

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

DATE: THURSDAY JULY 22, 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 9:03 a.m. The following were in attendance:

**MEMBERS**

Suzanne Case  
Chris Yuen  
Stanley Roehrig  
Keone Downing

James Gomes  
Thomas Oi  
Ulalia Woodside

**STAFF**

Kevin Moore-LAND  
Ed Underwood-DOBOR  
Maria Carnavale-PMNM

Gordon Heit-LAND  
Carty Chang-ENG  
David Smith-DOFAW

**OTHERS**

Amanda Weston/AG  
Tom Narvies/D-11  
Scott Branshaw/D-11  
Fred DEAngelo/J-1  
Ryan Yiangihara/J-1  
David Bettencourt/J-1  
Curtus Matsuda/DOT-HWYs  
Ivan Loui Kwan/D-10  
Gil Riviere/D-11

Mike Cutbirth/D-11  
Meilissa Permassio/D-11  
Brita Woeck/D-11  
Ryan Yianagihara/J-1  
David Kawananakoa  
Wayne Tanaka/L-2  
Charles Littnan/F-1  
Ross Smith/DOT-AIR

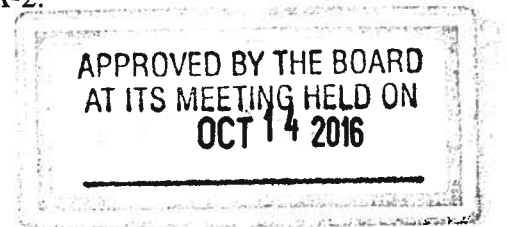
**ITEM A-2 Approval of April 22, 2016 Minutes**

Member Roehrig and Member Yuen gave corrections to item A-2.

**Unanimously approved as amended (Yuen, Roehrig)**

**ITEM A-3 Approval of May 13, 2016 Minutes**

Member Yuen gave is corrections to item A-3.  
The Board needed to confirm the motion on an item in these minutes.



It was later confirmed.

**Unanimously approved as amended (Woodside, Gomes)**

**ITEM A-5 Approval of June 09, 2016 Minutes**

Member Yuen had corrections to item A-5.

**Unanimously approved as amended (Yuen, Roehrig)**

**ITEM A-6 Approval of June 24, 2016 Minutes**

Member Yuen had corrections to these minutes as well.

**Unanimously approved as amended (Yuen, Roehrig)**

**ITEM D-5 Amend Prior Board Action of April 8, 2016, Agenda Item D-2, Issuance of a Month-to-month Revocable Permit to C. W. Maintenance, Inc. for Janitorial Service Purposes, Waiākea, South Hilo, Hawai‘i, Tax Map Key: (3) 2-2-049:014.**

Kevin Moore Assistant Administrator for Land Division-LAND introduced Gordon Heit Hawaii Island Property Manager. Moore noted that Heit was present for items D-5, D-6 and D-8.

Moore presented item D-5.

The Board had no questions.

**Unanimously approved as submitted (Roehrig, Gomes)**

**ITEM D-6 Forfeiture of General Lease No. S-3954, Miyashiro Poultry & Hog Farm, Inc., Lessee, Panaewa Farm Lots, 2<sup>nd</sup> Series, Waiākea, South Hilo, Hawai‘i, Tax Map Key: (3) 2-4-049: 030.**

*Written testimony was submitted by Marvin Miyashiro.*

Moore-LAND explained that a rent default triggered an inspection this year. The inspection found numerous violations; some of them more serious than others. A notice of default was issued; the 60 day cure period ran without cure so staff is seeking forfeiture of the lease.

Moore indicated that a family member of the lessee sent a letter in asking to let him have a chance to fix things.

Member Roehrig said he would recuse from this item; the original lessee was his client for many years until he died. Member Roehrig then represented his widow.

Member Yuen wanted to hear from Mr. Miyashiro and read an insert from the letter that big changes had been made within the 60 days. Member Yuen asked of staff there were significant efforts to cure the default.

Gordon Heit-LAND said that efforts were made, but wouldn't call them significant. There were numerous infractions. They moved things around but there were still infractions in May. The original purpose of the lease is a hog farm, but the land was being used for other purposes.

Member Oi asked if there were any reopeners from 1965-now. Heit said the first reopening was 20 years and there were subsequent reopening since then.

Member Roehrig made an additional disclosure that his client's brother is "Rodney". Rodney was also his client for many years and is now paralyzed. Rodney is the father of this guy who is trying to fix this.

Chair Case clarified that the lessee is Miyashiro Poultry & Hog Farm. She asked who the principles were and who has land division been dealing with.

Heit explained that according to the DCCA report the principles were Raynold Miyashiro and Kiyoko Miyashiro both are deceased. Right now the manager of the farm is Marvin Miyashiro who went to land division to have it assigned. The company is managed by trustees of the two deceased persons, and they were notified.

Member Gomes asked if there were any types of crops or animals being raised according their agreement. Heit said there were 5 or 6 cows. There were some show chickens; 60 or 70.

Member Gomes asked if there was any track record from 1965. Heit said there were periodic inspections, all of them failed however only 2 or 3 were documented. Since 2000 Heit said he's been out there 3 or 4 times, Moore was out there once.

Chair Case asked if there have been written notices from us to the lessee that there needed to be cleanups. Heit said they were written up for notices of default. They were taken to the land Board in 1998. Notices went to the trustees but they have not responded.

Member Yuen asked if the lease were in good standing were there any provisions where this could be extended under current law.

Heit said it was as 55 year lease, so it could be extended for another 10 years if they were in good standing.

Member Downing asked what percentage of this 10 acre parcel was poultry and hog farm. Heit said less than 1%. He clarified that the use was for piggery only they were allowed to have other animals accessory to these, but it couldn't be for commercial purposes.

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

All were in favor.

Member Roehrig wanted to make the record clear that he was not voting on this item.

**Unanimously approved as submitted (Gomes, Oi)**

**ITEM D-8 Report to the Board of Land and Natural Resources Regarding the Status of Revocable Permit Nos. S-5127, McCandless Ranch and Cattle Co., S-7193, W.B. Kukio Resorts, LLC and S-7867, Country Club Hawaii, Inc. The Board Specifically Expressed its Desire to Revisit the Rent Charged Under Revocable Permit No. S-7867, and Assess Whether Revocable Permit No. S-5127 and Revocable Permit No. S-7193 Should Continue Past June, 2016.**

Kevin Moore-LAND noted that this was just a report. He explained that last December the Board asked LAND to report in June on 3 revocable permits (RP) for Hawaii Island. With respect to Country Club, the Board was deciding whether to keep the rent the same or adjust it. The appraisal is getting wrapped up and LAND will be coming back to the Board in a few months with a request to renew and evaluate rents for revocable permits and suggested leaving the rent issue for that event.

For McCandless, Heit went out and did an inspection and although it's a RP for pasture use, it's not used for pasture use, but they need the land to access their other private land that surrounds this. The two alternatives could be to cancel the existing RP and issue a new one or grant them an easement over the parcel instead of keeping a RP over the whole premises.

Member Yuen said this was a very nice native forest area. When he was on the Board in the 90's they changed it from an RP for pasture to just access but when he looked at the spread sheet, it was pasture again. He didn't know how that happened. He was glad that they were only using it for access, but the RP should only be for access.

Moore thought what may have happened was that the Board approved the action, but it was not documented. He said they could amend the RP to change the use. Member Yuen suggested renewing this access when they come up.

Heit confirmed that when he spoke with Unger, he said that the original was done around 1997. Unger said that at that time they weren't ready so they asked for a delay. After that nothing further occurred.

Member Roehrig disclosed that his sister was best friends with Keith Unger's grandmother who still lives there. Keith Unger was not only the manager, but he's the first string center for the New Orleans Saints at the present time. Member Roehrig suggested cleaning these up by the end of the year.

Chair Case was curious to know if they were looking for a long term access easement. Member Yuen said he did talk to their attorney and they are negotiating to sell some of the ranch as they have in the past to US Fish and Wildlife. Member Yuen suggested DLNR making a cooperative management of this area by the federal Government as part of the existing forest bird sanctuary.

Member Roehrig commented that on the 3<sup>rd</sup> RP LAND needed to be aggressive on getting on top of this.

There was no public testimony on this item.

**Non Action Item**

**ITEM D-7 Consent to Assign General Lease No. S-5235, Kaialii Kahele, Assignor, to Orasa Kaiulani Fernandez, Assignee, Miloli'i-Ho'opūloa, South Kona, Hawai'i, Tax Map Key: (3) 8-9-014: 053.**

Moore conveyed item D-7.

Member Roehrig disclosed that he knew Kaialii Kahele.

Heit added that the assignee was the daughter of the original assignee.

**Unanimously approved as amended (Woodside, Gomes)**

**ITEM D-11 Acceptance of Final Environmental Impact Statement (FEIS) for Na Pua Makani Wind Power Project situate at Kahuku-Mālaekahana, Ko'olauloa, O'ahu, Tax Map Key: (1) 5-6-008:006 (por.).**

*Written testimony was submitted by Wendy Barnfield, Scott R. Brewer, Frank & Dhora DelaSilva, Tom Jacobs, Marc and Terry Myer, Robert Stauffer, PhD, Bill Quinlan, Miriam Chang, MD, Kent Fonoimoana, Jeff Peterson, Angela Huntmer, KC Connors, Kalani Schrader, and Charlotte H. Kamauoha.*

Moore-LAND explained that the plan was to build up to 9 wind turbines on this site, 5 of which would be located on the state parcel. The applicant was present. The staff review was looking at the process and making sure it is compliant with HRS Chapter 343, and staff believes it was, so the staff recommendation was to accept the environmental impact statement. If this is approved, then the next step would be the applicant coming before the Board for a lease of the 232 acres. They would also need their habitat conservation plan approved by the Board as well as an incidental take license, as well as some federal approvals.

Mike Cutbirth manager of Na Pua Makani Wind Power Project, the applicant for the proposed project offered comments.

Senator Gil Riviere of District 23 testified expressing his serious concerns. He handed out documents including pictures. He explained that the turbines could be up to 500 ft tall. Riviere was also concerned about the transport of the blades and navigating them to the destination. He encouraged the Board to go back and analyze Waimea Bay to be sure that the turbines can be transported without shutting down the road for days at a time. Riviere expressed his concern about the area that the windmills would be spinning, he also expressed his concern about the noise.

Riviere asked the Board to consider when is it too big, can they deliver and shouldn't we ensure that it can be delivered. He felt like this was going at a very fast rate and hoped that the Board was taking careful time and analysis on this.

Member Gomes told Riviere that when the ranch that he works at on Maui had turbines transported to them, the turbines were brought in sections. One turbine from bumper to rear was 200 ft. When they came in on through the ranch pasture they made articulated turns on the trailer. He also said the blades were 165 ft. long, but the spinning was not loud at all. Member Gomes also explained that one piece was brought in at a time over a period of time and it took about 1.5 hours.

Rivera's concern was that the turns going around Waimea haven't been looked at.

Member Roehrig suggested maybe looking into using a chopper to bring in the windmills.

Tom Narvies testified in support.

Melissa Permassio from Kahuku testified in support.

Scott Bradshaw testified and offered his comments in regards to this item. Bradshaw also emphasized the many letters of support for this project.

Brita Woeck with Tetra Tech introduced herself and introduced others from her staff who were available to answer questions. Woeck touched on comments from Riviere brought up.

Woeck first touched on the transportation route; a very detailed analysis has been made to make sure that the road is passible. It wasn't included as a separate appendix on the EIS.

Woeck introduced Scott Null who did the noise study for the EIS. Null disclosed that it was correct that some of the larger turbines that are being proposed are some of the quieter turbines. They are about 2 decibels lower than some of the smaller turbines. Null further explained the process of determining the noise. Woeck confirmed that the Department of Health restrictions on noise levels would be met.

Woeck called Chris Lawson up to talk about the visual analysis. Lawson explained the process and how the context was evaluated.

Member Gomes felt this was a win-win situation; he felt like everyone can benefit from this.

Woeck explained the blade tip speed and even though there were longer blades, it's spinning slower.

Mike Cutbirth commented that over the last several decades the wind industry has made several strides in technology.

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

Member Roehrig commented that this was not an easy area for the Board to vote on. The context of the fossil fuel energy has caused the cost to go crazy. This is part of the price to pay if we are going to get off of fossil fuels.

Member Yuen added that we are in a global crisis due to climate change and have to do something. Everything has an impact. This symbolizes that we are getting your sources from natural energy.

Chair Case agreed that climate change and fossil fuels are destroying our planet and everyone needs to do what we can do reduce those impacts. It does come at a cost and she appreciated the careful analysis of the costs.

Member Gomes agreed with Member Yuen and Chair Case.

All were in favor.

**Unanimously approved as submitted (Gomes, Yuen)**

10:44AM RECESS

10:54PM RECONVENE

**ITEM J-1 Request to Modify Lease Performance Bond and Request for a Waiver of Interest, or in the Alternative, Approval for Issuance of a Promissory Note for Boating Lease No. B-11-01, to Sandbar Group, Inc., for He'eia State Harbor Fuel and Restaurant Operations Tax Map Key (1) 4-6-006: Por. 067.**

Ed Underwood Administrator for the Division of Boating and Ocean Recreation-DOBOR reminded the Board that last March the Board issued a notice of default and had recommended terminating the lease due to failure to pay rent and the performance bond. At that meeting the Board gave them a year to pay the back rent, come up with the performance bond and DOBOR kept the chairperson up to date as to how they were progressing. After the year had gone by, this year March, they still did not pay the back rent and the performance bond so DOBOR issued a second notice of default. When the second notice of default was issued, DOBOR spoke with the new management that they brought in. (The representatives were present). They did pay all the back rent, so all the back rent is current now. They paid the late fees that were associated with the back rent. They have asked to amend the lease to reduce the performance bond from a two year performance bond to a one year performance bond. They agreed to have that in place in 6 months. The back rent had generated interest in the amount of about \$16,000, they have asked that that interest be waived or that they be allowed to pay it off with a note somehow. DOBOR is okay with waiving that interest because the way DOBOR's billing system works, is they can only choose the late fee or the interest, it won't show both. When they were getting the billing statements, they were getting them with the late fee and had no idea they were getting charged interest.

Chair case asked if the documents if the lease say that there is interest. Underwood confirmed that the lease does say a 1%.

Member Downing asked what the difference in price was between the one year bond and the two year bond. Underwood said it was about \$72,000 for the two year and \$36,000 for the one year.

Fred DeAngelo President of the Sandbar group introduced himself and noted that he has been in the position since June of 2015.

Ryan Yiangihara with the Sandbar group introduced himself.

DeAngelo gave some background and history of how he became part of the Sandbar and explained that they made a lot of repairs and upgrades. He partnered with one of the of the tour companies and currently provide catering to the boats out to the sandbar. They decided as a team to make things right with the State to move things forward.

Ryan Yiangihara gave background about his involvement in the project. All that DeAngelo has mentioned has given them sustainable consistent cash flows such that they can pay the rent in a timely matter, consistently month after month. The issue that they have on the table today was that all the back rent that they just made whole was the prior operator's delinquency that they were not aware of, but they made it whole. They were not aware of the accrued interest; they feel that that money can be used to better serve the community with the pier itself. DeAngelo added that it could help with the performance bond issues and other repairs to the facility.

Member Downing asked when they felt they would be at their break even point in turning the profit. DeAngelo said they were close, they were there now and have made the turn. It was the partnership with Capitan Bruce Tours that allowed them to do that. They are still in the process of building a good reputation.

Member Downing asked when they would be able to afford a two year bond. DeAngelo said they might be able to look at that at a 5 year mark.

Member Gomes asked what would happen if the Board decided not to move forward. DeAngelo explained that their money partner who has invested the most would not want to continue the operation.

Member Gomes asked how much of the operation was used by the public. DeAngelo said more than 50%. Member Gomes applauded him for trying to pull this together.

Yanagihara detailed how special this place was. They really want to make this work for the benefit of the community and State and the users of the boat harbor.

Henry Sales testified that there hasn't been fuel there for 5 years and didn't thin, that putting a fuel truck will service the entire windward side as far as all the boaters. He felt the fuel truck would be insufficient, too small.

David Kawanakoa a Kanaohe boater testified there has been nothing on the original lease that has been done. He suggested the lease go back to the original concept the way the state wrote the lease to be and find someone to run it who can start getting revenue. Kawanakoa suggested



getting someone in there who would just get everything done; someone who's got a plan and got the money and willing to abide by the lease. He felt they were only catering to the commercial boaters and not the general public.

Member Oi asked what they were going to do if the lease were cancelled and there was no fuel. Kawanankoa said they would put in a fuel tank, knock down the one that's there and put in a new one.

Member Oi said the process to get a new lessee on would take over a year and asked how they would get their fuel. Kawanankoa said they don't get fuel now and didn't see how a fuel truck was going to be the answer for the next 25 years.

Chair Case asked Kawanankoa if he was looking into taking over the lease. He said he would consider putting in as bid, he had a business plan. He said they would agree to follow the lease as is no amendments, and they would just mail a check in.

David Bettencourt, conducted work for Kawanankoa and Sales. Bettencourt told the Board that they didn't even know who owned the sandbar. The ownership changed which is essentially an assignment of the lease without Board permission. He said DeAngelo and crew kept saying the former operator, but they are the operators. They may have changed staff and investors but it's been the Sandbar Group the whole time. Bettencourt disclosed that the request for proposal said that at no time shall the lessee fail to provide fuel service. He said that the minutes for item J-2 March 13, 2015 where this lease was up for cancellation and they were in here begging with the same people for the same promises. Bettencourt said there was no business plan from this group, there was no income or debt statement, no financial statements, etc. He also said there were no records of insurance, there were no quarterly reports. Bettencourt felt it was an abuse of discretion; the Board has no idea who they are a dealing with.

Member Roehrig asked Underwood what his comments were on Bettencourt's testimony. Underwood said that with regards to the change in ownership, that was a question DOBOR asked as well, they were told the ownership of Sandbar Inc. had not changed, that they were brought on as officers of the corporation and they were brought on to help manage this lease to where it can generate income to by their bills, otherwise he would've added that assignment to the submittal if he needed to. Regarding the fuel tanks, the harbor master who installed the fuel tanks years ago indicated that the fuel tanks never made any money; it was a service that was provided. Underwood said that when he read the lease, the lease says that they shall provide the equipment to provide the fuel service. They are trying to bring a fuel truck in until they can get a fuel tank, but it's going to be hard to get a fuel tank in that doesn't generate any cash flow.

Member Roehrig asked about the defaults and conditions that were brought up by Bettencourt. Underwood explained that when this was brought to the Board last year, it was because the rent had been over a year and there had never been a performance bond in place. The Board at that point gave them a chance to pay the back rent, get the performance bond in place and he (Underwood) was to update the Chairperson quarterly. Underwood did not provide any written updates, they were all verbal. When the second notice of default was given, March of this year, Underwood told them that he could not go before the Board for any relief if they had not met the

requirements. It was at that time that get all got together to come up with the back rent, all rent due and late fees. What was outstanding was the interest as discussed earlier, they also asked for more time for the performance bond. Underwood agreed to go before the Board and ask for that.

Member Roehrig made a motion to approve.

Chair Case indicated that there was a waiver of interest or a promissory note for 1 year for the interest. Member Roehrig said he was okay either way.

Member Oi suggested revisiting the performance bond in 5 years, and wanted to add that.

Member Downing also asked to take the interest penalty and work out a plan with them to get a truck now versus later.

Chair Case confirmed that the motion was to approve on the alternative to waive the interest (\$16,000 +) on the condition that it be applied to the commitment of the lessee to get a fuel truck in place by the end of the year, with a goal of 3 months, also to revisit the bond in 5 years. Member Downing seconded.

Member Gomes was opposed.

**Approved as amended (Roehrig, Downing)**

**ITEM L-2 Delegation of Authority to the Chairperson to: (1) Declare a construction project exempt from the preparation of an environmental assessment or approve an environmental assessment (EA) and issue a Finding of No Significant Impact (FONSI), if appropriate; and (2) Approve, Procure and Enter Contracts and Supplemental Contracts for Construction Projects**

*Written testimony was submitted by Kamana'opono Crabbe, Ph.D.*

Carty Chang, Chief Engineer-ENG conveyed item L-2. He noted that these two actions were put on the agenda this way because they have to be approved in sequence. Chang also noted that there have been other delegations that have been similar to this. He used the August 14, 2015 as an example, also September 25, 2015 and November 13, 2015.

Chang then explained the process when a project is declared exempt or an EA/FONSI is done. There is a consultation process that ENG does as well HRS 11-200-8 that happens before these things are brought to the Board.

Chang added that in the last 2 years ENG has brought 32 projects to this Board and all of them were exempt. There was little to no testimony, there were 3 EAs and FONSI's that were brought to this Board. If there is ever a controversial EA that can always be brought back to the Board. This submittal does not ask to delegate authority to Environmental Impact Statements (EIS). All the projects that are moving forward have been approved by the legislature, the funds were released by the Governor, 343 has been complied with, the procurement will be complied with

and all the projects that are coming to the Board will be reviewed and approved by the attorney general.

Chang told the Board that once the bids are open there is a 60 day award period; they have to award the construction of contract within the 60 days of the bid opening. With the actions in front of the Board today it doesn't change the process that ENG needs to go through and doesn't preclude the public from being involved in the process.

Member Yuen wanted clarification as to when this project would come to the Board if this does to through. Was that going to be approval to go out to bid or approval to award a contractor. Chang said that in this case the Board would be delegating to the Chairperson. The only time the project would come to the Board would be if it has an environmental impact statement.

Member Yuen asked if the project itself would come back, he referred to the annual report. Chang explained that in the past, those projects were brought to the Board, but at that time those were just project that had funding appropriated for them. What they are doing is changing the way things are brought to the Board. There needs to be a 343 analysis before the Board has all the information they need to move a project forward into construction.

Member Yuen didn't like that the same project comes to the Board repeatedly but would like for the Board to look at the CIP project itself at some point. He suggested this for significant projects. Member Yuen said he was fine delegating the exempts and the FONSI's, but it seemed that the Board looks at the contracts at some point.

Chang said in the past the list that was provide to the Board was asking to allow the Chairperson to approve the hiring of a consultant for those projects, also to award construction projects for those particular lists of projects that were brought.

Member Woodside asked if these were similar to item L-1; both of these are approved, then the Board will only see all EIS's and contracts over 1 million dollars.

Chang clarified that the 1 million dollars for L-1 is only for professional services contracts, designed consultants that exceeds a million dollars.

Member Yuen asked what would happen if the Board still got the annual list and at that point the Board delegated the EAs and the Exempt and the signing of the construction contracts on into the future as the action of the Board.

Chang clarified that what Member Yuen was proposing was that at the end of each legislative secession and at the beginning of each fiscal year, bring a list of projects to the Board, for specific actions.

Member Yuen said they would then delegate that list to the Chairperson at her discretion. He didn't think it would be a problem, the Chairperson still has to do the 343 analysis, that's not being waived, and it's just being delegated to the Chairperson. Member Yuen asked to asked Chang and the Board to keep this in mind option in mind as they listen pubic testimony.

Wayne Tanaka with the Office of Hawaiian Affairs-OHA testified asking the Board to decline the chapter 343 delegation. Tanaka summarized their written testimony. They felt having Board and public review over these can help due diligence. Tanaka argued that this would change the process by limit public transparency.

Member Yuen commented that the process of DLNR is more involved than other State agencies because most State agencies don't have a Board and are strictly administrative. He said there was a transparency built into the statue that the FONSI is published in the bulletin. Member Yuen thanked Tanaka for mentioning the quarterly publication of exempts and said that it should be incorporated in this if approved.

Tanaka responded that the DLNR has the largest amount of lands in the state, and felt it would make sense for DLNR to put itself out there as a role model and hold itself as the highest standard when it comes to environmental review and protection.

Chair Case commented that the Department was trying to find the right balance and not overwhelm the process.

Member Woodside commented that she was less concerned about the FONSI process but the categorical exemption. She asked if there was a deadline for categorical exemptions. Tanaka believed the deadline was 30 days.

Member Yuen noted that it would be challenged in 30 days unless the agency can prove that they knew about it earlier. It would be 30 days from notice.

Member Yuen made a motion to approve with the amendment that the division will bring an annual list CIP projects to the Board with the request that the Board will then delegate to the Chairperson the declaration of exempt or a FONSI and delegate to the Chairperson putting out an award of contract pursuant to law.

Chair Case clarified that his amendment would be to ask ENG to bring the list of projects to the Board at the beginning of the year to review and in that process delegate the authority of contacts.

Member Yuen confirmed and his idea was that the Board would do an annual delegation that would cover a list of projects.

Chang asked what was going to happen today, can they proceed or do they need to come back with a list. He said last year's list hasn't been brought back to the Board. It was approved but didn't include the supplemental proposals.

Member Yuen had no problem delegating that list under the current action.

Chair Case made it clear that this would be a delegation for the projects that were on last year's list; they are delegated under this current action today, and for this year's list it would need to be brought back to the Board and ask for a delegation.

Chang asked 343-7a if that included the exemptions.

Member Yuen restated that the motion was to approve with the amendment that this applies to the projects on last year's CIP lists presented to the Board and for future lists the Division will bring CIP lists to the Board and ask for an annual delegations of Exempt and FONSI's, plus approval of going out to bid and awarding a construction of projects for all projects. Member Roehrig seconded.

All were in favor.

**Unanimously approved as amended (Yuen, Roehrig)**

**ITEM D-12 Grant of Perpetual Non-Exclusive Easement to Department of Transportation, Highways Division, for Drainage Improvement Purposes; Issuance of Immediate Construction and Management Right-of-Entry to Department of Transportation, Highways Division, at Pu'uwa'awa', North Kona, Hawai'i, Tax Map Key: (3) 7-1-002: Portion of 013.**

Moore-LAND reviewed item D-12.

Curtis Matsuda representing the Department of Transportation Highways Division-DOT-HWY emphasized that this is a safety improvement project. There is an S curve in the road that is dangerous during rainy weather. He said it was near mile marker 21. He had two other staff members with him present to answer questions.

Member Yuen and Member Roehrig agreed that it was a bad curve.

**Unanimously approved as submitted (Roehrig, Yuen)**

**ITEM F-1 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit to Dr. Charles Littnan, NOAA Fisheries, Pacific Islands Fisheries Science Center, for Access to State Waters to Conduct Unmanned Aerial System Monitoring Surveys of the Natural Resources of PMNM.**

Maria Carnevale State Co Manager for Papahānaumokuākea Marine National Monument-PMNM conveyed item F-1 explaining the importance of this project.

Member Downing said this was a drone, but asked why the needed snorkeling, swimming, and scuba diving. Carnevale explained that it may not be needed but in the event of a water landing they would need to go retrieve their equipment.

Charles Littnan added that if there was a water landing the a scoop net would be used first, but if the drone did sink, then they would need to dive in to grab it.

Member Downing then asked about land landings. If the drone landed on land, would they be able to walk on land to get it.

Littnan explained that they were developing this to supplement or replace their land activities but they are permitted under the managers permit for their population assessment activities. They will be on land and launching from land. Where they are flying will be close to coastal waters.

Member Downing asked what the outcome was that they were trying to get to. Littnan said that they are hoping that monk seals will be recovered and they would only have to go in every couple of year to check on them. He explained that the important thing for getting this high quality data set was because this was one of the best population data sets for a large mammal in the world.

**Unanimously approved as submitted (Gomes, Roehrig)**

**ITEM F-2 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit to Dr. Russell E. Brainard, National Oceanic and Atmospheric Administration, Pacific Island Fisheries Center, for Access to State Waters to Conduct Activities for the Pacific Reef Assessment and Monitoring Program.**

Carnevale-PMNM reviewed item F-2. She noted that there were lots of questions on how to take samples. Those questions are being reviewed at the Division of Aquatic Resources.

The applicant was present for questions.

Member Oi asked if the knowledge would be brought back to the main Hawaiian Islands once all is said and done. Carnevale disclosed that the knowledge would be shared with other divisions.

Member Gomes asked if they ever named the species that they found last time. Carnevale wasn't sure what species he was referring to, but there was a naming subgroup that was working on the naming.

Frank Perish acting division head for the system science division thought Member Gomes was referring to the Gold Coral which was recently renamed.

**Unanimously approved as submitted (Gomes, Yuen)**

**ITEM D-10 Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach on August 2, 2016, and Consider Increasing Safety Zone Fee, Waikīkī, Honolulu, O'ahu, Tax Map Key: (1) 2-3-037:021 (Portion).**

Kevin Moore Assistant Administrator for Land Division-LAND explained that these are pretty routine, but recently the Board asked staff to reconsider the charge for the safety zone around the firing site; which was a standard \$500. The staff recommendation was to go ahead and issue a

permit. Moore believed Mr. Lui-Kwan was present to ask for a deferral of any of the safety zone fee.

Member Downing asked if this included the cleaning process that they were going to be doing. Moore confirmed yes, it would include the deposit and all.

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

Ivan Lui-Kwan, legal counsel for Hilton, said the agenda was not clear to them. The increase of the fee to the safety zone was not clear and Hilton was concerned about the fee. He said that at the meeting on February 2014 the Board approved an action whereby the fee for Hilton's Friday night fireworks production would be \$50. At that meeting Mr. Gibson indicated that for those fireworks productions that are not for community service, but are for non-community service ones; like the August 2, 2016 Hilton agreed to pay the additional \$500, so the total fee would be \$550. The question and concern that they have now is that the decision made by the Board in February 2014 is being changed to add on additional \$500 per fireworks production every week, which is community service by Hilton to the community. Lui-Kwan asked for a deferral because Mr. Gibson, President of Hilton could not be at today's meeting.

Moore made it clear that this was a one time permit, not a community event.

Member Downing told Lui-Kwan that what he was talking about ends in October, so that would probably come back to the Board in October.

Lui-Kwan asked for a deferral so that Mr. Gibson could testify.

Chair Case made it clear that this item was for August 2, 2016 and the rate for what to charge for the Friday night displays would come up in October not today. Lui-Kwan was okay with that, he just wasn't clear.

Moore said the issue was raised in the submittal, but they were just remarks.

All Board members were in favor to approve.

**Unanimously approved as submitted (Gomes, Roehrig)**

12:47PM RECESS

12:51PM RECONVENE

**ITEM M-1 Issuance of a Request for Proposals to Operate an On-Demand Airport-Based Shuttle Bus Concession, Honolulu International Airport, Tax Map Key: (1) 1-1-003: Portion of 1.**

**Withdrawn**

**ITEM M-6 Issuance of an Advertising Concession Agreement to In-Ter-Space Services, Inc. dba Clear Channel Airports, Honolulu International Airport, Tax Map Key: (1) 1-1-03: 001, and :061 (Portions).**

**Withdrawn**

**ITEM M-9 Consent to a Merger of State Lease No. DOT-A-12-0008 from Keystone Holdings, LLC into Air Service Hawaii, Inc., Līhu‘e Airport, Tax Map Key: (4) 3-5-01: Portion of 8.**

**Withdrawn**

**ITEM M-11 Consent to a Merger of State Lease No. DOT-A-08-0002 from Keystone Holdings, LLC into Air Service Hawaii, Inc., Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-43: Portion of 003.**

Ross Smith Property Manager for the Department of Transportation Airports Division-DOT-AIR asked to withdraw items M-1, M-6, M-9 and M-11.

**ITEM M-3 Issuance of a Request for Proposals to Operate an On-Demand Airport-Based Shuttle Bus Concession, Honolulu International Airport, Tax Map Key: (1) 1-1-003: Portion of 1.**

Member Roehrig believed that in existing law DOT did not have authority to service all locations on the Island of Oahu. He saw that they had authority to conduct a shuttle bus, but didn't believe they had jurisdiction to have a shuttle bus to go all around the island. The major problem he had was that this needs to be submitted to the PUC and all the carriers that are in the tourist business of Oahu because the PUC has that authority of routes and where they can go.

Member Roehrig referred to the Ray Roberts Tours and Inc. case 104 Hawaii 98. He explained that this particular case said that the PUC determines the routes of all common carriers and the PUC (under HRS-271-12D) and they determine if you are going to take side tours (HRS-271-12E). He was concerned about this being taking up until the PUC has a chance to look at this also to have the common carriers that fall under PUC. Member Roehrig was also concerned about the Taxi service. He felt like these entities and agencies should be given adequate notice of this proposal.

Chair Case said that there was a request for proposals for service. Member Roehrig understood, but felt like the other entities needed notice; he suggested deferring so that DOT could give notice.

Chair Case explained that there were no other people involved, once the request goes out, then there would be other people.

Ross Smith-DOT-AIR pointed out that there has been an airport Waikiki Shuttle for 25-30 years, Roberts rented it for a good bit of time. In the last bid, Speedy shuttle took it over and they expanded it to other locations. This is an on demand shuttle from the airport; all other entities have the ability on a pre-arranged basis to provide that same kind of service from the airport, provided that they have a reservation.



Member Roehrig asked Smith what his comments were about the PUC's authority. Smith disclosed that they have never had anyone bring that up until now. In the history of the shuttle bus, that has never been brought up.

Chair Case felt that was beyond the Board's review and responsibilities. The Board's responsibility is land disposition.

Member Roehrig asked to cut off the part about moving around town then would be okay with that. He believed that other entities should have notice of what DOT was doing.

Member Downing asked if taxis had to get their own PUC numbers in order to be operating. Smith said that taxis just to be taxis needed their own PUC number.

Member Downing felt they were covered.

Chair Case clarified that what DOT was asking for approvals of was to issue a request for proposals for transportation that begins at specific space at the airport. Smith confirmed.

Chair Case said this was not approval for the shuttle bus concession, but approval for identifying specific spaces that would be for future land disposition if this goes through.

Chair Case noted that the submittal was being amended to say that the Board authorize the call for proposals with respect to the identified spaces for the purpose of issuance of a new on demand airport bus concession. Smith was fine with that.

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

**Unanimously approved as amended (Oi, Gomes)**

- ITEM M-2 Amendment No. 26 to Concession Lease No. DOT-A-92-0018 for the Purpose of Adding Four (4) Storage Spaces, Restaurant and Lounge Concession, Host International, Inc., Honolulu International Airport, Tax Map Key: (1) 1-1-03:001 (Portion).**
- ITEM M-5 Amendment No. 4 to Concession Agreement DOT-A-08-0011 for the Purpose of Adding Baggage Storage Rental Offices, Smarte Carte, Inc., Honolulu International Airport, Tax Map Key: (1) 1-1-03:057 (Portion).**
- ITEM M-7 Consent to Assignment of State Lease No. DOT-A-05-0026 from Dorvin D. Leis Co., Inc. to Air Service Hawaii, Inc., Honolulu International Airport, Tax Map Key: (1) 1-1-76: 13 and (1) 1-1-76: Portion of 28.**
- ITEM M-8 Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, Steven E. and Julie M. Prindle, Honolulu International Airport, Tax Map Key: (1) 1-1-76: Portion of 21.**

- ITEM M-10** Issuance of a Revocable Permit for Office Space in the Main Terminal for Baggage Services for Airline Operations, American Airlines, Inc., Kona International Airport at Keāhole, Tax Map Key: (3)7-3-43: Portion of 40.
- ITEM M-12** Issuance of a Revocable Permit for Land to Stage an Equipment Storage Container, Mauna Loa Helicopter Tours LLC, Līhu‘e Airport, Tax Map Key: (4) 3-5-01: Portion of 8.
- ITEM M-13** Issuance of a Revocable Permit for Storage of Rental Car Vehicles, Advantage OPCO, LLC dba Advantage Rent A Car, Līhu‘e Airport, Tax Map Key: (4) 3-5-01: Portion of 8.

All other items were approved as submitted.

**Unanimously approved as submitted (Gomes, Woodside)**

1:11PM RECESS  
 1:52PM RECONVENE

- ITEM C-1** Request to Conduct a Public Hearing Regarding the Draft Lālāmilo Habitat Conservation Plan and Associated Incidental Take License, South Kohala District, Hawai‘i Island, Tax Map Key’s (3) 6-6-001:071 and (3) 6-8-002:019.
- ITEM C-2** Request to Conduct a Public Hearing Regarding the Draft Pakini Nui Habitat Conservation Plan and Associated Incidental Take License, South Point, Ka‘ū District, Hawai‘i Island, Tax Map Key’s (3) 9-3-002:006, (3) 9-3-002:023, (3) 9-3-001:006 (Portion), (3) 9-3-004:001 (Portion), (3) 9-3-002:999 (Portion) and (3) 9-3-001:999 (Portion).
- ITEM C-3** Request to Conduct a Public Hearing Regarding the Honua‘ula (Wailea 670) Draft Habitat Conservation Plan and Associated Incidental Take License, Kihei-Mākena, Maui, Tax Map Key’s (2) 2-1-008:056 and (2) 2-1-008:071.

David Smith Administrator for the Division of Forestry and Wildlife-DOFAW presented items C-1 through C-3. There were no changes and there was no public testimony.

**Unanimously approved as submitted (Gomes, Woodside)**

- ITEM D-1** Amend Prior Board Action of April 22, 2016, Item D-1, After-the-Fact Issuance of Revocable Permit to Saim Caglayan and Maggie Lea, Lot 11-B Hanapepe Town Lots, 1<sup>st</sup> Series, Hanapēpē, Waimea, Kaua‘i, Tax Map Key: (4) 1-9-005:053. The purpose of the amendment is to change the permittee under the Revocable Permit from Saim Caglayan and Maggie Lea to Katherine Enoka.

**ITEM D-2 Amend Prior Board Action of November 14, 2014, Item D-2, Request for Grant of Term, Non-Exclusive Easement to David G., Jorgensen and Annette Thatcher Jorgensen, Trustees of the David and Annette Jorgensen Revocable Trust for Seawall Purposes, por. of Kukui'ula, Kōloa, Kaua'i, Tax Map Key: (4) 2-6-012:seaward of 001.**

**The Amendment is to delete legal reference HRS 171 Section 53(b) and insert legal reference 171 HRS Section 53(c).**

**ITEM D-3 Issuance of Grant of Term, Non-Exclusive Easement to New Cingular Wireless PCS, LLC for Access Purposes; Issuance of Immediate Right-of-Entry Permit to New Cingular Wireless PCS, LLC for Access Purposes; Por. of Kapa'a Rice & Kula Lots, Kawaihau, Kaua'i, Tax Map Key: (4) 4-5-005:012.**

**ITEM D-4 Consent to Assign General Lease No. S-4257, Kahnahan, Inc., Assignor, to aFein Holdings, LLC, Assignee, Kapa'a Town, Kawaihau, Kaua'i, Tax Map Key: (4) 4-5-009:008.**

**After-the-Fact Consent to Sublease under General Lease No. S-4257, aFein Holdings, LLC, Lessee, to Dorland and Associates, Inc., CPAs, Island Rental Cars, LLC, and Kevin Jones, Sublessees; Kapa'a Town, Kawaihau, Kaua'i, Tax Map Key: (4) 4-5-009:008 portion.**

**ITEM D-9 Set Aside to County of Maui, Department of Parks and Recreation for Public Park and Ancillary Purposes, Waikapū, Wailuku, Maui, Tax Map Key: (2) 3-8-007:104.**

Member Downing asked for a better map for item D-2, the pictures were not that clear. He also asked if D-1 was the same store as before and how long it usually takes to go to public auction.

Kevin Moore-LAND confirmed and told him that it takes about a year. The Big Island is going to auction in August for the Waikea mini mart.

Member Oi noted that for D-1 those people really fixed up the place.

**Unanimously approved as submitted (Gomes, Roehrig)**

**ITEM L-3 Appointment of Lance Dunbar and Castle Adolpho to Serve as Directors of the Molokai-Lanai Soil and Water Conservation District.**

No changes.

**Unanimously approved as submitted (Woodside, Yuen)**

**ITEM L-1 Delegation of Authority to the Chairperson to Procure, Award and Enter Into Professional Service Consultant Contracts Not Exceeding \$1,000,000**

Member Yuen felt like 1 million was a lot. If it on a CIP list then it would be delegated to the Chairperson when the Board approves the CIP list. He said it sounded like a pre project study and didn't want the Board to be out of the loop on this. Member Yuen suggested amending this so that it is \$200,000 and its good for all old CIP lists that have been passed already, then ENG will bring CIP lists and ask the Board to delegate construction contrast.

Chang arrived.

Member Yuen asked Chang if recommendation #2 would have feasible planning studies that ENG would hire a consultant for that are not in connection with a CIP funding like a feasibility. Chang explained that there could possibly be, ENG has been asked to do feasibility or master plans that will lead to a construction project. The wording was meant for what was authorized for 343.

Chang gave different examples of different situations and the Board discussed.

Member Yuen made a motion to approve with the amendment that the annual list of CIP projects plus the operation fund projects described by general type be brought to the Board at the beginning of the fiscal year or at the appropriate time and at that point the division would ask for the delegation to the Chair of consultant contracts. Member Gomes seconded.

**Unanimously approved as amended (Yuen, Gomes)**

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

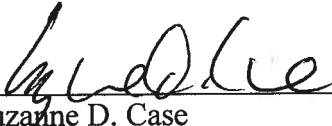
There being no further business, Chair Suzanne D. Case adjourned the meeting at 2:13 p.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate 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