

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

DATE: FRIDAY, AUGUST 10, 2018  
TIME: 9:15 A.M.  
PLACE: KALANIMOKU BUILDING  
LAND BOARD CONFERENCE ROOM 132  
1151 PUNCHBOWL STREET  
HONOLULU, HAWAI'I 96813

**MEMBERS**

Suzanne Case  
Stan Roehrig  
Keone Downing

Tommy Oi  
Sam Gon

**STAFF**

Russell Tsuji-Land  
Maria Carnevale-DAR  
Kenyatta Russell-DOBOR

Ed Underwood-DOBOR  
Barry Cheung-Land

**OTHERS**

Dan Morris/AG  
Ross Smith/DOT-Air  
Mayor Carvalho/M7  
Julie China/D4

David Frankel/D4  
Kuulei Santos/M7  
Ed Bushor/M7

Chair Case called the meeting to order at 9:16 am. Member Oi read the standard contested case statement.

**ITEMS D-2 & J-1 WERE WITHDRAWN**

**ITEM A-1** Request for Approval for the May 11, 2018 Meeting Minutes.

**ITEM A-2.** Request for Approval for the May 25, 2018 Meeting Minutes.

Broad Discussion

**Item A-2,** Roehrig noted on page 9 & page 11, that a correction to the spelling of lo'i.

Public Testimony-None

**MOTION**

**A-1 Approved as submitted.**

**A-2 Approved as amended.**

**(Roehrig, Gon) unanimous.**

**ITEM M-7** Issuance of a Right-of-Entry Permit to the County of Kaua'i for Gate and Boulder Installation on Encumbered Government Lands at Port Allen Airport, Tax Map Keys: (4) 1-8-008: Portion of 004 and (4) 1-8-008: 076.

Ross Smith, Department of Transportation, Airport Division, presented the submittal.

Broad Discussion

Oi commented that this helps with the vehicle traffic that causes pollution to the salt pans, what about the helicopters that fly over? Smith replied that once the take-off they have no control, it becomes the jurisdiction of the FAA. He said the flight plans they have in their books does not take them over the salt pans and once they are off the ground we do not have any control. Oi said it is a major concern when they kick up the dust and dirt when they take off and land.

Downing commented that if you see them taking off and kicking up dust and dirt enough, you can prevent them from taking off, we do not have to grant them the land to fly off of. Smith said it is very difficult for them to go to the FAA, the air space there is "free air space", they do not have a control tower there. Smith said we could do it, but they would need the blessing of the FAA. Downing asked if you do not get their approval? Smith said we can't take away their ability to fly. We might terminate the ground RP, but he assumes we would be in a very long litigation to get through. Downing commented that if we are trying to preserve something, we need to look at it. Smith agreed.

Oi asked if he went on-line could he find the flight plan for the helicopters, and what they are supposed to be using? Smith replied, not that he is aware of. It's not something we would do, it would be the FAA. Oi said what the County is trying to do is a good thing by putting in the boulders so that it stops all these guys from driving on the beach and leaving their trash.

Roehrig asked Smith to ask their AG, for a memo, what is feasible alternatives for us to block the helicopters from going off the flight plan and over the salt pans; there are alternatives, we do not have to do it the same way, if we have any angle or leverage on these helicopters we should use them and we need to block these guys sooner or later. Roehrig said, let's start this off the right way and get an attorney's opinion on what is feasible for us to do. Come up with a report in 3-months with your opinion of what feasible alternatives we have and bring your attorney to make this a better situation. If the County is willing to help, and the helicopters go where they like, that is not appropriate.

Case added that she has been out there recently and is very happy with submittal, it looks like the place they take off from are on the other-side of the salt pans and the tour helicopters go over the salt pans, that is a problem. If they take off from there they should not be flying over the salt pans. Smith also commented that there could be other people who are not operating helicopters, but modified go-carts and other things they put a rotors put on. Case said she also saw a small plane there.

Oi noted that most of the helicopters are heading to the Na Pali coast, which is west, where the salt pans are. They could out over the ocean, but they take the shortest route which would take them right over the salt pan.

### **Public Testimony**

*Mayor Bernard Carvalho* noted that the bigger picture is to make this area a walking path as well as help the families of the salt pans to continue what they do. We held a meeting with all the parties involved at the salt pans including the FAA, he wanted everyone to feel what the right purpose is and to do the right thing.

Gon noted we it is clear to all of us how important the practice is. Although we cannot solve everything, we can move forward and act on the ones we can.

Roehrig comment it is a historic site, it has been used for over a 100-years. Do you think you would come back when Mr. Smith comes back to give his report and hear their feasibility and work together?

*Kuulei Santos*, salt-maker. Provided information on the history on what has been happening with the helicopter company named "Maverick". The first time they came before the Board to get the lease transferred they were denied and the second time, they were told to talk with the salt-makers and get their approval and try to work together. They did not. Maverick found a loop-hole, they bought all the stock of the company that held the lease. Case asked how long is the lease? Smith said they have 10-years left.

Santos said that the helicopters take off and fly over us and hang out so people can see what we are doing and then they leave. Case asked if they were the only company that does that? Santos said yes. Gon asked if the ultra-lights buzz over the salt pans. Santos said no. The only people who fly over is Maverick, right now they have a lot of practicing going on and they practice around the area and are constantly flying over us, going up and down. We have recorded on video.

Case noted that we have a problem in Hawaii with FAA not being responsive to community concerns regarding helicopters flight paths. We have to tackle that somehow. She told Santos that we do not have direct control over that. Santos said she understand and appreciates all they have done to help.



Roehrig asked Smith that when he brings his report, to ask their attorney to investigate the feasibility of the State trying to get a mandatory injunction against these people who are flying over the salt pans. Look at alternative places they can go over, whether the State would not get a motion to dismiss or summary judgement to get an affirmative injunction relief against a helicopter going over a historic site and causing damage to the historic site the way they are doing. If that is feasible we should have the State AG's office go after them. He added that they include Santos in their discussions to provide relative facts that would support mandatory injunction relief.

Ed Bushor, Kauai Lagoons, wanted to provide support regarding the helicopter issue. We share the same concerns and offer assistance as necessary, letters or testimony. He has a biologist onsite fulltime on our project to protect the birds and the nene onsite. There is absolute disregard by the helicopters of any concerns of environmental impacts. He said they fly right over the buildings and the nenes, they will not fly out to the ocean first. They jeopardize tourists in the pool, they fly very low. The concerns that are raised are supported by the community.

***Amendment:***

***Add a condition that Mr. Smith is to return with a report on the feasibility for principal relief of a mandatory injunction relief against helicopters flying over sensitive historic sites like the salt pans and that the attorney's working on it consult with the salt-makers representative Ms. Santos and the County officials who may be available to assist, along with Mr. Bushor who wants to contribute to the efforts.***

**MOTION**

**Approved as amended (Oi, Gon) unanimous.**

**ITEM F-1** Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Education Permit to Ms. Katherine Raisz, Richard Lewis Media Group for Smithsonian National Museum of Natural History, for Access to State Waters to Conduct Filming and Photography Activities.

Maria Carnevale, Division of Aquatics, made an amendment the on the submittal to add that Ms. Katherine Raisz, Richard Lewis Media Group for Smithsonian National Museum of Natural History to be consistent.

**Board Discussion**

Downing asked will any of the filming be sold to the general public. Carnevale replied, no. Oi asked would this film attract people out to the monument? Carnevale said the intent is garner support for the monument and anyone going to the monument would need a permit. It is no entry except by permit, unless it is an emergency.

Gon asked if there was any violations? Carnevale said there have been a few but do not have any specifics. There are vessel trackers and resource managers that go on these trips as well to help and educate those we are going.

Roehrig asked if this education video being made, will there be a provision made to share with the local kids? Carnevale said that they will be receiving a copy and if we want to create partnerships with DOE, that is something we can look into. Roehrig thought it was a good idea.

Dr. Randy Kosaki, NOAA, he will be the chief scientist. Gon asked about the disposition of the videos created after this, although hosted by the Smithsonian, the potential for use locally in education. Kosaki said absolutely. These are private filmmakers working for the Smithsonian. We are planning to do this.

Public Testimony-None

**MOTION**

**Approved as amended (Roehrig, Oi) unanimous.**

**ITEM F-2** Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit to Dr. Timothy Grabrowski, University of Hawai'i, Hilo for Access to State Waters to Conduct the lethal removal of Blue Striped Snapper for Age Growth Studies.

Maria Carnevale, Division of Aquatics presented the submittal. Dr. Grabrowski present to answer any questions.

**Board Discussion**

Downing asked if the Blue Stripped Taape any different from the ones in the Main Hawaiian Islands? Dr. Grabrowski said they are one and the same. They have spread from their introduction on Oahu 20-years ago they have spread all the way to Midway very fast. One of the reasons they want to do this research is to see if growth rates change as you go up the archipelago and that might explain why they have expanded their range so quickly. Temperature of the water may play a large role in how quickly and large they grow.

Downing asked if they collected fish in the Main Hawaiian Islands? Grabrowski replied yes. Case asked what were the volumes they have seen in the Northwest Islands? Grabrowski said in shallow waters there are huge schools all the way up the chain.

Case if they could remove the volume limit? Carnevale said if the Board choses. Case said to set it at minimum of 10. Oi asked how can you get rid of this fish? Grabrowski said it is nearly impossible once they are established. What this will do for the State is create life history case studies. So, we can learn to manage our native fisheries.

Public Testimony-None

**Amendment:**

***Minimum of 10 takes***

**MOTION**

**Approved as amended (Oi, Roehrig) unanimously.**

**ITEM D-1** Consent to Mortgage with Estoppel Certificate, General Lease No. S-5844, WHR LLC, Lessee; Waiākea, South Hilo, Hawai'i, Tax Map Keys: 3rd/ 2-1-01:12 and 2-1-05:13, 16, 17, 27, 32, and 46.

Russell Tsuji, Land Division. Presented background on the financing and the chain of events. The outstanding issues have been resolved. Applicant is present to answer questions.

Board Discussion

Roehrig asked Mr. Bushor why you needed the extra money for? Bushor, it was for proprietary reasons in his mind and apologized for the misconception. He said the spent more than 5-million over. You have most of the numbers, the numbers are higher. Roehrig suggested that he have a confidential conversation with our counsel and the Land Division and make the decision to what can make public in the future. This is State land that we are leasing and we have the responsibility to be transparent.

Downing asked that this was sent as a memorandum and not a letter who is signing off on this? Why was it not sent as a letter with your signature? We need record that you are saying these things. Bushor said he would sign it right now.

Public Testimony

Julie China, Deputy Attorney General clarified that they are mortgaging only the building structure, not the land underneath it. One of the things we are negotiating in the consent to mortgage, the bank does want the Board to subordinate the lease interest to the bank. I recommend that we do not do that. Our lease would be priority to the banks mortgage. We are negotiating this. We will not agree to that.

Tsuji said that there is a deadline for Bushor to pay his construction loan by the end of the month or he will be in default. It is subject to the Division and the AG's working with the Lessee and his counsel working on the adequate language. Tsuji was not aware that they were requiring the lease to be subordinate. He would not agree to that.

Bushor agreed to that. Downing wanted to make sure that the State gets it right.



**Amendment:**

***Amend the submittal by consenting to a mortgage up to 55 million dollars. The State would not subordinate its interest in the land (i.e., the leased fee interest) to the mortgagee/lender. As noted in the submittal, the language of the Consent to Mortgage and Estoppel Certificate are subject to review and approval of the Department of the Attorney General, and such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.***

**MOTION**

**Approved as amended (Roehrig, Oi) unanimous.**

10:37 a.m. Break

10:50 a.m. Back in Session

- ITEM M-1** Issuance of a Revocable Permit for Office Space in the Main Terminal for Airline Operations, All Nippon Airways Co., Ltd., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 043 (Portion).
- ITEM M-2** Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Personal Aircraft to Matthew Ryan Henline, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-076: Portion of 21.
- ITEM M-3** Issuance of a Revocable Permit for Space for the Purpose of Airline Parts/Equipment Storage, Southwest Airlines Co., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 065 (Portion).
- ITEM M-4** Amendment to Prior Board Action of June 8, 2018, Item M-2, Request Amendment to Area, Issuance of a Revocable Permit, State of Hawai'i, Department of Agriculture, Animal Quarantine Branch, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 066 (Portion).
- ITEM M-5** Issuance of a Revocable Permit for Passenger Check-In, Customer Service and Ramp Offices to United Airlines, Inc., Diamond Head Domestic Extension, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 042 (Portion).
- ITEM M-6** Issuance of a Revocable Permit for the Installation and Operation of Two Automated Teller Machines to Lava ATMs LLC, Ellison Onizuka Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-043: Portion of 040.
- ITEM M-8** Issuance of a Revocable Permit for Air Cargo Operations in the Cargo Building, Adjacent Ramp Areas, and Vehicle Parking Stalls, Trans Executive Airlines of Hawaii, Inc., Līhu'e Airport Tax Map Key: (4) 3-5-001: Portion of 008.

Ross Smith, DOT-Airport presented Items **M-1 through M-6 and Item M-8.**

Board Discussion

**Item M-6** Roehrig asked what is a transaction, every time you put your card in? Smith replied yes, it is a fee of \$1.00 per transaction or \$100.00 whichever is greater.

Public Testimony- None

MOTION

**Approved as submitted Items M-1 through M-5, and M-6 and Defer Item M-6 (Roehrig, Gon) unanimous.**

**ITEM D-4** Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display on September 9, 2018 at the beach fronting Kahala Hotel, Wai'ala, Honolulu, O'ahu, Tax Map Key: (1) 3-5-023:041.

Russell Tsuji, Land Division. Did not have anything else to add to the submittal.

Board Discussion-None

Public Testimony

David Frankel, said that the Revocable Permit was not valid and it has expired. Noted that HRS 171-5 provides that revocable permit can be extended up to a year. There was robust discussion on the validity of the RP.

Case noted that this request is for a Right-of-Entry by a contractor. Frankel said the applicant is really the hotel. This is sub-contracted out. He is asking the Board to accommodate his request to deny the Right-of-Entry on the basis that the RP holder has been doing things on State land without permission.

MOTION

**Approved as submitted (Downing, Oi), unanimous.**

**ITEM D-3** Quitclaim of State's Interests, if Any, over Portion of Kapahulu Avenue to the City and County of Honolulu, Honolulu, O'ahu, Tax Map Key: (1) 2-6-027: Road.

Russell Tsuji, Land Division presented the submittal.

Board Discussion-None

Public Testimony-None



**MOTION**

**Approved as submitted (Oi, Gon) unanimous.**

**ITEM J-2** Termination of Revocable Permit (RP) No. 5, dated August 30, 2016, to GKM, Inc. (Permittee) for a Boat/Trailer Storage Facility and Employee Parking; Located at Honokōhau Small Boat Harbor, Kealakehe, North Kona, Island of Hawai'i, Tax Map Key: (3) 7-4-008:(Por.)003.

Ed Underwood, Division of Boating and Recreation. Provided information on the successful bidder and noted that GKM did not submit a bid.

**Board Discussion**

Case clarified that request for permission to give a 30-day notice when they are ready.

Downing asked Underwood to explain how he conducted the auction, what is meant by highest upset percentage bid of 50%? Underwood said that means they are paying us either \$435,000/year or 50% of gross of gross receipts whichever is greater. Downing asked how much was he getting from GKM? Underwood said approximately \$7,000 a month for the same space.

Downing asked how many boats can this space handle, he tried to look at the map and could count only 300 spaces, how are they going to make it? How expensive is it going to be to store a boat? Underwood said they are anticipating that the fees will not change too much. Apparently. They feel they can make it.

Kenyatta Russell, DOBOR mentioned that GKM at a previous meeting said they were grossing close to \$50,000/month.

***Amendment:***

***Correction on location in the submittal on page 1 to be Tax Map Key: (3) 7-4-008:(Por.)003***

**MOTION**

**Approve as amended (Roehrig, Gon) unanimous.**

**ITEM J-3** Consent to Sublease Harbor Lease No. H-82-4, GKM, Inc., to Sidney W. Knight DBA Knight Machine Shop, a Hawai'i Sole Proprietorship, Honokōhau Small Boat Harbor, Kailua-Kona, Hawai'i, Tax Map Key: (3) 7-4-008:042 (Por.).

Ed Underwood, DOBOR. Had no objects to the sublease.

**Board Discussion-None**

**Public Testimony- None**

**MOTION**

**Approve as submitted (Roehrig, Oi) unanimous.**

**ITEM J-4** Amend a Prior Board Action for the Issuance for a Revocable Permit to John's World Famous Hawaii Hot Dogs LLC for a Mobile Food Concession, located at the Ala Wai Small Boat Harbor, Honolulu, O'ahu, Tax Map Key: (1) 2-3-037:012 (por) to correct legal name of applicant and location of operation.

ED Underwood, DOBOR amended the submittal to correct the name of the applicant. Noted that they are not taking up any parking stalls.

**Board Discussion**

Downing noted that the location should indicate Diamond Parking Lot A.

**Public Testimony**-None

**MOTION**

**Approved as submitted (Oi, Gon) unanimous.**

***Motion to adjourn (Gon, Downing) unanimous.***

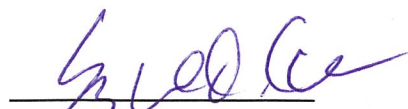
There being no further business, Chairperson Suzanne Case adjourned the meeting at 11:30 am. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and available for review. Certain Items on the agenda were taken out of sequence to accommodate 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