

APPROVED BY THE BOARD
AT ITS MEETING HELD ON
JUL 13 2018 *dlw*

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

DATE: FRIDAY, APRIL 13, 2018
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
Maria Carnavale/DAR
Ed Underwood /DOBOR
Cal Miyahara/LAND
Scott Fretz/DOFAW

Sam Lemmo/OCCL
Emma Yuen/DOFAW
David Smith/DOFAW
Keiki Kipapa/DOBOR
Barry Cheung/LAND

OTHERS

Bill Wynhoff/AG
Mac Poepoe/F2
Kawika Winter/K2
Tin Gutierrez/D7
Derrick Fenske/F3
Dre Kalili-DOT-Harbors
Katheryn Henski/J4
Mark Fox/F2
Walter Rawlins/F2
Lolly Agliam/F2
Pickerson Stone/F2
Yama Kaholoaa/F2

Charles Littman/F1
Kelii Alapai/F2
Presley Wan/F2
Ross Smith-DOT-Airports
Nigel Rozet/F2
Rylen Nakama/F2
Rob Johnson/J4
Lucy Gay/M9
Aaron Boswell/F2
Clifford Galam/F2
Chevy Place/F2
Chris Makaiaai/F2

Mike Sur/F2
Kevin Chang/F2
Jenny Lind/F2
Malia Akutagawa/F2
Kamalu Poepoe/F2
Representative DeCoite/F2
Dolly Mawai/F2
Kathryn Henski/J4
Makani Christensen/F2

Wally Ito/F2
Pomaikai McGregor/F2
Wayne Tanaka/F2
Randy Cates/F2
Kanani Rawlins/F2
Imua Mawai/F2
Bob Masuda/F2
Rob Johnson/J4

Chair Case called the meeting to order at 9:35 a.m. and read the standard contested case hearing statement.

Item J-2 will be deferred from today's agenda.

ITEM A-1 Approve Meeting Minutes for February 9, 2018.

ITEM A-2 Approve Meeting Minutes for February 23, 2018.

Board Discussion

Yuen asked if his comment and edits were incorporated. Ferreira, Board Secretary, replied yes.

Public Testimony-None

MOTION

Approve Items A-1 and A-2 as submitted (Gomes, Gon) unanimous.

ITEM F-1 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Conservation and Management Permit to Dr. Charles Littman, NOAA Fisheries, Pacific Islands Fisheries Science Center, for Access to State Waters to Conduct Hawaiian Monk Seal Management and recovery actions, inclusive of the removal of individual sharks at FFS displaying predatory behavior towards pups.

Maria Carnevale, PMNM, DAR, presented the request. Dr. Littnan is present to answer any questions.

Board Discussion

Gon asked if there were any substantive difference or is this largely a continuation program? Carnevale responded yes, it is a continuation.

Oi asked what was the success past approval? Littman, we did not get any sharks last year, but it continues to be a problem. Oi asked if there was an increase of pups? Litmnan said it stayed about the same, the take is usually around 25 to 30%. Last year we had around 37 pups, there were 8-9 that were injured or disappeared due to sharks. The big difference now is at the French Frigate Shoals juvenile mortality has decreased.

Downing asked how long will it take to you reach your goal. How long will NOAA fund you. Littman said hopefully until the species recover. We need to get roughly 20 years.

Gomes asked how many Galapagos sharks are you planning to remove? Litmnan said 17 total. There was further conversation regarding the sharks.

Public Testimony-None

MOTION

Approved as submitted (Gon, Roehrig) unanimous.

ITEM D-7 Grant of Term, Non-Exclusive Easement to Ashley Wu-Fang Chen for Seawall Purposes; Ka'alāwai, Honolulu, O'ahu, Tax Map Key: (1) 3-1-041: Seaward of 025.

Russell Tsuji, Land Division said he did not have anything to add to the submittal.

Board Discussion

Gon asked if Tsuji knew when those cement structures were created? Tsuji said 1973. Gon said it looks like it was added later. If there is no clarity on this that is fine.

Public Testimony- None

MOTION

Approved as submitted (Oi, Roehrig) unanimous.

ITEM F-2 Request for Approval to Hold Public Hearings to Adopt a New Chapter Under Hawaii Administrative Rules ("HAR") as Title 13 Chapter 60.9, Mo'omomi Community-Based Subsistence Fishing Area, Moloka'i, to Manage and Protect Fish Stocks and to Reaffirm Traditional and Customary Native Hawaiian Subsistence Fishing Practices Along the Northwest Coast of Moloka'i. The proposed rule would establish new bag limits, size limits, seasonal closures, and/or gear restrictions for uhu, kūmū, kole, moi, spiny lobster, 'opihi, and limu; prohibit night diving and SCUBA spearfishing; prohibit commercial fishing, with exceptions for bottom fishing for deep 7 bottom fish and trolling for all species; and establish special regulations restricting in-water activity in Kawa'aloa Bay.

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

Bruce Anderson, Division of Aquatic Resources, and Shaelene Kamakaala, presented a PowerPoint outlining the process and the area they are proposing to establish special regulations and develop a sustainable management plan. We have met with community groups from Moloka'i and Maui.

Board Discussion

Case asked Anderson after public testimony to address what he discussed with the community and what adjustments you have made to the original rules. Anderson one example, originally there was no commercial take in this area and the fishermen said they were trolling through here like a lot of boats are. Why would you restrict us from taking while trolling? We made an accommodation for them.

Gomes asked if they met with anyone from Lana'i, they are a part of Maui County. Anderson said, we certainly would reach out to them. Gomes also inquired if DHHL has given any input? Kamakaala said yes, they have, they are a large land owner along the coastline.

Oi asked how this would affect Kalaupapa? Kamakaala replied as a result from public scoping meetings, the eastern boundary got moved so it no longer includes Kalaupapa. Oi commented the coastline runs 18-miles, how are you going to enforce it? DAR partners with DOCARE Makai Watch Program and we go out to the communities and train them to adequately document violations and report back to DOCARE.

Gon asked if these rules are the same as what was presented to the community in March? Kamakaala replied, yes.

Bob Masuda, Deputy, DLNR. Added that in effort to work with the community, DHHL and their Staff accompanied us on all of our visits with communities and groups on Moloka'i. Everyone is passionate about this protecting and maintaining resource.

Gomes asked Masuda, in your observations, would you say there are more in favor than opposing in the Moloka'i community? Masuda said, there were clearly more groups in favor of the rule making. The exception is the community group closest to Mo'omomi, feel very strongly of their stewardship in a traditional way.

Roehrig had a technical question for the AG, does the Board have authority/jurisdiction on the way out to public hearing and when they come back from public hearing, what role does the Board have to smooth out the rules.

Bill Wynhoff, AG, replied that the Board has to allow the rules to go out to public hearing. The Board is allowed to make changes at this point, as approved by the Board, then they have to go out to public hearing as approved by the Board. If there are substantial or material changes that come after the public hearing, they have to go out to public hearing again. Changes at the public hearing stage are welcome, and proper, they may be required to go out to public hearing again. The Board is entitled to make changes as of today as approved by the Board, before they go out to public hearing.

Roehrig commented that if the rules come back to the Board after public hearing, and the rules are adjusted, they would be adjusted by the Division and come back before the Board. Does the Board weigh in again on those changes whether we accept them or not? Wynhoff said yes.

Case noted that because the process is complicated, the pre-proposals (scoping process) has been so extensive to try to hear all the concerns and work them out so that you have the best possible package proposed to go out to rule making.

Anderson add the following *suggested amendment for Kawa'aloa Bay*:

Remove the provision that says it is unlawful for any person to engage in swimming, surfing body boarding, snorkeling, and diving.

He noted there was a legal question whether this kind of restriction could be done under fish management rules.

Case noted that the exemption for recreation and charter fishing, I think is intended to apply to the trolling, not to the near shore fishing, if that is right, we may need a clarification. I think the intent is meant for commercial/charter fishing. Anderson said they can clean that up.

Public Testimony

The following spoke in support: Mac Poepoe, Keli Alapai, Kawika Winter, Presley Wan, Nigel Rozet, Rylen Nakama, Mark Fox, Wally Ito, Kevin Chang, Pomaikai McGregor, Jenny Lind, Wayne Tanaka, Malia Kutagawa.

1:04 pm: Recess

1:20 pm: Back in Session

The following spoke in opposition: Walter Rawlins, Aaron Boswell, Lolly Agliam, Clifton Galam, Pickerson Stone, Chevy Place, Sam Makaiwi, Yama Kaholoaa, Chris Makuui, Mike Sur, Eddie Kamae, Makani Christensen

Walter Rawlins, (72 years-old), family is from Mo'omomi. Let the Kupuna's go down there without any restrictions. Has fished there all his life to feed his family and the neighbors who can no longer fish for themselves. We try to preserve the area. We respect the law, we gather from Mo'omomi. My keiki, my young ones are coming up. I do not want to see go through what we are going through to get down to the beach. He was very passionate about the community there and how they share and help each other, work together. Mo'omomi is one of our most promising areas where we know we can get food for our family. I would like to us all to come to a compromise.

Yuen commented that he did not want to argue with what his experience has been, he read the proposed rules carefully and does not see anything which would change the right for someone to go to Mo'omomi. These rules would only be enforced by DLNR.

Rawlins said, they back DLNR 100%. Roehrig conveyed that everyone has to get along. There are too many people on earth, that's the problem and not enough fish, and the old ways has to change because there is not enough to go around for everybody.

Roehrig said we are here to do this in a "pono" way. We need your help. Case explained the way the process works, people or groups can propose rules, once they come to the us, it is our rules. That is the process we are going through. Our job is to make sure they are fair across the board, they are good reasonable rules, our job is to get the best enforcement possible and making sure that it is all legal. That is what we are committed to.

Lolly Agliam, opposes the proposed rulemaking. We have been following this for 25-years and everything went ugly, from we family to we not family anymore. We have been bullied, pushed around, harassed from the Hui Mo'omomi. It has got out of hand, things are getting ugly and has been for the last 25-years. We know it, we saw it, we deal with it on an everyday basis. We do our part in cleaning up the beach every month. What we do and what they say is just a picture that you do not see and what we see.

Aaron Boswell, 4th generation homesteader. His question is why do we need this process? This is a very heated subject for us and mean no disrespect to the Board. He is opposed to moving forward with the proposal. He relayed that they have met with the representatives only to have their concerns fall on deaf ears. There is a claim that this process is in co-management with the affected area. The next statement is we are here to let you know what we have decided. He has many concerns, we live on an island that is very unique, he spoke of the kupuna's who would trade and barter. They was a time when you could go to the ocean and gather in abundance, by the time you reached home you would only have enough for the table. This lifestyle is a reality for them. They have been raised in a subsistence culture. They take care of their resources as best as they can and consider it their obligation not DLNR's. Their practices have been handed down from generation to generation along with the responsibility to maintain and perpetuate their traditions. He noted that 30-years ago people thought they were backwards for their ways

and needed to keep up with the times, and we fought, they still fight today. Now, today they are an example of what should have taken place many years ago. DLNR representatives came out to meet with individuals and families to hear their concerns, two -years ago the sentiment was we were running out of fish. They asked where was the data? Someone from Maui did a study and said Mo'omomi was plentiful. He said almost double of other places. This place has been managed by the homesteaders, with no for seeable increase in population what we have been doing seems to be working. The representative conveyed this area needed to be managed before it is too late. What the representative did not understand, was this has been managed by the homesteaders. It felt like the representatives assumed that if we are not on board with CBSA, that we were not for sustainability and we are not taking responsibility as stewards of the land seriously. He could not understand how they could misinterpret an entire room of people.

Dickerson M. Stone, homesteader, agrees with Boswell. We need to get together and talk. Plain and simple. You cannot pass this yet. We are not ready yet.

Chevy Place, what everybody says about the old ways is true. He was raised that way. By going out to gather fish with his grandpa, it was his job to carry the bucket, walk all the way to the end till he got rid of all the fish in the bucket. Nothing was sold. I even went back to my grandpa to ask for more fish because the last house had company. That night we went without fish. It hurts his heart to see the Molokai people fighting among themselves. What they say is true, the island can sustain itself. People on Molokai know how to take care, malama, take care of each other. Putting rules changes the lifestyle.

Clifton Galam, born and raised in Mo'omomi his kupuna's brought him here today. He did not know why at first, but does know now. They taught him how to conserve, why do they have to change what we know? He said the fish is abundant there. He and his cousin go mostly every weekend to fish. Everyone here know how much fish is there. Now they want to shut it down and limit it for him and his kids. Mr. Poepoe, said we do not belong here.

Sam Makaiwi, related to almost everyone on Moloka'i. His dad was a kupuna, he taught us to provide for the table. So, when you go to Costco, Safeway to buy fish, think of us. We go to Mo'omomi to get our fish, we have to catch it, clean it, prepare it, and eat it. Pick limu-kohu on the way home. When they go to Mo'omomi, there is a special place where they pray as his father taught him. The Kupuna trail to Mo'omomi has all the ancient warriors, their ancestors skeletons are still there. One thing my father taught him was to share, my only problem with fishing was he could not play baseball, get involved with scouting. He had to go with his father to gather fish. With these rules, the DLNR came out to kick him out of Mo'omomi. He asked why are you doing this? They said Mac Poepoe called the police. It was embarrassing for him. His hope is that BLNR makes the right decision.

Yama Kaholoaa, homesteader, here to oppose the resource management plan. He thanked everyone for their testimony. They covered everything very well. The Moloka'i community here today how we appreciate the individuals who look at this meeting as Moloka'i needs to be here.

They are all unemployed, they have lives to live, families to raise and take care of, we do not have the means. These special individuals here chartered two helicopters from Maui and flew ten of us to be here at this meeting. When I hear how our Kupuna's are being treated on the beach, it hit him really hard. That is why I am here. I am here for my Kupunas. Hui Malama and other organizations do not represent the community of Moloka'i. Many times, we want to sit down with them, they are our family. We are fighting among ourselves. I do not know where their mentality comes from. How important our Kupunas are. That is where our knowledge comes from. He felt there were a lot of questions asked and answer were not given. When you say open to the public, the community we talking about Native Hawaiian rights. Anyone from the community can come, you have Hawaiian Home lands, Private Property, they can come with us because we are Hawaiian. That is how we live on Moloka'i, we all share what we have. We all love each other. How can we manage the resources when we cannot even manage ourselves? DLNR comes and tells us they are confident that everyone is on the same page on resource management. But they come to Moloka'i, not to listen, they come to tell us what is best for us. We know what is best, that is why Mo'omomi has plentiful. His biggest disappointment was attending meetings and the people from the different organizations would swear at the Kupuna's when they spoke of their concerns. Not everyone is for the plan. We want to keep Moloka'i, Moloka'i. If you look back at history, Mo'omomi was protected by not only the living, by all our ohana spirits watch over us. I teach all my children to respect Mo'omomi. I want them to continue to live a simple life. It is not hard to sit down and talk. We have been told that you are on the boat or not, he does not know where all that power is coming from. DLNR wants to keep this moving on, we do not need it. Mo'omomi is healthy because of the people who take care of it.

Roehrig asked who was doing the swearing. Koala said the guys who support the plan left today's meeting already. He had hoped they would have stayed and listened to what they had to say. It seems only one person had the guts to stay.

Mike Sur, it saddens him that this is driving a wedge in the community. I do not know what the motive is behind this. If it's a land grab by Nature Conservancy's, there are probably things that we do not even need to know about. There are two issues, one is called the green-zone on Mo'omomi, through the years of fishing on Molokai with my dad, if you believe the biologist's report about Mo'omomi being a green zone, I have proof that my boat has fished Taape on the North Shore of Molokai, and have been able to eradicate 38,000 pounds of Taape. I think we help keep the area green by eradicating invasive species from there. This proposal will keep me from going there. Secondly, about scuba diving, Kili Mawai has been a unreal teacher for a young fisherman, now they want to ban scuba with a spear on it. If you have a bag limit of two fish, why are you banning scuba divers for? It makes no sense. I think it is a personal issue. There are some free divers who are involved in this rulemaking they want to keep the resource for themselves and exclude the older guys from scuba diving. For me, once you reach a certain age, you cannot free dive as well, you need a tank to stay down. These people do not understand, they do not care, they are crafting these rules, running the process and we are being left behind. He respectfully request that scuba be looked at and the Taape issue.

Yuen asked how they fish for Taape. Sur replied they use scuba equipment and use a net that keeps the fish alive so you can release any unwanted fish. It is a special technique.

Wally Ito, he supports CBFA's, he has a lot of respect and aloha for Molokai folks, I learned a lot of uses from them. I hope that you will go forward with the meetings.

Kevin Chang, I wish we could all stay and listen to each other. I am here to support moving forward with process. We have brothers here we say they do not want anything. That is part of the process. What got to hear that. At the end of day, you think this is a wrong thing, you can agree with that. But there are also people who need to talk about it who are not here today, that is part of the process. We could have a secret process that goes on for 25-years, that makes us all angry at each other and hurts our families or we can find a way to work together and move forward. This process pushes some of that, it is scary for us sometimes. We can let it fester and do nothing, as we do nothing the world around the little bay of Mo'omomi is changing and it is going to continue to change and it is going to wrap our people up in a tighter circle and we can continue to do nothing and I do not know if that is the right thing to do. Let us have the hearings and talk about it.

Davianna Pomaika'i McGregor, she was part of the team (1992- 1994) that was brought in from DLNR to work with the community to develop a Molokai subsistence study. We conducted the study and found that across the Board 29% of their diet came from subsistence be it fishing or hunting. But for native Hawaiian families 39% of their diet came from subsistence. Through the course of that Max Poepoe became involved. It was through that process at that time, we went from community to community, and what we were hearing was people were talking about how sad it was that the resources were not what they use to be when they were small. People wanted to do something to take care of their resources. Out of Mo'omomi came this idea, Max Poepoe, that we should have an area where the community can manage the resources. Other DLNR areas are a "No Take" zone. They wanted an area where you could still take for subsistence. Allow the community to use traditional knowledge and methods they always had to manage the resource. So, there is a manageable resource that can still be used for subsistence purposes. A two-year piolet project was established. Originally it went from Lilio Pt to Nehoa Flats. Due to opposition from commercial fishermen mostly, it was limited to Kawa'aloa Bay over to Mo'omomi Bay. During this time, we worked on rules with Kupuna. There was concerns with boats coming from Oahu hurting the resource. Mo'omomi has been successful. Max Poepoe has been bringing in hundreds of students, people from other communities on sustainability.

It is the five species that are at risk that need to be protected. The rules that would reinforce what is going on at Mo'omomi. Our Kupuna are aging out and the next generation needs to come and be the managers of that resource. She felt the need to institutionalize the practices at this point in order to reinforce the next generation. To have the authority our Kupuna have now. It will serve as a guideline. These will be lessons everyone can learn from. Having rules will be a

deterrent to conflicts over these resources. The issues that are dividing us. If we have peer rules, it is clear, we may not all agree, but should help mitigate the conflicts we see arising.

McGregor addressed access issue. Moloka'i Land Trust has 5-miles of coastline that they manage and work with Poepoe to set our guidelines. We afford access. There is vehicle access on a managed pass system that allows access on the weekends. TNC did away with the pass system and cut off access because fences were being cut and huge amounts of opihi was being taken for commercial use and a turtle was killed. Access will always be an issue. Supports Max Poepoe and will continue to work closely with him. Hope the dialogue that has started here can continue through the rule-making process.

Yuen commented that in the morning they heard testimony in favor of this proposal, the last couple of hours we have heard from people who have ties to the area and are very concerned about it. 90% of what he hears is not so much focused on the substance of the regulation, but the concern seems to be about "power and authority" and the role of Hui Malama, Mac Poepoe. How does it get to this point? How would you explain this conflict?

McGreor replied, for the people who have come today, there have been long standing differences that she thinks is irresolvable, they are irrepressible. She knows that Poepoe is perceived as being having power. The point of these rules is not about a person, not to empower a person. It is to protect the resources and it actually turns a lot of the authority over to DLNR, so it takes it away from one person having the obligation and the kuleana to try to protect these resources. She has seen other people in this position on the east end taking this kind of responsibility and they are always being targeted and vilified by the community because they see things going wrong and they step in and stop it. Poepoe has done that. He is the protector of these resources in the area down there and he has had a lot of opposition by those who feel they can do whatever they want. Our rights as Native Hawaiians means we have kuleana and responsibility. People spoke of the kuleana that they are taking and the responsibility that they have. There are those in that ohana that have been observed to take an ordinate amount of opihi for commercial sale. The ohana knows who killed the turtle. Poepoe has to take on this kuleana and responsibility. We do not know what the circumstances were. The issue should not be Poepoe. This is an issue about our customs and practices. Hui Malama built the pavilion down there and people were going down there and trashed it.

Roehrig said one thing that seems to be clear is that we are voting to go out to public hearing, we are not into the power trip. We are not here is to pick sides. We vote what is the best in the public interest. This needs to continue, people need to get this out in the open. There is a light here for everybody. He appreciates everyone's statements today on all sides.

McGregor mentioned there would be a Council who would implement the management plan and get the results from the monitoring and decide at what point adjustments would need to be made to the rules.

Makani Christensen, when you make a decision today, it will be heavily saturated with the CBSA movement. How does he know? He has been to every single public hearing. He traveled to Hana where they tried to make a bag limit on certain fish that did not make any sense. Ten menpachi per person. He stood in that room with those guys in Hana, and said He knew they caught more the (10) menpachi to feed their families. He told them that they will become poachers once this law passes. He has been to the Big Island when there was a public hearing when they closed the most exclusive beachfront in all of the State, it passed, it was heavily lopsided. Yet us lone fishermen in the back, by the time we came to the table to let the people know, they guys who fish in that area, it was too late. Fifty people on the side of street had lost ground. There was a man who is a throw-netter, fished there his entire life, like many guys here. He got chased out by the very ones you put in control of that area. He was walking down the beach looking for his fish all of a sudden someone comes to him and asked what he was doing there. He said as a fisherman you do not do that. You stay away, go around, you do not mahaoe the other person. But that mentality has taken place. As far as Haena, some guys have flown in today to promote the Community Based Management Subsistence Fishing area. What this did was put a small select people in charge of an area and create their own laws, their own rules, a lot of this is political motivation. Where is the science. Many of the things you hear for example, we actually had scientist at one time. When they banned scuba spear fishing, we sat in this room, we have (13) scuba fisherman on the entire west coast of the Big Island and there is 173-miles of coastline. The take per-year, 30,000 pounds if that. That is (2) fish a day, every day. The science is contradictory to what was voted on that day. He felt this was heavily lopsided. If someone did not go to these meeting, us Hawaiians and say there is a problem with your community, you no longer have fish, we would not be here today. We have been toe to toe every step of the way. The same people who closed down the North Hawaiian Islands are here today. Why? Politically driven. Is there any science to protect the water column in our economical free zone? From 50- to 200 miles out. Nothing. Political. If we really want to feed people, we have to think about people. He mentioned earlier that someone brought up Konohiki, since when does a Konohiki deny his people food. When does a parent tell their kids they cannot eat today. You want to feed them, you want them to be healthy and happy and you do not want this, what is going on today that we caused. Nobody else, the vote today does matter. It is not if it goes to public hearing it will be different, if it goes to public hearing, for us, we had to rally the fishermen to bring the fishermen from Moloka'i today, so they could have a voice. The saddest thing is when you look someone in the eye and felt you did not do enough. People asked why I do it? I do it for these guys for all of us, cause not everyone can fish.

Jenny Lynn, Malama Pupukeya Waimea, we are education based. We are a no take zone. We still have poaching. What we have learned over the years, to have a no take zone is the worst idea. What is ideal is a more traditional system, through my experience the CBS is the best of both worlds. Anything you can do in a community to preserve what you have, you should try to do that. We support Mac Poepoe and what they are trying to do there.

Wayne Tanaka, OHA, is in strong support of moving these rules to public hearing.

William Kiili, read a written testimony submitted by Malia Kitagawa, in support of rulemaking.

Kapua, make it possible for the people to share their mana'o with you. They do not have the time and money to take 6-hours to speak to you, through technology we should be able to engage with everyone on every island. There is a State building on each island and they should be equipped so the people can talk to you. It might be a 3-day meeting, but there may be 3-days of people who have mana'o to share with you. Let us serve the people who cannot fit into this room. They cannot afford to lose a day of wages or lose a day of farming. Those are the ones that live by subsistence. Until they are informed and persuaded that if they do not come they will not have a job or aina that they currently have now. Find the money for technology so we can serve the people not in this room. Bring them into the conversation so you can hear them. That is how we deal face to face.

Roehrig moved to pass the submittal. Yuen second the motion.

Discussion:

Roehrig said he had very strong feelings for those in opposition as they spoke from the heart. He would like to make sure when they go out to public hearing, you stress you want fair governess along the shoreline and not go down there heavy handed. Access is a two-way sword, blessing and a curse. There has to be a balance. Suggested they take a look at where you can use cross net. There is room for the commercial fisherman to harvest Taape as long as they do it in a sophisticated way that you do not get the other fish.

Oi, the hearings should be expanded to all the islands. We are a State. Everyone is involved. He did not realize how many guys were not for going to hearing. We probably have that on Kaua'i. We also have people who would want a hearing to create an area. You cannot just localize it. He would like to see studies done on the population of the fish when they improve, so you can lift the amount you can catch.

Case commented that there was a technical issue, when it says recreational and charter fishing are not covered, I think you mean recreational charter trolling, are not prohibited, just all fishing.

Yuen asked Anderson, at the end of public hearings, you decide to let people harvest Taape, by some species select method species, that would be a substantive amendment, it would put it out to public hearing again. Anderson suggested that you include things you want to see possibly in the rule changes, you can always take them out.

Case said that there were a lot of places with Taape, I think the reason it is excluded here is that it confuses the enforcement issue.

Amendments:

- **Not banning, swimming, surfing, and body boarding at Kawa'aloa**
- **Hearings on all Islands**
- **Clarify the allowance for recreational and charter fishing is by trolling only**
- **Decision making be on Moloka'i (for discussion)**

Gomes agreed with Yuen, the decision weighs heavily on the people that live in Moloka'i, because you have so much difference of opinions. The people of Moloka'i should consider what is their fate.

Downing commented that he felt there was a lot of holes in the rules. Everybody is talking about (5) species of fish and there are how many more. How are we going to catch the other fish? Are we going to be allowed to use scuba tanks? You have a mile barrier. I do not know who is free diving out at that barrier mark who is using it for sustainable fishing, let alone. I agree with the old-timers, diving 25-feet, 3 to 4 times a day, it is a lot easier with a tank. I am still selective of what I take. But now you are eliminating a whole group of people who grew up diving. Technology has provided us to feel important. We do not have to go and ask someone else to go dive for you. I do not think we have addressed all the pieces and if we have to go back out to public hearing again, we are getting closer. Everyone is talking about personality. The personality they are talking about believes, listening from their side, is that this person put a lot of time in it. I think if they really care about Mo'omomi they should start thinking about an exit strategy for that person so the island can heal and move forward. If the personality is still there, we will still be in this situation. If we are really looking for the betterment of the island, you need to be putting those things aside to work for the betterment of the island.

Gomes, one of things is that we need is more communications from all islands, they cannot afford to come to come to Oahu, if there was some way they can get on -line to speak to us. For the people who did come to speak in opposition and support, he talks his hat off to them. He knows it is not easy. It is hard as a Board member to draw a line. What is the balance, he feels for the Kupuna's and those we have come before, he has so much empathy and compassion. It is hard to say which way to go. The rule-making is a start, a lot of things will vent out of that. Come to some kind of agreement and make Moloka'i strong.

Case wanted to recognize the written testimony that came. Most of it in support. The Board members received and looked at all the testimony.

Oi said, that Member Downing, hit on an area where you have (2) different rules. You can catch different fish, how are you going to enforce the rules that are in place and the ones you are proposing in the same area.

Anderson replied that there is a restriction on all scuba in this area. State wide rules apply here.

Yuen, the rule-making that is going out to public hearing is a set of rules on what fish people can take. It is not a set of rules on who has power, who has access, and who gets to enforce. These are fishery rules. The other issues that are important to people have to be worked out in the community. These will be DLNR rules.

Oi said, go to the meetings, and voice your opinions. This is your opportunity to say what you feel.

Gomes asked when DAR would come back after public hearing? Anderson said he anticipated at least 4-months.

Approved as amended (Yuen, Roehrig) unanimous.

4:03 Recess

4:15 Back in Session

ITEM J-4 Authorize the Division of Boating and Ocean Recreation to Issue a Request for Proposals for Development of Public Lands at the Ala Wai Small Boat Harbor, Kālia, Honolulu, O‘ahu, Hawai‘i regarding certain parcels of Tax Map Key Nos.: (1) 2-3-037 and (1) 2-6-010.

Ed Underwood, Division of Boating and Ocean Recreation, we are at the point to move forward with the project. We plan to issue the RFP with the conditions that any prospective developer will have to stay in compliance with all of the current zoning, Waikiki Special Design district requirements. Take in consideration input that was received from the public comment meetings.

Board Discussion

Downing asked what safeguards are in place so that we do not have another Honeybee situation? Underwood said, we are working with the AG’s on personal guarantees that whoever bids on this project can finish the project.

Downing asked how did we decide what we want in the different places? How are we breaking this down for the four parcels? Underwood said we are bound by Chapter 200, that it has to be for Maritime purposes. We did not make any specific requirements on the developer at this time as they will have to a financial feasibility study to see whatever they purpose can work in that area. What we found out is that fuel docks and haul out facilities do not make money. If the person feels they can bring those in and make them work that would be great. That is part of the comments we received.

Roehrig asked if it was private industry, as part of your due diligence, hire someone who can assist in evaluating the financial strength of the company or perhaps utilize the University of Hawai‘i to review. Do it in way that you will succeed.

Public Testimony

Kathryn Henski- Read a letter from the Chairman of the Waikiki Neighborhood Board to Governor Ige, commented about mismanagement, inferior quality of the piers and the poor condition of the harbor today. The public should have input on impact of boaters and area residents. We need to have someone to manage the harbor and making it more user friendly. They would like to add input into any design and use. We need a person who knows boating.

Rob Johnson- General Manager, Ilikai Association. Yet to see any conceptional plans for development. He is not satisfied with the way the harbor has been maintained. Asked to defer the item.

Michelle Matson, ask for community input for the greater public interest. RFP- community would like to see. Where is the coastal conservation recommendation? Would like to see a community-based master plan effort and would contribute back to the harbor. Request to defer the item.

Yuen asked Underwood if this would be published in the paper asking for proposals? Underwood replied that the proposal is with the AG's office for review. It will have all the guidelines as part of the Request for Proposal as part of that there is a request for qualifications that will be reviewed to ensure they have the financials to do this kind of project. Then we will put it out to the public. They have been a lot of interest.

Yuen clarified that Stage 1; you make a request for proposal, it is pretty broad. Underwood said they have to comply with Chapter 200. Yuen commented, Stage 2, we hope to get a bunch of proposals. Underwood said yes, the Chair will approve a review committee to go over proposals submitted to see which one meets the best interest of the harbor. We will come up with guidelines for that. Next, whoever is selected, it will come back to the Board for approval. From there we could enter into a development agreement which states the monthly rent and they can do their due diligence and get permits in place. We will come back to the Board to enter into a lease.

Yuen said, if we get to the point of developing a proposal, do we just go with the one developer who made it or do we now let others bid on this?

Bill Wynhoff, AG, commented that that they have looked at this, but did not focus on the issue of development as we are not development lawyers. It is a tricky issue, the way the Statute reads, if we do not do it by regular auction, we have to make sure we put this in a box.

Roehrig suggested that at least (2) or more request for proposals. AG confirmed that the Board could reject the proposal if only one is submitted.

Gon also suggested that the RFP go out to the stake holders to keep them informed and see the details.

Oi, said he needed more information, he cannot approve something that we do not know what is going there. When you go out for an RFP, you need to have something to say this is what we want here.

Amendment:

- 1. Before going out publicly, DOBOR to confirm with the AG's what the process is; and how specific does the proposal have to be and bring back to the Board;**
- 2. The RFP to be sent to stake holders to keep them informed regarding the details of the project.**

MOTION

**Approved as amended (Yuen, Roehrig) Opposed, Oi & Downing
Passes**

ITEM F-3 Request for Approval to Hold a Public Hearing for Amendments to Hawai'i Administrative Rules Chapter 13-95, Rules Regulating the Taking and Selling of Certain Marine Resources. These Amendments are Intended to give the Department Authority to Authorize Take of Stony Coral and Live Rock in Limited Circumstances by 1) Adding Definitions of "Renewable Energy Projects" and "Mitigation" to Section 13-95-1, and 2) Adding New Subsections in 13-95-70 and 71 that Allow the Department to Authorize Damage of Stony Corals and Live Rocks for the Development or Operation of Renewable Energy Projects and Require Mitigation to Offset Stony Coral and Live Rock Damage from any Authorized Take under this Subsection.

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

Bruce Anderson, Division of Aquatics, the reason we need this amendment to allow the project to continue and require the mitigation to offset stony coral and live rock damage.

Board Discussion

Roehrig asked for an example of how this would work in the real world. Anderson said one example would be the sea water air conditioning project which has been planned for the last 10-years to cool the downtown area.

Downing asked why they are drilling in that particular area. We have put cables out in Makaha, and they made sure they exited in the sand not in the coral. We have spent 2-years of people wanting to build platforms to grow coral and in the same breath we are destroying coral even if it is a small amount. As a State where do we take a stand on coral?

Anderson replied that they are very diligent at looking at that issue. We charge a lot of money for coral damage in this case we are going to be transplanting the coral that are impacted and add some mitigation.

Public Testimony-None

MOTION

Approved 6-1 (Yuen, Roehrig) Downing Opposed. Passes

- ITEM M-1** Issuance of a Revocable Permit for Vehicle Parking, Kone, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: (Portion).

- ITEM M-2** Issuance of a Revocable Permit for Car Dealership Overflow Parking to Lithia of Honolulu-BGMCC, LLC, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-72: Portion of 27.

- ITEM M- 3** Issuance of a Revocable Permit for Storage of Emergency Airfield Equipment, Department of the Navy – NAVFAC, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-076: Portion of 022.

- ITEM M-4** Issuance of a Revocable Permit for Aircraft Parking, Hawaii Glider and Sailplane Academy, LLC, Kawaihāpai Airfield, Waialua, Hawai'i, Tax Map Key: (1) 6-8-14:001 (Portion).

- ITEM M-5** Issuance of a Revocable Permit for Space in the Main Terminal for Locker Rooms, Hawaiian Airlines, Inc., Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 19.

- ITEM M-6** Issuance of a Revocable Permit to Southwest Airlines Co. for Purpose of Airline Operations, Līhu'e Airport, Tax Map Key: (4) 3-5-001: Portion of 8.

Ross Smith, DOT-Airports, presented Items M-1 through M-8 and had nothing to add.

Board Discussion-None

Public Testimony- None

MOTION

Approved as submitted Items M-1 through M-6 (Roehrig, Oi) unanimous.

ITEM M-9 Issuance of a Lease by Negotiation to Toell U.S.A. Corporation, for construction of a new facility, reconstruct and repair, use and maintenance of existing facilities for the purpose of receiving and loading cargo containers; forming plastic bottles; purifying water; filling of bottles; & packing, storing & loading final products for shipping. Piers 23 & 24, Honolulu Harbor, Hawai'i, Tax Map Keys: (1) 1-05- & 038: 004 (Por.), 005, & 058.

Dre Kalili, DOT-Harbors, Maritime use is the storing and loading of cargo by ocean use transport. The business model is a water bottling plant.

Board Discussion

Yuen asked that any business that makes something in Hawaii and ships it out in containers is maritime related? Kalili replied, based on the laws that are available to us, the answer is yes. We would consider if the cargo comes straight off a ship directly to a facility or from the facility directly to the ship, we would put into the maritime category.

Yuen gave an example of bringing in goods by ship, and needed a warehouse to store the goods at the harbor, that would qualify as maritime? Kalili said yes by definition the loading and unloading of goods from the ship is considered maritime related. Yuen asked if the AG concurred with that definition?

Wynhoff, AG, said the definition is pretty broad and they have looked at this in the absence of any formal request, we are reluctant to tell the Board they cannot. He feels it is up the Board and would not want to take it out of the Board's hands as a matter of law.

Roehrig asked how does this create competition? Kalili said we consider the applicant a maritime operation as it loads and unloads and stores goods for ocean transport. The export of the product out of Hawai'i creates competition among the ocean carriers. The shipping companies that move cargo and serve the routes between Hawai'i and the applicants market for sale of their product. The ships that carry product to Hawai'i, generally have empty containers going back, this creates an opportunity for others providing it can meet the applicants need to export.

Case said what we are talking about is a direct lease, if you were to auction this off, presumably you would have other companies who would want to bid on this space and accomplish the same thing. The concern of the Board is if this is meeting the public purpose? If your authority is broad enough to lease to companies who have not only serve the maritime industry but who benefit

from it, that is a pretty expansive definition, but it does not explain the direct negotiation verses an auction. The purpose of a direct negotiation is for something that is really important to maritime operations as opposed to this looks like a pretty good deal, I want in on it. That has been the concern in the past.

5:30 pm: Member Roehrig left the meeting

Public Testimony

Lucy Gay, Kapua Kamai, AhChing Apoi, Kaleo Kamai, Kalii Kamai.

Opposed to the operation itself. Water is security a matter of serious community deliberation in Waianae. Oppose the export of a limited resource.

Case said she appreciated that they came all the way from Waianae and understands their particular water issues and the Board of Water Supply has some issues trying to route water from outside that area and appreciate their concern. The question of whether this is an appropriate use of water not exactly our role her today. It is probably a Board of Water thing but appreciates the time they spent here to come out and express your concerns and is sympathetic to their issues.

MOTION

Approved as submitted (OI, Yuen with reservations) unanimous.

ITEM M-8 Issuance of a Right of Entry to Toell U.S.A. Corporation, access for the preliminary Construction Planning for permit applications and site mobility for Construction of a new facility & reconstruction & repair of existing facilities at Piers 23 & 24, Honolulu Harbor, Hawai'i, Tax Map Keys: (1) 1-05- & 038: 004 (Por.), 005, & 058.

Board Discussion-None

Public Testimony-None

MOTION

Approve as submitted (Oi, Yuen w/reservation) unanimous.

ITEM M-7 Issuance of a Revocable Permit to the Department of Customer Services, City & County of Honolulu, for its Permitted Agents (assignees, contractors, sub-contractors, and agents) the right to enter upon and take possession of the premises for the purposes of storing towed and abandoned vehicles and equipment found on streets and roads under the jurisdiction of the City & County

of Honolulu. Keehi Industrial Park, Kapālama, Honolulu, Hawai'i, Tax Map Keys:
(1) 1-02-023:040 & 072.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Oi, Yuen) unanimous.

ITEM J-3 Authorize Public Auction of a Lease for Purposes of Landscaping, Maintenance, Storage of Small Boats and Trailers and other Maritime Related Activities at Mala Wharf and Surrounding Areas, Alamihi, Lāhainā, Maui, Hawai'i, identified by Tax Map Key: (2) 4-5-005:019 (Por)

and

Declare Project Exempt from Requirements of Chapter 343, HRS, And Title 11, Chapter 200, Hawaii Administrative Rules.

Underwood was present to answer any questions.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Oi, Yuen) unanimous.

Kevin Moore, Land Division, was present to answer any question regarding the following D-1, D-2, D-3, D-5, D-6, D-8, D-9, D-10, and D-11, submittals.

ITEM D-1 Issuance of Right-of-Entry Permit onto Unencumbered State Lands to St. Theresa School for Parking Purposes at Kekaha House Lots, Kekaha, Waimea, Kaua'i, Tax Map Keys: (4) 1-3-004:054 and (4) 1-3-011:001.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Yuen, Oi) unanimous.

ITEM D-2 *Amend Prior Board action of September 25, 2015, Agenda Item D-3 as amended by Board action of October 14, 2016, Agenda Item D-3, Approval for Acquisition of Perpetual Easements and Authorization of the Chairperson to Negotiate and Execute Rights-of-Entry on Private Lands for the Menehune Road Rockfall Mitigation Project, Waimea Valley, Waimea, Kaua'i, Tax Map Keys:(4) 1-6-010:001, 002 & 003 (portions).*

The purpose of the amendment is to expand the area and the character of use of the perpetual easement on TMK (4) 1-6-010:003 (portion), to include a 4-foot high chain-link fence with gate for safety purposes.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Yuen, Oi) unanimous.

ITEM D-3 Approve a 10-year Lease Term Extension Pursuant to Act 207, Session Laws of Hawai'i 2011, General Lease No. S-3750, Jieyu Shepard, Lessee; Amendment of Terms and Conditions Regarding Character of use, Assignment and Sublease Provisions, Kanoelehua Industrial Lots, Waiākea, South Hilo, Hawai'i, Tax Map Key: (3) 2-2-050:076.

Board Discussion

Downing asked staff to find out the amount of sublease rent the lessee currently collects, and to report back to him on that information.

Public Testimony-None

MOTION

Approved as submitted (Yuen, Oi) unanimous.

ITEM D-5 Set Aside to the Department of Education for School Purposes, Issuance of Immediate Right-of-Entry; Kalihi-Kai, Honolulu, O'ahu, Tax Map Key: (1) 1-5-028:075.

Board Discussion-None

Oi commented that the building must be 50-years old. Moore said they are catching up on items that need attention.

Public Testimony-None

MOTION

Approved as submitted (Yuen, Oi) unanimous.

ITEM D-6 Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc., for Special Event Aerial Fireworks Display at Duke Kahanamoku Lagoon on May 15 and 19, 2018, Waikīkī, Honolulu, O'ahu, Tax Map Key: (1) 2-3-037:021 (Portion).

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Yuen, Oi) unanimous.

ITEM D-8 Issuance of Right-of-Entry Permit to Hawaii Explosives and Pyrotechnics, Inc. for Aerial Fireworks Display on May 11, 2018 at the beach fronting Kahala Hotel, Wai'ala'e, Honolulu, O'ahu, Tax Map Key: (1) 3-5-023:041.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Yuen, Oi) unanimous.

ITEM D-9 Mutual Termination of Grant of Non-Exclusive Easement No. S-5366; Issuance of Perpetual, Non-Exclusive Easement to Hawaiian Electric Company, Inc. for Utility Purposes, Waimānalo, Ko'olaupoko, O'ahu, Tax Map Key: (1) 4-1-009:282.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Yuen, Oi) unanimous.

ITEM D-10 Grant of Term, Non-Exclusive Easement to United States of America, by its Federal Aviation Administration for Roadway and Slope Maintenance Purposes; Issuance of Immediate Construction Right-of-Entry Permit; Mokulē'ia, Waialua, O'ahu, Tax Map Key: (1) 6-8-001: portions of 001

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Yuen, Oi) unanimous.

ITEM D-11 Amend Prior Board Action of February 09, 2018, Item D-15, *Issuance of a Right-of-Entry Permit to the United States to Conduct Defense Environmental Restoration Program Activities on State Lands Including Submerged Lands on the Islands of O'ahu, Maui, and Moloka'i. See Exhibit A for List of Subject Properties.*

The purpose of the amendment is to 1) correct Exhibit A with addition of seven parcels totaling 11.565 acres, 2) update a location map as Exhibit D by adding the seven parcel numbers, and 3) correct the requested total land area on page 1 to 9,319.6211 acres.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Yuen, Oi) unanimous.

Motion to adjourn (Oi, Yuen) unanimous.

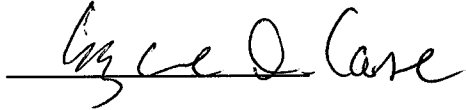
There being no further business, Chairperson Suzanne Case adjourned the meeting at 5:50 pm. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and available for review. Certain Items on the agenda were taken out of sequence to accommodate applicants or interest parties present.

Respectfully submitted,



Darlene S. Ferreira
Land Board Secretary

Approved for submittal:



Suzanne D. Case
Chairperson
Department of Land & Natural Resources