

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

DATE: FRIDAY, MARCH 22, 2019  
TIME: 9:15 A.M.  
PLACE: KALANIMOKU BUILDING  
LAND BOARD CONFERENCE ROOM 132  
1151 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813

**MEMBERS**

Suzanne Case  
Tommy Oi  
Stan Roehrig  
Sam Gon

Jimmy Gomes  
Chris Yuen  
Keone Downing

**STAFF**

Russell Tsuji- Land  
Brian Nielson-DAR  
Sam Lemmo-OCCL

Ian Hirokawa-Land  
Cathy Geweke-DAR

**OTHERS**

Linda Chow/AG  
Eric Leong/DOT-Harbors  
Phylliss Urebasami/D6  
J Gelman/C3  
Anne Frederick/D11  
Dawn Horn/C5  
Stuart Matsubara/D3  
Sharon Suzuki/D11  
Bridget Hammerquist/D11  
David Frankel/D7  
Warren Watanabe/D11  
Ryan Kohatsu/D11

Ross Smith/DOT-Air  
Ken Masden/D6  
Walter/C6  
Greg Wong/F4  
Don Heacock/D11  
Jennifer Lim/D7  
Simon Russell/D11  
DG Welch/K1  
Alika Atay/D11  
Yvonne Izu  
ShanTsutsui/D11

*(Note: The voice recording for the first half of the meeting is unavailable)*

Chair Case called the meeting to order at 9:19 a.m. and Member Gon read the contested case statement.

**ITEM A-1** Approval of Meeting Minutes for October 28, 2018.

Board Discussion-None

Public Testimony-None

**MOTION**

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

**ITEM D-6** Cancellation of Governor's Executive Order Nos. 4135 and 4290; Issuance of Quitclaim Deed and Issuance of Management Right-of-Entry to Department of Education; Diamond Head and Kaimuki, Honolulu, Oahu, Tax Map Key: (1) 3-1-042:035, 039 and (1) 3-2-037:027.

Russell Tsuji, Land Division. DOE came and asked us to bring this to the Board. DOE is here to answer questions

Ken Masden and Phyliss Urebasami, DOE. Our intention is to reinvest it into the schools. We will do public outreach.

Board Discussion

The Board asked for specific plans for the parcels. Masden, replied that they are still looking into viable projects and will do public outreach before deciding on which course to take. The Board felt that a plan needs to be in place to provide transparency and to ensure that it is for public benefit.

Public Testimony

David Frankel, went to the neighborhood board for years and has not been impressed with what has be DOE has done with the parcel, they have invested a lot of public funds into this property.

**Amendment:**

***The Board amended recommendation 4.B to provide that any reverter will not be automatic but, instead, will be exercised by the Board after notice to the Department of Education (DOE) and an opportunity for DOE to be heard. The exact language of the reverter clause shall be drafted by the Department of the Attorney General.***

**MOTION**

**Approved with reservations (Yuen, Gon, Case, Roehrig)**

**Opposed-Oi, Downing, Gomes (did not feel there was enough information or that sufficient planning was in place)**

**Passed 4-3**

**ITEM D-3** Issuance of Right-of-Entry Permit to the Department of Hawaiian Home Lands to Conduct Field Studies for a Temporary Wastewater Facility at Pulehunui, Maui, Tax Map Keys: (2) 3-8-008:001, 037 & 038.

Ian Hirokawa, Land Division, presented the submittal.

Board Discussion-None

Public Testimony-None

**MOTION**

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

**Ross Smith, DOT-Airports present to answer any questions regarding the Airport submittals (Items M-1 through M-6).**

- ITEM M-1** Issuance of a Revocable Permit for a Field Office and Construction Trailer, Nan, Inc., Daniel K. Inouye International Airport, Tax Map Keys: (1) 1-1-003: 042 (Portion) and (1) 1-1-003: 001 (Portion).
- ITEM M-2** Issuance of a Revocable Permit for Aircraft Parking, Robert M. Phillips, Kalaeloa Airport, Tax Map Key: (1) 9-1-13: Portion of 124.
- ITEM M-3** Issuance of a Revocable Permit, Storage Space for Equipment and Parts for T-Hangar Door Maintenance, Oxford Electronics, Inc., Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 19.
- ITEM M-4** Issuance of a Revocable Permit for Paved Ramp Space for Equipment Storage, Bradley Pacific Aviation, Inc., Ellison Onizuka Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-43: Portion of 40.
- ITEM M-5** Issuance of a Revocable Permit for Aircraft Parking, N135JG LLC, Hilo International Airport, Tax Map Key: (3) 2-1-12: Portion of 90.
- ITEM M-6** Issuance of a Revocable Permit for Aircraft Parking, N132EA LLC, Hilo International Airport, Tax Map Key: (3) 2-1-12: Portion of 90.

Board Discussion-None

Public Testimony-None

**MOTION**

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

- ITEM M-7** Issuance of Thirteen (13) Revocable Permits to Hawaii Stevedores, Inc. to replace existing Revocable Permit Nos. H-96-1912, H-05-2506, H-09-2651, H-11-2706, H-15-2775, situated at Piers 1 and 2, Honolulu, Harbor, Oahu, Tax Map Key: (1) 2-1-015:009 (Portion), Governor's Executive Order No. 4238.

Eric Leong, DOT Harbors presented the submittal.

Board Discussion-None

Public Testimony-None

**MOTION**

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

**ITEM F-4** Request for Approval to Enter into a Memorandum of Agreement Between the State of Hawaii, Board of Land and Natural Resources (or "BLNR") and Honolulu Seawater Air Conditioning, LLC ("HSWAC"), regarding the Construction of Seawater Intake and Return Water Pipelines to provide seawater air conditioning services to downtown Honolulu, Oahu, Hawai'i, the proposed limited take of stony coral and live rock, and the proposed avoidance and minimization measures designed to avoid or minimize losses of stony coral and live rock.

The Project is located upon submerged land makai of Kakaako Waterfront Park, offshore of Tax Map Key: (1) 2-1-060 and the temporary use of the Channel D of Keehi Lagoon, Oahu, Hawai'i.

Brian Nielson & Catherine Geweke, Division of Aquatics gave a quick overview.

Board Discussion

Downing, asked how much water is being used? Geweke, 44,0000 gal per minute and the out put is released at 54-degrees at depth of

Public Testimony-None

**MOTION**

**Approved as submitted (Gon, Roehrig) unanimous (Downing with reservations).**

**Break 11:14 a.m. Break**

**Back: 11:26 a.m. Back in Session**

**190322\_0116/00:09:22**

**ITEM C-6** Request approval and authorization of the Chairperson to negotiate and execute a Memorandum of Agreement between the Friends of Hawaii's Urban Forest dba Smart Trees Pacific and the State of Hawaii Department of Land and Natural Resources for the purpose of the joint and cooperative management of the Kaulunani Urban and Community Forestry Program

and

Declare that, after considering the potential effects of the proposed project as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project

will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

Irene Sprecher and Heather McMillian, Division of Forestry and Wildlife. Introduced Wai Lee from Smart Trees Hawaii, provided a summary of the project.

#### Board Discussion

The Board asked about their budget/operating cost to run Smart Trees? Sprecher replied, U.S. Forest Service provides us approximately \$200,000.00 a year to run the program. Smart Tree Pacific, DOFAW, and U.S. Forest Service reviews what they might need to implement the program over a year, usually half that amount of the funding they receive. The rest of the funding goes out to their Small Grants Program, Community Groups, other types of community education outreach that will help peoples' understanding of our urban forest.

Public Testimony-None

#### MOTION

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

**190322\_0116/00:23:39**

**ITEM C-3** Request for delegation of authority to the Chairperson to Enter into a Memorandum of Understanding with the Hawaii Marine Mammal Alliance.

Jason Misaki, Division of Forestry and Wildlife, presented the submittal. James Gillman, from Hawaii Marine Mammal Alliance is present to answer any questions.

#### Board Discussion

The Board asked for examples of where the sanctuaries were. Gillman noted one example as Mokolili Island off of Lanikai, there was monk seal pup born there and they were there every day for six months to monitor the monk seal's safety.

Public Testimony-None

#### MOTION

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

**190322\_0116/00:26:00**

**ITEM C-5** Request approval of the MDHE LLC Forest Stewardship Management Plan and Forest Stewardship Agreement with MDHE LLC, TMK (1) 4-2-004:001, Kailua, Ko'olaupoko, Island of O'ahu.

Tanya Rubenstein, DOFAW, presented the submittal, land owner (Dawn Horn) is present to answer questions.

#### Board Discussion

The Board asked how many requests does MDHE LLC, receive? Rubenstein replied approximately 1 or 2 per meeting, and it is becoming more competitive, the maximum is \$75,000. Horn noted the area where the area is to be forested.

The Board asked if the Staff has rejected any requests? Rubenstein noted that only if they do not meet the requirements.

Public Testimony

*James Manaku*, is concerned as a cultural practitioner that he has access to enter into this forest for gathering.

*Leimana DeMate*, asked that the presenters can add the Koolaupoko Aha Moku (Mapuana DeSilva and Kihei DeSilva) and Hui O Koolaupoko as consultants who are doing reforestation in the Kailua area.

MOTION

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

**190322\_0116/00:40:51**

**ITEM K-1** Conservation District Use Application (CDUA) OA-3827 for a Single-Family Residence, Associated Improvements, and for the After-The-Fact Installation of a Gate and Solar Panels by Darrel G. Welch, Jr. Located at 242 Forest Ridge Way, Tantalus Heights, Honolulu, Island of Oahu, Tax Map Key: (1) 2-5-014: 028.

Lauren Yasaka, Office of Conservation and Coastal Lands, presented the submittal. Homeowner present to answer questions. Applicants are present to answer any questions

Case disclosed this was in her general neighborhood.

Board Discussion

The Board questioned whether there were any historical elements on the property. Yasaka replied no, there is a provision that if they find anything that the Division would be notified, and appropriate steps will be taken.

Public Testimony

Darrel Welch noted that he has owned the land for almost twenty-years. They are hopeful to start building this summer.

MOTION

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

**190322\_0116/00:44:34**

**ITEM D-7** Issuance of Right-of-Entry Permit for Corporate Events Purposes to be held on April 4, 13, 14, and September 9, 2019; Resorttrust Hawaii, LLC,

Applicant; Waialae, Honolulu, Oahu, Tax Map Key: (1) 3-5-023: portions of 041.

Russell Tsuji, Land Division, need to amend the submittal asking to serve food and sell alcohol.

**Board Discussion**

There was the question of whether alcohol can be served. Tsuji, noted that only if the Board approves it.

Jennifer Lim, Resorttrust, said they have identified 4-days for the event. They need the Board's approval before they can apply for a liquor license.

**Public Testimony**

*David Frankel*, this area is designated for public use. Have them do their corporate event on their own lands.

*John White*, supports the submittal.

***Amendment:***

***New recommendation 2.B to read as follows:***

- B. Authorize the Applicant to sell and service alcohol on April 4, 14, and September 9, 2019, subject to Applicant obtaining the respective authorizations from the Liquor Commission;***

***Existing recommendation 2.B is re-designated as recommendations 2.C.***

**MOTION**

**Approved as amended (Case, Gon, Oi, Yuen)**

**Opposed (Downing, Roehrig, Gomes)**

**passes 4-3**

12:35 Break

1:17 Back in Session

**190322\_0117/00:03:34**

**ITEM D-11** Approval of Watershed Management Protection Cost Share Formula and Contribution for Leases of Water Rights Pursuant to Section 171-58(e), Hawaii Revised Statutes (HRS); and Adoption of Guidelines to Determine Whether a Lease of Water Rights May Be Exempt from the Preparation of an Environmental Assessment or Environmental Impact Statement Under Chapter 343, HRS.

Chair thanked the Staff and Divisions for working together to work on this proposed solution.

Ian Hirokawa, Land Division, passed out a letter a letter from one of the permittees sent to him last night. Provided background on the development of the Watershed Management Protection Plan. Asking for approval of the concept/approach. This does not bond the Board in any way. These are not the final numbers, it is a scenario. Reiterated that these are not the final number, this is at conceptional stage. Permittees are welcome to come up with alternatives. Once they have worked on suitable guidelines, they will come back to Board.

#### Board Discussion

The Board confirmed that the numbers in the chart are not final and that they are based on current trends, and what they are trying to do is provide a conceptual plan to that will help lead us in the direction of creating long-term leases. There was a robust discussion regarding moving the revocable permits to long-term water leases and how to define a process along with the importance of the Water Shed Plans.

Scott Press, DOFAW, the proposal looks at the water shed plan and protecting the forest to manage the watershed, so we can continue to produce the water that we are using.

#### Public Testimony

*Ann Fredrick*, HAPA, reject the submittal, suggests a more comprehensive rule-making approach relating to cost share formula and water shed management.

*Don Heacock*, Fisheries Biologist, this is public trust issue as well. Has has not found a watershed plan he likes, we should restore the watershed not just protect it. Waialeale and Waikoko are a public trust and should be beneficial for the public.

*Simon Russell*, Farm Maui LLC, supports water leases, IFFS crucial to this.

*Sharon Suzuki*, Hawaii Electric Light, would like to see this deferred. Gave a brief summary of her written testimony.

*Bridget Hammerquist*, felt we were putting the cart before horse. Identify what needs to be in the watershed plan. Provided written testimony.

*Alika Atay*- highlighted what it takes to measure and sustain in the stream.

*Warren Watanabe*, Hawaii Farm Bureau read his written testimony.

*Leimana DeMate*, Aha Moku, the islands that have responded basically supports the concept of the submittal, although they would like to see Exhibit A removed as it is confusing.



*Donald Cabebe*, he would like to see a rulemaking process. Watershed plan should be comprehensive, stands by his written testimony.

*James Manaku*, would like assurances that there be access for practitioners to gather.

*Leinaala Ley* -Earthjustice, supports rule-making with public input and a lease by lease formula.

**3:30 pm break**

**3:40 back**

*Debbie Lee Jackson*, farms kalo on Kauai. Her loi is dry because of several diversions upstream. Cannot enjoy her traditional rights to water. Opposes the submittal.

*Shari*, here to speak for the Oopuu fish very important to her to pass down traditions that my father passed on to me fishing at Kapahi Stream, Wai'koko,

*Alan Murakami* – Native Hawaiian Legal Corporation, with respect to the Exemption for native Hawaiians, the effect this would have. He noted a few legal briefs related to the exemption.

*Hope Kalilai*, opposes the submittal, stands by her written testimony.

*Marti Townsend*, Sierra Club of Hawaii, stands on her written testimony. Strongly opposes the staff recommendation and initiate rulemaking.

Chris- administrative rules staff to work w/AG,2. Return to the board w/min requirements for watershed management plans, identify plans that we are basing our watershed plan.

The Board asked the Land Division to do the following:

- 1. Staff is to consult with the Attorney General to determine to what extent the Board can act without rulemaking or whether rulemaking is required. To the extent rulemaking is not required.**
- 2. Staff will return to the Board with the suggested minimum requirements for the Watershed Management Plan and identify the existing Watershed and Forest Reserve Management plans to use as a basis for the Watershed Management plans, and how they meet the minimum requirements.**
- 3. Delete Exhibit A from the submittal.**

#### **MOTION**

**Deferred with amendments (Roehrig, Gon) Opposed (Downing)**

4:28 p.m. Member Roehrig left the meeting.

**190322\_0117/03:30:34**

**ITEM C-1** Authorize closure of the Pua Loke Arboretum for management purposes, Tax Map Key no. (4) 3-8-005:002, Lihue, Kauai.

Dave Smith, Division of Forestry and Wildlife, presented the submittal.

Board Discussion

Oi noted he saw fence posts going up in the area and he noticed that people were living there. Smith said that they wanted to secure the area until there is a final disposition of the property.

Public Testimony -None

MOTION

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

**190322\_0117/03:19:34**

**ITEM C-2** Request for delegation of authority to the Chairperson to enter into a Memorandum of Understanding with the Kure Atoll Conservancy.

Dave Smith, DOFAW, summarized the submittal.

Board Discussion- None

Public Testimony-None

MOTION

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

**190322\_0117/03:20:35**

**ITEM C-4** Request for approval for selection of a competitive sealed proposal process for a forest inventory at the Kapāpala Koa Canoe Management Area, Ka'ū Forest Reserve, Ka'ū District, Hawai'i County, Tax Map Key: (3) 9-8-001:014

and

Declare that, after considering the potential effects of the proposed project as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will likely have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

Irene Sprecher presented the submittal.

Board Discussion

The Board asked why are we sending it out for a sealed proposal? Sprecher replied we do not have the Staff resources in-house. They will be drafting an allocation protocol to provide resources to the community for the traditional and cultural use.

Public Testimony-None

**MOTION**

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

**190322\_0117/03:24:35**

**ITEM J-1** Request to Amend Prior Board Action of February 8, 2019, (Item J-3). Request to Amend the Board's Prior Approval for Continuation of a Revocable Permit ("RP") to A&K Ventures, LLC, for Purposes of Landscaping, Maintenance, Storage of Small Boats and Trailers and Other Activities at Mala Wharf and Surrounding Areas, Alamihi, Lahaina, Maui, Hawaii, Identified by Tax Map Key: (2) 4-5-005:019. The Purpose of this Amendment is to Revise the Term Beginning March 1, 2019, and Ending April 30, 2020, to Beginning March 1, 2019, and Ending February 29, 2020

Richard Howard, Division of Boating and Ocean Recreation provided a brief summary for the amendment.

Board Discussion-None

Public Testimony-None

**MOTION**

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

**190322\_0117/03:24:35**

**ITEM J-2** Issuance of Revocable Permits to Nai'a Lele III Corp. Located at Honokohau Small Boat Harbor, Kealakehe, North Kona, Hawaii, Tax Map Key: (3) 7-4-008:003. See Exhibit A

and

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

Richard Howard, DOBOR, had nothing else to added to the submittal.

Board Discussion-None

Public Testimony-None

**MOTION**

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

**190322\_0117/03:28:04**

**ITEM F-1** Request Approval to add Funding and extend through FY20 an existing Federally Funded Project Agreement between the Department of Land and Natural Resources (DLNR) and the Research Corporation of the University of Hawaii (RUCH) for the Division of Aquatic Resources (DAR) Research Project entitled "Investigation of Estuarine Habitats.

**ITEM F-2** Request Approval to add Funding and extend through FY20 an existing Federally Funded Project Agreement between the Department of Land and Natural Resources (DLNR) and the Research Corporation of the University of Hawaii (RUCH) for the Division of Aquatic Resources (DAR) Research Project entitled "Statewide Marine Resources Assessment."

**ITEM F-3** Request Approval to add Funding and extend through FY20 an existing Federally Funded Project Agreement between the Department of Land and Natural Resources (DLNR) and the Research Corporation of the University of Hawaii (RUCH) for the Division of Aquatic Resources (DAR) Research Project entitled "Hawaii Marine Recreational Fishing Survey.

Brian Neilson, Division of Aquatics, presented Items F-1, F-2 and F-3 together.

Board Discussion-None

Public Testimony-None

**MOTION**

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

**190322\_0117/03:28:38**

**ITEM D-1** Issuance of Right-of Entry Permit to Gary W. Rodrigues for Conservation Management Purposes, Kawaihau, Kapaa, Kauai, Tax Map Key: (4) 4-6-008:023.

Board Discussion-None

Public Testimony-None

**MOTION**

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

- ITEM D-2** Issuance of Right-of-Entry Permit to Maui's Original Hawaiian Corporate Games, Inc., for Team Building and Beach Game Event Purposes, Wailea Beach, Honuaula, Maui; Tax Map Key: (2) 2-1-023: seaward of 007.

Board Discussion-None

Public Testimony-None

**MOTION**

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

- ITEM D-4** Set-Aside to Department of Land and Natural Resources, Division of Aquatic Resources for Fisheries Research Center and Related Purposes; Issuance of Management Right-of-Entry Permit, Kaholaloa, Sand Island, Honolulu, Oahu, Tax Map Key: (1) 1-5-041:003 portion.

Board Discussion-None

Public Testimony-None

**MOTION**

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

- ITEM D-5** After-the-fact Consent to Two (2) Subleases under General Lease No. S-4588, Insite Towers Development, LLC, Sublessor, to Blow Up, LLC and United States Secret Service as Sublessees, Kalawahine and Opu, Honolulu, Oahu, Tax Map Key: (1) 2-5-019: portion of 013.

Board Discussion-None

Public Testimony-None

**MOTION**

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

- ITEM D-8** Cancellation of Governor's Executive Order No. 2596 and Reset Aside to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation for Haleiwa Small Boat Harbor, Paalaa and Kawailoa, Waialua, Oahu, Tax Map Key: (1) 6-2-003:011; 6-6-001:025, 052 and 053; and 6-6-002:003 to 006.

- ITEM D-9** Grant of Non-Exclusive Easement Identified as Easement 9667 as shown on Land Court Application 1069, Map 1409 to City and County of Honolulu, Board of Water Supply for Flowage Easement Purposes, Honouliuli, Ewa, Oahu, Tax Map Key: (1) 9-1-018: Portion 008.

**ITEM D-10** Second Amendment of General Lease No. S-5223 Regarding Rent Payable; Coalition for Specialized Housing, Lessee; For Low or Moderate-Income Housing for the Elderly and Disabled Purposes, Pearl City, Ewa, Oahu, Tax Map Key: (1) 9-7-019:049.

Board Discussion-None

Public Testimony-None

**MOTION**

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

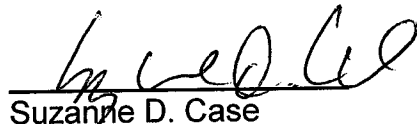
Chairperson Suzanne Case adjourned the meeting at 4:50 p.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and available for review. Certain Items on the agenda were taken out of sequence to accommodate applicants or interest parties present.

Respectfully submitted,



Darlene S. Ferreira  
Land Board Secretary

Approved for submittal:



Suzanne D. Case  
Chairperson  
Department of Land & Natural Resources