

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

DATE: THURSDAY, NOVEMBER 10, 2016
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

Chair Suzanne Case called the meeting of the Board of Land and Natural Resources to order at 9:04 a.m. The following were in attendance:

MEMBERS

Suzanne Case
Thomas Oi
Stanley Roehrig
Sam "Olu" Gon

James Gomes
Chris Yuen
Keone Downing

STAFF

Sam Lemmo-OCCL
Ian Hirokawa-LAND
David Smith/DOFAW
Sang Kim/PARKS
Alan Carpenter/PARKS
Ed Underwood/DOBOR
Sam Lemmo/OCCL

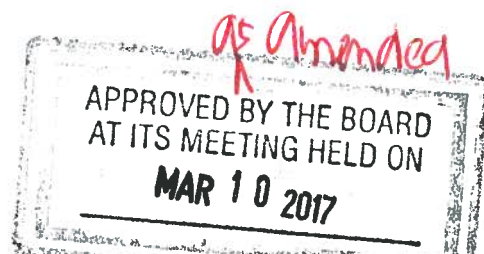
Kevin Moore-LAND
Scott Fretz/DOFAW
Curt Cottrell/PARKS
Steve Lau/PARKS
Alton Miyasaka/DAR
Eric Yuasa/DOBOR
Alyson Yim/ENG

OTHERS

Julie China/Deputy AG
Ross Smith/DOT-AIR
Kelly Powell/K-1
John Carty/ D-6
Kent Fonoimoana/D-14, D-9
Sean Quinlan/C-1
Kent Fonoimoana/C-1
Melissa Primacio/C-1
Tom Schechinger/C-1
Stephanie Pascual/D-12
Bill Murtagh/J-1
Yvonne Izu/D-3
Ted Meyers/E-1

Bill Wynhoff/Deputy AG
Brian Takeda/K-1
Doug/D-6
Randy Decambra/D-4
Mike Cutbirth/C-1
Senator Gil Rivere/C-1
Michelle Matsuda/C-1
Tom Narvies/C-1
Unidentified member of the public/C-1
Kalani Nakoa/J-1
Norman Uchida/D-3
Louisa Wooten/D-3
Michael Tanaka/E-1

There were no minutes to approve.



Chair Case made an announcement that items J-1, D-14 and C-1 would not be heard after 10:00 AM; everything else will be taken as they get to them.

ITEM M-1 Resubmittal-Direct Issuance of a Parking Concession to ABM On-Site Services – West, Inc., Honolulu International Airport, Tax Map Key: (1) 1-1-003: 001 (Portion).

Ross Smith Property Manager with the Department of Transportation Airports Division-DOT-AIR presented item M-1. The Board requested information on how other airports issue their parking contracts. DOT inquired several airports that have similar passenger numbers to Honolulu Airport and received 3 significant responses. In each of the responses the airport solicited proposals to operate the parking concessions.

Member Gomes asked how long the duration of the 1.7 million was. Smith explained that they were required to make them at the beginning of the contract to cover a 5 year term.

Member Roehrig asked the AG what the Board's standard of responsibility was in reviewing this. He asked if it was an abuse of discretion or is it done on the basis of right/wrong.

AG Julie China advised that Board was the decision maker, so they are deciding whether or not to approve this.

Member Roehrig asked China if it was her best judgment that the Board should decide if this is right no matter what the director of DOT decided.

China confirmed.

Member Roehrig asked Smith why this should be exempt to public auction.

Smith explained that there would be significant impacts airport, as well as the impact of rail when it comes to the airport.

Member Roehrig was concerned that there wasn't input from other contractors, he wants licensed Hawaii contractor.

Smith said they would be looking at people who are operating similar type parking concessions. Right now it would more likely be a number of mainland companies would bid on this.

Member Roehrig said he was okay, and had no further questions.

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

Member Yuen commented that he had a lot of questions on this last time. There were two main issues which were putting it out to bid, and the return to the state vs the percentage. Member Yuen said he took the Board's role as basic oversight, but they are not there on the ground. They need to be satisfied that what DOT is coming up with is reasonable, it seems to be that they've considered the overall public interest.

Member Gon commented that the arguments that he heard were things that he was thinking as well, he agree with what Member Yuen indicated. Member Gon suggested that in the future Smith provide a brief rundown of what some of the alternatives might have been and why it would be unreasonable to go with. Smith agreed.

Member Roehrig said he was going to vote no, this is about responsibility, the explanation needs to go further.

All members were in favor, except Member Roehrig who was opposed.

6:1 vote.

Approved as submitted (Oi, Gomes)

Smith presented items M-2 through M-12.

ITEM M-9 Issuance of a Revocable Permit for Aircraft Parking, Safari Aviation, Inc., Hilo International Airport, Tax Map Key: (3) 2-1-12: Portion of 90.

Member Roehrig disclosed that the law firm that he was involved with has a jury trial in federal court relating to an investigation; he was not involved, but will abstain from voting on this item.

Member Gomes asked if there were future plans of making a new heliport. Smith explained that depending on the what the layout is for the second runway, it may adversely impact helicopter operations. This won't happen for another few years, but there will be some construction.

Member Roehrig did not vote on this item.

Unanimously approved as submitted (Gon, Gomes)

ITEM M-2 Issuance of a Revocable Permit for a Field Office, Mitsunaga & Associates, Inc., Honolulu International Airport, Tax Map Key: (1) 1-1-003: 001 (Portion).

Member Oi disclosed that his son used to work with Mitsunaga & Associates, but no longer does.

ITEM M-3 Issuance of a Revocable for an Administrative Office, Nordic PCL Construction, Inc., Diamond Head Extension, Honolulu International Airport, Tax Map Key: (1) 1-1-003: 042 (Portion).

ITEM M-4 Issuance of a Revocable Permit for a Field Office, R. M. Towill Corporation, Diamond Head Concourse, Honolulu International Airport, Tax Map Key: (1) 1-1-003: 65 (Portion).

ITEM M-5 Issuance of a Revocable Permit for Passenger Check-In, Hawaiian Airlines, Inc., Inter-Island Terminal, Honolulu International Airport, Tax Map Key: (1) 1-1-003: 073 (Portion).

- ITEM M-6 Issuance of a Revocable Permit for Rental Car Vehicles Overflow Parking, The Hertz Corporation, Honolulu International Airport, Tax Map Key: 1-1-04: 014. Issuance of a Revocable Permit for Rental Car Vehicles Overflow Parking, EAN Holdings, LLC dba Enterprise Rent A Car, Honolulu International Airport, Tax Map Key: (1) 1-1-04: 015, 1-1-04: 017, and 1-1-04: 018.**
- ITEM M-7 Issuance of a Revocable Permit for Aircraft Parking, Resource Mapping Hawaii, LLC, Honolulu International Airport, Tax Map Key: (1) 1-1-76: Portion of 23.**
- ITEM M-8 Issuance of a Revocable Permit for a Hangar Facility for Commercial Helicopter Operations, Helicopter Consultants of Maui, LLC, Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 19.**

Chair Case disclosed that she has worked with them but has no interest in the company.

- ITEM M-10 Issuance of a Hangar Facility lease by Public Auction, Waimea-Kohala Airport, Tax Map Key: (3) 6-7-0001: Portion of 08.**
- ITEM M-11 Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, William Wilton, Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43: Portion of 40.**

Items M-2 through M-8 and items M-10 and M-11 were approved as submitted.

Unanimously approved as submitted (Gon, Gomes)

Chair Case stated that in some of the matters before the board, a person may wish to request a contested case hearing. If such a request is made before the board's decision, then the board will consider the request first – before considering the merits of the item before it. A person who wants a contested case may also wait until the board decides the issue, then request the contested case after the decision. It is up to you. Any request must be made orally by the end of the meeting and followed up in writing within ten days. If no request for contested case is made, the Board will make a decision. The Department will treat the decision as final and proceed accordingly.

- ITEM K-1 Conservation District Use Application (CDUA) HA-3773 Regarding the NEC Corporation of America Proposed Undersea Fiber Optic Cable Landing Project, Located in the Waianae District, Island of Oahu, on submerged lands seaward of Tax Map Keys: (1) 8-4-002:059 and (1) 8-4-001:012.**

Chair Case apologized to Brian Takeda for misspelling his name in the staff report.

Sam Lemmo Administrator for the Office of Conservation and Coastal Lands-OCCL presented item K-1. Lemmo detailed that this type of application was a broadband, it is required that this

type of application be processed within 145 days of receiving the application, which is different from the normal 180 days. The application does expire on the 16th of this month, so a decision does need to be made today, otherwise it will automatically be approved.

Lemmo explained the NEC was proposing to construct a trans pacific cable that is being landed at Makaha beach. The cable goes under the beach, not through it. The cable for the purposes of the Land Board and the conservation district, the cable is regulated from the place where it crosses the certified shoreline beach, out to 3 miles. The applicant did an EA and it covered all aspects of the project. A public hearing was held in Makaha at the end of August and there were about 30 people there. There was some interest, the people wanted to know what the benefits were for the people of Waianae. Lemmo repeated what the project applicant wrote; that it might directly assist schools in Waianae and schools in Hawaii by providing high speed internet, it might benefit services for private and other public uses, might provide redundancy and security. There is some potential construction related impact. This project will not have any effect on the process of wave development in Makaha. OCCL is satisfied that they followed all of the necessary regulatory requirements.

Lemmo noted that the language in condition #5 needed to be fixed; he would get back with the amendment.

Member Downing asked if exhibit 4 and 9 were two different plans, he asked which one was going to be used. He then asked if the boring would start from land or sea and what was used to create the bore to follow the path that is shown in the diagram.

Lemmo said it would start from land and suggested the consultant answer the other questions.

Member Gomes said that according to exhibit 11 it says there are other cables in this area, so how was this project chosen, could it be in another place. Lemmo said this was a popular cable ending site, there are a few sites on the Westside. The reason they want to go here is because they want to tie into this cable ending site.

Member Gon asked Lemmo if he remembered the most recent prior to this. Lemmo said Sandwich Islands was the last.

Member Oi asked if any marine life was affected by the construction.

Lemmo said there was a quality control to manage that situation.

Member Roehrig asked what would happen if there was a crack leak.

Chair Case called the applicant forward.

Brian Takeda with the firm RM Towill introduced Peter Powell. Takeda said there were representatives from Hawaiian Telcom who will be the owners of the cable once it is installed.

9:48 AM AG Julie China left, AG Bill Wynhoff arrived.

Kelly Powell gave a summary of the project noting that the project is necessary for Hawaii because Hawaii needs concurrency with social and economic events, trans educational needs and

business practices that are occurring across the state and on a national and international level. This project will facilitate access to internet and broadband based information and services necessary for Hawaii to continue to build a sustainable economy and workforce.

Member Gon reiterated the questions the Board had; a question on how they accurately track the course of the underground drilling, there was a question on the protocols and contingencies for leaks, there was a question on what the most recent similar projects using drilling and frac out technologies in Hawaii and Member Gon added to those questions by asking if there were any previous frack out leaks anywhere in the state.

Takeda explained that there has been only 2 known instances that they were aware of having researched the project site where HDD was used, the first instance was used by Sandwich Isles Communications and they have a cable rod that is located a little to the South of where they plan to be; a few hundred feet away. Takeda believed it was in the 2009.

Member Gon recalled entertaining that project when he was on the Board before.

Takeda referenced another HCDD project done in 2000 done by an Australian/New Zealand consortia and for that project it did a horizontal directional bore from the Kahei area.

Takeda explained that the drill head was an advanced piece of machinery where the operator will guide the direction of the bore. He went into further detail about the process.

As far as other instances of frack outs associated with marine cable projects, they were not aware of any.

Member Gon commented that hearing that this was a lubricant of clay eased his mind a little bit and felt confident that they wouldn't run into any issues.

Member Downing asked which exhibit was the right one, exhibit 4 or exhibit 9.

Powell explained that both were the angle of the photograph. 9A was a more accurate prediction of daylight.

Member Gon asked how close that was to living reef.

Powell thought it was maybe 100 meters.

Member Downing asked why they chose to go with the Southern blue line and not a Northern blue line.

Takeda said to stay away from the coral.

Member Downing asked how far out this was from the shore.

Powell responded approximately 2,000 feet/ about half a mile from shore.

Member Downing asked what the cost per foot for this drill was.

Takeda wasn't sure, they haven't looked at the drilling cost, just the overall cost of the project. He said Hawaiian Telcom was working on that.

Member Downing asked that when they do get to that point to let him or the Chair know the pricing. Hawaiian Telcom agreed.

Member Roehrig asked what the incidence of earthquake was in this area and what was the possibility of fracking. Takeda said they reviewed the seismic zoning throughout the state and the island of Oahu. He wasn't sure of the exact number of the incidents, but it was known to be a lower incident on Oahu than say the Big Island. As far as earthquakes, Hawaiian Telcom did have 2 other cable systems that enter into this area and based on past experience earthquake events there have been no damage to the existing inter island cables to this location.

Member Roehrig was concerned about what happens to the lining in the drilling process. Takeda explained that if they were drilling and an earthquake were to occur, then all work would need to cease. Following the event, everything would need to be re inspected. The other part of the question, what happens to the bore hole now that the cable has already been put in place. A number of things could occur.

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

Member Yuen noted that an amendment needed to be made; there was a phrase, various farm building in condition #5 and it does not belong there. That needed to be removed and the sentence would then say that construction plans will be submitted. Member Gomes seconded.

Member Roehrig was hopeful that all necessary use of their solvent in this that if the bentonite does leak that it will congeal.

Member Gon noted that on the bottom of page 13 of the proposal that the contingency to use non toxic additives to harden the bentonite was among the bolded points in the proposal so the Board would just hold them to it.

All were in favor.

Unanimously approved as amended (Yuen, Gomes)

ITEM D-10 Grant of Perpetual, Non-Exclusive Easement to Hawaiian Telcom Services Company, Inc. for Submarine Fiber Optic Telecommunication Cable Purposes and Issuance of Construction and Management Right-of-Entry on State Submerged Lands off Makaha, Waianae, Oahu, Tax Map Key: (1) 8-4-001;seaward of 012.

Kevin Moore Assistant Administrator for Land Division-LAND explained that this item tied in with the previous item. Moore highlighted the easements and noted that there would be a fair market charged.

Member Gon asked if there was something in the clause dealing with the contingency. Moore said yes, the assignment would require Board approval. If the cable were abandoned there would be issues if any of the other infra structure are going to be abandoned or not.

There were no other questions and no public testimony.

Unanimously approved as submitted (Gon, Gomes)

ITEM D-6 Issuance of Right-of-Entry Permit to the Association of Surfing Professionals (ASP) North America LLC , dba The World Surf League, for a Professional Women's Tour Surf Event at Lipoa Point, Honolulu, Lahaina, Maui, Tax Map Key: (2) 4-1-001: Portion of 010.

Written testimony was submitted by John Carty.

Kevin Moore-LAND conveyed item D-6 and detailed that this was an event that has been occurring annually.

Member Downing asked if the contest that was at Peahi was on State land.
An unidentified member of the public said that it had been traded to the County.

The unidentified member of the public identified himself as Doug with WLS. He pointed out that this year they have an upgraded plan for DOT 2016. They proposed to take away the proposed towing. On #2 of the staff report the acreage was increased by half an acre. The department wanted to not allow surfers to access the surfer's access road during the event. The local community would still like to have access to that road, so they propose to take off half an acre of the designated area, make the event 3 acres, then have more security in uniform. Another issue was on item #3 on page 4 that they were hoping that money could go toward the Save Honolulu Coalition.

Chair Case asked if the no towing was already taken out.
Doug said no, 2015 traffic plan was put in.
Chair Case said the 2016 one the Board had didn't have a plan.

Someone pointed out it was on page #3 on the bottom.
Chair Case confirmed that Doug wanted to strike the last bullet on page #3.
Doug confirmed.
Chair Case asked Doug if he spoke with Daniel Ornellas about this.
He said no.

Member Gomes mentioned that Ornellas wanted to specifically include this because he was concerned.

Member Roehrig asked Doug who was going to do it if he didn't do it.
Doug said it was a 2 day event for the finals and the quarter finals; there are too many people for too much stuff. He said they would shuttle people and they would try to manage it to best management plan of security.

Member Downing asked how many cars could fit in there.
Doug said about 140, there's one way in and one way out.

Member Downing said that when 140 cars come, then that area can be blocked off. He said if they stop taking cars at 140 then there would be no issue with what cars to tow.
Doug said the issue was the parking from the Highway 30, it would be a selective towing.

Member Downing suggested putting up water barricades to stop parking.

Chair Case asked Doug to repeat which .5 acre he wanted to take out for the next part.
Doug said it would be the surfers' access road on point of entry to Lipoa point.

Then the 3rd change Doug said was to see if they could get more of the money to stay in West Maui.

Member Gomes asked Doug why they didn't talk to the land agent.
Doug said he was a vendor and the WSL was trying to work with Ornellas and he thought these were things Ornellas came up with after seeing the event last year.

Member Downing asked what would happen if the public gets to all the parking before the surfers.
Doug said there would be security there to determine.

Chair Case clarified that Doug wasn't asking for a change in recommendation #3. Doug asked if they could just reduce the site by half an acre, less 10 cents a foot. It was discussed last year to get some of the revenue to go towards Save Honolua Coalition because there hasn't been a plan yet to maintain the land. Doug explained how there are so many tourists that come in through the year and Save Honolua Coalition pays for the porta potties.

Chair Case asked if he was asking the Board to specify that it go to Save Honolua Coalition.
Doug said yes, they were specific in the amount.
Chair Case detailed that the planning process was still underway.

Moore said he would just have to defer to the district office because he wasn't familiar with the site conditions.

Ian Hirokawa with Land Division noted that if funds did go through it would have to come from the applicant, it couldn't come from LAND.

Chair Case said she would feel better if the land division looked into this first, she asked recess from this item so that LAND could look into this before the Board made a decision.

John Carty, VP at Save Honolua testified in support of Doug's company being the caretakers of the event and grateful for the financial contribution. Carty said they fund the porta potties there year round and it's the only bathroom facility in all of Honolua so they were concerned about the water quality. Carty explained that they were also doing trash cleanup there on a weekly basis. He asked the Board to consider keeping the increase because some of the money that goes to the DLNR goes back into the community. He submitted written testimony.

Chair Case said they would hold off on this item until later.

The Board later returned to this item after talking to Daniel Ornellas, district land agent. Ornellas told Moore that as long as applicant was serious about traffic control and parking, then he was okay with releasing the vendor towing requirement. Ornellas would like to keep the total area of 3.5 the same. The applicant was okay with that.

The other issue was last year at this event the Board made an amendment saying that \$6,000 of the \$26,000 would go to Save Honolulu.

Member Yuen wasn't opposed, but wanted Moore to double check if the Board could do that.

Chair Case commented that she was a little uncomfortable with the precedent. She suggested saying, "recommend the use of the right of entry fee".

Moore reminded that Board that the staff recommendation was to have the complete fee payable to the department; it was the applicants request to do this.

Member Yuen said he misunderstood. He said internally DLNR could use it.

Chair Case suggested a motion to amend the submittal to say in recommendation #3 to add the words "all or a portion of" before the right of entry fee and to delete the last sentence of page #3 which reads "Event coordinators shall have a working agreement with a vendor capable of towing away vehicles as may be needed." Member Roehrig moved the motion, Member Oi seconded.

At the applicant's request, the Board deleted the last sentence of the last paragraph on page 3 of the submittal, which reads "Event coordinators shall have a working agreement with a vendor capable of towing away vehicles as may be needed." The applicant did not want to be responsible for towing vehicles. Additionally, the Board amended recommendation 3 on page 4 of the submittal to read as follows: "Authorize the use of all or a portion of the right of entry revenue for the management and maintenance of the subject parcel" (Board's inserted language underscored).

Unanimously approved as amended (Roehrig, Oi)

ITEM D-4 Set Aside to the Department of Land and Natural Resources, Division of Forestry and Wildlife for Forestry and Wildlife Purposes and Issuance of an Immediate Management Right-of Entry; Honuaula, Makawao, Maui, Tax Map Key Nos: (2) 2-1-002:001, 009, 010, & 012 and (2) 2-1-004:075, & 110.

Written testimony was submitted by Gretchen Cardosa, Heather Chenea, Paige Deponte, Hunokelimaui, Richard Kawasaki, Bill King, Russell Reinertson, Ashlie McGuire, Mandy Patton, Ruth Patton, Spencer Rodrigues, Mrs. William Moanalaha Uwekoolani, Jr., Tammy Ventura, Dino Ventura, Dorothy Uwekoolani, Charlene E. Kaho and Randy DeCambra.

Moore-LAND reviewed item D-4. Chair Case clarified that this wasn't moving forward with the project, this was a set aside for DOFAW to do further action with regard to planning.

Scott Fretz with DOFAW clarified as the Chair said that this was just preliminary. An EA was going to be done on the management plan and that will include the extensive public consultation.

Chair Case recognized that there was lots of public testimony on this and it does anticipate future action by DOFAW, but that's not this action now. She said they would take testimony on this but wanted to make that distinction.

Randy Decambra from the island of Maui testified that the comments are made on personal capacity and does not reflect or is associated with any government agency and organization. Decambra read his written testimony in support.

Member Gomes thanked Decambra for coming down. Member Gomes told the Board members that he was a DOCARE officer on Maui and he has responded to issues on Member Gomes' ranch. This acreage borders Ulupalakua. They too are in deliberation with the state for putting some of their land out for recreational hunting. He said there was a need for hunting like this.

Unanimously approved as submitted (Gomes, Gon)

ITEM D-5 Approve Negotiated Development Agreement for Extension of General Lease No. S-4212, Ruby & Sons Hospitality, LLC, Lessee, Kamaole, South Kihei, Maui, Tax Map Key: (2) 3-9-004:029.

Moore-LAND reviewed item D-5.

No changes, no public testimony.

Unanimously approved as submitted (Gomes, Gon)

ITEM D-14 Denial of Petitions for Contested Case Hearings filed on October 24, 2016 by (i) Makani Pono 'o Kahuku, and (ii) Kahuku Community Association, Regarding Board Action of October 14, 2015, Agenda Item D-12, Issuance of Direct Lease to Na Pua Makani Power Partners, LLC, Lessee, for Wind Power Project Purposes; Kahuku-Malaekahana, Koolauloa, Oahu, Tax Map Key: (1) 5-6-008:006

Moore-LAND explained that at the 10-14-2016 meeting, item D-12 the Board approved the issuance of a direct lease to Na Pua Makani for the windfarm . At that meeting Kent Fonoimoana was present and indicated that he was associated with Kahuku Community Association as well as Makani Pono 'o Kahuku. Fonoimoana was also present today.

Moore went on to detail that when Fonoimoana requested a contested case it wasn't clear that he was making a request for a contested case for himself or those organizations. Within ten days of that LAND did receive the two written petitions from these organizations. At the October 14th

meeting, the Board also denied the oral request for a contested case that was made. Moore said that if the written petitions were made by the same entities that requested the oral petition, the Board has already denied the request; if the oral petition was made by Fonoimoana individually, and these written petitions are from organizations that didn't make an oral request, the Board was procedurally barred from considering the petitions.

It has been concluded that these organizations aren't entitled to a contested case hearing because they don't have standing, they don't have property interest.

Kent Fonoimoana testified that the Board didn't have a right to deny them, particularly the community association that they do not have a standing. If they didn't have standing, then he didn't know who did. Fonoimoana explained that in his verbal testimony on October 14th, 2016 he said that he did identify himself as wearing several hats in this issue. He believed that residents that live within 300 ft of the State Ag Park should have standing. Fonoimoana said that until the state attorney general's office can tell them why they don't have standing, they will be going to court.

Member Yuen made a motion to approve, he said the Board's decision to issue a direct lease is not a matter in which it adjudicates the duties and privileges of a specific party. Member Oi seconded.

Member Roehrig commented that the question whether a community group has standing has been covered by state supreme court, he said it was liberal.

All were in favor.

Unanimously approved as submitted (Yuen, Oi)

ITEM D-9 Adoption of Report on Issuance of Direct Lease to Na Pua Makani Power Partners, LLC, Lessee, for Wind Power Project Purposes; Kahuku-Malaekahana, Koolauloa, Oahu, Tax Map Key: (1) 5-6-008:006.

Written testimony was submitted by Buddy Ako, John Candea, Josh Primacio, Randy Caban, Simplicio Caban, Dino Vendiola, Mikaela Primacio, John Primacio, Jr., Keawe Rillamas, Joesph Kalil and Bob Comeau.

Kevin Moore Assistant Administrator for Land Division-LAND conveyed item D-9.

Member Gon disclosed that he was briefly on the endangered species advisory committee that advises windfarm projects. He is no longer on that committee and this particular company and proposal was not one that he provided substantial input to.

Kent Fonoimoana testified as president of Kahuku Community Association, he also represented Kahuku Community to the neighborhood Board, Co- chair to the community group Makani Pono'O Kahuku. He testified on financial facts. He said he wasn't against turbines or renewable wind energy, but thought there had to be a better way to do this.

Unanimously approved as submitted (Yuen, Gomes)

ITEM C-1 Request for Approval of Incidental Take License and Final Habitat Conservation Plan for Na Pua Makani Wind Energy Project by Applicants Na Pua Makani Power Partners, LLC and the former Champlin Hawaii Wind Holdings, LLC; Tax Map Key Nos. (1) 5-6-06:018 and (1) 5-6-08:006, Koolauloa District, Island of O‘ahu, Hawai‘i.

Written testimony was submitted by Elizabeth J. Rago, Bob Comeau, Dino Vendiola, Joseph Kalili, John Primacio, Jr., Mikaela Primacio, and Keawe Rilama.

David Smith Administrator for the Division of Forestry and Wildlife-DOFAW gave a summary of item C-1.

Member Gon gave the same disclosure as his previous.

Member Downing asked how these numbers come about.

Smith explained that generally these birds are going to be transient; they are going to be flying thorough generally at night. Each project is going to have to come up with a plan that is going to convince the invasive committee recovery committee that you’ll end up with more birds at the end of it than what you started with.

Chair Case read the disclaimer for the contested case.

Member Roehrig said there were lots of statistical details and formulas he couldn’t understand. Smith agreed, but trusted that people on the committee make the best decision they can for the birds.

Member Gon added that there are many representatives from both DLNR and Fish & Wildlife who are responsible for the recovery of these species.

Mike Cutbirth manager of Na Pua Makani testified giving his comments.

Sean Quinlan, State house representative for house district 7 testified in opposition.

Senator Gil Rivere testified in opposition on behalf of himself, the organizations in which he belongs and constituents such as Keep the North Shore Country.

Member Roehrig asked Riviere if his intention was to only to request a contested case on item C-1 or if he was going to request one on all of these.

Riviere confirmed that he was requesting a contested case on item C-1 on behalf of himself and those who would be clarified in the written petition.

Riviere continued his testimony on how this does not meet the standards and should not be approved.

Kent Fonoimoana President of Kahuku Community Association, Co-Chair of Makani Pono'O Kahuku, Represent Kahuku to the neighborhood Board, spoke as a representative of all of those entities plus himself, and also Co-chair of Keep the Country testified in opposition.

Michelle Matsuda testified in her personal capacity in support of the contested case hearing.

Melissa Primacio a community resident of Kahuku testified in support of the project.

Tom Narvies a 30 year resident of Kahuku testified in support of the project.

Tom Schechinger with Tetra Tech clarified that they did evaluate the larger turbines in this final habitat conservation plan; there is one fewer maximum number of turbines in the habitat. They use the best science available to look at the potential take and how to best mitigate. They work closely with the field office, fish and wildlife service, DOFAW and ESRC to come up with a plan that everyone views as the best science to accomplish these goals.

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

12:07PM EXECUTIVE SESSION

12:50PM RECONVENE

Chair Case asked Riviere to finalize the organizations he was representing so that it would be on record.

Member Yuen made a motion to defer the habitat conservation plan until the next meeting December 9, 2016 and at that same meeting before taking up the habitat conservation plan they will have the hearing that is referred to in Hawaii Administrative Rules Ch. 13-1-31 at which people who have made their written request for a contested case hearing will present why they are entitled to a contested case hearing. The Board will then make a decision on that at that time. Member Gomes seconded.

Unanimously deferred (Yuen, Gomes)

Kent Fonoimoana later made an oral request for a contested case in regards to item C-1 on behalf of Kahuku Community Association President, Co-Chair of Makani Pono'O Kahuku and as an individual.

Another member of the public also made a request for a contested case on behalf of Mark and Carolyn Blackburn.

ITEM D-12 After-the-Fact Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display on Encumbered State lands off Ko Olina Beach on October 29, 2016, Honouliuli, Ewa, Oahu, Tax Map Key: (1) 9-1-057:seaward of 003.

Kevin Moore-LAND reviewed item D-12.

Member Yuen asked how it came to light that a portion of the beach would be included in the safety zone. Moore explained that it was complicated, you would have to go offshore of the easement area. He further detailed that it was special because of the way the lagoons were created, there would be some fall-out in the state part of the waters.

Member Yuen asked who found out this was an issue.
Moore said staff, Cal Miyahara.

Member Downing thanked Stephanie Pascual for firing inland.

Stephanie Pascual a representative of the company noted that this site did have a few challenges, the biggest being the limited spaces overhead, all the coconut trees that surround the location. That area increases the risk of fire and property damage. Other than that everything seemed to maintain its course. There was not much debris found on the state portion of the safe zone.

Member Yuen asked if the lagoon itself was private property.
Moore believed it was private up until what was before shoreline. They also have an easement for submerged areas seaward of that shoreline. The beach and the lagoon are private.

Pascual noted that in regards to the safe zone and the fee, the area they are referring to is a rocky shoreline with a small cliff. The area that is secure takes place after dark and is closed to the public for 30-40 min. The Aloha team did secure the area and asked them how many people they had to keep from the area. The team told her there was no in the area from 8:30pm- 9:30pm.

Unanimously approved as submitted (Oi, Gomes)

It was at this time that Kent Foimoana made a verbal request for a contested case hearing in regards to item D-14.

AG Bill Whynoff explained that he was not entitled to a contested case.

Foimoana noted that Kahuku community Association has requested that a member of the BLNR or DLNR go out to Kahuku.

Chair Case appreciated the invite. She stated that since Foimona was out of the room, the Board deferred item C-1 and anyone that wants to make an oral request has to be specific on who's behalf if you are representing an organization.

Kent Foimoana Kahuku Community Association President, Co-Chair of Makani Pono’O Kahuku and as an individual made an oral request for a contested case on item C-1.

ITEM J-1 Request Approval for Cancellation of the Offshore Mooring Permit Issued to Sarah MacInnes Located at Keauhou Bay Small Boat Harbor, Keauhou Bay, Hawaii, and Issuance of the Offshore Mooring Permit to the Next Qualified Applicant on the Waitlist.

Written testimony was submitted by Larry Peebles and Glenn Shiroma.

Kalani Nakoa made an oral request for a contested case on behalf of Sarah McInnes in regards to item J1.

Chair Case acknowledged that and told him that she needed to follow up in writing in 10 days.

Chair Case asked for a motion to defer this item.

AG Wynhoff suggested the Board make it clear that they were not going to make a decision today and any oral testimony would sort of be given into the vacuum.

Member Yuen made a motion to defer, Member Gomes seconded.

All were in favor.

Chair Case called for public testimony, she said the Board would take any public testimony, but they would not be making a decision today.

Member Yuen suggested that if anyone was present and wished to provide testimony, then they should do it now because if this matter goes to a contested case then there would be no opportunity for a person to testify before the Board.

Bill Murtagh testified as one of the senior offended applicants of the Keauhou Bay mooring permits, in the circumvention of moorings. He disclosed that what he was going to share today was not a personal matter, it was just a documented timeline on the item before the Board. Murtagh read his written testimony. He was in support of J1 and didn’t think a contested case should be given to them.

Member Yuen suggested that the Board take public testimony, but not get too far into it on the questioning.

Member Yuen asked for copies of Murtagh’s documentation.

AG Wynhoff advised the board to wait to see what evidence developed in the contested case, it was his intention to tell Murtagh to testify or intervening at the time of the contested case. Wynhoff was concerned that the Board’s decision making not be taken in advance of the actual decision.

Chair Case said she would appreciate the documentation be submitted to the department and not the Board members.

Member Roehrig felt like the documents should be accepted.

Chair Case explained that her concern was that if there was a contested case on this then the Board has to make a decision based on the record and the dilemma is communications on matters that maybe before the Board. She suggested taking it in as a Department, not necessarily to the Board.

Chair Case took the documents from Murtagh.

Murtagh also gave written testimony on behalf of Bill Armour.

Unanimously moved to defer (Yuen, Gomes)

It was at this time that the Board returned to item D-6.

ITEM D-3 Holdover of Revocable Permits for Water Use on the Islands of Hawaii and Kauai. See Exhibit 3 for list of Revocable Permits. (EXHIBIT 3 ATTACHED)

Written testimony was submitted by The Board of Directors of Moloa'a Irrigation Cooperative, and Kamana'opono Crabbe-OHA.

Kevin Moore-LAND presented item D-3.

Member Roehrig asked what ADC was doing in Kau on this matter. Moore explained that they went out to survey the systems. The maps were completed in 2015.

Chair Case said this was still in process and commended staff for getting after this.

There was further discussion about the water in Kau and water rights.

Member Gon asked if the two adjacent RP were the same, Moore confirmed.

Member Gon then clarified that the parcels were the same, but the water sources were different.

Member Roehrig asked if this system has ever been changed or updated.

Moore explained that HELCO did approach the department about wanting to update their system. They needed to get some CDUP things figured out, and they had a plan to upgrade parts of their system.

Norman Uchida with HELCO and Yvonne Izu counsel for HELCO introduced themselves.

Uchida gave a detailed presentation of the project.

Izu was also available for questions.

Louisa Wooten with the Moloaa Irrigation Project on Kauai summarized her written testimony expressing her concern about the public health.

Member Oi asked the department of water on Kauai didn't want to take over this. Wooten said that they right now they are not engaging in anything. Wooten said they want to take that water to Kilauea and that water is supposed to be used for agriculture reasons.

Member Oi said there should be a way to resolve this.
Wooten agreed and felt like they could operate that system and do it well.

Member Roehrig suggested going into mediation.

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

Unanimously approved as submitted (Oi, Gomes)

ITEM E-1 Approval to Continue Twenty-Seven (27) Revocable Permits for Use of and Activity on Division of State Parks Lands on the Islands of Kaua'i, O'ahu, Maui, and Hawai'i (see ATTACHED Exhibit B).

Curt Cottrell Administrator for State Parks-PARKS introduced Sang Kim, Steve Lau and Alan Carpenter. Cottrell reviewed the RPs that the public was there to testify on.

Ted Meyers testified that he has a family business Napali Zodiac Productions it started the Napali Coast access. He gave the history of the business.

Member Downing asked if this was to just give out permits or are these permits up for auction. Cottrell said it was a question of equitable distribution of a service. What they would like to do is make a rate adjustment, then allow a higher percentage of growth.

There was further discussion about raising the percentage of growth rate.

Sang Kim-PARKS property manager explained that raising the price would be a way to see the capacity is and give flexibility.

There was further discussion.
Chair Case asked to move on to the next RP.

Chair Case disclosed that she and Michael Tanaka were old colleagues.

Michael Tanaka, CFO at the YMCA of Honolulu thanked the Board and the Chairperson for the support they've had over the years. The land creates a buffer from the Beachgoers and their camp.

Chair Case has suggested not raising any rates and just go with staff recommendation.

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

Unanimously approved as submitted (Gon, Gomes)

There was no one left from the public so there would be no further public testimony.

ITEM E-2 Issuance of Revocable Permit to Go Holoholo, Inc. dba Millwood Ohana Productions, for Use of the Nutridge House and Grounds as a Pilot Project for Operating a Venue for Commercial and Community Events, Pu‘u ‘Ualaka‘a State Wayside, Opu, Makiki, O‘ahu, Tax Map Key: (1) 2-5-019:004 (Portion).

Curt Cottrell-State Parks -felt it was important to reflect that the division failed on the first go round to find a tenant/resident manager that used the venue and worked in a manner that was sensitive for this significant historic property. Instead the property was over used and deteriorated due to incompatible uses within a forested watershed and historic grounds. There were also several lack of compliance issues. Rather than revoke this permit, State Parks let it expire and not be renewed. State Parks put feelers out prior to the permit expiring and did a targeted approach with a series of diverse applicants. However State Parks made it clear of what the maximum patronage must be and the types of events that could be hosted. They consulted with the OCCL and they agreed that this was consistent with park purposes within the conservation district.

After going through a variety of different ideas of uses of the house, David Millwood with Go Holoholo came up with an idea of being the entity that hosts the events, rather than have a specific type of event venue tied in with the property. Of critical importance and kudos to the new state park Property Manger Sang Kim, Mr. Millwood agreed that on top of the base rent, State Parks would receive 50% of the gross income per every event. State Parks has reduced the magnitude of use but the percentage of gross per event is greater so possibly greater income with much less impact.

State Parks wants to try this new relationship for a year and see if the 50% pans out, how the property holds up to the new uses and then in 2018 put the property out for a competitive bid.

Chair Case disclosed that she was a resident of the area.

Member Gomes asked about the previous applicant.

Cottrell said they severely damaged and conducted inappropriate uses of this historic property.

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

Unanimously approved as submitted (Gon, Gomes)

At this time a member of the public requested a contested case on behalf Mark and Carolyn Blackburn for item C-1.

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, 1st Series, Hanapepe, Waimea, Kauai, Tax Map Key: (4) 1-9-005:053.

The purpose of the amendment is to authorize an after-the-fact holdover of General Lease No. S-5822 to Saim Caglayan and Maggie Lea for the period of October 1, 2015 through June 30, 2016, and to change the commencement date of the Revocable Permit previously approved to Katherine Enoka to the first day of the month to be determined by the Chairperson.

No changes, no public testimony.

Unanimously approved as submitted (Gomes, Gon)

ITEM D-2 Rescind Prior Board Action of August 12, 2016, Agenda Item D-1, *Amend Prior Board Action of March 24, 2016, Agenda Item D-1, Preliminary Approval of Acquisition of Easements on Private Lands for Ko Road Rockfall Mitigation Project – Makai Section, Part Two, Eleele, Koloa, Kauai, Tax Map Keys: (4) 2-1-007:150, 151, 156, 157, 158 & 160 (portions).*

Amend prior Board Action of March 24, 2016, Agenda Item D-3, Preliminary Approval of Acquisition of Easements on Private Lands for Ko Road Rockfall Mitigation Project – Makai Section, Part Two, Eleele, Koloa, Kauai, Tax Map Keys: (4) 2-1-007:150, 151, 156, 157, 158 & 160 (portions).

The purpose of this amendment is to add two (2) more parcels for the subject project, Tax Map Key Nos. (4) 2-1-007:159 & 161 (portions) and to correct a Tax Map Key reference in the prior Board action of March 24, 2016 from Tax Map Key No. (4) 2-1-007:0158 to (4) 2-1-007:158.

No changes, no public testimony.

Unanimously approved as submitted (Gomes, Gon)

ITEM D-8 Amend Prior Board Action of April 11, 2014, Item D-10; Issuance of Construction Right-of-Entry Permit to Department of Transportation for Highway Improvements Purposes, Waimanalo, Koolaupoko, Oahu, Tax Map Keys (1) 4-1-013: portions of 022 and 032, and (1) 4-1-018: portion of 052.

The Amendment is to include another State Parcel, Tax Map Key (1) 4-1-013:portion of 012, into the Right-of-Entry Area.

No changes, no public testimony.

Unanimously approved as submitted (Gomes, Gon)

ITEM D-11 Amend Prior Board Action of October 14, 2016, (Item D-13), Cancellation of Revocable Permit No. S-6660 to Wanda Nakoa and the Issuance of a Revocable Permit to Mary Nakoa to Serve Horse Paddock Purposes, Lualualei, Waianae, Oahu, Tax Map Key (1) 8-9-002:005.

The purpose of this request is to correct the tax map key number reference in the prior Board action of October 14, 2016 to read (1) 8-6-002:005.

No changes, no public testimony.

Unanimously approved as submitted (Gomes, Oi)

ITEM D-13 Set Aside of Various Properties on Island of Oahu to the Department of Agriculture for Agriculture Purposes Pursuant to Act 90, SLH 2003. See Exhibit A for List of Properties. (EXHIBIT A ATTACHED)

Kevin Moore-LAND asked to hold off on GL S-5488, S-5489 and RPs S-7717 because DOFAW was concerned about 3 of these properties and needed further review.

The Board amended the submittal by deleting General Lease Nos. S-5488, S-5489 and Revocable Permit S-7717 from the list of properties set forth in Exhibit A.

Unanimously approved as amended (Gon, Gomes)

ITEM F-1 Request for Approval for the DAR Administrator to Enter Into A Memorandum of Agreement with the University of Hawaii for Access to Confidential Fisheries Information for Fisheries Management Purposes and to Delegate Signatory Authority to the DAR Administrator for any Future Fisheries Data Agreements with the University of Hawaii or Other Government Agencies.

Alton Miyasaka with the Division of Aquatic Resources-DAR conveyed item F-1.

Member Gon asked if this was unusual. Miyasaka said it's been done before, but the AG said he wants it to go before the Board. Normally it would be approved through the administrator.

Unanimously approved as submitted (Gomes, Oi)

ITEM J-2 Issuance of a Revocable Permit (RP) to Atlantis Submarines Hawaii, LLC to Operate Submarine Tours and Other Maritime Related Activities at the Honokohau Small Boat Harbor, Island of Hawaii, Hawaii Tax Map Key: (3) 7-4-008-003.

Ed Underwood with the Division of Boating and Ocean Recreation-DOBOR explained that this

was who to issue the revocable permit to at the Keauhou Bay Small Boat Harbor. After confirming with Atlantis they would like it to be issued to Atlantis Submarines Hawaii LLC they got the chapter 343 approval at the last meeting.

Unanimously approved as submitted (Roehrig, Gon)

ITEM J-3 Authorization for Hiring Consultant(s)/Vendor(s) for Development/Replacement of Division of Boating and Ocean Recreation Property Management; Vessel Registration; and Accounts Receivable/Harbor Management Systems.

Ed Underwood-DOBOR indicated that he spoke with Bill Wynhoff on the exemption notification list the box on who they consulted with was dropped off for some reason. All have been consulted, DOBOR will updated the exemption notification list and have it to ready for signature.

Unanimously approved as submitted (Gomes, Yuen)

ITEM J-4 Declare Project Exempt from the Preparation of an Environmental Assessment Under Chapter 343, HRS, and Title 11, Chapter 200, Hawaii Administrative Rules, Kikiaola Light Draft Harbor Maintenance Dredging Kekaha, Kauai, Hawaii.

Underwood detailed that there was a lot of consultation regarding this project. They would update the exemption notification and give it to Chair.

Member Downing was expressed his concern about throwing the sand away on land.

Eric Yuasa DOBOR engineer explained that to DOH the sand is a major pollutant.

Member Downing asked if there was a way to bring the sand to shore, but not take it out of the water.

Yuasa explained that this was being done by the Army Corps of engineers and they don't want to go back and consult.

Sam Lemmo-OCCL said that they would like to use a lot of sand, but they are not able to do that but the DOH will not allow people to put sand back in the beach.

Member Downing said that DOH needed to be educated.

Unanimously approved as submitted (Oi, Gomes)

ITEM J-5 Declare Project Exempt from Preparation of an Environmental Assessment Under Chapter 343, HRS, and Title 11, Chapter 200, Hawaii Administrative Rules, South Kawaihae Small Boat Harbor Channel Marker Buoys

Kawaihae, Island of Hawaii, Hawaii.

No changes, no public testimony.

Unanimously approved as submitted (Gomes, Gon)

ITEM J-6 Declare Project Exempt from Preparation of an Environmental Assessment Under Chapter 343, HRS, and Title 11, Chapter 200, Hawaii Administrative Rules, Hawaii Prince Hotel Waikiki (HPHW) Porte-Cochere Improvements, Honolulu, Oahu, Hawaii.

Yuasa-DOBOR explained that they did do lots of consultation on this project.

Member Downing asked if they would still be parking busses on the street. Yuasa said only one at a time.

Unanimously approved as submitted (Gomes, Gon)

ITEM K-2 Time Extension Request for Conservation District Use Permit (CDUP) HA-3599 by Douglas Goehring for a Single Family Residence and Related Improvements Located at Kolekole Gulch, Wailea, North Hilo, Hawai'i, Tax Map Key: (3) 2-9-003:003.

Sam Lemmo-OCCL presented item K-2.

No changes, no public testimony.

Member Gomes was opposed.

Approved as submitted (Oi, Yuen)

ITEM L-1 Delegation of Authority to the Chairperson to Approve, Procure and Enter Construction Contracts for Projects at Iao Valley State Monument to Remediate Conditions Caused by the Heavy Rainfall and Extensive Flooding on September 11-14, 2016.

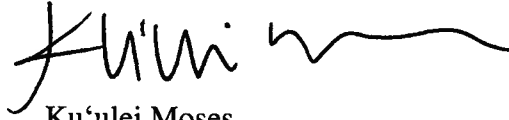
Alyson Yim with the Engineering Division-ENG conveyed item L-1. She handed out some before and after pictures.

Curt Cottrell-PARKS spoke about the methodology of the project.

Unanimously approved as submitted (Gomes, Gon)

There being no further business, Chair Case adjourned the meeting at 3:41 p.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ku'ulei Moses', with a long, sweeping horizontal flourish extending to the right.

Ku'ulei Moses
Land Board Secretary

Approved for submittal:

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

Suzanne D. Case
Chairperson
Department of Land and Natural Resources