

APPROVED BY THE BOARD  
AT ITS MEETING HELD ON

~~APR 28 2017~~

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

DATE: FRIDAY JANUARY 13, 2017  
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 9:05 a.m. The following were in attendance:

**MEMBERS**

Suzanne Case  
Thomas Oi  
Stanley Roehrig  
Sam "Ohu" Gon

James Gomes  
Chris Yuen  
Keone Downing

**STAFF**

Sam Lemmo-OCCL  
Steven Schmelz/DOBOR  
Russell Tsuji-LAND  
Dave Smith/DOFAW  
Ross Smith/DOT-AIR

Ed Underwood-DOBOR  
Maria Gaydos-DOBOR  
Barry Cheung/LAND  
Irene Sprecher/DOFAW  
Alton Miyasaka/DAR

**OTHERS**

Dan Morris/ Deputy AG  
Tim Lui-Kwan/C9  
Kent Fonoimoana/C9  
Mark Roy/D5  
Munekiyo Hiraga/D5  
Mike Murray/D9  
Joseph Fagundes/J4  
Representative Nicole Lowen/J4  
Randy Cates/J4  
Mei Phillips/M1

Jee Yuu Lee/C6  
Pete Manant/C9  
Jade Ching/D3  
Juan Rivera/D5  
Philip Fote/D6  
Gifford Chang/D12  
Stephanie Pascual/D12  
Tina Prettyman/J4  
James Richardson/L1 & L2

There were no minutes to approve.

Russell Tsuji Administrator for Land Division-LAND presented item D-2.

**ITEM D-2 Approve Mediated Settlement with Robinson Family Partners on Market Value of Old Government Road Remnant in Makaweli, Waimea, Kaua'i, adjoining Tax Map Key Nos. (4) 1-7-005:006 and (4) 1-7-005:001 Owned by Robinson Family Partners.**

Tsuji-Land, stated that one consideration in agreeing to the mediated settlement was that DOT had previously made a very low offer to sell this property, along with other remnants. Member Roehrig disclosed that he was on the Land Use Commission on this docket when it came for approval at the LUC.

Member Downing didn't understand how they can come out with a \$6,000 appraisal, it's a part of their resort, and they're showing two entrances and exits to this. Member Downing next asked if this had to be sold. He didn't understand why they had to go to mediation, they either pay the price or they don't. Member Downing said he was going to have a hard time approving this. This has to be what is fair.

Member Yuen commented that he didn't like the way the staff submittal was written because it took him some digging to figure out how many acres the parcel was. He didn't like having to second guess these mediations. Member Yuen didn't like the fact that the department has an appraisal amount of \$80,000 and their appraiser is coming up with an amount of \$6,000, which was based on an invalid assumption that the property had to be consolidated with the roadside strip.

Member Yuen asked if someone from the applicant was here. No one was present.

Member Gomes suggested deferring this, he had the same feelings.

Member Oi commented that the department needs to do a better job when we do appraisals, there should be an understanding between the Land division and the appraiser about the basis for the appraisal.

Member Gon said the other option would be to reject the staff submittal.

Member Yuen preferred to defer because the Robinsons were not present, they may have something to say.

Member Roehrig offered his recollection of this project that there was also access on the south side.

Member Gon made a motion to defer, Member Roehrig seconded.

**Unanimously voted to defer (Gon, Roehrig)**

**ITEM D-16 Pursuant to Section 171-6(8), Hawaii Revised Statutes, Delegate to the Chairperson Authority to Approve Settlements Mediated under Section 171-17, Hawaii Revised Statutes, in Disputes Relating to the Sale Price or Lease Rental of Lands to be Disposed of by Drawing or Negotiation, Repurchase of Land, or Reopening of Rent.**

Tsuji-LAND said he knew what the sentiment of the Board was already.

Chair case noted that there was testimony submitted from OHA. Tsuji said he didn't agree with OHA's testimony about transparency. He said that there are open records laws. There is no requirement for a public meeting in 171-17. Member Yuen said the discussion they had on the other item were reasons why these should continue to come to the Board. Member Roehrig said he would prefer that mediated settlements come to the Board.

Member Yuen made a motion to disapprove, Member Roehrig seconded.

**Disapproved**

**Unanimously voted to disapprove (Yuen, Roehrig)**

**ITEM M-1 Request for BLNR Consideration: Consent to Lease of Lands under Governor's Executive Order No. 2443 to the Hawai'i State Public Library System.**

Mie Phillis with DAGS presented item M-1.

Member Yuen asked why one State agency pays rent to another. Phillis detailed that they were running the federal donation program; they charge fees for the property they transfer. They don't get any general funds, that's why they charge fees to run their programs. They are a special funded program.

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

Ross Smith Property Manager with the Department of Transportation-DOT-AIR presented items M-2 and M-3.

**ITEM M-2 Amendment No. 27 to Concession Lease No. DOT-A-92-0018 for the Purpose of Adding a New Food and Beverage Space Restaurant and Lounge Concession Host International, Inc. Honolulu International Airport, Tax Map Key: (1) 1-1-02:1 (Portion).**

**ITEM M-3 Issuance of a Revocable Permit for Storage Space, Helicopter Consultants of Maui, LLC, Hilo International Airport, Tax Map Key: (3) 2-1-12: Portion of 90.**

Member Gon asked if there were folks planning to occupy the concession lease area. Smith explained that Host has the exclusive throughout the airport so they were part of the plan in going into the renovation.

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

Chair Case announced that items D-11, D-13 and J-3 were withdrawn.

**ITEM D-11 Consent to Assignment of General Lease of Easement No. S-5174, Hilton Hawaiian Village LLC, Assignor, to Hilton Hawaiian Village Lessee LLC, Assignee, Waikīkī, Honolulu, O‘ahu, Tax Map Key: (1) 2-3-037:021 and (1) 2-6-008:029.**

**Withdrawn**

**ITEM D-13 Grant of Term, Non-Exclusive Easement to Hilton Hawaiian Village Lessee LLC for Pier Purposes; Termination of Revocable Permit No. S-7566; Waikīkī, Honolulu, O‘ahu, Tax Map Key: (1) 2-6-008:029.**

**Withdrawn**

**ITEM J-3 Declare Project Exempt from Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawaii Administrative Rules Installation of Offshore Mooring for Pyro Spectaculars North, Inc. Kihei, Maui, Hawai‘i.**

**Withdrawn**

Kevin Moore Assistant Administrator for Land Division-LAND conveyed item D-5.

**ITEM D-5 Addition of 0.534 Acre, More or Less, of Submerged Land to the Area Encumbered by Governor’s Executive Order 3006 to the County of Maui for Sewage Treatment Plant Purposes, situate at Kahului, Wailuku, Maui, Tax Map Key No. (2) 3-8-001: seaward of 188.**

There were no questions, there was no public testimony.

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

James Richardson representing the Department of Hawaiian Homelands-DHHL presented items L-1 and L-2. DHHL no longer needs these reservoirs so they plan to decommission them.

**ITEM L-1 Application for a DLNR Dam Safety Permit No. 75 – Lower Anahola Reservoir (KA-0066) Dam Removal, Anahola, Kaua‘i, Hawai‘i.**

**ITEM L-2 Application for a DLNR Dam Safety Permit No. 73 – Field 2 Keālia Reservoir (KA-0064) Dam Removal, Anahola, Kaua‘i, Hawai‘i.**

Member Gomes asked what the process was of decommissioning a reservoir.

Kenneth Rappolt, representing the engineering consultant, Lyon Associates, explained that they breach the wall of the reservoir so that it cannot impound water. Only open fields are downstream.

Member Roehrig questioned whether this would increase a risk of flooding.

Mr. Rappolt and the DLNR Engineering staff engineer Denise Manuel replied that the removal of the reservoir wall would not increase the flow rate. The NFIP, in making flood maps, does not include water impounded by a dam. The flood maps assume that a reservoir is full and water flows over the spillway.

Haku Miller, also with Lyon & Associates, also said that the situation would be safer without a dam because if a full reservoir was breached, there would be a sudden flow of water. The reservoirs are dry at the present time; the irrigation systems that fed them are in disrepair. Miller said that the removal of the dams would not create a new floodplain.

Carty Chang, DLNR Chief Engineer, and Manuel explained that the landowner would either have to remove the dams as they were requesting, or would have to make very expensive repairs.

Member Downing asked that the submittals contain better pictures.

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

Kevin Moore presented Item D-3 for DLNR-Land

**ITEM D-3 Issuance of Revocable Permit to Mary Katherine Foti, Trustee of the Mary Katherine Foti Revocable Living Trust dated December 14, 1990, Haukalua II, South Kona, Hawai‘i, Tax Map Key: (3) 8-7-05:05.**

The property in question is very difficult to use because the legal access is undeveloped. Foti, the applicant, owns adjoining property and has a private road that they can use to get access. There are only a few adjoining owners who could potentially make use of this state property unless the legal access is improved. This would be very expensive and probably require an EA.

Moore explained that Foti had requested a longer term but DLNR cannot offer anything longer than an RP without going to public auction.

Member Yuen suggested that the DLNR offer this by public auction. The access problem is likely to continue and the only feasible users are the adjoining owners with a private access. Otherwise the property is just on an RP to an adjoining owner for a long time.

Dr. Carl Foti, the agent for the applicant (his wife) explained that he wanted to use the land as part of a grazing project, and allow his ranch manager to live in the house. Dr. Foti wants to have a longer term and to have the DLNR allow the house to be occupied before the building permit issues have been solved. He also did not want to be responsible for cleaning up the existing mess.

Kevin Moore stated that Land Division didn't agree with these requests. After some discussion with Member Roehrig about the fact that the RP, as proposed, would at least allow him to get started on the property, Dr. Foti indicated that he would accept the RP with the recommended conditions.

Member Yuen made a motion to approve the recommendation, with two amendments: that Foti would have up to 6 months, rather than 3 months, to do the Phase I assessment, and that Foti would not be liable to clean up the property if they never occupied the house. Seconded by Member Gomes.

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

10:42 AM RECESS

10:55 AM RECONVENE

Ed Underwood and Dana Yoshimura of DOBOR presented this Item J-4. This had been discussed in the December meeting but deferred. DOBOR did inform the lessees of this proposal.

**ITEM J-4 Request Approval of the Division of Boating and Ocean Recreation Sublease Rent Participation Policy.**

In response to a question by Chair Case, Underwood explained that DOBOR had 16 existing leases. Of them, 15 had a provision that said the BLNR could adjust the rent upward in the event of a sublease, but without a specific means of calculation. The other lease, to a canoe halau, did not allow subleasing at all.

Member Yuen questioned whether this policy should automatically be applied in new development agreements, which are typically negotiated.

Underwood concurred that new development agreements would be negotiated on a case-by-case basis. Underwood discussed the objections and concerns of the lessees who did submit comments. The GKM lease, which covers about 4 acres at Honokohau Harbor, was extended for 20 years in 2006. The rental was supposed to be reopened every 5 years. The state did not do the 2009 reopening. The 2014 reopening was settled by mediation agreement, approved by the Board, in 2016.

Member Roehrig asked whether the subleases in GKM were legal lots of record as defined by the County.

Underwood and Yoshimura said they were going to meet with the county planners about this issue. Each county has different policies.

Joseph Fagundes provided testimony for GKM. The lease (by a predecessor entity) began in 1983. The Lessee was required to make major improvements, which it did. GKM got an extension in 2006 to finance other major improvement (\$1 million), which it also did. The lease rent for GKM is based on fair market value of the land only, there is no percentage rent. Every 5 years the state can reopen the lease rent. The current agreement covers 2014 to 2019. He thinks it is unfair that the state would increase the rent based on subleases when it agreed so recently on the fair market rent. He argued that the state did not claim a right based on sublease rents during the mediation. He also complained that GKM had submitted 12 requests for consent to sublease to DOBOR since 2004, no action has been taken on those.

Tina Prettyman, general manager of GKM, said that they had sent these requests certified mail, had had no action from DOBOR.

Member Oi asked whether the GKM lease was intended to be one where the lessor would make income from subleases.

Fagundes replied, "Yes".

Representative Nicole Lowen testified that she is the State House representative for District 6, including Honokohau Harbor. She considered it unethical for the state to seek additional rent for subleases so soon after settling the rent reopening, and asked the Board to consider the broader community and economic impacts.

Randy Cates testified that he is a tenant of Keehi Marine, involved in marine salvage, and that the general manager of Keehi asked him to submit testimony. They believe that Underwood and DOBOR will be fair in applying this policy. He asked the Board to consider the situation at Keehi, where they had a building that needed to be replaced. They did, in fact, recently invest in replacing this building, where Cates had a sublease. If the State took a share in these subleases it would have discouraged Keehi from replacing the building.

In response to Member Yuen's questions about the non-action on GKM's sublease consents, Underwood explained that he started in DOBOR in 2006. At that time his property manager said he needed more help. Because GKM's Sub-Lessees were in place and GKM wasn't losing money from the non-action on the consents, they put the consents on the back burner. In August 2016, GKM brought in a new Sub-Lessee and DOBOR wanted to participate in the sublease income because they believed that GKM's investment was largely depreciated. DOBOR would not ask to participate in sublease income for the older non-processed subleases.

Underwood stated that the rent was increased from \$70,000 to \$120,000/year, in the 2014 reopening settlement. Meanwhile, GKM was making \$600,000/yr. from subleases. DOBOR had wanted to bring up the sublease income in the reopening but they were advised by the Attorney General's Office to keep that separate and ask to participate in the sublease rents later, when consents were being considered.

Maria Gaydos of DOBOR, stated that the proposed policy does allow for the amortization of improvements.

Member Yuen asked whether the rental reopening was settling the fair market value of the property.

Underwood replied that the state's appraiser, CBRE, told him they considered the fair market value of the property only and did not consider GKM's sublease rent.

Member Yuen observed that all issues were with (C)(ii), dealing with improved property. In discussing with Land Division, their example of their asking for sublease participation was the situation where the lessee of a cell tower subleased to another provider for much more than they were paying the state for the site. This didn't seem similar to what we are talking about here.

Member Yuen suggested the Board approve J-4 as submitted, but strike recommendation (C)(ii). Member Roehrig asked for an amendment that the policy wouldn't apply to existing leases.

Member Yuen replied that 15 of the 16 did contain a clause that the state could increase the rent if the property was subleased. Member Roehrig withdrew the amendment and seconded the motion

Member Oi stated he would rather defer. Chair Case was opposed, wanted a continuing dialogue on this issue.

Member Yuen stated we could have more discussion on the issue later, but the policy as stated in (C)(ii) was too vague and could be misapplied, we should come up with a better wording.

Member Yuen made a motion to approve item J-4 as amended by deleting recommendation C(ii). Member Roehrig seconded.

Member Oi and Chair Case opposed.

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

12:31 PM RECESS/LUNCH

2:11 PM RECONVENE

Member Gon did not return.

**ITEM D-9 Issuance of Right-of-Entry Permit to Waikīkī Beach Activities, Ltd. for Beach Activities Purposes on January 22 and 28, 2017 and February 14, 15, 16, and 25, 2017, Waikīkī, Honolulu, O'ahu, Tax Map Key: (1) 2-3-037 Portions of 021.**

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

Dave Smith- DOFAW Administrator presented Item C-9



**ITEM C-9 Request to Consolidate the Petitions From Elizabeth Rago, Kahuku Community Association, Makani Pono ‘o Kahuku, and Kent Fonoimoana with the Contested Case Hearing Regarding Board Action of November 10, 2016, Agenda Item C-1, Request for Approval of Incidental Take License and Habitat Conservation Plan For Na Pua Makani Wind Energy Project on The Island of Oahu, Hawai’i.**

Chair Case clarified that this agenda item does not decide the question whether the petitioners have standing. This will be an issue for the hearing officer.

Tim Lui-Kwan, representing Na Pua Makani, basically agreed with the recommendation to consolidate.

Kent Fonoimoana made it known that he was opposed to the Habitat Conservation Plan.

*Written testimony was submitted by Na Pua Makani Power Partners, LLC in opposition to Untimely Requests for a Contested Case Hearing (Item C-9).*

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

Kevin Moore presented Item-12 for the Land Division.

**ITEM D-12 Issuance of Right-of-Entry Permit to Fireworks by Grucci, Inc. for Aerial Fireworks Display at Unencumbered State lands on Fort DeRussy Beach on January 16, 2017, Waikīkī, Honolulu, O‘ahu, Tax Map Key: (1) 2-6-005:seaward of 001.**

Member Downing asked why the rental was less than for other applications.

Gifford Chang, representing the applicant, Grucci, Inc., conveyed that they tried to minimize the footprint.

Member Downing asked whether the firing site could be moved farther away from the ocean.

Mr. Chang indicated that would put part of the safety zone in federal property, and to get permission would be a long, difficult process.

Member Gomes remarked that the Board has set strict conditions for Hawaii Explosives and Pyrotechnics in recent meetings.

Member Roehrig commented that it would be better if fireworks were not so close to the ocean.

Member Downing initially made a motion to amend, so that the firing site would be closer to the sidewalk, farther from the ocean, unless there were Kona winds.

Member Gomes seconded.

Chang commented that this would mean talking with the federal authorities, in effect, it would be a denial of the request.

Chair Case suggested that we allow this as requested this time.

Stephanie Pascual, representing Hawaii Explosives and Pyrotechnics, said they did not object to allowing this event. Fort DeRussy was a difficult site.

Chang described the efforts Grucci would make to clean the ocean and beach areas.

Member Downing changed the motion to allow this application as requested this time; the staff should work to develop clearer parameters in the future.

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

**ITEM D-17 Rescind Prior Board Action of July 8, 2016, Agenda Item D-3, Amend Land Patent Grant No. S-13,720 by Revising the Easement Language in the Grant; 'Auwaiolimu, Honolulu, O'ahu, Tax Map Key (1) 2-2-014:020 and 031.**

**Grant a Perpetual Non-Exclusive Easement to Abha Dubey Revocable Trust for Access and Utility Purposes on Easement Area Adjoining 'Auwaiolimu, Honolulu, O'ahu, Tax Map Key (1) 2-2-014:020.**

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

Stephanie Pascual represented the applicant for Item D-8, D-10 and D-15.

**ITEM D-8 Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach on January 22, 2017, Waikiki, Honolulu, O'ahu, Tax Map Key: (1) 2-3-037:021 (Portion).**

There was a conflict with another event that caused difficulty in using the Lagoon rather than the beach. After discussion with Member Downing about whether the event could take place from the Lagoon rather than from the beach, this item was deferred to later in the agenda.

**ITEM D-15 Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display on Encumbered State lands off Ko 'Olina Beach on January 31, and February 4, 2017, Hono'ulil'uli, 'Ewa, O'ahu, Tax Map Key: (1) 9-1-057: seaward of 006.**

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

**ITEM D-10 Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach on January 28, and February 15, 25 and 26, 2017, Waikiki, Honolulu, O'ahu, Tax Map Key: (1) 2-3-037:021 (Portion).**

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

Alton Miyasaka of DAR presented Item F-1 & F-2.

**ITEM F-1 Reconsideration of Prior Board Action of May 27, 2016 to Approve Holding Public Hearings to Amend Hawaii Administrative Rules Chapter 13-74, License and Permit Provisions and Fees for Fishing, Fish, and Fish Products. These Amendments are Intended to Require Dealer Reporting and Raise The Commercial Marine License Fees From \$50 to \$150 Per Year.**

This is to clarify changes requested by the Department of the Attorney General after the Board had previously approved a draft version to go to public hearing.

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

**ITEM F-2 Request for Approval to Enter into a Federally Funded Sole Source Contract (Not to Exceed \$386,255.00), Between The Board of Land and Natural Resources And Cascadia Research Collective, to Provide Services to Support State Efforts to Minimize and Mitigate Incidental Take of False Killer Whales And Other Endangered Cetaceans in Hawai'i; Declaration of Exemption For Contract Actions Under HRS Chapter 343 and HAR Chapter 11-200.**

In response to a question from Member Downing, Miyasaka explained that the research could help fishermen avoid fishing where false killer whales are found.

In response to a question from Member Gomes, Miyasaka stated that this researcher was the only qualified entity that could do this contract.

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

Les Kobata, Registrar of the Bureau of Conveyances, presented Item G-1

**ITEM G-1 Request Adoption of Amendments to Hawaii Administrative Rules Chapter 13-16 (Rules Relating to Conveyances) to Specifically Authorize Electronic Recording, Update the Fee Schedule and Make Other Technical Changes**

**The Rules Can Be Reviewed On-Line At:**

<http://Itgov.hawaii.gov/the-office/administrative-rules/> or

<http://dlnr.hawaii.gov/boc/announcements/draft-rules-amendments-to-chapter-13-16-rules-relating-to-conveyances/> or Viewed in Person At:

**The Bureau of Conveyances Offices on O'ahu At**

**1151 Punchbowl Street, Room 120, Honolulu, Hawaii, 96813**

**From 8:00 AM to 3:30 PM, Monday through Friday Except Holidays.**

Member Roehrig discussed the process where major banks now privately assign mortgages through an electronic registry, and urged that the state require assignments of mortgages be recorded in the Bureau of Conveyances. The state was missing a revenue opportunity.

Chair Case mentioned that a substantive change like that could not be made in these rules without them going back to public hearing. This issue was discussed when the rules were approved to go to public hearing.

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

Stephanie Pascual represented the applicant, Item D-8.

**ITEM D-8 Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach on January 22, 2017, Waikiki, Honolulu, O'ahu, Tax Map Key: (1) 2-3-037:021 (Portion).**

This was the item discussed earlier in the meeting and deferred. She will resubmit a map showing that the firing site will be moved further inland. Staff would determine the exact location.

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

Sam Lemmo, OCCL Administrator, presented Item K-1

**ITEM K-1 Conservation District Use Application (CDUA) HA-3774 Regarding the County of Hawai'i - Department of Environmental Management Kealakehe Metal Salvage Facility Remediation Project, Located in the North Kona District, Island of Hawai'i, on Tax Map Key: (3) 7-4-020:016.**

This land was in the state land use conservation district despite being a landfill for many years, so\ is project needed a CDUP.

Member Roehrig pointed out an error in the conditions of approval that mentioned farm dwellings.

**Unanimously approved as amended (remove mention of farm dwellings) (Roehrig, Gomes)**

**ITEM D-1 Issuance of Right-of-Entry Permit to Kaua'i Police Department for Triathlon at Kekaha Beach; Kekaha Beach, Waimea, Kaua'i, Tax Map Key: (4) 1-2-002: seaward of 007.**

No changes, no public testimony.

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

**ITEM D-4** Amend Prior Board action of November 10, 2016, Item D-3, *Holdover of Revocable Permits for Water Use on the Islands of Hawaii and Kauai*. The purpose of the amendment is to correct the 2016 rent shown for Revocable Permit No. S-7267 to Wood Valley Water and Farm Cooperative, and propose a rent increase for the permit effective retroactively to January 1, 2017, Kā'ū, Hawai'i, Tax Map Key: (3) 9-7-001:001 por.

No changes, no public testimony.

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

**ITEM D-6** Amend, After-the-Fact, Right-of-Entry Permit No. 4261, to the Association of Surfing Professionals (ASP) North America LLC, dba The World Surf League, for an Additional Day to Conclude a Professional Women's Tour Surf Event at Lipoa Point, Honolulu, Maui, Tax Map Key: (2) 4-1-001: Portion of 010.

No changes, no public testimony.

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

**ITEM D-7** Issuance of a Right-of-Entry Permit to Chrysalis, Inc., dba Chrysalis Events Hawaii, to Host a Corporate Team Building Event, Hanakaō'ō Beach, Honokōwai, Ka'anapali, Maui, Tax Map Key: (2) 4-4-013: seaward of 007.

No changes, no public testimony.

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

**ITEM D-14** Grant of Term, Non-Exclusive Easement to C. Michael Muller, Trustee of the C. Michael Muller Trust dated November 21, 1989 for Pier Purposes; Termination of Revocable Permit No. S-5408; Waimānalo, Ko'olaupoko, O'ahu, Tax Map Key: (1) 4-1-001: seaward of 011.

No changes, no public testimony.

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

David Smith and Irene Sprecher representing the Division of Forestry and Wildlife presented items C-1 through C-8.

**ITEM C-1** Acceptance of Hearing Officer's Report on a Public Hearing for one Proposed Addition to the Forest Reserve System on the Island of O'ahu.

**And**

**Approval and Recommendation to the Governor Regarding Issuance of an Executive Order for Addition of Tax Map Key (1) 9-8-001:001, Comprising Approximately 635 Acres, to the 'Ewa Forest Reserve, Kalauao Section, Kalauao, 'Ewa, O'ahu.**

**ITEM C-2 Request Approval for Selection of Competitive Sealed Proposal Process and Authorize the Chairperson to Award and Execute a Contract for the Inventory of Hawaiian Sandalwood on Select Department Lands in Hawai'i County**

**And**

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

Smith put in on record that DOFAW had consulted with several other agencies and private parties in making the exemption determination.

**ITEM C-3 Approval of a Memorandum of Understanding, Land License or Other Disposition Between the Division of Forestry and Wildlife and the Department of Hawaiian Homelands for Management of a Rare Plant Enclosure on Tax Map Key (1)8-9-008: Portion 001, Wai'anae, O'ahu**

**And**

**Request Approval of Declaration of Exemption from Chapter 343, HRS Environmental Compliance Requirements for the Project**

**And**

**Request for Delegation of Authority to the Chairperson to Negotiate, Approve, Execute, Amend and Extend the Memorandum of Understanding, Land License or Other Disposition, as needed, for Division of Forestry and Wildlife Management of the Proposed Rare Plant Enclosure at Wai'anae, O'ahu.**

**ITEM C-4 Request Approval of a Revised Forest Stewardship Management Plan and Increased Cost Share Support for the Forest Stewardship Agreement with Alan R. Everson, Tax Map Key 3-4-6-009:102, Hāmākua, Hawai'i.**

**ITEM C-5 Request for Approval to Authorize the Chairperson to Negotiate and Enter into a Memorandum of Understanding with the University of Hawai'i, Research Cooperative Studies Unit Projects, to Fly on Division of Forestry and Wildlife Contracted Helicopter Flights.**

**ITEM C-6 Request for Delegation of Authority to the Chairperson to Enter into a Memorandum of Understanding with the Hawai'i Nature Center to Facilitate Cooperative Management of Adjacent Facilities, provide Environmental Education Program Support, and Coordinate Access to DOFAW Management Areas.**

**ITEM C-7 Request for Delegation of Authority to the Chairperson to Enter into a Memorandum of Agreement with the 50th Space Wing, Detachment 3, 21st Space Operations Squadron, Ka'ena Point Satellite Tracking Station and U.S. Department of the Interior to Identify Each Parties' Role in Managing and Conserving Natural Resources at the Ka'ena Point Satellite Tracking Station Facility, and to Facilitate Management Activities Amongst the Parties.**

**ITEM C-8 Request Approval of a Management Plan for Pahole Natural Area Reserve, Tax Map Key 1-6-8-001-002, Waialua, O'ahu.**

**And**

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

There were no changes and no public testimony on any of these agenda items.

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

Ed Underwood, DOBOR Administrator, presented Items J-1.

**ITEM J-1 Approval of a Petition for a Contested Case Hearing and Appointment and Selection of a Hearing Officer to Conduct All Hearings for a Contested Case for the Non-Renewal of a Mooring Permit Issued to Sarah MacInnes for the Keauhou Bay Small Boat Harbor, Hawai'i.**

The Attorney General's office had advised that there should be a contested case hearing as requested. There was written public testimony. No changes, no oral public testimony.

**Unanimously approved (Roehrig, Gomes)**

Ed Underwood and Maria Gaydos, DOBOR, presented Item J-2.

**ITEM J-2 Request Approval to Initiate Rule-Making Proceeding, Including Public Hearing, to Amend various sections of Title 13, Hawaii Administrative Rules (HAR) in order to:**

- 1) Consolidate and amend definitions;**
- 2) Amend thrill craft rules;**

- 3) Amend rules regarding conduct in small boat harbors such as consumption of alcohol, sleeping and camping, and leash laws;
- 4) Adopt new rules regarding feeding of domesticated, wild and feral animals in small boat harbors;
- 5) Amend rules pertaining to ocean recreation requirements such as dive flags, accident reporting and temporary mooring;
- 6) Amend administrative processes for accident reporting and formation of advisory committees; and
- 7) Repeal redundant, inconsistent or duplicative sections of the HAR.

The rules can be reviewed online at: <http://ltgov.hawaii.gov/the-office/administrative-rules/> or <http://dlnr.hawaii.gov/dobor/draft-rules/> or can be reviewed in person at any small boat harbor from 8:00 am to 3:30 pm, Monday through Friday, except holidays. Location and contact information for DOBOR offices is available online at: <http://dlnr.hawaii.gov/dobor/contact/>

This had been on the agenda in December but was deferred due to lack of time. Gaydos explained that the primary purpose was to simplify and clarify rules. Common definitions were moved to a section that would apply to all the subchapters rather than repeating the definitions for each subchapter. There are substantive changes besides these clarifying and simplifying changes, however.

Gaydos went through a number of the changes.

Member Roehrig asked whether the prohibition on feeding animals would apply to fishermen using palu or chum.

Gaydos replied that these rules only applied to areas under the jurisdiction of DOBOR, not in the open ocean.

Member Yuen suggested that the rules better clarify that they apply only to DOBOR jurisdiction.

Member Downing asked about the proposed rule apparently eliminating advisory committees. Underwood and Gaydos explained that DOBOR could, and would, still form advisory committees, but currently, because of this rule, these advisory committees had to follow the state Sunshine Law, which is very onerous for an advisory committee.

Member Downing suggested that public hearings should be held in the affected areas of the state.

Member Downing asked about proposed changes in the tow-in surfing rules.

Underwood explained that the current rule appears to allow tow-in surfing whenever there is a high surf warning; the proposed rule would clarify that it is allowed only in the areas affected by the high surf warning.



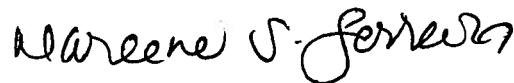
Member Yuen asked about whether “control” in the proposed H.A.R. §13-231-13 should be defined. Underwood explained that this is defined by statute, and the rule was to make it clear that if a vessel was owned by a corporation, the sale of the controlling interest in the corporation through the transfer of stock was a transfer of the vessel.

The Board discussed and agreed that DOBOR could make technical changes to the proposed rule package before sending them out to public hearings.

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

Member Gomes made a motion to adjourn, Member Oi seconded. All were in favor. There being no further business, Chair Case adjourned the meeting at 4:39 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,



Darlene S. Ferreira  
Land Board Secretary

Approved for submittal:



Suzanne D. Case  
Chairperson  
Department of Land and Natural Resources