in 1982.

Lance Lincoln testified in support.

Mike Sur testified and proposed an amendment for plan B, commercial fisherman need 10ft to 60ft when catching akule.

Makani Christensen testified expressing concern on the potential elimination of entire generations of fisherman.

Shade KaKamakaala read testimony support on behalf of Dr. Malia Akutagawa, then presented her own testimony in support.

Charles Young testified in support.

Tony Costa representing a group of Hawaii near shore fishermen testified in opposition.

Maile Carpio introduced her children Shannon and Hunter and testified in support.

Raphael Burtsomn testified in support.

Max Phillips representing Senator Gill Riviere testified in strong support.

Chad Wiggins with TNC testified in support.

Member Downing asked how many more fish are there today then there was before. Wiggins explained that the publications from Pupukea demonstrate parrotfish that have increased in biomass since the expansion since the Pupukea conservation district.

Member Downing asked what the % was and after how many years. Wiggins disclosed that it took 5 years.

Member Downing was trying to understand if this carrying capacity maximize itself in 5 years, 10 years, or 20 years. Wiggins explained that no one knows how long it will take; by measuring this in 10 years they will learn what happens in 10 years.

Member Downing asked how much it's increased or decreased since 2009. Wiggins said it hasn't, it's fluctuating.

Member Downing next asked when an uhu gets to reproduction stage. Wiggins gave a brief biology of uhu. Based on the best available data, it could take 3 years for uhu to reproduce.

Chair Case asked Wiggins to his amendment in his written testimony; there is a technical amendment to the proposed rule to add "Marine Reserve". Wiggins commented that there seemed to be a gap between the marine reserve and the existing replenishment area the way the rules are written now. The way the rule is written now might make less restrictive the aquarium fishing regulations that are currently in place at Kaupuluheu unless it's addressed.

An unidentified woman read testimony in support on behalf of George Perierra.

There was no further public testimony, Chair Case closed public testimony.

Member Oi asked what the term Marine Reserve was.

David Sakoda, Marine Law Fellow with DAR explained that the term Marine Reserve in this case referred to how it's described by the restrictions in the rules. There's no real set definition, typically a reserve is where resources are reserved.

Member Oi asked how long it would restrict fishing.
Sakoda said for 10 years.

Anderson added that the marine reserve would be a sub component of that.

Member Oi was concerned that certain terms will restrict other things for happening; research, etc.

Anderson made it known that special activities permits could be issued for research and other purposes so that would not restrict activities entirely.

Dr. Walsh, West Hawaii Biologist explained that the term reserve was derived from the enabling legislation that created the West Hawaii Regional Fisheries Management area.

Member Gomes asked if fishing wouldn't be allowed for Hawaiians either; no cultural rights. Anderson confirmed but they could get a special activities permit. Sakoda added that Native Hawaiian traditional rights stands as a defense, so if someone was cited for fishing in the reserve then they could use that as a defense and the judge might allow that. There is a provision in the rule that is a place holder for it that says the department affirms those rights and will recognize them but so far the State has not affirmatively come up with a way to recognize those rights other than as a defense.

Dr. Walsh added that the whole marine reserve is not a kapu area, it's only the area from the shoreline out to 20 fathoms; that's the no take area that represents about 8% of the reserve.

Member Downing asked how they came up with 10 years.

Walsh explained that it was a combination of what was known about the performance of marine reserves around the world. Walsh showed examples of happens over a course of years. It takes time for the reserve to replenish.

Chair Case commented that it was her understanding that as the rules were first proposed, it was full closure but after a lot of discussion and compromise it went down to 10 years. Walsh confirmed; the scope and extend and the community involvement was precedent. Walsh offered more detail about the restoration.

Member Yuen commented that this is a group of people that have a problem and came up with a solution and he commended that.

Member Yuen made an amendment 1) to add to the definition of marine reserve at the end add "except as allowed under these rules". He thinks the way the definition reads now, everything is prohibited, that's not the idea. 2) the section that was mention in Chad Wiggins testimony; to amend section 13-60.4-5 B to add the term Marine Reserves 3) amend the other definitions hook and line to say that it also allows the use of a net to land the fish taken by hook and line where that is otherwise approved; using a landing net. 4) add akule and opelu to the hook and line allowed species seaward of the 20 fathom line.

Chair Case suggested leaving the 4th amendment out because the attorney general wasn't sure if that needed to go back out to public hearing.

Member Yuen said if that was a problem then he would withdraw that. He asked the department to look at expanding other species along the 20 fathom line based on some of the testimony that was provided.

Member Yuen also asked for an assessment to be brought to the Board in 5 years.

AG Lau said it was already in the rules.
Member Yuen withdrew that last request.

Chair Case repeated the motion.
Member Gomes seconded the motion.

Member Oi commented that he supported Haena, but he didn't believe in closing areas. He didn't feel it was right and suggested establishing a community watch program.

Member Downing stated that he was fearful of the word "Ban" and for 10 years or more scared him. 10 years was too long for him and couldn't go for this.

Chair Case said she didn't believe they are intended to be exclusionary, they intend to grow more fish. This is not so people can't fish, this is for people to fish in the future. She said she would support.

Member Gomes said he was in support. The community has come together and have put their blood and sweat it this. It's not a complete ban, but was in favor.

Member Oi commented that the public was not just the kanaka maoli, the public is everyone. Everyone needs to work together and not knock heads. He said he will support this, but doesn't support banning areas. It can happen anywhere; it can happen in the mountains too.

Member Gomes agreed that it could happen anywhere and should be taken on a case by case basis.

Member Yuen commented that he looked at this as an experiment, an experiment in something that we hope would be good by fishermen as well as people that like to look as fish through their facemasks. This may lead to other experiments.

AG Lau had concerns about the amendments to the motion.

Member Yuen withdrew the amendment to subsection B; #2 of the motion previously made.

All were in favor except Member Downing who was opposed.

Approved as amended (Yuen, Gomes)

1:15PM RECESS
2:27PM RECONVENE

ITEM D-3 Approval of (1) Amendment to Sublease made by and between the Board of Land and Natural Resources on Behalf of the Department of Accounting and General Services, Office of Enterprise Technology Services, also known as the Information and Communication Services Division ("State"), and the Trustees of the Estate of Bernice Pauahi Bishop ("KS"), which amends the Sublease dated April 30, 2010 between Hualālai Land Corporation ("Hualālai") as Sublessor and the State as Sublessee to Show that KS has Succeeded to the Interest of Hualālai in the Sublease, and (2) Sublessee Estoppel Certificate; Sublease Premises Located in Ka'ūpūlehu, Island of Hawai'i, TMK (3) 7-2-002: Por. 001.

Vince Krog with the Department of Accounting and General Services-DAGS and Sharron Wong-DAGS were available for questions.

Member Woodside disclosed that she was previously employed by Kamehameha Schools and was involved in this project, but is no longer employed by them.

No testimony.

Unanimously approved as submitted (Gomes, Oi)

ITEM M-1 Consent to Assignment of Harbor Lease No. H-92-22, Horizon Lines, LLC, As Assignor, to Hawaii Stevedores, Inc., as Assignee, Situated at the Sand Island Container Complex, Honolulu Harbor, Oahu, Tax Map Key: (1) 1-5-41:111 (Portion), 126, 187, 345, 346 and 347.

Eric Leong property manager with the Department of Transportation- Harbors Division-DOT-HAR presented item M1.

No questions, no public testimony.

Unanimously approved as submitted (Gomes, Oi)

Ann Kobayashi read her written testimony in opposition of item K1. She had to leave early so Chair let her go out of turn.

Wally Miyasaki also testified in opposition; he too had to leave early.

ITEM D-10 Issuance of a Right-of-Entry Permit to O‘ahu Hawaiian Canoe Racing Association Hawai‘i for the Hawaiian Airlines Molokai Hoe Long Distance Canoe Race Event to be held on October 8 and 9, 2016, at Waikikī, Honolulu, O‘ahu, Tax Map Key: (1) 2-3-037: portions of 021.

Tsuji-LAND reviewed item D10.

Member Yuen indicated that there was a request from the applicant that this be given on a multi-year basis. Member Yuen thought that was a good idea.

Tsuji said it can be done, but often they change the date.
Member Yuen said that was fine.

Member Woodside suggested delegating dates to be determined between staff and chair for the two days.

Luana Froiseth President of the Oahu Hawaiian Canoe Racing Association testified that since this was an international event they have a 10 year calendar so it’s easy for them to get the dates. It’s always on Columbus weekend.

AG Lau said that if there was an amendment it would be for the next four dates.

Member Downing still wanted to know why Maui and Molokai and DOBOR are not all being done together.

Member Woodside noted that last time they asked that those 3 things be brought in together.

Member Downing said that we charge them 10 cents a square foot, but the fireworks fee got waived. He asked if they should be charged the same as the fireworks. He said that was something to think about down the road.

Member Yuen made a motion to approve with the amendment that it be this year and the next four years on the dates specified. Member Gomes seconded.

Unanimously approved as amended (Yuen, Gomes)

ITEM D-12 Enforcement of Unauthorized Use of Public Lands for Aerial Fireworks Display coordinated by Kahala Hotel on the Beach fronting Kahala Hotel, Waialae, Honolulu, Oahu, Tax Map Key: (1) 3-5-023:041.

Tsuji-LAND conveyed item D12. Due to the change in management the current owners had not been aware that a separate Board approval for the right of entry for the fireworks was needed. They had a show this is being brought to the Board after the fact to assess the appropriate fees.

Counsel could not be here but sent in a settlement agreement. Staff and AGs took a look and had no objections. They also paid the amount stated in the submittal.

The representative present understood what needed to be done and would go with Hawaii Explosives in the future.

The Board confirmed that it was okay to continue with the settlement.

Unanimously approved as submitted (Gomes, Woodside)

ITEM D-15 Grant of Perpetual, Non-Exclusive Easement to Hawaiian Electric Company, Inc. for Utility Purposes, Issuance of Construction Right-of-Entry Permit; Wahiawā, and ‘Ewa, O‘ahu, Tax Map Key: (1) 7-6-001:portion of 006, (1) 7-7-001:portion of 002, and (1) 9-4-012:portion of 011.

HECO staff was present. Tsuji had nothing to add.

No testimony.

Unanimously approved as submitted (Yuen, Gomes)

ITEM K-1 Time Extension Request for the Modification to Conservation District Use Permit (CDUP) OA-30 for Paradise Park by Paradise Park Inc. Located at 3737 Mānoa Road, Mānoa, O‘ahu, Tax Map Key: (1) 2-9-054:018

And

Request Approval of Declaration of Exemption to Chapter 343, Hawaii Revised Statutes, Environmental Compliance Requirements for the Paradise Park Modification.

Written testimony was submitted by Steven J. Oppenheimer, Dee Yamane, Suzanne Chun Oakland, Christina Comfort, Tom Reeve, Mark Hughes, Marlene Kaipukailaiokamehameha Styan Alvery, Cheryl Geslani Scarton, Dale Kobayashi, Dawn Kobayashi, Christina Lizzi, Cassidy Lum, Elizabeth McDermott, Duane K. Okamoto, Sarah and Duane Preble, Malia Ribeiro, Michele Matsuro, Sebastian Sievert, Ellen Watson, Jeff Wong, Millicent Cox, Walter Solomon Henriques, Linda Legrande, Isaac W. Choy, Eric Gilman, Cory Harden, Dr. Jane Freeman Moulin, Gordon Aoyagi, Penelope Burniske, Patricia Ching, Mary M. Cooke, Harald Ebeling, Jessie A. Faige, Kim Falinski, Lia Gardner, Celia Gourmet, Andrew Gray, Stacy Gray, Kris Hara, Aubrey Hawk, Myron and Peggy Hoefler, Jessica Honbo, Tianzhu Huang, Ramona Hussey, Lucy Inouye, Janet Jin, John E. Gon, June Kawasaki, Royden Arashiro, Nancy Yoshida,

Bob Kern, Joan Koff, Ann H. Kobayashi, James Kwon, Wendy Lagareta, Jerry Lam, Karin LeBlanc, Jan Mitchell, Terri Mitchell, Wally Miyasaki, Alison Moritsugu, Dorothy Moritsugu, Willow Morton, Charlotte Mukai, Glenn Otaguro, Lorna Park, Paul McKimmy, Teresa A. Parsons, Ted Pizzino, Richard Puetz, Carol Richardson, Jolyn K. Okimoto Rosa, Shannon Rudolph, Save Manoa Valley and The Outdoor circle Manoa Branch, Leora Springer, Jackie Scott, Micki Stash, Eiichi and Edith Tanaka, Brian T. Taniguchi, Daniel Trockman, Jo Ann Yanazaki, Jackie Wah, and Carolyn Walther. Also a petition with 1,694 names.

Tiger Mills staff planner with the Office of Conservation and Coastal Lands-OCCL presented K1, gave history and background. Many comments and petitions were received.

Chair Case asked if an annual report was submitted.

Mills said no report was submitted because OCCL has not approved anything for the modifications because the permit has expired. The original CDUP is still valid, the modifications to that permit is what expired (Hawaiian Culture Center).

Derwin Hayashi the attorney representing Paradise Park introduced himself and his client. He said there was an attorney present who was going to raise the issue of an EIS. Initially the application was only for an extension of time which requires that if it's done after the date October 24, 2014 it must come before the board. He said that if Paradise Park was properly advised, they could've come in under 13-5-42 and just submitted a request for an extension of time to the chairperson without having to go to the Board. Hayashi thought there was some confusion as to what was being discussed today. On October 24, 2014, the Board found the proposed modifications to Paradise Park to create a Hawaii Cultural Center consistent with the existing permit CDUP OA-30 with the conditions that detailed landscaping plans, the proposed physical layout as well as identifying specific uses of the structural components with the description of the central elements of the plan and submitting an annual report due upon opening 1.5 years of opening phase 1 of the park be provided. Condition # stated applicable standard conditions of HAR, 13-5-42 standard conditions will apply. Hayashi asked if the Board should go into executive session to decide whether or not the exemption under DLNR as approved by the Conservation Counsel in 2015 exemption 1 and exemption 2-22 apply, then proceed on the issue on whether or not 13-5-43 of the extension should go forward. He recommended bifurcating.

Chair Case suggested going on with public testimony. Hayashi addressed the testimony that was presented by the two members of the public that testified out of turn.

Chair Case disclosed that in the 90's she participated on a negotiation on behalf of The Nature Conservancy that never went through.

The following testified in opposition; Ellen Watson, Dale Kobayashi, Dawn Kobayashi, Gordon Awaioi, Mike McFarland, Daniel Trockman, Christina Lizzy, Jolyn Okimoto Rosa, Pat Ching, Ulalu, Stephen Apenhighmer, Sarah Preppel, Raphael Burgerstom, and Lucy Inoue.

Melia Kealoha Lindsey testified in favor.

Member Yuen asked if it was accurate to say that currently there's a parking lot that serves the Treetops restaurant and hikers to the Manoa Falls Trail with a snack shop and a restaurant that is for special events; it's not open on a daily basis.

Hayashi explained that the restaurant has gone through many different owners. There's a new provider now who has turned the food around. The restaurant is open now for buffets, not just special functions. As far as the parking lot, there are two different parking lots. If you go up into the facility, there is a parking lot that people use for the trail. If you go to the parking lot up to the left, that's the parking lot for Treetops restaurant.

Member Yuen then asked if there were any grounds for people to walk in Paradise Park. Hayashi said no, at this time there are not.

Member Yuen asked about the park closing in February of 1994. Hayashi confirmed.

Member Yuen asked Hayashi to explain the Luau House. Hayashi came to the conclusion that they did not need a permit to build the Luau House Pavilion due to the fact that under OA-30, the 1966 Master Plan, included a Luau Pavilion.

Chair Case asked Hayashi if he was saying that the master plans were approved by the Board. Hayashi said in 1966 under OA-30 there are provisions that are labeled as Luau Pavilions.

Mills confirmed that was correct, however she believed that they needed to come in for further authorization. Chair Case added that it was because they had a permit that was for a zoological and botanical park. Hayashi agreed but past plans provided indicated a luau pavilion in the park.

Member Yuen asked what the size was to the luau pavilion. Hayashi thought it was about 16,000 square feet. He explained that in 1980 there was a plan that was submitted but was 40 ft less. Hayashi said there was no requirement for a public hearing in 1966 when OA-30 was approved. The requirements for a public hearing did not come into play until 1969. He said there was an attorney general opinion that states public hearing was not applicable because public hearings did not go into effect until 1969.

Member Yuen was concerned about segmentation. They came in with a phase 1, 2 and 3 and didn't understand how phase 3 qualified as an exempt action. Hayashi explained that phase 3 was done the way because going through OA-30, it already had the provision for the pavilion.

Member Yuen addressed the two issues; 1) whether the original permit in 1966 allowed the luau pavilion; and 2) whether the construction of something that has not been built yet covered by an old permit needs an EA. He didn't understand how it fit the exempt list because the exempt list covered the existing facilities. Hayashi begged to differ.

Member Oi felt like request "B" in the extension request today should be stricken. Anything to do with the Hawaiian Culture Center should be taken out.

Member Woodside asked Mills if this was only in regards to submitting plans, not building yet. Mills confirmed.

Hayashi had questions about what Member Oi wanted to strike. Mills said that the time extension request is for the modifications to the CDUP which is the botanical and zoological garden and to say that creating a Hawaiian Cultural Center is consistent with that. Member Oi said that under the permit it was only for phase 1 and phase 2; it shouldn't be mentioned in the recommendation.

Chair Case indicated that in the submittal for phase 1 there were Hawaiian Cultural exhibits in the existing buildings and landscaping. Member Oi said existing, not new. Chair Case confirmed.

Hayashi didn't think his client should be penalized because DLNR did not put specific plain language that it was for 1 year, whereas the cutting down of albizia trees they listed as 1 year or 1.5 years. Mills said she attached the standard conditions.

Member Oi suggested taking the mention of phase 3 out.

Member Woodside asked Mills if they were supposed to submit annual reports. Mills said there was no condition for an annual report. Hayashi said the annual report didn't become active due to the fact that the October 24, 2014 in the November 7th letter was not approved. Member Woodside was looking at the 1991 condition that talks about an annual report.

Chair Case said that the October approval requires submitting an annual report a year after reopening phase 1 of the park. Mills said they closed down so there was no annual report; the CDUP 30 is still a live permit. Mills said they did not submit annual reports.

Member Woodside commented that semiannual meetings with the neighborhood meetings should still occur. Mills said that what the Board decided in 1993 was ~~that~~ what OCCL was holding them to.

Member Woodside asked who managed the parking that the park users use. Hayashi thought it was managed by Paradise Park.

Member Woodside asked if there was any filming done there. Hayashi said Lost and Hawaii 5-0. Member Woodside stated those were all things that would be good to add to an annual report.

Chair Case commented that there are some process gaps that she was concerned about. She didn't think they came from the OCCL staff but was concerned that the letter of default did not get to the land owner. Chair Case said she felt that not granting this would allow for a reset of the process. This would also allow for deeper community engagement. She understood that a permit was granted but didn't feel it was granted with full public input.

Hayashi said there was no requirement from statute or admin rules that says specific people will be mailed items. He was sure that if he challenged it there are no provisions for that. Most people would have known about this by monitoring the calendar. Hayashi took offense the OCCL's integrity was being questioned. He remembered that certain things were emailed.

Member Downing asked Hayashi if in 2014 he didn't get the information that the permit was for 1 year. Hayashi said no, he said he was not the attorney at that time, but still did not believe they were notified. He said he did find an email from Mills dated 10/24/2014 stating that they were held to the provisions of 13-5. He said Allison Hunt was notified but didn't realize the importance of the 13-5-42.

Member Downing asked when did the land owners know that they had the rights for the permit. Hayashi said that the first time they became aware that there was an active valid permit was on March 4, 2015 when they went to the neighborhood board.

Member Woodside commented that they were here on October 24, 2014 when the Board said yes. Hayashi said yes, but they didn't have the actual permit signed and approved.

Member Downing asked Hayashi how long he felt he could have a permit without doing anything. Hayashi said that what the land owners did was within 8 months of the approval they submitted the plan which was rejected (Nov) then a letter went out in December saying the authorization has expired.

Member Yuen commented that there is no clear provision when the permit stops. Mills believed that only the Board could terminate a permit. AG Lau confirmed.

Member Yuen made a motion to deny the time extension; he felt that there was a segmentation where the applicant came in with phase 1, 2 and 3. Phase 3 is not exempt, but phase 1 and 2 are. He said that under the rules of OEQC there is discretion of the Board in declaring something exempt. It's not everything that fits the rule that has to be exempt.

Member Yuen read HRS 11-200-8B and under that basis he made a motion that Board deny the declaration that this is exempt therefore they cannot approve the time extension for the renovation plans. Member Gomes seconded.

Member Oi thought this was the cleanest way to do it.

AG Lau told the Board that they were voting to deny the modification of this permit. The existing underlying permit still continues.

Member Yuen said they weren't revoking OA-30; it's not before the Board. He said they were refusing to grant a time extension for certain modifications of that permit.

AG Lau understood, but thought he heard someone say in the discussion that this was for a new CDUP, and that's not correct.

Member Oi said that was him, and he could've been wrong.

All were in favor.

Hayashi later orally requested a contested case hearing and for the record released his client's promise not to sue prior attorney.

Unanimously denied (Yuen, Gomes)

ITEM B-1 Request Board Approval to Enter Into Contracts for Furnishing Helicopter Transportation Services for the State of Hawaii between the Department of Land and Natural Resources, Division of Conservation and Resources and Resources Enforcement, Windward Aviation, Incorporated and ManuIwa Airways, In.

Jason Redulla Deputy Enforcement Chief for the Division and Conservation and Resources Enforcement-DOCARE clarified that the correct name was Windward Aviation Inc.

Chair Case interrupted to remind Hayashi that if he wanted to request a contested case he needed to do so orally before he leaves today and follow up in writing in 10 days.

Redulla continued with DOCARE's request.

Unanimously approved as amended (Woodside, Gomes)

ITEM E-2 Establish a Volunteer Agreement with Ke Kahua o Kūali'I, Inc at Kawainui State Park Reserve, Ko'olaupoko, O'ahu [Tax Map Key: (1) 4-2-13: por. 10].

Written testimony was submitted by G. Umi Kai OHA, Charles A. Prentiss, Keahi Piiohia and Teresa A. Parsons.

Curt Cottrell Administrator for State Parks-PARKS had one amendment to add the word Inc. to the end of the name.

Theresa Parsons a resident of Kailua testified in support of this item.

Unanimously approved as amended (Gomes, Woodside)

6:00 PM Member Gomes Left.

ITEM C-1 Request for Authorization for the Chairperson of the Board of Land and Natural Resources to Sign, Execute, Amend, and Extend Agreement(s), Contract(s), and Other Document(s) for the Capital Improvement Project Grant-in-Aid to the 501(C)(3) Nonprofit Organization, Hawaii Wildlife Center, Located in North Kohala on the Island of Hawai'i, Tax Map Keys no. (3) 5-3-007:015

And

Request Approval of Declaration of Exemption from the Preparation of an Environmental Assessment, Pursuant to Hawai'i Revised Statutes Chapter 343 and Hawai'i Administrative Rules Chapter 11-200.

Dave Smith Administrator for the Division of Forestry and Wildlife-DOFAW conveyed item C-1. Smith asked to amend specifying authorizing the chair to sign the declaration of exemption.

Unanimously approved as amended (Downing, Woodside)

ITEM D-1 Amend Prior Board Action of February 12, 2016, Item D-1, Issuance of Revocable Permit to Michael Fernandes and Leland Fernandes for Pasture Purposes, Wailua, Kawaihau (Puna), Kauai, Hawaii, Tax Map Key: (4) 4-1-009:007 and 4-1-010:016.

ITEM D-2 Amend Prior Board Action of February 12, 2016, Item D-2, Issuance of Revocable Permit to Michael Fernandes and Leland Fernandes for Pasture Purposes, Wailua, Kawaihau (Puna), Kauai, Hawaii, Tax Map Key: (4) 4-1-009:020.

Ian Hirokawa representing LAND had no changes. There was no more public testimony.

Unanimously approved as submitted (Oi, Yuen)

ITEM D-4 Consent to Mortgage of General Lease No. S-5721 with Estoppel Certificate, Keāhole Point Fish LLC, Lessee/Mortgagor, Ulupono Holdings LLC, Mortgagee, Kalaoa 1st-4th, North Kona, Hawai'i, Tax Map Key: (3) 7-3-043:Seaward of Kalaoa.

No changes.

Unanimously approved as submitted (Oi, Yuen)

ITEM D-5 Cancellation of Governor's Executive Order No. 3333 and Reset Aside to the Department of Education for Teachers' Cottage Purposes, Kawaipapa, Hāna, Maui, Tax Map Key:(2) 1-3-004:022.

Unanimously approved as submitted (Downing, Woodside)

ITEM D-6 Forfeiture of Grant of Easement Bearing Land Office Deed No. S-28685, to Randall S. Sohler, Grantee, Kanaio, Makawao, Maui, Tax Map Key:(2) 2-1-003:Portion of 050.

Member Yuen asked to defer item D-6.

Item Deferred

ITEM D-7 Issuance of Right-of-Entry Permit to Destination Maui Realty, LLC for the Demolition and Removal of a Damaged / Unsafe Wooden Deck (Encroachment) at Lāhainā, Maui, Tax Map Key: (2) 4-5-001: Seaward of 003.

Member Yuen asked if they were going to remove everything. Hirokawa confirmed and noted that if not removed there would be encroachment issue.

Unanimously approved as submitted (Yuen, Woodside)

ITEM D-8 Cancellation of Governor’s Executive Order No. 2365 and Reset Aside to the Department of Education for Teachers’ Cottage Purposes, Kaunakakai, Moloka‘i, Tax Map Key:(2) 5-3-002:072.

No changes.

Unanimously approved as submitted (Oi, Yuen)

ITEM D-9 Issuance of a Right-of-Entry Permit to Waikīkī Roughwater Swim Committee, Inc. for a Swim Race Event to be held on September 5, 2016, at Waikīkī, Honolulu, O‘ahu, Tax Map Key: (1) 2-3-37:por. 21.

No changes.

Unanimously approved as submitted (Yuen, Oi)

ITEM D-11 Consent to Assign, and Amend Grant of Non-Exclusive Easement No. S-5910, Richard E. Reese, Trustee of the unrecorded Richard E. Reese Revocable Living Trust dated July 14, 1993, as Assignor, to Thomas R. Hammond and Kathy S. Ohara, as Assignee; Makiki, Honolulu, O‘ahu, Tax Map Key: (1) 2-5-020: portion of 002.

No changes.

Unanimously approved as submitted (Yuen, Oi)

ITEM D-13 Amend Grant of Non-Exclusive Easement No. S-5857 for Seawall and Boat Ramp Purposes; Elizabeth Rice Grossman, Trustee of the Elizabeth Rice Grossman Family Trust dated April 12, 2001; Kailua, Ko‘olaupoko, O‘ahu; TMK (1) 4-3-005:seaward of 094.

No changes.

Unanimously approved as submitted (Oi, Yuen)

ITEM D-14 Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Lanikuhonua Beach on June 2, 2016, Honouliuli, ‘Ewa, O‘ahu, Tax Map Key: (1) 9-1-057:seaward of 001.

Member Downing asked to find out what this is being done for.

Member Woodside asked if the same process would be utilized for this fireworks display same as Hilton. Hirokawa confirmed.

Unanimously approved as submitted (Woodside, Yuen)

ITEM D-16 Acquisition of Private Lands and Set Aside to Division of Forestry and Wildlife for Conservation Purposes, situate at Kalauao, ‘Ewa, O‘ahu, Tax Map Key: (1) 9-8-001:001.

Hirokawa added that in this case the land owner has agreed sign and agree to all LAND’s hazardous materials. LAND feels there is a low risk for a contamination problem so in this case they ask that the requirement for a fresh phase one be waived pending all the other requirements.

Unanimously approved as submitted (Woodside, Oi)

ITEM E-1 Amendment of General Lease No. SP0175, Ned Dana and Hollis Dana, Lessees, Waimea Canyon State Park, Lot 3, Pu‘u KaPele, Waimea (Kona), Kaua‘i, Hawai‘i, Tax Map Key: (4) 1-4-002:018, The Purpose of the Amendment is to Correct the Termination Date to Read December 31, 2028;

Consent to Assign General Lease No. SP-0175, Ned Dana and Hollis Dana, formerly husband and wife, (Divorce Decree filed on December 22, 2008 in the Fifth Circuit, State of Hawaii), herein collectively referred to as “Assignors”, to Taradan Lewis, Assignee, Waimea Canyon State Park, Lot 3, Pu‘u KaPele, Waimea (Kona), Kaua‘i, Hawai‘i, Tax Map Key: (4) 1-4-002:018.

ITEM E-3 Renewal of Volunteer Agreement with ‘Ahahui Mālama I Ka Lōkahi at the Nā Pōhaku o Hauwahine Site, Kawainui State Park Reserve, Kailua, Ko‘olaupoko, O‘ahu [Tax Map Key: (1) 4-2-13: por. 10].

Written testimony was submitted by OHA.

Cottrell-PARKS had no changes.

Unanimously approved as submitted (Oi, Yuen)

ITEM F-1 Request For Approval To Hold Public Hearings To Amend Hawaii Administrative Rules Chapter 13-74, License And Permit Provisions And Fees For Fishing, Fish, And Fish Products. These Amendments Are

Intended To Establish A License For Dealers, Require Dealer Reporting, And Raise The Commercial Marine License Fees From \$50 To \$150 Per Year.

The Rules can be reviewed online at <http://dlnr.hawaii.gov/dar/rules-and-public-notice/> or can be reviewed or obtained in person at the Division of Aquatic Resources (DAR) offices on Oahu at 1151 Punchbowl St. Room 330 Honolulu, Hawaii 96813 from 8:00 am to 3:30 pm, Monday through Friday, except Holidays.

Alton Miyasaka representing the Division of Aquatic Resources-DAR presented item F-1. The primary reason they are asking for this fee increase was because they recently lost a lawsuit where they were charging non-residents more than residents. The department would have to charge non-residents and residents the same fees. The reduction in the non-resident fees from \$200 to \$50 created an immediate reduction in revenues equal to \$150,000 per year. He explained what the increase in fees would go towards.

Member Downing asked why not go from \$50 to \$150 now, instead of \$100 in the first year followed by \$150 in year two. Miyasaka said that the immediate need was to cover the loss in revenues, which would be recovered by the year one increase. The year two increase would pay for needed future improvements to the website and licensing system. We are not ready to fund these improvements at this time so the funds are not needed until year two.

Member Oi asked DOFAW if this (court ruling) would affect them and hunting fees. Smith-DOFAW said no.

Unanimously approved as submitted (Woodside, Oi)

ITEM L-1 Declare Project Exempt from Environmental Assessment Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawai'i Administrative Rules, Job No. D00CO68A, DOFAW Kawainui Marsh Baseyard Improvements, O'ahu, Hawai'i.

ITEM L-2 Declare Project Exempt From Environmental Assessment Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawai'i Administrative Rules.

For Job No. J40CO30A, Kalauhaehae Fishpond (Lucas Spring) Demolition, Niu Valley, Oahu, Hawai'i.

ITEM L-4 Declare Project Exempt from Environmental Assessment Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawaii Administrative Rules, Job No. F27C793A & F27C793B, He'eia State Park, O'ahu – Improvements to Building and Access Road, Kāne'ohe, O'ahu, Hawai'i.

Carty Chang Chief Engineer-ENG had corrections to items L1, L2, and L4. He asked that submittal titles match the Agenda titles. The Agenda titles are correct.

Unanimously approved as amended (Yuen, Woodside)

ITEM L-3 Appointment of Peter Tausend, Ph.D. to Serve as a Director of the West Kauai Soil and Water Conservation District.

No changes.

Unanimously approved as submitted (Yuen, Woodside)

ITEM M-7 Issuance of a Direct Lease to Barbers Point Aviation Services, LLC Kalaeloa Airport, Island of O‘ahu, State of Hawai‘i, Tax Map Key: (1) 9-1-13: Portion of 32.

Member Yuen asked to defer item M-7.

Deferred

ITEM M-2 Amendment to Prior Board Action of April 22, 2016, Item M-3, Additional Space (Space No. 373-120), Issuance of a Revocable Permit for Airline Operations, Delta Air Lines, Inc., Honolulu International Airport, Tax Map Key: (1) 1-1-003: 001 (Portion).

ITEM M-3 Issuance of a Revocable Permit for Vehicle Parking, Oxford Electronics, Inc. dba Oxford Airport Technical Services, Honolulu International Airport, Tax Map Key: (1) 1-1-003: 001 (Portion).

ITEM M-4 Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, K & S Helicopters, Inc., Honolulu International Airport, Tax Map Key: (1) 1-1-76: Portion of 21.

ITEM M-5 Issuance of a Revocable Permit for the Storage of Aircraft Parking, Michael T. Ajirogi and Paul M. Hamada, Honolulu International Airport, Tax Map Key: (1) 1-1-76: Portion of 23.

ITEM M-6 Issuance of a Revocable Permit for a Facility to Conduct Skydiving Activities, Skydive Academy of Hawaii, Corp., Kawaihapai Airfield, Waialua, Hawaii, Tax Map Key: (1) 6-08-14: 001 (Portion).

ITEM M-8 Issuance of a Revocable Permit for Aircraft Parking, Hawai‘i Aircraft Leasing LLC, Kalaeloa Airport, Tax Map Key: (1) 9-1-13: Portion of 32.

ITEM M-9 Issuance of a Revocable Permit to Park a Storage Container, The Right Flight Services LLC, Kalaeloa Airport, Island of Oahu, State of Hawai‘i, Tax Map Key: (1) 9-1-13: Portion of 32.

- ITEM M-10 Issuance of a Revocable Permit for Office Space, The Right Flight Services LLC, Kalaeloa Airport, Island of Oahu, State of Hawaii, Tax Map Key: (1) 9-1-13: Portion of 32.**
- ITEM M-11 Issuance of a Revocable Permit for Security Offices, Space Nos. 117-112, 117-115, and 117-116, Securitas Security Services USA, Inc., Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 19.**
- ITEM M-12 Issuance of a Revocable Permit for Security Offices, Space Nos. 330-108 to 330-111 and 330-113 to 330-115, Securitas Security Services USA, Inc., Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 19.**
- ITEM M-13 Issuance of a Revocable Permit for a Security Office, Securitas Security Services USA, Inc. Lāna‘i Airport, Tax Map Key: (2) 4-9-02: Portion of 55.**
- ITEM M-14 Issuance of a Revocable Permit for a Security Office, Securitas Security Services USA, Inc., Moloka‘i Airport, Tax Map Key: (2) 5-2-04: Portion of 8.**
- ITEM M-15 Issuance of a Revocable Permit for a T-Hangar and Large End Room for Office, Storage and Maintenance of Aircraft, Alii Aviation, LLC, Hilo International Airport, Tax Map Key: (3) 2-1-12: Portion of 90.**
- ITEM M-16 Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, N288HP, LLC, Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-43: Portion of 40.**
- ITEM M-17 Issuance of a Revocable Permit for Security Offices and Trailer, Securitas Security Services USA, Inc. Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-43: Portion of 40.**
- ITEM M-18 Issuance of a Revocable Permit for Air Cargo Operations and Parking Stalls, Federal Express Corporation, Lihū‘e Airport, Tax Map Key: (4) 3-5-01: Portion of 8.**
- ITEM M-19 Issuance of a Revocable Permit for Aircraft Parking, Ronald Heller (Space No. 410-107), Lihū‘e Airport, Tax Map Key: (4) 3-5-01: Portion of 8.**

Ross Smith Property Manager for the Department of Transportation Airports Division-DOT-AIR presented items M-2 through M-19, minus M-7.

AG Lau asked Smith to confirm that the 343 exemption that he has indicated in the submittals has all been the determination of exemption that has been done by DOT rather than being asked of the Board. Smith confirmed.

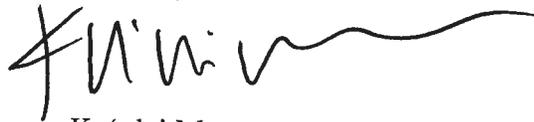
Unanimously approved as submitted (Yuen, Oi)

Chair Case made it clear that the denial decision for item K-1 will be stayed if there is perfected request for a contested case.

Member Woodside made a motion to adjourn, Member Yuen seconded.

There being no further business, Chair Suzanne D. Case adjourned the meeting at 6:21 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,



Ku'ulei Moses
Land Board Secretary

Approved for submittal:



Suzanne D. Case
Chairperson
Department of Land and Natural Resources