

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

DATE: FRIDAY, DECEMBER 8, 2017
TIME: 9:30 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

MEMBERS

Suzanne Case
Thomas Oi
Stanley Roehrig
Samuel Gon

Chris Yuen
Keone Downing
James Gomes

STAFF

Russell Tsuji—LAND
Kevin Moore – LAND
Ian Hirokawa –LAND
David Smith--DOFAW
Ed Underwood – DOBOR
Aaron Stauch

Alton Miyasaka-DAR
Dre Kalili—DOT Harbors
Ross Smith-DOT Airports
Carl Young-HDOT Harbors
Dean Uyeno

OTHERS

Scott McCormack, D-12
Norman Uchida, D-4
Jim Sweeney, D1
Steve Gerber, D-1
Jim Coon, J-2
Winnifred Basques, J-2
Thomas Lim, D-9
Felicia Cowden, D-4
Jason Hines, D-4
Kip Goodwin, D-4

Greg Barbour, D7
Kaleo Manuel, DHHL, D-4
Robert Stellmacher, D-13
Ed Boteilho, D-15
Sol Kaho‘ohalahala, D-4, J-2
Mary Oneha, D-10
Larry Geller, F-1
David Bissell, D-4
Sharon Goodwin, D-4
Bridget Hammerquist, D-4

Marti Townsend, D-4

Lokelani Mokuiki, D-4

Annie Frederick, D-4

Hope Kallai, D-4
Tim Kallai, D-4
Yvonne Izu, D-4
Larry Geller, F-2
Jeffrey Lindler, D-4
Ed Olson, D-4
Jeff Clark, D-4

Debbie Lee-Jackson, D-4
Ilene Ketchline, D-4
Lance Collins, F-2
Bobby Grimes, D-15

Chair Case called the meeting to order at 9:40 AM. She announced that items I-1, K-1 and D-8 are withdrawn and will not be heard today.

Case read the standard contested case hearing statement.

MINUTES

May 26, 2017 Minutes

Gon and Gomes recused as they were not in attendance.

Roehrig suggested that on the first page, the word “conveyed” to be changed to “convened.” (Note: Changed sentence to read “She read the contested case advisory.”)

Yuen—re: Lanine or Lane Ka‘ai‘ai. Finalize with “Lane.”

Motion

Accept the minutes with the proposed changes (Roehrig/Oi). Unanimous.

November 9, 2017 Minutes

Roehrig asked, regarding the Maui water item on page 15, if the vote for 80MGD or 50MGD. He understood that he was voting on 50 MGD.

Yuen noted that he made the original motion, and listened to the tape of the motion. He said that the suggested change in MGD was not stated as an amendment and therefore was not put into the motion.

Motion

Accept the minutes as submitted (Yuen/Oi). 4 Ayes, 1 No. Roehrig opposed. Motion passed 4-1. (Gomes/Gon recused).

Item D-12 Consent to Assign General Lease No. S-6089, Turtle Bay Resort, LLC, Assignor, to BRE Turtle Bay Resort LLC, Assignee, Kahuku, Ko‘olaupoko, O‘ahu, Tax Map Keys: (1) 5-7-006:026, 027 & 032.

Russell Tsuji, Land Division, summarized the submittal. He noted that representatives from the seller and buyer are present. Tsuji gave some background on DLNR's acquisition of a portion of the property and a conservation easement over other parts of the property. What is before the board today is a consent to assign the lease of about 57 acres around Kawela Bay. The lease allows use for recreational business uses. Cost of the lease is \$239,000 with a premium of \$119,500.

Board Discussion

Roehrig disclosed that Barry Sullivan, counsel for the buyer in the transaction used to be part of a law firm that he worked in. Roehrig does not believe the relationship will affect his vote. Roehrig did not work on this property and both he and Mr. Sullivan were in different law firms at the time of the sale.

No other board discussion

Public Testimony

None

Motion

To approve Item D-12 as submitted (Gon/Gomes). Unanimous.

Item D-2 Approve and Delegate to Chairperson Authority to Execute Settlement Agreement with Hawaiian Telcom, Inc. Relating to Use of Communications Tower Site on Kaua'i Under Board Action February 11, 1983, Item F-11; Delegate Authority to Chairperson to Administer the Settlement Agreement, Including to Issue Final Approval of Work Under the Agreement; Terminate Occupancy Under Board's Prior Action February 11, 1983, Item F-11, *Direct Lease Public Utility Purposes*; Approve Issuance of Immediate Construction Right-of-Entry to Hawaiian Telcom, Inc.; Summit Camp, Wailua, Kawaihau, Kaua'i; Tax Map Key: (4) 4-2-001:002 por.

Russell Tsuji presented to the board on behalf of the Land Division. This item is to approve a settlement agreement that staff negotiated with Hawaiian Telcom regarding lease rent for this parcel. He provided background on the situation. Tsuji noted that staff, the Deputy AG and Hawaiian Telcom staff were available to answer questions. Tsuji noted the difficulty tracking leases when land is transferred from one agency to another.

Board Discussion

Gon noted that his is an area with native vegetation, but none of the conditions address the native vegetation other than replanting for erosion control. He would like to add some conditions to address the native vegetation.

Amendment:

Consult with DLNR's Division of Forestry and Wildlife and the Kauai Island Invasive Species Council to minimize introduction of invasive species into the subject premises and surrounding Koloa Forest Reserve during an y phase of HTI's work under the Settlement Agreement.

Public Comment

None

Motion

To approve Item D-2 as amended (Oi/Gon). Unanimous.

Item D-7 Consent to Assign Sublease K-6 under General Lease No. S-5619, BIG ISLAND ABALONE CORPORATION, Assignor, to KOWA PREMIUM FOODS HAWAII CORPORATION, Assignee, 'O'oma 1st, North Kona, Hawai'i, Tax Map Key: (3) 7-3-043:086.

Russel Tsuji presented the staff submittal on behalf of the Land Division. He outlined DLNR's relationship with NELHA, who is asking for a sublease approval. Part of the agreement is for the new tenant to keep as much existing staff as possible. KOWA staff are present to answer questions. Tsuji noted that in the past the Board has questioned why DLNR does not receive any income from these properties. He noted that NELHA uses most of the revenue that they generate for operations.

Board Discussion

None

Public testimony

None

Motion

To approve Item D-7 as submitted (Yuen/Gomes). Unanimous.

Item D-1 After-the-Fact Consent to Merger of Integrated Aquaculture Hawai'i, LLC with and into Integrated Aquaculture International, LLC; Consent to 51% Stock Transfer in Sunrise Capital, Inc., Lessee Under General Lease No. S-4946, and Permittee

under Revocable Permit No. S-7256, from Sunrise Capital, Inc. and Integrated Aquaculture International, LLC (via mesne transfers), Transferors, to Hendrix Genetics USA LLC, Transferee, Hanapēpē, Waimea (Kona), Kauaʻi, Tax Map Keys: (4) 1-9-010:037 (lease) and (4) 1-9-010:034, 035, 038, and 1-9-011:007 (permit).

Kevin Moore presented for the Land Division. This submittal asks for consent for the assignment of a lease to Sunrise Capitol, Inc. Ultimately there is no payment to the state. Calculations are included in the submittal. One of the lessees did a corporate merger last year and did not come before the board. This submittal also takes care of merged corporation, as well. Staff recommendation is to approve.

Steven Gelber and Jim Sweeney said they had nothing to add, support the staff submittal and are available to answer questions.

Board Discussion

Oi asked why there is a negative premium when the lessee is a successful business. Moore said that the operations on the state lease is to sell to the local market, but the value of the company is in the brood stock operation, located on non-state land.

Public Testimony

None

Motion

To approve Item D-1 as submitted (Oi/Gomes). Unanimous.

Item D-4 Holdover of Revocable Permits for Water Use on the Islands of Hawaiʻi and Kauaʻi. See Exhibit 3 for list of Revocable Permits.

RP7340 will be discussed separately.

Ian Hirokawa presented for the Land division. This submittal is for holdovers for revocable permits for water uses on the islands of Hawaiʻi and Kauaʻi. These RPs are largely for agricultural use, although there is one for power generation on Hawaiʻi Island. He noted that this is largely the same action as last year, so there are no changes. Hirokawa pointed out that Land Division has been talking to applicants to help move the process forward. They will meet with the users in Kaʻū, including DHHL, early next year to help them move their permits forward. They have also worked with DHHL on their beneficiary consultation to develop a water reservation.

Board Discussion

Yuen asked about the status of the proposal for ADC to take over the Ka'ū leases. Hirokawa said it is off the table because of concerns raised by OHA. Yuen pointed out that there are a couple of reasons for ADC to be the overall entity to apply for the water use:

1. There are no significant environmental issues, because this water does not feed perennial streams.
2. There is more water available than anyone is using.
3. Many of the permittees are small users and it will be very time consuming and expensive for them to go through the water application process, so it makes more sense for there to be an umbrella applicant.
3. DHHL will not get water unless someone develops it.

Yuen believes that there are only two ways to address the equitable distribution of water in Ka'ū, and that is to either have ADC be the umbrella agency to apply for a water permit and develop and manage the water, or to change the statute. Hirokawa noted that staff is sensitive to the issue and is working on ways to balance the needs of various users.

Tsuji said that Land Division understands the concern. He also provided some background on the legislation. Yuen noted that there was substantial and consistent opposition to the bill, so the legislation is what it is. However, his concern is how will these people have water to farm if they cannot meet the requirements by next year, which is when the bill sunsets. He feels the DLNR needs to find a solution for small farmers if we want sustainable agriculture in Hawai'i.

Roehrig noted that the Board had the same discussion a year ago. He agrees with Chris. ADC should be the focal point. Suggested having the board vote to have CWRM look at designating a water management area or to send it to ADC. There is big potential for agricultural development on Hawai'i Island, but they need to have a reliable source of water. Would like to move forward on this today.

Case noted that it is the applicants' responsibility to meet the requirements because they are applying for water use. Roehrig believes it is the responsibility of the board to address the situation for small farmers.

Case noted that she agrees this is a problem, and the problem was noted when the legislation was passed. However, she wants to make clear that it is not the fault of the staff that there is not much motion. Yuen agreed and believes the statute needs to be reviewed.

Tsuji gave some background on DLNR's transfer of lands with water to ADC, including ADC's reasons for rejecting certain lands. AG Chow noted that water management areas can be designated for both ground and surface water. However, certain criteria must be met, one of which is that there is insufficient water for all uses. That does not appear to be the case here.

Oi asked if ADC will take over the East Kauai Water Use Cooperative (EKWUC) lands. Hirokawa noted that ADC did not want to take over the lands until the dam safety issues are addressed. Oi noted that there is difficulty filling the reservoirs to provide water to people in Wailua and Kapa‘a. EKWUC charges people to use the water. He noted that they try to provide water to all the farmers along their lines but they are struggling with maintenance issues. For example, vegetation control and debris removal are all under EKWUC. Oi noted that gentlemen farmers who use the water for landscaping do not maintain their water lines, so the farmers below them often do not get enough water. He believes that EKWUC water should not be used for landscaping.

Public Testimony

James Manaku—Believes that the water is DLNR’s responsibility, rather than ADC. Water should be used for agriculture. Noted that water is disappearing. The streams are drying up. What will happen to future generations. Don’t give the water to another agency and don’t let it go to waste.

Kaleo Manuel, Planning Program Manager, DHHL. Friendly amendment. Omit recommendation 1, because DHHL does not believe that the submittal is consistent with the Public Trust document. When asked, he noted that DHHL does not have written testimony because they were not afforded an opportunity review the submittal prior to the board meeting.

Manuel on behalf of DHHL believes that the submittal does not address the following requirements of HRS 171-58:

- Public trust doctrine, including the effect of the Board’s action on Native Hawaiians (§(c)(1)).
- DHHL was not notified of DLNR’s “intent to execute any new lease, or to renew any existing lease of water rights,” nor are homestead uses discussed in the submittal. (§171-58 (g))
- Discussion of the reservation of water rights for DHHL (§ 171-58 (g)).
- Evaluation of whether there is sufficient water for all users (§171-58 (g)).

DHHL also believes that the point of the statute is to evaluate whether there is sufficient water for present and future needs, which DHHL does not believe has been done.

DHHL continues to have concerns about a transfer of water leases to ADC. Manuel pointed out that their main concern is that ADC would not be able to meet the responsibilities of the state under HRS 171-58 because their mission is geared toward agriculture, rather than protection of the public trust. DHHL is willing to work through the issues.

Roehrig asked if there should be three different systems in different geographic areas.

Manuel noted that DHHL has needs for water but does not have a water reservation in Ka‘ū.

Manuel noted that they have been working with BWS, who manages the system. DWS says there isn't enough capacity on the system, so they are requiring DHHL to dig a new well, which DHHL does not think they should have to do. Therefore, they have been working with Land Division staff to identify the users of the 24 MG per year to see if they can take some of that water. They have been looking for practical solutions while protecting DHHL's rights. Users at the top of the system are getting water, while DHHL users, who are public trust users, but at the bottom of the system, are not getting access to the water. Yuen asked if DLNR permittees are tapping into DWS system. Manuel said that is correct, especially in two areas. Case clarified that the issue is delivery, not availability? Manuel said he wasn't sure, although DHHL thinks that there is enough water in the system. However, DWS says there is not enough source and are requiring DHHL to develop a new source.

Yuen asked if DHHL has concerns about other areas in Ka'u?

DHHL does not have specific concern, but they have an overall concern regarding the valuation of water. DHHL is entitled to 30% of the revenue from water leases. They do not believe DLNR fairly values the use of water for private purposes. What is the return for the private uses of water vs Public Trust uses. This is complicated. One option is to use the cost of developing a watershed plan to value the water. DHHL is willing to work with all the applicants and the Land staff to develop a fair plan that recognizes DHHL's water rights.

Manuel agreed that who controls the water needs to be clarified and formalized. Is it DWS or CWRM or someone else? DHHL also needs clarification on how to get water downhill to the Hawaiian homes beneficiaries.

Jeff Clark, Chief Financial Officer for the Olson Trust Property in the Wood Valley area. Draws water from the Nogouchi tunnel and transports it downhill. Feeds over 30 farms. He has spoken to other downhill farmers that would like more water, but that would require additional infrastructure investment. Olson Trust would like assurances that they will have access to the water to justify the infrastructure investment. They also have a hydro-electric plant.

Mr. Ed Olson, of the Olson Trust reiterated that they would like a long-term lease to justify their investment. Olson stated that they have invested \$2 million in the water system to make water available despite not having any long-term rights.

Yuen pointed out that this system has nothing to do with Hawaiian Homes, as it is about 15 miles away.

There was a discussion of what steps the Olson Trust needed to go through to get their water lease. They were directed to talk to Land Division staff.

Roehrig noted that the Olson trust is the main land owner in Wood Valley, Hilea and Kalaiki up to the forest reserve, so they are DLNR natural partners in developing the water in this area.

Sol Kaho'ohalahala, DHHL Beneficiary on the island of Lanai. Supports testimony of Kaleo Manuel of DHHL. We are in times that require prudent and innovative thinking about water. Noted that these areas are known to Hawaiians some of the most productive farming lands, so use the traditional knowledge of Hawaiians when developing water in this area.

Motion

Yuen moved to approve the staff submittal with the following amendments for Ka'ū (excludes 7340):

1. Direct staff to work with RP holders to pursue long term leases, especially to look at the possibility of exempting RP holders from Chapter 343 requirements as appropriate and to pursue using existing the Ka'ū Forest Reserve Management Plan, as appropriate, to meet the requirements of HRS 171-58 as amended by Act 126 Session laws of Hawaii 216.

Yuen said he wasn't making any recommendation on ADC involvement in Ka'ū because it seemed like the Olson Trust was making major investments, and it might not be best to have the systems under one umbrella because the users in different areas would only be interested in maintaining their own systems.

Gomes asked about DHHL's suggestion to remove recommendation 1. Yuen thinks that we are fulfilling public trust responsibilities. Gon agrees. Cannot have reservations to the Hawaiian homelands until infrastructure exists. They believe that the Public Trust document is being fulfilled, albeit imperfectly.

Roehrig wanted to add refinements to Yuen's amendments:

1) To the staff to divide their efforts between Waiohinu issues and the Olson Trust issues. He noted that the Olson's are a substantial land owner in Ka'ū. These issues should be addressed separately. He agreed with condition one, but wanted to add a condition 2:

2. Direct staff to work with DHHL and BWS to define jurisdiction over the Waiohinu Water, and to separate the county water allocation from the DLNR waters so that an adequate amount of water can be made available to that DHHL for its tenants.

Roehrig noted that he represented Hawaiians against sugar. At some point, much of that land went to the Olson Trust. Litigation terminated in late 90's. Has released clients from Ka'ū area. Feels he can vote and be fair.

Oi would like to expand the Chapter 343 exemptions and watershed management plans statewide.

Gon seconded the motion with the revision suggested by Oi and Roehrig. Unanimous

Amendments:

- A. For those water RPs statewide that do not affect perennial streams, taro farmers or endangered flora or fauna, Department staff shall explore working with permittees statewide to clarify lease requirements in HRS Section 171-58 in regards to compliance with Chapter 343, HRS, and the development of a watershed management plan, specifically whether certain leases may be exempted from an EA/EIS and whether existing watershed management plans are sufficient to meet the requirement of the statute.
- B. With regard to Ka‘ū (Waiohinu), Department staff shall work with DHHL and the County of Hawaii Department of Water to explore releasing and separating the part of the water spring source that is the county water system, and determine whether there is any part over which DLNR may issue water leases to DHHL beneficiaries.

Item J-2. Continuation of A Revocable Permit to Coon Brothers, Inc., a Hawai‘i Corporation, for the Non-Exclusive Use of a Loading Dock and Submerged Lands at The Manele Small Boat Harbor (MSBH), Manele, County of Maui, Island of Lāna‘i, Tax Map Key No. (2) 4-9-017: Por. 006.

Ed Underwood presented for the Boating Division.

Jim Coon and his attorney Lisa Bail addressed the board and noted they are available for questions.

Board Discussion

In response to Downing’s question regarding any other fees the Coon Brothers may pay, Chow confirmed that there is a statutory mooring fee of 3% of gross revenue for commercial vessels. The \$1,000/per month is for use of the specific dock.

Public Testimony

Sol Kaho‘ohalahala testified in support of the applicant. He noted that the Coons have provided job opportunities for generations of Lana‘i residents, his family included. He supports their continued use of the dock so that they can continue to support the Lana‘i community for more generations.

Winifred Basques testified in support of the Coons.

Motion

To approve Item J-2 as submitted (Gon/Gomes). Unanimous.

Gomes made a statement in support of Mr. Coons and his operation.

Item D-13 Issuance of Right-of-Entry Permit to Hawaiian Electric Company, Inc. on Lands Encumbered by Executive Order No. 1913 dated July 25, 1960 for Wahiawa Intermediate School Site, Wai‘anae-Uka, Wahiawā O‘ahu, Tax Map Key: (1) 7-6-001:003.

Kevin Moore presented for Land Division. This submittal is to allow HECO to use a part of Wahiawa Intermediate School as a helicopter landing area to make repairs to their line.

Board Discussion

None

Public Comment

None

Motion

To approve item D-13 as submitted (Oi/Gomes). Unanimous.

Item D-9 Amend Prior Board Action of February 23, 2007, item D-6, As Amended: *Issuance of a Direct Lease to the University of Hawai‘i, College of Tropical Agriculture and Human Resources, Fee Simple Conveyance of State Land to the Department of Hawaiian Home Lands and Amend Prior Board Action of September 25, 1998 (Agenda Item D-17), and May 9, 1997 (Agenda Item D-26), Ko‘olaupoko, Waimānalo, O‘ahu, Tax Map Key: (1) 4 -1-008:005, 79 and 80, and (1) 4-1-26: 004.*

The purpose of the amendment is to seek Board approval to authorize the issuance of a management right of entry permit to University of Hawai‘i (UH) pending the issuance of a direct Lease for parcels of land at Ko‘olaupoko, Waimānalo, O‘ahu, Tax Map Key: (1) 4 -1-08:005, 080 (por.), and (1) 4-026:004.

Kevin Moore presented for the Land Division. The Land Division would like to transfer management authority for the land to UH while an EIS is on-going.

Board Discussion

None

Public Testimony

Thomas Lim, CETAR, noted that this is subject to the UH Board of Regents also approving.

Motion

To approve Item D-9 as submitted (Gon/Gomes). Unanimous.

Item D-4 Holdover of Revocable Permits for Water Use on the Islands of Hawai‘i and Kaua‘i. See Exhibit 3 for list of Revocable Permits.

RP7340

Ian Hirokawa presented for the land Division. RP7340 is for the Blue Hole diversion to support two (2) hydroelectric plants. Water goes from the north fork of the Wailua river to South fork of the Wailua River. The Division received much testimony in opposition because the use of the water has left parts of the stream dry. Staff notes that the hold over is to allow for completion of the IIFS from CRWM, and to allow the applicant to do Chapter 343 compliance. Staff recommends continuance of the hold-over to allow these things to happen.

Dean Uyeno and Aaron Stauch from CWRM discussed developing interim instream flow standards. Typically, they would look at the whole watershed area, which is happening. However, they are moving forward with IIFS in parallel, because it's a priority. The Study is limited to a specific area of the north fork around the diversion. They will assess all protected water uses in the area, and then make a recommendation on the IIFS. CWRM has been collecting data for the IIFS for over a year and should have a draft ready in 3-4 months. Then there will be time for public comments, then it goes to the water commission. Yuen clarified that CWRM had set Instream Flow standards in the 80's, but they are now doing a new study.

Case clarified how the system operates. She noted that this is considered a 100% Diversion for a portion of the north fork, because the water is returned to the South Fork. Staff noted that the area from the diversion to the confluence of the north and south fork is dry. It's less than a mile. Staff also noted that water at the site of the vandalism is dependent on the flow of the stream.

Because Grove Farm may be a beneficiary of this water, Case noted that her cousin owns Grove Farm. However, she has no interaction with Grove Farm.

There was a discussion on the biology of Newcombe's snail. Critical habitat for the Newcombe Snail is above the diversion (at Blue Hole). CWRM staff noted that UFWS are responsible for a more thorough investigation of the snail's habitat.

Oi questioned whether was it possible to set instream flow standards for streams that had been diverted for decades. Stauch noted that they are only looking at two diversions (716 and 713). The study only looks at the 9 required uses of water, although they are trying to get information from the agricultural users. Uyeno pointed out that the status of other diversions will also be included in the report. The Kapakahi Ditch, which is still in use, will not be considered in the report.

Public Testimony

KIUC

David Bissell, KIUC CEO and *Jason Hines*, Jewel Group, Hydrologist. KIUC submitted written testimony. Bissell noted that this source of water is important to KIUC. The diversion has been producing energy for about 100 years. He doesn't believe that the stream is dry because since the vandalism, the stream does have water. He said the vandalism has only a minor impact on KIUC's use. Roehrig noted that CWRM staff testified that the stream is still dry.

Bissell testified that the hydro-electric powerhouses produce about one (1) megawatt of energy, which is enough to supply about 2% of the island's electric needs. However, hydro power is their lowest cost source of energy, so it's important to their renewable portfolio. *Felicia Cowden*—handed out copies of written testimony. Said that the real issue is that Grove Farm is not being held accountable for the water that it takes from this diversion. On low flow days, the water goes to the Waita Reservoir, which potentially provides capacity to develop the Puhī area, all Grove Farm lands. Grove Farm makes about \$2M year for transmitting water to the county, but because of the diversions, DHHL does not have water, because there is no transmittal mechanism. She suggested one possible solution is to return 50% of water to all 5 streams being diverted in the area.

Roehrig asked the AG if the state is entitled to income from the transmission of water? Chow said "no" because they are selling the cost of transmission, rather than selling the water. AG has not put out a written opinion on this matter.

Case pointed out that Cowden was talking about a much bigger issue if additional waters were feeding the same line. She asked board members to limit their questions to the hydroelectric diversions.

Bridget Hammerquist noted that this is not limited to two diversions. She said that the dry stream is the current condition because the damage from the vandalism was repaired, so most of the water is still being diverted. She suggested the Board do a site visit. Noted that Kiai Wai o Wai'ale'ale was formed to protect and preserve the waterfall from Wai'ale'ale. Water from five (5) streams in the Wai'ale'ale watershed are all being diverted for hydro power (Wai'ale'ale, Waikoko, 'Ili'ili'ula, Waiaka, Wailea). If there was a watershed management plan in place the Board could see that they were all involved. After the water is diverted it goes to the South Fork of the Wailua River, and then there is a 100% diversion into the Hanamaulu Ditch and then to the Kapaia Reservoir. The upper and lower Lihu'e Ditches then also go to Kapaia Reservoir, but some of it gets treated by Grove Farm and sent to County. County has about 800,000 gallons in reservoirs She noted that the authorized use of water is supposed to issue subsequent to EIS, CDUP and a permit. It is unfair to only recognize two (2) diversions when 6 streams are being diverted

Hammerquist noted that at the October 26 Kauai County Council meeting, Curt Saiki described the uses for the Grove Farm Water. He admitted that they told DHHL that there was not enough

water for their use because DHHL is beyond their service area. However, the County amended its policy to serve a new development beyond their services area, but failed to notify or serve DHHL.

Proposed Solution:

Restore 7 MGD to stream so that DHHL could get water.

Hammerquist noted that the elevation of the diversion is 1,106 feet, which means that the mauka service of the dam is above the critical habitat. She also indicated the DHHL lands in question are on the Līhu'e side of the Wailua River, causing Yuen to ask how reducing the diversion would help supply water to DHHL lands.

Oi disclosed that his company does major work for Grove Farm.

Hammerquist noted that Grove Farm might not be aware that they may be in violation for their use of water. Roehrig noted that the state has a trust responsibility to be fair about the distribution of water, and to collect income from people charging for the water.

Lunch

Meeting resumed at 1:55.

Sharon Goodwin from Wailua Homesteads, Kauai. Testified that she is concerned about the Wai'ale'ale Diversions for KIUC. Wants KIUC to do a watershed management study, CDUP, and habitat conservation plan. Testified to the deleterious effects of the dry stream area on native flora and fauna and on Hawaiian traditional practices. Showed pictures.

Kip Goodwin on behalf of the Kauai Group of the Kauai Chapter of the Sierra Club. KIUC diverts 100% of the base water flow of the Wailua Stream as well as other streams. Testified as to the deleterious effects of the diversions on native flora and fauna. Requested that KIUC be held to the requirements of Act 126, and all other laws. Request that the board immediately restore and maintain stream flow.

Marti Townsend, Sierra Club. Testified that the Sierra Club is supportive of the Kauai Group. Also noted that Sierra Club has concerns about RP's overall. Challenged Mr. Bissell's testimony that hydroelectric is the least costly form of energy when they haven't measured the cost to the environment. Argued that the RP should only be issued after an EIS has been completed. Asked the Board to immediately restore 7 MGD for DHHL use.

Lokelani Mokuiki is from a line of taro farmers who traditionally cultivated lo'i in the valleys of the Napali Coast and Hā'ena. She testified as to the difficulty of accessing State Park lands to visit family lands that are now located in the Parks. She asked the board to protect traditional rights to use water from Mauka to Makai and for denial of the RP. She also showed a photo of the dry area of the stream.

Hope Kallai on behalf of the Pupu Wailani (Newcombe Snail) asked for 7MGD, the amount of the DHHL reservation, to be restored on Monday. This water should remain in the stream until DHHL needs it. She requested that the RP be held until KIUC is compliant with all requirements. Showed a power point with pictures of blue hole and the diversion and pointed out that the blue hole area is used for hunting, traditional practices and recreation. She doesn't believe 100% of the base flow was always diverted.

Yuen asked about the tie in to the Department of Hawaiian Homes. If the Hawaiian Homes development is on the south side of the Wailua River, how does keeping water in the North Fork help Hawaiian Homelands? Kallai said that the Stable Storm ditch intersects the North Fork of the Wailua River, and it can re-water the ag lands between the two forks of the Wailua River. Kallai presented a map that showed the ditches on DHHL lands that can take water from the North Fork. This would keep the water in Wailua. Currently water goes out of Wailua to other ahupua'a.

Kallai estimated that base flow is about 13-15 MGD. A little over half would need to go back into the stream to meet the DHHL reservation. Yuen noted that according to information provided by KIUC the base flow in a dry period would not be as high as she is suggesting. Kallai noted that her calculation does not include other streams.

Kallai noted that people are testifying this year, because DLNR has reclassified the diversion as a consumptive, rather than non-consumptive use of the water. This is the result of a contested case filed by OHA. There was an MOA developed between OHA and KIUC, so the contested case never came before the board.

Oi noted that the management of the water is under the management of the West Kauai Cooperative and they haven't maintained the ditches or land. KIUC is not the only party to blame. Kallai agreed and noted that there is enough water in a Grove Farm reservoir to allow DHHL use as separate and independent water source.

Annie Frederick, statewide director of the Hawaii Alliance for Progressive Action testified in support of other testifiers. Asked that board restore stream flow below the diversion.

1. Restore water to the streams
2. Ensure no traditional cultural practices impacted
3. Consider DHHL's need for water and for their fair share of revenues.
4. Compliance with all laws and permit requirements.

Frederick made a verbal request for a contested case.

Debbie Lee Jackson. Kuleana land owner and taro farmer from Kauai. Noted the Board is violating her right as a beneficiary under 5(f), by

- not protecting 5(f) lands,
- not protecting the water,
- not protecting her rights to her traditional practices.

She is emotionally and physically affected by the taking of the water. She orders the board to restore the water and to direct CWRM to rework the plantation water permits.

Tim Kallai – testified as to the importance of water for recreation and traditional practices. Noted that safety features were removed from the ditch and showed pictures of the gates that were removed. He pointed out that Kaua‘i has a unique hydrological system, unlike the other islands. The Board needs to ensure that the public trust doctrine is met because the viability of the people on Kaua‘i, especially those in Wailua is reliant on the mauka to makai flow of the water. He noted that the power plants were originally created to run the mills, not a large scale commercial plant. If the water is restored to the stream, the power plant will still operate.

Ilene Ketchline. Testified that there are good alternatives to allowing the diversion. Argued that KIUC, using new storage technology, could purchase excess solar energy from residents and increase the use of solar on Kauai. Hydro-power is not considered green because it’s a consumptive use.

Follow up Board Questions to KIUC

Yuen asked if they are doing an environmental assessment. *Yvonne Izu* responded they were exempt from Chapter 343 because it was a continuing use. However, KIUC and OHA settled OHA’s request for a contested case with an MOU. One requirement of the MOU was that KIUC conduct a stream biota study and a habitat study. Yuen clarified that KIUC will ask for an exemption in 2 years? Izu said yes. Yuen said that the Board could still ask them to do an EIS. Izu said that was true, and they may change their minds. The major studies are already done, so they may decide it is more prudent to do the 343.

Is anyone working on a water management plan? Yes and no. Another condition was that KIUC join the Kauai Water Alliance, but they were not allowed because they are not a land owner. The question is how to satisfy the watershed management requirement if you are not a landowner? Is the state giving direction as to what should be in a water management plan? Yes, there is a large group of people talking about how to meet the requirements of Act 126. One solution is to have DOFAW provide guidance, since they have done watershed management plans.

Case noted that the watershed conservation alliance is made up of large landowners. Presumes that the point is for the users to acknowledge their reliance on the watershed they are in and to acknowledge that they rely on the prudent use of that water. DLNR has many excellent watershed management plans, but there needs to be a link between the users and the landowners. Perhaps a part of the link is to ensure that the users acknowledge the importance of the watershed and make a commitment to follow the plans.

How much water comes out of these streams? *Jason Hines* said he can find out what the records include (Exhibit 5A and North Wailua Ditch below Wailua stream). They are compiling new records on both diversions going forward. The North Wailua Ditch information is for the Ditch and does not reflect what is in the stream. The amount of water taken shown in their reports may be less than the flow in the stream, even in low flow periods, because sometimes the ditch is clogged and water doesn't flow into it.

Roehrig asked what if KIUC opened the North Fork at various levels and figured out impact on hydroelectric production, so BLNR can make a more educated decision. Bissell said that they probably could get the information without restoring flow. He noted that the IIFS decides what the stream needs first, and then what KIUC might need. Izu stated that the RP runs out on December 31. Roehrig asked how long it would take to report how much water could be diverted without affecting the hydroelectric plants. Bissell noted that there are several diversions that could affect the data, not just the diversions under discussion today.

Oi stated that the diversion that feeds the Hawaiian Homelands is under the East Kauai Water users cooperative. He asked if KIUC would be willing to open the diversion to allow the streams to flow again. Bissell said "Yes, with conditions, and after the IIFS is set." It has always been intent of KIUC to modify the diversion to allow more stream flow.

Yuen noted that he would like water to flow in the stream, but believes that they would need get a permit from CWRM to remove structures..

Downing—If the diversion was open could you still conduct your business? Yes, but the cost of energy would go up, and the amount of renewable energy would go down.

Yuen/Gon—moved to go into executive session. Unanimous.

Board returned at 4:04 pm

Motion

To deny request for contested case based on advice of counsel (Yuen/Oi). Unanimous.

Yuen asked if AG could talk about non-conforming uses that are grandfathered. Chow addressed the issue, stating that generally, uses that began before the establishment of the conservation district law (1964) were allowed to continue without needing a conservation district use permit.

To approve the holdover of RP7340 with amendments (Oi/Yuen). Unanimous.

Amendment:

- 1. Within one year, KIUC will provide the board with a proposal for the partial restoration of flow to the Wailua river (which could be satisfied by the adoption of interim instream flow standards).**
- 2. Direct DLNR staff to work with landowners on what is expected for the watershed management plan.**
- 3. KIUC shall consult with DHHL and honor DHHL's reservation rights of water under the law.**

Gon agrees.

Downing will vote no because he believes there is a need to change people's mindsets to look at what is best for everyone. He believes the board needs to be proactive.

Roehrig will also vote "no" for substantially the same reason. He believes at least some water should be restored now, and KIUC can see if it works out or not. Agrees that the Board needs to be proactive.

Gomes will also vote "no" for the same reasons.

Vote

4 Ayes, 3 Nays. Motion passes. Downing, Roehrig and Gomes opposed.

Item D-15 Rescind Prior Board Action of August 12, 2016, Agenda Item D-3, Consent to Assign General Lease No. S-6024, Boteilho Hawaii Enterprises, Inc., Assignor, to Mauna Kea Moo, LLC, Assignee;

Consent to Assign General Lease No. S-6024, Boteilho Hawaii Enterprises, Inc., Assignor, to HFD Farms 1, LLC, Assignee 'Opihikau-Huki'a'ā, Kokoiki, North Kohala, Hawai'i, Tax Map Keys: (3) 5-5-003:004, 005 & 006, 5-5-005:001, and 5-5-006:002, 003,004 & 015; and

Reaffirm Set Aside to Department of Agriculture, 'Opihikau-Huki'a'ā, Kokoiki, North Kohala, Hawai'i, Tax Map Keys: (3) 5-5-003:004, 005 & 006, 5-5-005:001, and 5-5-006:002, 003,004 & 015.

Kevin Moore presented for the land division. This is for a dairy lease on the North Kohala district of the Big Island. Approval to assign the lease to HLD Farms LLC. There is a negative share to the state on the premium assignment. They are expecting a "no further action" letter regarding the storage tanks on the property. State takes the position that they have no responsibility for the storage tanks.

Downing asked about the premium assignment. Moore noted that the premium assignment is to discourage speculation on state leases, so investments (improvements & fixtures) in the land are discounted in the analysis.

Ed Boteilho Jr, President of Clover Leaf Dairy at Upolu Point. Has been in business in that area since 1989. He is looking forward to the transfer but there are conditions. 1) Noted that HLD Farms LLC has not put money in escrow. 2) Underground Storage Tanks (UST) were installed in the 1970's. He didn't take responsibility for it, because Clover Leaf Dairy did not put it in. He believes DLNR is responsible. The new buyer has requested that the USTs be removed so Boteilho removed USTs. Costs for removal and remediation have escalated to over \$100,000. He has incurred tremendous costs for something that he did not put in and did not use. Would like to have the clean-up transferred over to the DLNR before its transferred to DOA.

Case clarified that he does not want to transfer the lease until there is money in escrow. She believes that the board can allow the transfer, but if the condition is not met, he does not have to transfer the lease.

Regarding the second issue, Kevin Moore stated that land division's position is that they did not know that the tanks were there. Boteilho disputes that position. He also reiterated his objection to a transfer to DOA before the tanks are cleared up.

Roehrig disclosed that he was on the Kohala Task Force. He noted that the tanks were a state project. Therefore, he takes exception to the idea that the state has no liability for its own project. The Kohala Task Force was created by Ariyoshi to address the closing of Kohala Sugar.

Roehrig left the meeting (4:31)

Case clarified the request that the land not be set aside to DOA until the lease is transferred. Boteillo agreed that was correct.

Yuen asked if the gist of his issue is that he wants the state to reimburse him for the money that he spent on the remediation? Boteillo said his concern is that DOA will not be concerned about the tanks, but the DLNR is aware of the lease concerns. Yuen clarified that by consenting to the assignment the state is not asking for Boteillo to give up any of his claim. Boteillo stated that he was unaware that the earlier reassignment was approved. He had objected to it because of the issue of the USTs.

Public Testimony

Bobby Grimes, representative of the new owners testified that they cannot get a title guarantee without the lease transfer. The new owners will take on the testing and backfill of the contaminated soil.

Motion

To approve item D-15 per staff recommendation, noting that the board approval is without prejudice to Mr. Boteillo's ability to claim reimbursement for removal of the USTs (Yuen/Gon). Unanimous.

Item D-10 Amend Conditions for General Lease No. 6056 to Waimānalo Health Center for Community Service Purposes by (a) Expanding Lease Area, and (b) Allowing Subletting and Mortgaging with Prior Approval of the State of Hawai'i as Lessor; and

Consent to Sublease for Community Service Purposes, Waimānalo Health Center, Sublessor; Roman Catholic Church in the State of Hawai'i, Sublessee; and

Consent to Federal Interest regarding a Two-Story Medical Building; Waimānalo Health Center, Lessee; Waimānalo, Ko'olaupoko, O'ahu, Tax Map Key: (1) 4-1-015: portion of 001.

Kevin Moore presented for the land division. This is for Waimanalo Health Center to sublease of portion of newly acquired property to the Roman Catholic Church. Staff recommendation is to consent to sublease and to the required federal language.

Board Discussion

None

Public Testimony

None

Motion

To approve item D-10 as submitted (Gon/Oi). Unanimous.

Item D-14 Consent to Federal Interest Affecting Property Located on the Land Covered by General Lease No. S-5981; Consent to the Construction of the Lower Floor of Malama Recovery Building; Wai'anae District Comprehensive Health and Hospital Board, Incorporated, Lessee; Lualualei, Wai'anae, O'ahu; TMK (1) 8-6-001:003.

Kevin Moore presented for the land division. This is to consent to federal interest for a project at Malama Recovery Building at Waianae. The federal interest is a part of the grant received by Waianae Coast Comprehensive. The submittal will need to be amended because they just learned that the amount of the grant is increasing to \$1.7M.

Board Discussion

None

Public Testimony

None

Motion

To approve Item D-14 as amended (Oi/Gomes). Unanimous.

Amendment: Change the amount in recommendation D to \$1.7 M.

ITEMS M12-M13

12. Issuance of a Revocable Permit to HPBS, Inc. for Harbor Pilot Operations at Pier 19, Honolulu Harbor, Hawaii.
13. Direct Issuance of a Revocable Permit for Clean Island Council Operations at Pier 12, Honolulu Harbor, Hawaii.

Carl Young for State Harbors was present to answer questions.

Board discussion

None

Public Testimony

None

Motion

To approve Items M-12 and M-13 as submitted (Gomes/Oi). Unanimous.

Item M-11. Issuance of a Right of Entry to the Hawaii Opera Theatre at Honolulu Harbor O'ahu, Tax Map Key No. (1) 2-1-001 Portion of 1.

Dre Kalili for HDOT Harbors noted that this was an ROE to Hawaii Opera theater to put on a performance in one of its cruise terminals. This is a ROE for 17 days.

Board Discussion

None

Public Testimony

None

Motion

To approve Item M-11 as submitted (Gomes/Gon). Unanimous.

ITEMS M1-M10

1. Issuance of a Direct Lease for the Construction of an Airline Lounge to All Nippon Airways, 'Ewa Concourse, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 066 (Portion).
2. Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, East Oahu Pet Hospital, LLC dba Gentle Vets Hawaii, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-76: Portion of 20.
3. Issuance of a Revocable Permit for an Employee Parking Lot, Hawaiian Airlines, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-004: 006 and 1-1-004: 007.
4. Issuance of a Revocable Permit to Kone Inc. for Space to Store Escalator Materials, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 085 (Portion).
5. Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft and Air Tour Operation, Lani Lea Sky Tours LLC, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-76: Portion of 21.
6. Issuance of a Revocable Permit for Aircraft Parking, Kimball S. & Deborah S. Millikan, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-76: Portion of 23.
7. Issuance of a Revocable Permit for Aircraft Parking, Michael James Tompkison, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-76: Portion of 23.
8. Issuance of a Revocable Permit for an Employee Parking Lot, United Parcel Service, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 001 (Portion) and (1) 1-1-003: 240 (Portion).
9. Consent to Sublease of State Lease No. DOT-A-17-0002, Scannell Properties #271, LLC to Federal Express Corporation, Hilo International Airport, Tax Map Key: (3) 2-1-12: Portion of 90.
10. Issuance of a Revocable Permit for Aircraft Parking, NSA OPS LLC, Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 19.

Ross Smith from DOT-Airports was available to answer questions.

Board discussion

None

Public Testimony

None

Motion

To approve Items M-1 through M-10 as submitted (Gon/Gomes). Unanimous.

Items F-1 and F-2

1. Request for Approval to hold Public Hearings to Amend Hawai'i Administrative Rules Chapter 13-74, License and Permit Provisions and Fees for Fishing, Fish, and Fish Products. These Amendments would establish a New Vessel License for Commercial Fishing.
2. Reconsideration of Request for Approval to adopt Amendments to Hawai'i Administrative Rules, Chapter 13-74: amending Section 13-74-20 (Commercial Marine License) and Adding Section 13-74-46 (Commercial Marine Dealer Report).

Alton Miyasaka presented both items for DAR. They were taken concurrently at the request of the board. Item F-1 is a request for approval to go to public hearings for proposed new vessel license. There is one change: to charge non-long-range vessels \$300 for a license, rather than \$400. Miyasaka also wanted to advise the board that they are in discussion with DOCARE about the costs to enforce. Discussions are on-going so it's likely that the rules will come before the board again. Item F-2 is a request for reconsideration of a request for approval to adopt a commercial Marine License and add a Commercial Marine Dealer Report. This had come before the board last month and did not pass, so they are bringing it again.

Gomes noted that he has been bombarded with phone calls opposed to the fee. People are wondering why long-liners are not getting a fee.

Miyasaka noted that DAR is at the tail end of the process for the fee increase. However, they are at the beginning of the process for the vessel license. There will be an increase in individual commercial marine licenses until the Vessel license is established.

Downing noted that the individual license is an interim measure to ensure adequate funding for DAR. Suggested that the individual license be \$100, and then push to get the vessel license done.

Case asked if, when the vessel license is in place can they push the individual license up to \$150? Miyasaka said that they anticipate that the vessel license will be the main income generator, so the push will be to ensure that they charge enough for the vessel license to meet department needs. Miyasaka noted that there are enforcement challenges between trolling

fishers and bottom fishers. The vessel license will address this issue. Oi reiterated that he is against raising the individual fee and will vote no. People that he has talked to are willing to pay \$150 per boat, but not per person. Gomes agreed.

Miyasaka gave two examples of the effects of funding shortages. Case pointed out that DAR has insufficient funds to do the things it is mandated to do.

Gomes noted that they will still be short once the vessel fee goes into effect. Miyasaka pointed out that the rule change includes charging \$1,500 for long-line vessels, so the bulk of funding would come from long-liners, if the rule passes in its current form.

Public Testimony

Larry Geller, believes that the statute requires individual licenses, not vessel licenses. Administrative Rule changes will exacerbate unfair labor practices on the long-line vessels. Chow clarified that he is testifying regarding Item F-1.

Lance Collins, on behalf of Malama Chun. Testified in opposition to F-1. Does not believe that the vessel license complies with statute as written. He is testifying regarding the long-line fleet. A per vessel license for the long-line boats will further eliminate any oversight that the state has regarding foreign labor on the long-line fleet.

Gon moved, per AG advice, to table item F-1 and direct staff to consult with the AG on the legality of the vessel license. Yuen thought that the board could authorize the rule making process, and to consult with the AG. That way if the AG says no, they just won't proceed, rather than having to come back to the board. Case agreed.

Miyasaka noted that the informal public discussions that would inform the rule are currently taking place. These discussions will inform how the rule is drafted. He agreed that F-1 is premature, but the board asked for the board to bring it forward with the individual license.

Yuen and Gon both agreed that the long-liner labor issue is a critical one but there should be some way to separate it from the licenses.

Motion

F-1

Yuen move to approve as amended. Oi second. Gon and Yuen added two additional amendments (below). Unanimous.

Amendments:

- 1. Change the charge for long range vessels to \$300 from \$400.**
- 2. Staff to immediately consult with AG regarding legality of the proposed rule.**

3. Each boat to provide a listing of who is on the boat and covered by the license.

F-2

Move to approve with amendment to decreased the fee to \$100 (Yuen/Gon). Downing provided amendment. Vote: 4 Ayes, 2 Nays. Motion passes with amendment. Oi/Gomes opposed.

The board noted that this was Alton Miyasaka's last meeting and thanked him for his service.

Item E-1. Approval to Continue Twenty (20) Revocable Permits for Use of State Parks Lands on the Islands of Kaua'i, O'ahu, Maui, and Hawai'i for the following: Kaua'i: Na Pali Kayak Inc., Kayak Kaua'i, a Hawai'i Limited Partnership, Rick Haviland, dba Outfitters Kauai (Napali Coast State Wilderness Park for Commercial Kayak Landings), Clancy Greff dba Na Pali Eco Adventures, Inc, Na Pali Sea Tours, Inc., Lady Ann Cruises Inc., (Napali Coast State Wilderness Park for Inflatable Boat Landings), Ka Imi Naauao o Hawai'i Nei, Kaua'i Christian Fellowship, (Waimea Canyon State Park Non-profit Recreation-Residence/Camps), Hawai'i Conference Foundation (Koke'e State Park non-profit camp), O'ahu: Diamond Parking Services, LLC (Nu'uuanu-Pali State Wayside, Parking Concession), Bottling Group, LLC, (Diamond Head State Monument beverage vending), Erlinda Molina Villanueva (Ahupua'a O Kahana State Park, Agricultural use), Young Men's Christian Association of Honolulu, Hawai'i Climbing Coalition, (Ka'ena Point State Park, Outdoor Recreational Activities), Maui: Republic Parking Northwest, Inc. ('Iao Valley SM, Parking Concession), Hawai'i: Republic Parking Northwest, Inc. (Hāpuna Beach SRA, Parking Concession), Diamond Parking Services, LLC ('Akaka Falls State Park, Parking Concession), Adventures in Paradise, Inc., Kona Boys, Inc., Iwa Kalua (Kealakekua Bay State Historical Park, Commercial Kayak Tours). See attached Exhibit A for a list of Revocable Permits.

Curt Cottrell, presenting for State Parks, said he needed to make 2 corrections to the submittal because the list of submittals is not exhaustive.

1. Amend exhibit to read "revocable permit approval list 2018," rather than "Revocable Permit Master List 2018."

2. Under DISCUSSION on page 2, change "There are currently 20 RP's DSP is asking to be renewed" (2nd full paragraph) to "DSP is seeking approval for 20 RPs under these general categories."

Board Discussion

Downing asked how State Parks enforces the \$5 per person or 5 % of gross base rent. Cottrell responded that the \$5 per person is difficult to enforce because there is not enough staff to monitor the per person counts. The percent of gross is easier because they can review the RP holder's books.

Public Testimony

None

Motion

To approve Item E-1 as amended (Oi/Gomes). Unanimous.

Remaining Items: C1, D3, D5, D6, D11, J1 and J3.

Item C-1 Authorize the Division of Forestry and Wildlife to Conduct a Public Hearing on the Island of Kaua'i Regarding the Proposed Addition of Tax Map Keys (4) 2-4-003:001 Comprising Approximately 163.842 Acres, to Līhu'e-Kōloa Forest Reserve, Kōloa, Kaua'i, and the Proposed Withdrawal of Tax Map Keys (4) 3-9-002: Portion of 001, Comprising Approximately 1467 Square Feet, from Līhu'e-Kōloa Forest Reserve, Līhu'e, Kaua'i.

Item D-3 Amend Prior Board Action of January 8, 2010, Item D-24:

RE-SUBMITTAL:

- (1) *Grant of Perpetual, Non-Exclusive Easement to Kauai Island Utility Cooperative and Hawaiian Telcom Inc. for Utility Purposes covering Tax Map Keys: (4) 4-1-3: portion 44 and 17;*
- (2) *Issuance of a Right-of-Entry to the Department of Transportation, Highways Division for Construction, Staging and Work Area Purposes covering Tax Map Keys: (4) 4-1-3:44, 17 and 4-1-4: portion 21, 22, 24;*
- (3) *Cancellation of Revocable Permit No. S-7444 Covering Tax Map Key: (4) 4-1-3:17; and*
- (4) *Issuance of a Revocable Permit to the Department of Transportation, Highways Division for Field Office, Staging and work Area Purposes Covering Tax Map Key: (4) 4-1-3:17, Located at Kawaihau, Kaua'i.*

The purpose of the amendment is to (A) the correct name of grantee "Hawaiian Telcom Inc." (without comma) to "Hawaiian Telcom, Inc." (with comma); and (B) rescind the Board's prior actions: (i) cancelling Revocable Permit No. S-7444 covering Tax Map Key: (4) 4-1-003:017, and (ii) issuing a new revocable permit to the Department of Transportation, Highways Division.

- Item D-5** Set Aside to the County of Hawai‘i, Department of Public Works for Roadway Purposes, Pi‘ihonua, South Hilo, Hawai‘i, Tax Map Keys: (3) 2-3-030:002 por., 2-3-031:005 por. & 006 por.; and
- Item D-6** Set Aside of State Land to County of Hawai‘i for Public Park Purposes, Kaiwiki Homesteads, Kaiwiki, South Hilo, Hawai‘i, Tax Map Key: (3) 2-6-010:016.
- Item D-11** Grant of Term, Non-Exclusive Easement to Nanaina ‘O Pali Ku, LLC for Seawall and Landscaped Area Purposes; He‘eia, Ko‘olaupoko, O‘ahu, Tax Map Key: (1) 4-6-001: Seaward of 019.
- Item J-1** Approval of Request for Contested Case Hearing by Mr. Stephen E.J. Koehne, Regarding November 9, 2017 Enforcement Action for Alleged Illegal Commercial Activity, In Violation of Hawai‘i Administrative Rule § 13-256-39(B)(5).
- Item J-3** Consent to Sublease Harbor Lease No. H-83-2, Kona Marine Holdings, LLC., A Delaware Limited Liability Company, Lessee, to Jack’s Diving Locker, a Hawai‘i Partnership, Honokohau Small Boat Harbor, Kailua-Kona, Hawai‘i, Tax Map Key: (3) 7-04-008:040 (Portion).

Kevin Moore noted that Land Division needed to make an amendment to Item D-11. Per the AG they need to delete request for administrative cost recovery.

Board Discussion

None

Public Testimony

None

Motion

Move to approve Item D-11 as amended and items D3, D5, D6, C1, J1 and J3 as submitted (Gon/Oi). Unanimous.

Amendment to D-11: in the RECOMMENDATION section, delete Item 2, Assess a non-refundable administrative cost of \$500, under Section 171-6, HRS.

The board moved to adjourn the meeting at 5:31 PM