

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

DATE: FRIDAY, DECEMBER 13, 2013
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

Chairperson William Aila called the meeting of the Board of Land and Natural Resources to order at 9:08 a.m. The following were in attendance:

MEMBERS

William Aila, Jr.
Rob Pacheco
Dr. Sam Gon

David Goode
Jimmy Gomes
Reed Kishinami

STAFF

Russell Tsuji/LAND
Dan Quinn/PARKS
Barry Cheung/LAND
Roger Imoto/DOFAW
Maria Carnavale/DAR
Alyson Yim/ENG

Sam Lemmo/OCCL
Steve Soares/PARKS
Irene Sprecher/DOFAW
Kevin Yim/DOBOR
Curt Cottrell/PARKS

OTHERS

Linda Chow, Deputy Attorney General
Adrienne Elkind: M-4, D-31
Ivan Nishiki: M-4, M-1
Ross Smith: M-5 – M-12
Mona Higa-Hiraga: D-31
Tyler McNish: D-31
Chancellor Straney: D-15
Hanalei Hank Fergerstrom: D-15
David Copper: D-15
Laulani Teal: D-15
Randy Vitousek: K-4
Brock Stratton: E-3
Iwa Kalua: E-3
Gail Renard: K-3
Walter Liew: D-27
Kayla Lundburg: C-1

Pam Matsukawa, Deputy Attorney General
Dan Purcel: M-4, D-15
Kent Fanoimoana: D-31
Kio Ing: D-31
Naomi Kuwaye: D-32
Ian Sandison: D-15
Michael Kumukuoha Lee: D-15
Kalani Flores: D-15
Tina Coleman: D-34
Ted Myers: E-3
Frank Carpenter: E-3
Jeff Hand: E-3
Walter Liew's rep.: D-27
Greg Hendrickson: D-18
James Leonard: K-5

Ron Terry: K-1
Jennifer Benck: C-2
John Sakaguchi: K-2

Yak Baising: C-2
Mendy Dent: E-2

Chair Aila announced that items D-8, D-25 and I-1 are withdrawn. Item D-15 is continued from the November 8, 2013 meeting. The record is clear that the Board heard all testimony at the last meeting and closed public testimony. However, the board did not have a quorum for decision making, so the item is continued to this meeting for decision making only. No public testimony will be heard.

Item A-3 Approval of October 25, 2013 Minutes

Item A-4 Approval of November 08, 2013 Minutes

The Chair said that Items A-3 and A-4 minutes are not ready.

Item A-1 Approval of September 27, 2013 Minutes

Board member Pacheco recused himself from Item A-1.

Approved as submitted (Gon, Gomes)

Item A-2 Approval of October 11, 2013 Minutes

Approved as submitted (Pacheco, Gon)

**Item M-4 Consent to Assignment of State Lease No. DOT-A-06-0011 Republic Airways Holdings, Inc. to Guardian Flight, Inc. Honolulu International Airport
TMK: (1) 1-1-72:38.**

Ivan Nishiki representing Department of Accounting and General Services (DAGS) and Adrienne Elkind, counsel for Republic Airways had questions.

Dan Purcel questioned the Board process and its compliance with Sunshine Law. Chair Aila noted that there are no discussions on agenda items prior to the Board meetings and that all Board members have received Sunshine Law training.

Unanimously approved as submitted (Pacheco, Gomes)

Item M-1 Revisions to Condominium Documents of the Association of Apartment Owners of the King Kalakaua Building (former U.S. Post Office, Customs and Court House Building, aka the Downtown Post Office Building, or Old Federal Building), 335 Merchant Street, Honolulu, Oahu, Tax Map Key: (1) 2-1-025-004, CPR Nos. 0001, 0002, 0003, 0004.

Ivan Nishiki representing DAGS, Public Works Division – Leasing Services Branch Chief sought the Board’s approval of the condominium documents for the King Kalakaua Building which is the current home of the Department of Commerce and Consumer Affairs (DCCA) and provided some background on the item. This is to amend the condominium documents with the approval of the Deputy Attorney General.

Unanimously approved as submitted (Pacheco, Gomes)

Item M-5 Issuance of a Direct Lease to State of Hawaii, Department of Defense, Hawaii Air National Guard, Kalaeloa Airport, Island of Oahu TMK: (1)-9-1-13:33 (Portion).

Ross Smith representing Department of Transportation (DOT) – Airports Division asked to amend the Item M-5 statutory reference from 171-59b to 171-95 which allows the Board to lease to governmental agencies.

Unanimously approved as submitted (Gon, Kishinami)

Item M-6 Issuance of a Direct Lease, Hawaii HIS Corporation DBA H.I.S Hawaii, Honolulu International Airport TMK: (1) 1-1-03: Portion of 50.

Item M-7 Issuance of a Direct Lease Diamond Head Aviation, LLC., Kalaeloa Airport, Island of Oahu TMK: (1) 9-1-13: Portion of 32.

Item M-8 Issuance of a Direct Lease Kanae, Clarence K., Kalaeloa Airport, Island of Oahu TMK: (1) 9-1-13: Portion of 32.

Item M-9 Amendment to Prior Board Action of 6-14-13, Item M-5, Issuance of a Direct Lease to Hawaii Island Air, Inc., Honolulu International Airport. Request Amendment to Location and Tax Map Key, Area and Annual Lease Rental TMK: (1) 1-1-072:25.

Item M-10 Issuance of a Direct Lease Atmos, Inc., Kalaeloa Airport, Island of Oahu TMK: (1) 9-1-13: Portion of 32.

Item M-11 Issuance of a Direct Lease Facilities Management and Sales, LLC., Kalaeloa Airport, Island of Oahu TMK: (1) 9-1-13: Portion of 32.

Item M-12 Issuance of a Direct Lease to Iass Hawaii, LLC., Honolulu International Airport TMK: (1)-1-1-03: Portion of 50.

Ross Smith said they had no changes to items M-6 to M-12, but staff was asked to provide more detail. These leases are for private entities, not airlines. He gave more background on Kalaeloa Airport including demands for fueling and competition for space. Item M-9 is a new lease.

Member Gomes asked if there was space to develop t-hangers, Smith explained that normally the State does develop these, but there is no budget. There was an inquiry to do a T-hanger at another airport by a private entity to house his aircraft and further develop facilities. The staff will bring it before the Board when it is further along.

Unanimously approved as submitted (Pacheco, Gomes)

Item M-2 Amendment to Issuance of Right-of-Entry Permit to Hawaiian Electric Company, Inc. on Lands Encumbered by Governor's Executive Order No. 3542, Honolulu Harbor, Honolulu, Oahu, Tax Map Key: (1) 2-1-002:001 (Portion).

Item M-3 Consent to Sublease Harbor Lease No. H-10-50, Sause Bros., Inc., Lessee, to Kiewit/Kobayashi, A Joint Venture, Sublessee, Kalaeloa Barbers Point Harbor, Honouliuli, Ewa, Oahu, Tax Map Key: (1) 9-1-14:24 (Portion).

There was no representative from DOT-Harbors present.

Unanimously approved as submitted (Kishinami, Gomes)

Item M-13 Issuance of a Revocable Permit to Gayle Saito, Keehi Industrial Lots, Kalihi-Kai, Honolulu, Oahu, Tax Map Key No. 1st/1-2-23:47 (Potion).

No representative present.

Unanimously approved as submitted (Gon, Gomes)

Item D-31 Amend Prior Board Actions of August 8, 2008, Item D-10, and October 12, 2012, Item D-7: Withdrawal from Governor's Executive Order No. 3867 to the Department of Agriculture for the Kahuku Agricultural Park, Approval, in Principle, of the Issuance of a Direct Lease to Na Pua Makani Power Partners, LLC, for a Commercial Renewable Wind Energy Generation Facility; and Issuance of a Right-of-Entry Permit, Kahuku-Malaekahana, Koolauloa, Oahu, TMK: (1) 5-6-08:6 And

Amendments: The Amendment of the August 8, 2008 Action Seeks the Board's Approval of a Negotiated Development Agreement Between the State and Na Pua Makani Power Partners, LLC, as an Interim Agreement Prior to Entering into a Formal Lease Agreement; the Amendment of the October 12, 2012 Action Seeks the Correction of the Tax Map Key Number for the Parcel Stated in the Prior Action.

Russell Tsuji, Administrator- Land Division explained this item is being brought back to the Board for approval of a development agreement with Na Pua Makani for a wind farm in Kahuku. He noted this is a different project than the existing wind farm (First Wind). This document puts in writing certain timelines and conditions to allow the developer the right to lease the property.

An EA (Environmental Assessment) or EIS (Environmental Impact Statement) has to be done before approving a lease. The development agreement provides the landowner some assurance that they will get the land after they have invested in the EIS or EA. Because the language of the development agreement has not been finalized, Supervising Deputy Attorney General, Bill Wynhoff recommended section A-1E to allow the Department and the Chairperson to work with the Attorney General's office and counsel on the language. Tsuji stated that counsel was present.

Member Pacheco asked 1) if the board is pre-approving a lease if the applicant meets all the requirements or do they have to come back for final approval? 2) How is this submittal request different legally from approval of a lease in principle? Tsuji said it depends on the circumstances. Member Gomes noted that a habitat assessment had to be done first and asked if approval would affect the requirement for a habitat assessment? Tsuji said it will come before the Board, and told the Board that they will see a lot of things coming in for this project, mostly regarding permitting.

Kent Fanoimoana, a member of the Ko'olauloa Neighborhood Board, and a former member of the Kahuku Community Association testified in opposition. The Kahuku Community Association is against windmills in excess of 300 feet tall in their neighborhood because the turbines for this project emit a low frequency sound affecting humans within 1-1/4 miles, but the turbines will be located only 1/2 a miles from residential housing. They supported the First Wind project which was further away from their community and did not impact them. Fanoimoana had additional concerns about the size of the project, safety and its effect on the shearwater population. He was concerned that his community did not have enough time to comment. Fanoimoana asked the Board to reject or defer this item to allow his community time to discuss since the applicant is scheduled to present to the Ko'olauloa Neighborhood Board in January and this should wait before any decisions are made.

Chair Aila said the board has before it a provisional approval so Na Pua Makani has some assurance as to the lease while it gets all of those other approvals. The community will have an opportunity to be a part of it. Chair Aila asked Fanoimoana if he still feels the same way knowing there will be opportunities to comment. Fanoimoana said yes, that they need the community's support before it goes any further.

Member Goode asked about the two EAs/EISs from 2012 that Fanoimoana mentioned and asked if they were finalized. Fanoimoana said the first is an EA, available at the Office of Environmental Quality Control (OEQC) and there were no comments from his community. He said the current draft EIS is for a Fish and Wildlife Incidental take permit. The comment period closed on December 5th and they only had 2-1/2 weeks to get the word out to their community. Fanoimoana commented that he supports responsible policy that addresses impacts to both animals and humans.

Member Goode asked about the second EIS. Fanoimoana

Member Goode asked Fanoimoana if his comments were as an individual or as an association. Fanoimoana said as an individual, and reiterated that the applicant has not been transparent enough with the community.

Mona Higa-Hiraga thanked him for his testimony and introduced Kio Ing. Ing explained that the project will be doing a National Environmental Policy Act EIS (NEPA) and a Hawaii Chapter 343 (HEPA) EIS. Currently, they are in the NEPA EIS notice stage. There was a NEPA scoping meeting on November 17th and the HEPA Chapter 343 EIS notice is going to be published in the OEQC Bulletin December 23. They are planning for a HEPA scoping meeting January 10th, 2014. The Draft EIS is in preparation right now and has not been released yet. They have been doing outreach with the community for 9 months. They have met with the Kahuku Community Association and will be meeting with the Neighborhood Board next month. They have been reaching out to stakeholders in the community and will be having community meetings moving forward next year.

Ing confirmed with Member Gon that they are in the preparation phase. Member Goode said that there will be a lot of time to provide testimony and become part of the process; Ing confirmed.

Member Pacheco asked if they will be doing habitat conservation. Ing confirmed, as well as an EIS for the State land.

Member Goode asked whether the EIS will be looking at low frequency potential impacts. Ing said that was raised in the first scoping meeting with the community and so it will be addressed. Tetrattech is preparing the EIS.

Member Gomes questioned the elevation at which the turbine is installed. He also asked how many, how high, and what size megawatts will the turbines be. Ing apologized that she wouldn't be able to answer all of his questions, but noted the project is proposing up to 15 turbines. Tyler McNis- Counsel for Na Pua Makani apologized that he didn't have the height and said it will be for 3 megawatts.

Member Gomes asked if the community would have enough time to respond and have a satisfactory mitigation before it goes to the Board. Ing said they will provide ample time for the community to provide input. There will be a second scoping meeting in January once the EIS is drafted and published. Those are required meetings through the EIS process. In addition they will have separate informal meetings with the community that they plan to advertise. These meetings will provide information to people and allow Na Pua Makani to listen to their questions. They also plan to meet with the local community organizations such as the Kahuku Community Association and Ko'olauloa Neighborhood Board.

Member Kishinami asked about the impacts regarding the critical deadline to get this approved before the end of the year. Higa-Hiraga said she believed it would set the EIS back if not done by end of the year. They could take quite a hit monetarily.

Gomes asked the elevation of the first turbine and when they build out their eight what the total elevation would be. Ing was unable to answer the question, but said the project will exceed all minimum set-back requirements for turbines that the City establishes and the draft EIS will provide all that information.

Member Gon asked if the staff recommendations will satisfy the stipulations for the end of the year that were just mentioned. Ing confirmed it will.

Member Goode asked whether Na Pua Makani will develop a mailing list so they can notify community members so they don't have to look it up. Ing confirmed that at the last scoping meeting they had a sign-in sheet where people could indicate whether they wanted to be on a mailing list. Those who did will receive a notice about the scoping meetings, any future meetings and they plan to do a mailing to residents near the project site on the up-coming meeting as well.

Member Gomes asked if a 300 foot radius is the minimum requirement rather than 500 feet. Ing said there is no minimum requirement. They are trying to be pro-active to get the information out to the community. For the last scoping meeting they published in the Federal Register, in the Star-Advertiser and sent flyers out to the community. They are trying their best to notify people and want people to attend. Member Gomes said he felt that a 300 foot radius is minute compared to the whole project.

Chair Aila suggested they get Kent Fanoimoana's latest contact information so he can get this information as soon as possible. Ing agreed.

Fanoimoana noted that a 300 foot radius notification area was disproportionate to the reach of the turbine's effects. He noted that he can hear the turbines and they are $\frac{3}{4}$ of a mile from his house. There are schools within 1200 ft of the turbines, and they will be affected. Chair Aila suggested he should set the record during the scoping meeting to document the concerns that he just brought up. The question for the Board today is whether to give a provisional answer to the applicant and will they have to come back to the Board again once all the permits are obtained.

Member Pacheco asked Tsuji whether the Board's decision today will substantially change the timeline requirements for the 343 permitting process clarifying that if the Board approves the submittal they will still have to bring the project back for final approval with all the 343 requirements is complete, and nothing changes. Tsuji confirmed, yes, it would go forward.

Member Goode asked about the language changes. Tsuji said if they are referring to 1.E. it approves adding language for the Department and Chair to work with the deputy AG and developers counsel on appropriate language for this development agreement

Member Gon commented that because the scoping process is underway there will be adequate opportunity for the community to make all their points known and for Na Pua Makani to address the community comments.

Member Pacheco said it is important to understand that these kinds of projects require the Board to move forward on the development/lease side, but all the scoping has to come back to the Board in order to give a final approval on the lease. This process today is allowing the EIS process to go forward and developer to address some technicalities. He supports this item.

Member Kishinami made a motion to approve as amended. Member Pacheco seconded it. All voted in favor.

Unanimously approved as amended (Kishinami, Pacheco)

The Board amended Recommendation A.1.E. to read as follows:

- E. Approve the Development Agreement between the State of Hawaii and Na Pua Makani Power Partners, LLC, generally in the form of Exhibit B attached hereto, and authorize the Chairperson to negotiate the specific terms and conditions of the Development Agreement with advice of the Department of the Attorney General, and to execute the negotiated Development Agreement on behalf of the Board.**

- Item D-32**
- 1. Final approval of an exchange between the State of Hawaii and Hawaii Baptist Academy involving state land in Nuuanu, Honolulu, Oahu, Tax Map Key: (1) 2-2-22:19; and privately-owned property located in the Waipahu Industrial Park, Hoaeae, Ewa, Oahu, Tax Map Key: (1) 9-4-49:62;**
 - 2. Approve the mutual cancelation of GL 5687 issued to Hawaii Baptist Academy, a Hawaii non-profit corporation, over state land in Nuuanu, Honolulu, Oahu, Tax Map Key: (1) 2-2-22:19;**
 - 3. Designation of the Waipahu industrial property as an income-generating asset and authorize the issuance of revocable permits for spaces in the industrial property located in the Waipahu Industrial Park, Hoaeae, Ewa, Oahu, Tax Map Key: (1) 9-4-49:62;**
 - 4. Authorization for the Chairperson to enter into a contract for property management and related services, as may be needed; and delegate authority to the Chairperson, as may be necessary, to determine and approve the process, terms and conditions, for the disposition of a long-term master lease for the property as improved, and to ultimately issue a master lease for the property located in the Waipahu Industrial Park, Hoaeae, Ewa, Oahu, Tax Map Key: (1) 9-4-49:62.**

Tsuji said that Item D-32 is back for final approval by the Board. It involves exchanging state land in Nu'uanu, near Hawaii Baptist Academy, for private property in Waipahu. All the due diligence on the appraisal side and staff recommends final approval.

Naomi Kuwaye, representing Hawaii Baptist Academy was available to answer any questions.

Member Gon asked Kuwaye if they agree to the requirement; she acknowledged that they have been working closely with staff for the past 10 years and said they wanted to make sure that staff was comfortable with this.

Unanimously approved as submitted (Kishinami, Gon)

Item D-13 **Amend General Lease No. S-5513, Hospice of Hilo, Lessee, Condition 14, Relating to Subletting, Piihonua, South Hilo, Hawaii, Tax Map Key: (3) 2-3-032: portion of 011.**

Item D-14 **Amend General Lease No. S-5976, Hospice of Hilo, Lessee, Condition 14, Relating to Subletting, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-4-001: 179.**

Tsuji conveyed that items D-13 and D-14 are requests to amend the lease; this is a non-profit lease. The amendment allows Hospice of Hilo to sub-lease. Currently, it's not allowed because they are paying gratis or nominal rent for the site because of their non-profit status. Staff wanted a provision for the Board to reconsider the rent if appropriate. Tsuji related background about non-profits.

Unanimously approved as submitted (Pacheco, Gon)

Item D-15 **Resubmittal:**

Mutual Cancellation of General Lease No. S-4191 to the University of Hawaii (UH) for the Mauna Kea Science Reserve and Issuance of New Direct Lease to UH for Mauna Kea Science Reserve Purposes; Mutual Cancellation of General Lease No. S-5529 to UH for the Hale Pohaku Mid-Level Facilities and Issuance of New Direct Lease to UH for Hale Pohaku Mid-Level Facilities Purposes; Extension, Amendment and Restatement of Grant of Term Easement S-4697 to UH to Extend the Easement Term by Approximately 45 Years and Update the Easement Instrument with Current Provisions Approved by the Department of the Attorney General, Kahohe, Hamakua, Island of Hawaii, Tax Map Keys: 3rd/ 4-4-15:01 por., 09 & 12.

Chair Aila noted that public testimony was closed for Item D-15. He stated that he knew some people in the audience have some technical concerns, and said after the discussion, he would put those technical terms on the record.

Member Pacheco recused himself from this item.

Chair Aila and Member Gon asked Chancellor Straney to provide more information on the Environmental Assessment process because the suggestion that the process be adjusted had been heard in a large number of testimonies.

Chancellor Straney acknowledged the Chair and Member Gon's comments and the testimony received at the last meeting. He asked to defer action until they completed the 343 process, noting that the public interest would be better served if an environmental review were done before renewing the lease.

Chair Aila asked if that would provide the Board with additional information. Member Gon agreed that it certainly will provide more opportunity for public input. Straney acknowledged

that it would better serve the public interest. Member Gon asked the Chancellor if his request is to defer this item and Straney confirmed.

Member Goode asked if the scope of the EIS is the use of State lands. Chancellor Straney confirmed. Member Goode asked if the scope was the entire area that the UH manages. Straney said the EIS would include the entire area including the leases - the 11,000 acres.

Member Gon asked if there was a time estimate for completion, but Chancellor Straney could not give a timeframe. He said the EIS will be done in a timely and careful fashion. The Board members commented how admirable it was that the University was willing to address this issue.

Chair Aila asked the Deputy Attorney General about options are for those who requested contested cases since there is no decision making today. Deputy Attorney General Linda Chow said the best way forward is for the Department is to contact the petitioners and see if 1) the petitioners want to wait until the environmental process is completed and they can possibly amend the petition before any further action is taken or 2) if they don't want to wait then the Board can address the petitioners at the end of this meeting based on the information at the time.

Member Gon asked for clarification noting that if this particular decision is deferred then there is nothing to contest. Chow said that the rules allow for a request for a contested case either prior to the Board's decision or after the Board's decision prior to the end of the meeting. Chow explained that in many cases, it makes sense to wait until after the decision so a petitioner knows what is being contested or that the decision isn't favorable to their position, but there is always an option to petition prior to the Board's decision. .

Member Goode suggested the applicant rescind the item and bring it back when an EIS is completed.

Ian Sandison representing University of Hawaii (UH) – Hilo testified that the University wants to work with the Department and proceed with the 343 process: outline the scope, set a schedule, and work through the normal course. They request that this item be deferred, not withdrawn so they can come back on the same issue once the 343 process is completed.

Member Gon asked Santos if he anticipates any changes to the details of the action. Santos thinks ultimately, the University wants to go forward on a new master lease, but undoubtedly there is quite a bit of input during the 343 process. Chair Aila said one of the challenges for the Board is at the conclusion of the last Board meeting there were a number of requests for contested cases. In fairness the Board needs to have the discussions with them to see if they want to continue their request based on the information presently available versus whether they want to wait until the EIS is completed and make a request based on the additional information. Chair Aila said that it would be a disservice to the people who requested contested case hearings to withdraw the item based on the outstanding requests for contested cases.

Chair Aila asked Hank Fergerstom to put his concerns about the title on the record, understanding that the request from UH Hilo is to defer.

Hanalei Hank Fergerstrom, representing Na Kupuna Moku O Keawe testified by stating that he supports the deferral. Fergerstrom is concerned that the BLNR is not following Sunshine law because the minutes are not done on time. This precludes people from coming to the meetings prepared. He has talked to the Office of Information Practices and notes that if a formal document is not ready, a draft can be released. Mr. Aila noted that the draft minutes are not ready, and that is why the minutes have not been released. Fergerstrom said is glad that the University decided to defer because this is such an important matter that it should not be rushed, especially as there is still 20 years on the existing lease.

The Chair pointed out that he is going into testimony and noted that his complaint about the minutes is on the record. Fergerstrom noted OIP also said that as long as an item is on the agenda, he should be able to testify. Chair Aila said that this is a continuance, that Chair Aila asked Fergerstrom his intent was regarding the contested case. Fergerstrom said he would withdraw it with the idea that he will be included in the process. Chair Aila told staff to make sure we have his contact information. Fergerstrom asked the Board to read his written testimony.

Michael Kumukauoha Lee testified he would like to formally withdraw his contested case reserving the right to do it again when the item is again on the agenda. He had a lot of specific information for mitigation and would remove his objections if his concerns are met. Lee said he would love to be a part of the EIS process.

David Kopper with Ashley Obrey from Native Hawaiian Legal Corp. representing Kalani Flores and Paul Neves; Mr. Flores was present. Kopper thinks it's a good thing that the University is going to start the 343 process and supports rescinding or denying the item rather than deferring it. He believes it would be cleaner to not have the item sitting for two years, and then it will have to be completely re-done anyway, and members of the public requesting a contested case will have to re-request anyway because of all the new information. Also, depending what the Board action is today, they will follow-up with any withdrawal in writing, but for now he renewed his request for a contested case hearing should the Board continue with the proposed action. Chair Aila asked if they are renewing their contested case request based on the information available now. Kopper said their first priority is that this lease should be cancelled, but if it's not they are renewing their request subject to their right to withdraw it in writing. Kopper had an inquiry as to Board member Pacheco's recusal. Chair Aila confirmed that he stated he had a conflict, having to do with his commercial business.

Kalani Flores testified that Board member Pacheco was inconsistent in his recusals. Since Member Pacheco was able to vote on CDUP HA3568 for the TMT he should be able to vote on this item. Chair Aila said it's on record.

Laulani Teal testified that she was not clear on the procedure. The Chair and Deputy Attorney General Chow explained her options: 1) she could move forward with her contested case based on the currently available information, or 2) she could withdraw her contested case and ask for another when this item came before the board at a later date after the 343 process was complete. Teal said she felt she understood the process and would continue her contested case. Chair Aila

noted that she also had to submit a written request for a contested case ten days after this meeting.

Dan Purcel requested that Board members who left the last meeting early go back and read the testimony they missed. He noted that professional boards identify their conflicts rather than just stating one existed.

Chair Aila thanked Purcel for sharing and said public testimony was closed.

Member Gon asked if the potential action is to defer. The Chair said that is one option.

Member Goode commented that he wished UH would withdraw. Goode said the EIS process will take up to two years and it will probably be a different Board when the submittal comes back. Additionally, the information discovered in the EIS will probably be incorporated in a new staff submittal so rather than having this thing linger he thinks it would be cleaner for the University to withdraw. Goode added that no steps or time would be lost. He is not inclined to vote positively on a deferral.

Member Gon made a motion for the Board to go into Executive Session pursuant to Section 92-5(a)(4), HRS to consult with our attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities. Member Gomes seconded.

10:32 AM EXECUTIVE SESSION

10:56 AM RECONVENED

Chair Aila summarized that public testimony was closed at the end of the last session, everyone interested in contested cases was given information on the potential outcomes and could still change their mind after the decision. There was clarification and discussion on an action.

Member Gon commented that it's a wise move to pursue the environmental studies necessary since the last time an EIS was done the requirement for a full cultural assessment was not formally in place. That being said he anticipates there will be a lot of issues raised and incorporated through the environmental impact assessment process. He knows this Board has considered its options with regard to deferral of the item.

Chair Aila noted that they took volumes of testimonies at the last Land Board meeting so a withdrawal would be inappropriate at this time after having taken all of the public testimonies.

Member Goode said he still thought a withdrawal is a cleaner way to move forward. He thought the stated reasons from UH inadequate in that regard. He supports the concept of asking for a renewal and believes doing an EIS is appropriate. Member Goode noted the request before them is for a zero dollars lease and if they ever got to the substance of that request he personally finds the dollar amount unacceptable. He knows the Board won't be addressing that matter for some time but he would like the minutes to reflect to future Board members that he finds the dollar amount unacceptable.

Member Kishinami said after conferring with the Deputy AG he would like to make a motion to amend the consideration of the deferral until the completion of an environmental process. Member Gomes seconded.

Member Gon said he agrees with Member Goode's point that such a globally significant place should entrap the funds that are needed to properly manage it. He would like the minutes to reflect that there should be some way to ensure there is adequate funding for the biological and cultural issues that were brought to light.

All voted in favor except for Member Goode who voted no.

Approved as amended (Kishinami, Gomes)

Item D-34 Report on the Status of Chapter 11 Bankruptcy Case No. 12-02279, Hawaii Outdoor Tours, Inc., Debtor, Filed in the United States Bankruptcy Court, District of Hawaii, Including a Report on the Hearing before the Bankruptcy Court Scheduled for November 12, 2013. Discussion will entail at least the following:

- a. Trustee's Motion for Order (A) Authorizing the Assumption of Certain Unexpired Non-Residential Real Property Leases and (B) Establishing Cure Costs; Declaration of David C. Farmer; Exhibits "A" to "C";**
- b. Trustee's Motion for Order Authorizing: (I) Sale of Hotel Assets, Free and Clear of Liens and Encumbrances; (II) Assignment of Unexpired State of Hawaii General Lease No. S-5844 of Non-residential Real Property Free and Clear of Liens and Encumbrances; and (III) Partial Distribution of Sales Proceeds.**
- c. Presentation by Edward Bushor of Tower Development, Inc., who was the winning bidder at auction of the Debtor's interest in General Lease No. S-5844 and improvements thereon in bankruptcy.**

The Board may hold a discussion in Executive Session pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, in order to consult with its attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities.

NO STAFF SUBMITTAL

Tsuji briefed the Board on the recent events on Item D-34; the high bidder was RAMCO which also owns the Hilo Hawaiian. Tsuji explained that the court was concerned about the bid price and the way the funds would be disbursed because the bank, the bank's lawyer and the trustee lawyers would have gotten paid and there would be a lot of unpaid creditors. The court ended up deferring and continuing the matter for one week. At the end of the week two new bidders who would pay at a higher price for the building and assignment of the lease appeared. The high bid was awarded to Edward Bushor of Tower Development and second was Peter Savio's group and after them a group of Chinese investors. Edward Bushor/Tower Development wanted to discuss matters and was told about the upcoming Board meeting. His attorney was told about today's

meeting and they are listed on the agenda. Tsuji gave his opinion to what the Board would be interested in hearing: status of the hotel, construction plans, timeline, and the budget. Upon assignment of the lease from Ken Fujiyama the Board will be free to proceed with its normal lease management processes, because the lease is outside of bankruptcy court. There are significant problems with the hotel. There are outstanding county violations that will lead to notices of default. Counsel wants to update the Board. The item that will be discussed is the State deadline of December 10th to appeal or not appeal. The basic objection is the fact that the bankruptcy court neither mentioned nor made the sale subject to the Land Board's review and consent.

Member Gon made a motion for the Board to go into Executive Session pursuant to Section 92-5(a)(4), HRS to consult with our attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities. Member Gomes seconded. All voted in favor.

11:09 AM EXECUTIVE SESSION

11:44 AM RECONVENED

Tsuji introduced Tina Coleman, counsel for Edward Bushor/Tower Development.

Coleman apologized for being late and testified by reading a written letter from Mr. Bushor explaining his absence. The letter was accepted into the record.

Member Gomes said the plan sounded great, Coleman said they have been working very hard and thanked him.

Chair Aila said they are taking the County violations very seriously and asked Coleman to make that a high priority. Colman said it is a high priority and Mr. Bushor intends to resolve those violations as soon possible. Tsuji confirmed Coleman's understanding of the bond issues. She said Bushor will be in touch with the Board to discuss the bond if necessary. Bushor recognizes the importance of working with you and again apologized for not being here today. They had been hoping to close on Wednesday which would have given him time to be present, but unfortunately, the trustees required him to close on Tuesday.

Coleman acknowledged that the sale will be funded. All the funds necessary have been in escrow for a week now. The sale fund includes up to \$1.5 million to cure defaults, the real property tax defaults, the GET and the T-tax defaults, and to pay utilities. They expect that will be sufficient to cure in full. Total is \$1.5 million with the purchase price added to \$1.2 million.

Member Pacheco asked about renovation funds and asked if those were in place. Coleman said some of them are. There are two companies coming together and they expect to have a total budget somewhere around \$10 to \$20 million. Chair Aila wished them all luck. Coleman thanked him and said they hope to work with the Board and to move forward in a positive way.

Member Pacheco asked who the management company was and she said Aqua Hospitality. Chair Aila said there is no decision making.

Item K-4 Time Extension Request for Conservation District Use Permit (CDUP) KA-3509 for a Single Family Residence by the Malerich Trust, Located at Ha'ena, Hanalei District, Kaua'i, Tax Map Key: (4) 5-9-005:025.

Sam Lemmo-Office of Conservation and Coastal Lands (OCCL) reported Item K-4 was approved by the Board and staff recommends granting the additional time extension. The permittee has shown they are in the process of obtaining the permits.

Member Gon asked if the extension seemed reasonable. Lemmo noted that staff would like to give them one more opportunity to complete construction

Randy Vitousek representing Dr. Malerich who is the Permittee testified as to the reasons his client is requesting an extension. The permitting and construction of additional infrastructure, and the shoreline certification are taking longer than expected. Dr. Malerich is a physician on the mainland and has had a house on Kauai for 20 to 30 years; he will retire to this single family house in Haena. He asked the Board to grant the 1 year extension.

Member Gomes questioned Vitousek if he was comfortable with staff's recommendation; Vitousek acknowledged he appreciates what staff has done.

Member Pacheco asked Vitousek if he accepts condition #3. Vitousek confirmed and appreciates the Board's consideration. Member Pacheco questioned whether or not they need condition #3 in there. Lemmo said they should leave it in. Member Gon said that having that in will be part of the background information when it comes back to the Board.

Member Gon said in lieu of a Kauai Board member, he was willing to move to accept staff's recommendation. Member Gomes seconded.

Unanimously approved as submitted (Gon, Gomes)

Item E-3 Approval to Continue Twenty-Eight (28) Revocable Permits (RP) for Use of State Parks Lands on the Islands of Kaua'i, O'ahu, Maui, and Hawai'i for the following: Kaua'i: Na Pali Kayak Inc., Kayak Kaua'i, a Hawai'i limited partnership, Rick Haviland, (Na Pali Coast State Wilderness Park for commercial kayak landings), Clancy Greff and A Na Pali Eco Adventures, Inc, Na Pali Sea Tours, Inc., Lady Ann Cruises Inc., (Na Pali State Wilderness Park inflatable boat landings), Wailua Marina Restaurant (Wailua River State Park restaurant), The Lodge at Koke'e (Koke'e State Park lodging accommodations/retail and restaurant use), Ka Imi Naauao o Hawai'i Nei, Hawai'i United Methodist, Kaua'i Christian Fellowship, Camp Hale Koa Association, (Waimea Canyon State Park non-profit recreation-residences/camps), Hawai'i Conference Foundation (Koke'e State Park non-profit camp), Sukhothai Corp. (Waimea Canyon State Park mobile food vendor), O'ahu Curtis K. Hong (Diamond Head State Monument food and beverage vending), Pepsi Bottling Group (Diamond Head State Monument

beverage vending), Jose Gaceta (Ahupua'a O Kahana State Park, pasture use), Erlinda Molina Villanueva (Ahupua'a O Kahana State Park, agricultural use), Lanihuli Community Development Corporation (Malaekahana State Recreation Area (Kahuku Section) Campground Rental, Young Men's Christian Association of Honolulu (Ka'ena Point State Park, Outdoor Recreational Activities), Sand Island Off-Highway Vehicle Association, Inc., (Sand Island State Recreation Area, Off-Road Vehicle Use), Maui: Maui Ice and Soda Works, Ltd. (Wai'anapanapa State Park, Beverage vending), Island Inspirations, LLP (Makena State Park food service Vending), Hawai'i: SMCA, Inc. (Hapuna Beach SRA food and beverage vending), Republic Parking Northwest, Inc. (Hāpuna Beach SRA, Parking Concession), Adventures in Paradise, Inc., Kona Boys, Inc., Iwa Kalua (Kealahou Bay State Historical Park, Commercial Kayak Tours).

Dan Quinn representing the Division of State Parks (SP) briefed the Board on Item E-3. Quinn said this request is for renewal of the revocable permits (RPs) for up to one year. Staff's recommendation is to continue the RPs under the same conditions as originally issued with a couple exceptions; 1) regarding the 3 permits operating commercial kayaks at Kealahou Bay, staff requests the Board to authorize the Chair to determine duration of time at Ka'awaloa Flats. 2) Two of the RPs are issued at the gratis rate. Staff is asking the Board approve the nominal rent of \$40.00 per month which has been determined by Land staff to be a minimum amount to off-set staff costs for managing those RPs.

Member Gomes asked what would be the maximum off-set cost. Quinn said that would be up to the Board. Some RPs that have higher leases include an agricultural lot in Kahana and the Sand Island Association. Mr. Quinn distributed a revised recommendation that the Board will continue those RPs listed on the revision, one through SMCA, Inc. (Hapuna Beach food and beverage vending) with the condition of submission of proof of liability insurance and proper documentation to DCCA. (Department of Commerce and Consumer Affairs) If we don't get that by the end of the year these permits would not go through. All the others are RPs.

Member Gon said he was asked by a Kauai resident to ask if these were continuances. Quinn acknowledged they are. Member Gon then questioned if the performance, especially on Kauai have been satisfactory to State Parks and in particular concerning the impacts to natural resources in the areas such as Na Pali or Koke'e. He then asked if there any problems or issues with regard to commercial activities reaching levels that would affect the resource. Quinn said that on the contrary staff believes these have been permits have been instrumental in its management of those areas. He believes the same individual asked about the landings along the Na Pali Coast. Parks has 3 motorized companies and kayak companies that land in different areas. None are permitted to land at Kalalau. There have been problems with unpermitted landings and that is a valid concern not subject to these particular permits. The motorized operations help our volunteer groups. For example at Nualolo Kai these companies are instrumental in transporting people, supplies and helping out with the organization of trips into Nualolo Kai to do restoration work. He has spoken with Sabra Kauka and archaeologists that work closely with the tour operators and they don't see any problems with these particular

operations. Each of the permits has a significant cap on the number of people. Not only how many, but the number that can be on the various sites at any one time.

Member Pacheco said he had an opportunity to go on a field trip to Nualolo with the archaeologist a couple years ago, where they watched the commercial men come in and he was impressed by the way they operate. Permitted operations have helped reduce all of the unauthorized, unescorted activity on property.

Member Gomes asked why the commercial kayak tours are only \$5.00 per guest and nothing with the gross. Quinn said that is the way the original permits were written and drafted. Member Gomes said he would like to see the 5% of the gross also included because it's an honor system.

Member Pacheco said it's actually cleaner this way because in a lot of cases the State component is only a part of these tours so having a cost per guest avoids having to figure out what percent of the gross is due to the state component, etc. There was a discussion about different types of tours, and which only accessed state land and which did other things. Chair asked to clarify the difference between permits to commercial operations that charge 5% of gross, and those that do not.

Steve Soares from State Parks explained that the permits subject to the 5% rates are the Na Pali Kayak Tours. Part of the reason for that is because of the length of the trip and the way they are sold and often times those trips can be far more expensive than a typical Kealahou half day tour. Because he wasn't there at the time this is just his analysis of what happened that often times you see far greater revenue from an operation like the Na Pali Coast Tour than you would a Kealahou or Wailua River where the fees are lower and it's a shorter duration.

Ted Myers representing Na Pali Zodiacs testified they have the original permits. There was a question about impact that Quinn answered and they work closely with staff and the 'Ohana and they do all they can to help them. They have made that place so beautiful. He invited the Board to come out to see what they've done at Nualolo by reconstructing walls. The people that visit are taken on little guided walks through there. It's seeing the culture and history of that area is so incredible. He thanked the Board for everything. He related the building of the fishing structure. They've been doing this (zodiacs) since 1981 and he can answer any questions.

Member Pacheco asked him to brief the Board about the young folks that were brought in to rebuild rock walls and the construction that was going on. Myers said they bring school kids in to do grunt work and learn about the culture. They also brought expert rock layers down to re-do the walls and those are the hardest working guys he has ever seen.

Member Gon thanked Myers for taking the time to come from Kauai and noted that he has been out there with Sabra Kauka and other folks taking the boats out. Gon said it's a remarkable site and impressive to see how much love they have put into the upkeep of that place.

Myers said that he hasn't talked to Quinn about this, but there is a rodent problem and they aren't the only users, especially during the summers where a lot of private men are in there to hunt and kill goats there. They try to take as much of the trash out as they can, but there are weekend users

during the summer months. Mice get in and they are jumping out of the rocks. Myers doesn't know how to solve it, but maybe the 'Ohana group or State Parks could discuss and he would be happy to help or buy whatever supplies to help control the rodents, but it is such a sensitive area that you cannot do rat control through poisons.

Brock Stratton representing Kona Boys testified that they are one of the permittees for Kealahou and thanked the Board and State Parks for giving them the opportunity to continue operating. There has been a lot of improvement in the overall vibe and upkeep of the area. All 3 permittees are going down at least quarterly to do clean-ups with the archaeologist and the State. Also, they have seen increased presence of DLNR and enforcement of rules which we haven't seen in the past, overall they are happy with how things are going. It is a long process, but for a very important cultural spot and they are happy to be part of the solution and appreciate it. Frank Carpenter from Kona Boys testified that he was here to answer any questions and to thank the Board for their time.

Iwa Kalua, owner of Aloha Kayak Company on the Big Island testified that there is still some illegal activity taking place around the Bay. DOCARE is showing a presence now and then, but they aren't doing what they should be doing. The last report he heard that some of the DOCARE officers were coaching some of the illegals on how to operate down there. Chair Aila assured him that those are just rumors, as DLNR has talked to the officers about this. Kalua said that is his main concern and he wanted to make sure the Board was aware of it.

Member Gon noted that we know Kealahou is a complex situation with many low points and hopefully there will be improvements.

Jeff Hand representing Adventures in Paradise testified he was here to attend the meeting.

Unanimously approved as amended (Pacheco, Gon)

The Board will continue RPs, one through SMCA, Inc with the condition of submission of proof of liability insurance and proper documentation to DCCA

Item K-3 Time Extension Request for Conservation District Use Permit (CDUP) OA-3610 for the Kewalo Basin Repair Project, by the Hawaii Community Development Authority, Located at Kaka'ako, Kona, Oahu, Tax Map Key: (1) 2-1-058: pors. 002, 035, 095, 128.

Lemmo-OCCL said that Item K-3 was another time extension for HCDA for Kewalo Basin improvements and modernization. The permit was approved a year or year and a half ago and they are having some problems with initiating the project and are asking us for an extension of 3 years for initiation and completion. It would push the project out to initiate by February 2015, complete by February 10, 2029 and that is fine with staff.

Gail Renard representing the agent and Hawaii Community Development Authority (HCDA) apologized for the change prior to the agenda coming out and appreciate staff's recommendation. Member Gon asked if she was comfortable with the conditions and she answered yes.

Unanimously approved as submitted (Kishinami, Gon)

Item D-27 Issuance of Notice to Vacate Pursuant to Automatic Revocation of Prior Board Approval dated February 10, 2012, Item D-5; General Lease No. 4298; Walter and Ann Liew, Lessee; Waimanalo, Koolaupoko, Oahu; TMK (1) 4-1-010:003.

Russell Tsuji-Land division provided background on Item D-27. Staff and the Deputy AGs are here to give more details if requested. This item is the subject of a lawsuit. Part of the settlement agreement involved the Board granting lease extensions subject to certain conditions. One of the conditions was the removal of extra structures on the property and that is the subject of this submittal.

Barry Cheung (Land Division Land Manager) received an e-mail from the Lessee's son, attachment 2, notifying DLNR that house #2 had been removed, which was a condition of moving forward with the continuance of the lease. Staff did a site visit with our appraiser and Deputy AG Pam Matsukawa as a part of a normal rent evaluation for re-opening a lease. At that site visit, they noted house #2 was moved to another location on the property. Therefore the condition of removal was not met and staff is requesting the Board issue a notice to vacate. Walter Liew and his attorney are here.

Pam Matsukawa, Deputy Attorney General introduced herself and said that she was assigned to the arbitration for the rent re-openings so part of the process was to go on a site visit. During that site visit, staff discovered that the house that was supposed to have been removed was moved to a remote part of the property, instead of being moved off the property. Not meeting the condition to remove house #2 is an automatic revocation condition in the lease extension and so there is no lease any more. There was a strict fix in arbitration that the original lease expired and the approval is automatically revoked if the conditions are not met. She said this needs to be terminated. There is no rent re-opening if there is no lease. Any legal questions can be addressed during executive session.

Liew's representative testified that he gave Linda Chow a declaration by Liew and he understands it was disseminated to the Board. The rep. gave background history regarding the lease. He noted that all these violations pre-existed the Liew's purchase of the lease. Although the U.S. Department of Agriculture and the DLNR did know of the violations, did not disclosed them to the Leiws. The letter between the DLNR and the U.S. Dept. of Agriculture pre-dates the Leiws purchase of the lease.

The rep. said to put the parties where they would have been had these violations not existed. The Leiws would get the promised extension because there were only 10 years left on the lease. When they purchased the lease, they were told by a Cecil Santos that they could get an automatic 12 year extension. His handwritten notes are attached to Leiws declaration. The deal between the DLNR and the Leiws were that the Leiws, at their own expense, cure all these building violations. If they put the property into compliance, they would get the 12-year extension they were promised, and everybody is happy. That resulted in him appearing before this Land Board last year and the Board approved that extension. The Leiws were supposed to remove these

structures and they thought they did. The rep detailed the problems and misunderstandings they have had in getting the property into compliance. Now the Leiws have to vacate the property. Whether or not the settlement has been complied with and the Leiws believe it has or has been substantially complied with is a matter of law. The rep. doesn't think the Leiws should be here and DLNR has no authority to unilaterally declare that the Leiws have breached the lease extension in their settlement. The Leiws are asking not to issue a notice to vacate, but to allow the parties to get back together and to resolve this matter. And, if the parties can't resolve it then go to the Circuit Court and ask the Court to enforce the settlement. An overreaction to this second house being removed, but not removed from the property, the forfeiture the Leiws would suffer in this stage of their lives, the loss of this lease, the loss of hundreds of thousands of dollars, plus what they put in to cure these things and the DLNR would get this huge wind fall in getting this property back. It used to have a \$2,000 mortgage and they resolved that issue with the U.S. Dept. of Ag. They permitted these buildings and everything. He is asking for this notice to terminate or vacate be denied or at least deferred and allow the parties to try to work this out or let the Circuit Court rule because he thinks that is where compliance or substantial compliance, the settlement and lease terms belong.

Member Pacheco asked about the letter in 1995. The representative said the Leiws were never provided a copy of that letter between DLNR and the U.S. Dept. of Ag. The rep. said the Leiws didn't know until 2004 when they got the notice of violation about the 1995 letter. Exhibit C is the 1995 letter.

Chair Aila asked if they were aware what of it took to cure these violations. The rep. said they didn't know because there was a law suit that the DLNR's position was the lease was being cancelled. The Leiws didn't know about these violations when they purchased the lease. They wouldn't have done it if they weren't promised the extension and they believed that the settlement of the law suit was to cure these violations.

Member Pacheco asked if he was aware that the Board is the only authority that can give any extension. The representative said he understands that. They came to the Land Board before for the extension. Chair Aila said that was to remove house #2, they had to combine houses #3 and #4, and get a permit for those left. The rep. said there were other conditions which he related.

Member Gon asked how many of the violations had been cured. The rep. said all of them except for house #2 and he believes they complied with that.

Member Pacheco read the condition regarding house #2: to remove the second house from the property. He asked how, as an attorney how he can interpret that as meaning moving the house to another part of the property. The rep. said the intent was to make the property comply with the one owner residence and the one employee residence and the Leiws believe they had done that by eliminating that second structure or house as a residence.

Member Gomes asked about the improvements done to it – painting it. The rep. said they did because the structure was getting moldy and the sale was still alive at that point and time.

Member Goode asked if they were going to use the structure as parts. The rep. said they are going to either tear it down or use it to combine #3 and #4 house, but they are waiting for the permits for that. Member Goode asked how much longer. Mr. Liew explained their timeline.

There was discussion about the septic tank.

Member Pacheco asked Barry Cheung if he had a chance to read this declaration and Cheung said he did, but said he cannot agree to it. The settlement required the house to be removed from the property and that is why he cannot agree to the declaration.

Linda Chow asked whether he has proof of the mortgage and Cheung acknowledged it was in the Board submittal when the Board approved the extension subject to the mortgage. He has been working with Mr. Liew for a long time and he knows Mr. Liew was trying to get the permit, but Cheung was surprised that the house was not removed. That is what they agreed on, with a timeline.. There was some discussion about the rent re-opening and the triggering of the arbitration.

Pam Mastukawa said when she first handled the arbitration she spoke to Cheung and he was clear and there were two conditions, one house was to be removed and the other two houses had to be combined. During the site visit, they discovered the second house. Cheung confirmed with the son that this was the second house. After she went through everything she realized this is an automatic revocation for non-compliance with the conditions for the approval of the 12-year extension. Thus, there is no lease, and no extension of a lease. . An e-mail was sent saying the approval has been automatically revoked. No lease. The arbitration will be suspended and the matter brought before the Board to decide. They would be sent a notice to vacate should one be issued. Then an e-mail was received from Enverse Painter saying that DLNR is overreacting. Matsukawa shared her concern that the house looked like it was being fixed up as another residence. She also told the Board that the third appraiser (part of arbitration) for the property had initially gone out to the property without a state representative. However, only his assistant had gone onto the property. At a pre-hearing it was decided that the appraiser could do a fresh appraisal. Therefore, a site visit was scheduled to do the pre-lease rent appraisal, and the 2nd house was discovered still on the property.

Member Pacheco asked Matsukawa if, in her opinion the house wasn't removed but transformed and if there is no lease, can the Liews ask for a new lease rather than an extension. He noted that even without the violation about the second house, the Liews had still not met the condition to combine houses 3 and 4. There was a discussion on how accommodating land division has been to the Liews.

Mr. Liew's representative disagreed with the Deputy AG's interpretation of the law. He argued that the extension was granted subject to various conditions and the Board cannot unilaterally determine that the conditions have been violated and there is no lease. He argued that the lease conditions have been fulfilled, even if not to the BLNR's expectations. Ultimately it is the Circuit Court's decision as to whether or not conditions have been violated.

Chair Aila said he disagrees. The Board has the authority to make that decision based upon information of the Attorney General's office and you have the right to appeal it to the Circuit Court. Mr. Liew's rep. said he believes the legal premise that there is no lease is incorrect. The Chair said you are entitled to your opinion. Mr. Liew's rep. said it's up to somebody to make a determination whether or not the settlement was breached or not.

Member Pacheco made a motion for the Board to go into Executive Session pursuant to Section 92-5(a)(4), HRS to consult with our attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities. Member Gomes seconded. All voted in favor.

12:59 PM EXECUTIVE SESSION
1:14 PM RECONVENED

Chair Aila asked whether there were any more public testimonies and there was none whereupon he closed public testimonies.

Member Pacheco said that the letter is very clear, that this Board does have the authority. that the conditions have been breached and we need to move forward. He is going to support staff's recommendation.

Member Kishinami said he would like to move forward and made a motion to accept staff's recommendations. Member Pacheco seconded that.

Chair Aila said the motion is to accept staff's recommendation and he noted there is a 60 day recommendation to vacate the property. All voted in favor. Chair Aila said we affirmed staff's recommendation and explained that they have the ability to request a contested case hearing verbally before the end of today's meeting and followed up within 10 days in writing.

Unanimously approved as submitted (Kishinami, Pacheco)

Chair Aila explained the recommendation is to vacate within 60 days.

Mr. Liew's representative asked for a contested case hearing and said he understands that contested case hearing has to be acted upon within 10 days. Chair Aila explained within 10 days you have to complete your written request for a contested case hearing. Mr. Liew's rep. said he understands. Oral request today and within 10 days a written request.

Tsui said ultimately, it will come back to the Board on whether to grant or deny and whether or not you are entitled to a contested case. Also, the Chair mentioned you have an opportunity to bring this matter before the Circuit Court. Chow said she or Barry will e-mail him a form for the written petition.

1:17 PM RECESS
1:50 PM RECONVENED

Item D-18 Approval in Principle for Acquisition of Perpetual Conservation Easement by the Division of Forestry and Wildlife, situate at Kealahakua, South Kona, Island of Hawaii, Tax Map Key No.: (3) 8-1-008:015 (portion).

Russell Tsui conveyed Item D-18 and deferred to DOFAW staff.

Irene Sprecher representing Division of Forestry & Wildlife (DOFAW) presented Item D-18 which is an approval in concept for staff to do their due diligence work. This easement receives funding from the Forest Service/Forest Legacy Program to support the activation of this easement.

Member Gon asked if the purpose of the easement is to treat this private property as forest reserve. Sprecher replied saying not necessarily. For conservation easements, the land would be retained by the land owner and we would be purchasing some of the rights to the property for development, as well as potentially incorporating some restrictions on types of agricultural activities that may be going on the property, all in support of maintaining the forest. It is not necessarily just management by the State because it is still managed by the private land owner. Member Gomes asked about the grant and whether it was secured only for this project and Sprecher said that is correct.

Member Pacheco said essentially it's buying the development rights of the property. Sprecher confirmed that.

Member Pacheco asked if this or the adjacent property had been actively logged recently. Sprecher said there are a number of properties in that area where there is some active timber harvesting going on, but staff has been working with this land owner on a sustainable harvest plan for the property.

Member Gon asked whether there was a wave of recent logging on this property. Sprecher said that the land owner's representative, Greg Hendrickson was here and could answer that, but her understanding was it wasn't being permitted or only harvesting occasional dead or dying trees.

Greg Hendrickson representing the land owner testified the logging of green trees hasn't happened over the past 3 years. He related the purpose of the Forest Legacy Program is to protect traditional forest uses – recreation, education, production of high quality wood resources and other economic agricultural uses of forest lands and keep them from being converted to non-forest uses. The intention is to have active forest management on the parcel, but the easement itself will dictate the terms of that management. It will be similar to the conservation easement that was done on the Kealakekua property which is adjacent, so we are building on a prior Federal grant easement acquisition by DLNR at this time. It will be consistently managed across the two properties.

Member Pacheco asked if the land ownership is the same. Hendrickson said it's owned by different members of the same family.

Member Gon asked if the adjacent conservation easement is the same and Mr. Hendrickson confirmed it is the same and acquired the same way. The first was under the State grant auction.

Member Gomes asked if they harvesting managed timber or natives. Is it koa and ohia or would there be eucalyptus? Hendrickson said it is mixed but primarily a native forest and there are some invasive species where he described seeding a tree species.

Member Pacheco asked what kind of activities were on the property. Hendrickson said there is a zip line and hiking tour.

Member Gomes asked several questions about the age and size of the koa forest. Hendrickson replied there are a variety of ages and size. Some have been there for a while and some are new regeneration koa. The way they approach these forests is to set the harvest levels at lasting grove in the forest so that we are constantly moving that forest to a later serial stage or older forest over time. For a landowner to own and maintain a piece of property they need to have viable commercial economics associated with it so we make sure they continue to own and operate the property economically which is a balance.

Member Gon asked if the conservation easement fees, \$25,000, are going into some sort of investment in the restoration effort. Hendrickson said the Forest Management Plan for Kealakekua Ranch requires a certain amount of restoration work, so whether funds come out of easement fees or out of other money it has to be invested in the restoration. The forest stocking levels in this forest is quite good. There will be some rehab work on the invasive species but it won't be on a massive scale like the reforestation required on Kealakekua Ranch.

Member Pacheco approved as submitted. Member Gon seconded it. All voted in favor.

Unanimously approved as submitted (Pacheco, Gon)

Member Gon noted that it would've been good to see the conservation easement document in this submittal. Mr. Hendrickson said this is a preliminary to that and Ms. Sprecher said this was approval in concept and the final will come back. Mr. Hendrickson said they've done a considerable amount of work and a draft easement has been prepared, but they needed the Board's approval to move it to the AG's office for additional review.

Member Pacheco commented to staff that they've been in these programs for quite a while and it would be great for the Board if staff came back with updates about Kealakekua Ranch to see what was gained in the process. An informational briefing to the Board would be appreciated. Everyone agreed and Mr. Hendrickson said he would like to return to participate in that.

Item C-1 RESUBMITTAL: Request for Approval of a Forest Stewardship Agreement with Susan Kaye Lundburg Trust to Participate in the State Forest Stewardship Program, TMK (3) 4-1-004:045, Hamakua District, Island of Hawaii
And
Request Approval of Declaration of Exemption from Chapter 343, HRS, Environmental Compliance Requirements for this Project.

Roger Imoto representing DOFAW presented Item C-1 and noted in the board submittal for the exemptions in general and said there is one item for each of the categories.

Kayla Lundburg testified thanking for the support which enables her family to keep and manage this forest. It's a challenge but look forward to it.

Member Gon said it is indeed a challenge and thanked her for taking it on.

Unanimously approved as submitted (Pacheco, Gon)

1:35 PM RECESS
2:01 PM RECONVENED

Item J-1 Delegation of Authority to the Chairperson of the Board of Land and Natural Resources (Board) to Approve a Grant Agreement to Navatek, Ltd. to Survey Ocean Recreation Activities in the South Oahu Ocean Recreation Management Area to Identify Potential Safety/Liability Issues Emerging from New Trends in Water Sports Activity.

Kevin Yim representing Division of Boating and Ocean Recreation (DOBOR) reported that the Legislature approved a grant request as noted in Item J-1. This request is to delegate authority to the Chairperson to approve a contract for goods and services to Navatek, Ltd. Staff is asking the Board to authorize the Chairperson to sign the necessary documents pertaining to the specific contract subject to available funding, release of funds by the Governor, and approval as to form by the AG's office.

Member Gomes asked if this survey was only related to South Oahu, and if it was possible that this survey can be expanded to other islands. Yim said this specific grant pertains only to the South Shore of Oahu. They will be requesting Legislature another grant to study other areas in the upcoming legislative session.

Unanimously approved as submitted (Pacheco, Gon)

Item D-5 Mutual Cancellation of Grant of Non-Exclusive Easement No. S-5983 to George Tsukamoto, Grantee, and Sale of Remnant Ditch to George Tsukamoto, Castro Tract, Kapaa Homesteads, 4th Series, Kawaihau, Kauai, Tax Map Key: (4) 4-6-010:004 & 005.

Russell Tsuji briefed the Board on Item D-5 noting that instead of asking the Board for an easement the applicant wishes to purchase this area as a remnant. The applicant was present. He had nothing else to submit.

Unanimously approved as submitted (Gon, Kishinami)

Item D-26 Consent to the Covenant of Purpose, Use and Ownership Affecting the Kapiolani Community College Culinary Institute of the Pacific as Part of General Lease No. 5661, University of Hawaii, Lessee; Waikiki, Honolulu, Oahu; TMK (1) 3-1-042:011.

Russell Tsuji presented Item D-26 which is the old Canon Club site, stating that they are only asking for the consent of the covenant and the language of the covenant was worked on by Deputy AG Linda Chow and UH's counsel and some revisions might be possible. Carol Takahashi is here.

Linda Chow asked whether he was going to talk about the EO (Executive Order).

Tsuji explained that this area came under Land Division, but the whole area is EO'd to the State and under that there is a lease granted to UH for this whole area. State Parks is amenable to cancelling the EO so there will only be a lease. Staff will be bringing the EO cancellation back to the Board at a later date.

Unanimously approved as submitted (Gon, Gomes)

Item D-12 Deny Requests for the Cancellation of General Lease No. S-3606, The Food Basket Inc., and Issuance of Direct Lease to The Food Basket Inc. for Food Distribution Purposes, Waiakea, South Hilo, Hawaii Tax Map Key: (3) 2-2-50:96.

Russell Tsuji-Land Division addressed Item D-12; this regards a lease at Hilo in the Kanoelehua area and staff is recommending a denial of the request. The reason is they acquired a lease in the industrial area of Kanoelehua at market rent for 5 years. This non-profit came in and purchased it at a discount. They sought approval of plans to make improvements to the property, but staff informed them that they only got 5 years and there are no extensions and no opportunity for an extension under the law. Subsequently they submitted plans for renovations for improvements. They only have X amount of years and seem to be spending a lot on the building, but staff had no choice because we had approved the terms. After the improvements have been completed, they came in asking for the lease to be cancelled and be issued instead under their non-profit status for an annual 65 year lease at nominal rent. We are in the process of retaining a planning consulting firm to help us with the Kanoelehua area. This is before the Board with a staff recommendation of Denial because we warned them many times that they only had X amount of time.

Member Gon asked if it was the intent not to initiate a lease at the end of the lease period. Tsuji acknowledged saying yes, that when they acquired a 65 year term lease at the time they acquired it that was it. There were no further extensions possible. A year later, the Legislature passed this 10 year thing where it was the Board's discretion to do certain types of improvements. No more than 65 years, but they acquired it before that and knowing the limitations went forward with the improvements. They are not asking for an extension, rather, they are asking for cancellation of the lease and a whole new 65 year lease for nominal rent.

Chair Aila asked whether they should deny or approve staff's submittal and recommendation and if it would prevent them from coming back in and asking for another 10 years. Tsuji said no, it's denying the request for cancellation of the lease and for a new lease at nominal rent. He isn't sure if the applicant is still here, but their request was they want a 65 year lease. He told them he couldn't support that and his recommendation is not to approve it.

Member Pacheco asked if they were on nominal rent right now. Tsuji said no, market value because this is a market rent lease so they purchased a market rent lease.

Member Gon said it expires in January 2016, and asked if they deny it now they still have one more year on the current lease for them to come back with another proposal. Tsuji said they were here.

Tsuji said again, it is a great organization – it's basically the Food Bank for Hilo. Member Pacheco asked if they are eligible for the 10 year extension. Tsuji said yes, but they have to ask for that and if they want the term. It would be in their best interest if we gave an extension while the master plan study for Kaneohehewa is ongoing. In the long-term, they can be addressed as part of the larger Kaneohehewa set of leases. The intent is to keep them going on RP at least.

Member Pacheco said he agrees with Tsuji that he doesn't think it would be wise for us to enter into a long term agreement with a nominal rent for that place when we have the opportunity to look at that place holistically with all these different leases coming down. There were a lot of people who are on the 10 year so not everything is coming up on 2016 knowing how long it takes to plan and get things done that 10 years is going to go by pretty quickly. The chances for them to get a 10 year extension would be much more palatable. Tsuji reminded saying it is a lease at market value. But, it wouldn't be as bad with a new longer term at a nominal fee. When he was speaking to their representative when he was up in Hilo a couple times that he didn't have the authority to negotiate anything because they applied for the X with a nominal lease fee and he didn't know what the Board was going to say.

Member Gon said given that recommendation their follow-up will authorize some options or proposals. He then asked if there were other options. Tsuji said they are aware of the subsequent 10 year law out where instead of 55 years you can go to 65 years. Chair Aila said he is sure they are going to react to whatever action they take.

Member Pacheco asked why they can't do the 10 year and turn around and give them the nominal rent and why they can't change the lease terms until it reopens. Tsuji said this is not an option lease, but it was a market lease and they are moving forward with the study.

Dan Purcell testified that this organization has some legal accounting challenges as cited in the newspaper. They haven't shown to have prudent, financial minded people in those organizations. He encouraged the Board accept staff's recommendation.

Member Pacheco noted that the Board secretary just received some written testimonies from various organizations in support.

Member Pacheco made a motion to keep staff's recommendation to deny the direct lease. Member Gomes seconded that.

Unanimously approved as submitted (Pacheco, Gomes)

Item F-2 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Conservation and Management Permit to Commanding Officer Stephanie A. Koes, National Oceanic and Atmospheric Administration (NOAA) Ship OSCAR ELTON SETTE, for Access to State Waters to Conduct Shipboard Support Activities.

Item F-3 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Conservation and Management Permit to Commanding Officer Michael F. Ellis and Lieutenant Commander Daniel M. Simon, National Oceanic and Atmospheric Administration (NOAA) Ship HI'IALAKAI, for Access to State Waters to Conduct Shipboard Support Activities.

Maria Carnavale representing Division of Aquatic Resources asked to do items F-2 and F-3 together and the Board agreed. Chair Aila asked whether there were any changes to the submittals and she said there isn't where she proceeded with describing what the two items were for. Staff recommends approval with the same conditions as in prior years. Chair Aila noted this is a recurring permit and Carnavale acknowledged that.

Unanimously approved as submitted (Gon, Gomes)

Item F-4 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Conservation and Management Permit to the Monument Co-Trustee Representatives of the U.S. Department of the Interior, U.S. Fish and Wildlife Service; U.S. Department of Commerce, National Oceanic and Atmospheric Administration; and State of Hawai'i, Department of Land and Natural Resources; for Access to State Waters to Conduct Conservation and Management Activities.

Carnavale described Item F-4. The permit language is from 2008 for the co-trustees to perform their own management activities in the region. The language is the exact language in the permit last year in 2013 or the current one operating today. Unfortunately, the Monument Management Board (MMB) did not put in language for 2014 permit application because there is a larger policy issue that is going up the channels and they need to resolve this policy issue before they do the permit language. Staff is requesting on behalf of DAR and DOFAW that this permit gets issued to support the on-going conservation and management activities that are occurring and in place right now, including 6 members of DLNR up in Kure Atoll.

Member Gon asked whether the MMB was able to come to a consensus regarding the 2014 language or are they continuing to work for a consensus. Carnavale acknowledged it is being worked on but has been elevated to the Executive Board. Chair Aila sits on the Executive Board.

Member Pacheco asked whether they will be back with new language. Carnavale replied if that is the outcome of the discussions or else this permit remains for the next year. Member Pacheco asked if there is a big long answer to what the Fish & Wildlife is saying about it. Chair Aila said it is not. It is the application of wilderness management prior to Congress approving wilderness

management. Carnavale said the State has already gone on the record concerning wilderness designation which is one piece of the larger issue and she does have copies of that. If the Board would like they could do a briefing on that meeting and there are a lot of aspects to it and she could work with the secretary to schedule it.

Member Goode asked why this has to be done every year and why there can't be 5 year permits. Carnavale explained it is the State Marine Refuge rules and staff did look at that to see if there was potential for the extension in the interim, but unfortunately, working with the AG's office and doing the analysis suggests it's impossible right now. Chair Aila said he could bring it up to the MMB since he will be there.

Unanimously approved as submitted (Pacheco, Gon)

Item K-5 Conservation District Use Application (CDUA) HA 3676 for a Single Family Residence and Related Improvements by David A. Yermian, Located at Keonepoko Iki, Puna, Hawai'i, Tax Map Key: (3) 1-5-009:035.

Sam Lemmo briefed the Board on Item K-5 noting that it's in an area where there are a number of single family residences and the concerns are the same. Coastal native habitat – bats, rocks, hawks, archaeological and cultural issues in the report and the applicant has done his due diligence. The area was originally cleared for a single family residence and this one coming in is a substantial residence where he related more details. An EA, CI and impact assessments were done.

James Leonard representing David Yermian testified that they had nothing to add and having gone over the recommendations they are agreeable to them where he reiterated points in Lemmo's briefing to the Board.

Unanimously approved as submitted (Pacheco, Gon)

Item K-1 Conservation District Use Application (CDUA) HA-3682 for a Single Family Residence by Shon Magsalin, Located at Wa'awa'a, Puna, Hawai'i, Tax Map Key: (3) 1-4-028:007.

Sam Lemmo conveyed Item K-1 is in a similar area a couple miles away from Item K-5. It's a smaller parcel and the house is modest and closer to the shoreline. They are going to preserve the native vegetation. The applicant met the same requirements and staff recommends approval. There is a typographical error in the report in the first paragraph it says the developed area is 1365 square feet, but the area is actually 1412 square feet and the other typographical error the area for the parcel is 5,000 square feet, but that's not true - its 3500 square feet for the record.

Ron Terry representing the applicant, Shon Magsalin, testified that they are fine with all of the conditions and they tried to site the project as best as possible to have the least environmental impact.

Unanimously approved as submitted (Pacheco, Gon)

Item C-2 Request for Approval of Incidental Take License and Habitat Conservation Plan for the Round-Leaved Chaff Flower (*Achyranthes Splendens* Var. *Rotundata*) at the Kenai Industrial Park on the Island of O‘ahu, Hawai‘i.

Roger Imoto-DOFAW presented Item C-2.

Yak Biasing introduced himself as the biological consultant and Jennifer Benck introduced herself as counsel for this client who wanted to attend today’s meeting, but had a conflict.

Biasing testified relating some details about the property and described the Chaff flower. The take of 3 individuals will be off-set by the planting of a 120 individuals at the site at the Kalaeloa unit.

Benck testified that one of the concerns expressed by the Endangered Species Recovery Committee when they met in July was an SMA permit condition that this lot is within a larger industrial sub-division approved under a master permit in the 1980s. There is a concern in the submittal that these plants are to be kept on site to the satisfaction of this Board. To address the concerns raised in July she wanted to submit, for the record, an e-mail exchange with City and County DPP informing them about today’s meeting.

Chair Aila asked if the City expressed any concerns and Benck said no, they didn’t, that they just have to follow all the City requirements.

Member Gon asked if the intention was to replace the 3 take individuals with 120 individuals at Kalaeloa. Biasing and Benck confirmed.

Unanimously approved as submitted (Kishinami, Gomes)

Item E-2 Request Approval to Increase the Mooring Fee for Fairwinds Inc. From 0.5% of Gross Revenue to 3.0% of Gross Revenue at Kealakekua Bay State Historical Park, Hawaii, TMK: (3) 8-2-004: 015, Seaward of 8-1-010 and 011 8-2-002, 004, 005, and 006.

Dan Quinn introduced himself and Curt Cottrell from Division of State Parks. They conveyed that Item E-2 is because the jurisdiction of the Bay shifted from DOBOR (Boating) to State Parks to obtain ½ of 1 percent for the use of the mooring and it is staff’s recommendation to bump it up to 3% which is in the permit.

Mendy Dant, Vice-President of Fair Wind Cruises testified relating history at Kealakekua Bay and that in 1989 a permit process was put in place by William Paty. The rafting companies don’t tie up to a mooring and drift around and from time to time there are conflicts between the kayakers that pull up on shore. She suggested adding a couple more moorings in the Bay like there are at Molokini. She also suggested that the department control who comes in at what times and that they all pay fees. She also suggested putting something in place to keep things from escalating to capacity and user conflict later on. She was fine with the amount.

Unanimously approved as submitted (Pacheco, Gomes)

Item E-1 Consent to Assign General Lease No. SP0136 Barbara Putzier, Assignor, to the Barbara Clare Childers Trust, Assignee, Lot 22, Koke'e Campsites Lots, Waimea (Kona), Kaua'i, Hawai'i, TMK: (4) 1-4-004:013.

Dan Quinn-SP said he had no changes to item E-1 which is an assignment of lease at Koke'e.

Unanimously approved as submitted (Pacheco, Gon)

Item K-2 Conservation District Use Application (CDUA) OA-3678 for a Radio Facility by the State of Hawai'i Department of Accounting and General Services, Located at Kamehame Ridge, Kuli'ou'ou, Koolaupoko, O'ahu, Tax Map Key: (1) 3-9-009:001.

Sam Lemmo-OCCL described that Item K-2 is a State managed facility, emergency services, executive branch, and communications proposed at Kamehameha Ridge above Hawaii Kai and Waimanalo. He described the tower, building and area having been a former Niki site. It is currently being used by the city and other private towers. Staff recommends approval.

John Sakaguchi, Wilson Okamoto representing DAGS testified that they worked with staff on the conditions and have no objections.

Member Gon asked whether they will be using the existing foot print and or if there would be an extension from it. Sakaguchi said no, that they are below the summit.

Unanimously approved as submitted (Kishinami, Gon)

Board Member Goode departed for his flight.

Item C-3 Approval of Final Environmental Assessment; Mānā Plain Wetland Restoration Project; Mānā Plain Forest Reserve, Island of Kaua'i, Tax Map Key (4) 1-2-2:portion.

Roger Imoto for DOFAW presented Item C-3 and had no changes.

Unanimously approved as submitted (Gon, Gomes)

Item D-17 Request to Approve Estoppel Certificate Relating to a Mortgage Under General Lease No. S-5862, Global Resort Partners, Lessee, Hilton Waikoloa Village, Anaehoomalu, South Kohala, Hawaii, Tax Map Key: 3rd/ 6-9-07:14.

Russell Tsuji had no changes but wanted to point out some background on Item D-17. Member Pacheco asked if \$1.3 billion was correct. Tsuji said this is one of much real property that is being encumbered.

Unanimously approved as submitted (Pacheco, Gomes)

- Item D-1** **After-the-Fact Request for Issuance of Right-of-Entry Permit to Kauai Bodyboarding Association for Bodyboarding Contest on December 7 & 8 and December 14 & 15, 2013 at First Ditch Beach, Kekaha, Kauai, Tax Map Key: (4) 1-2-002:seaward of 036.**
- Item D-2** **Issuance of Right-of-Entry Permit to Graham Chelius and Marisa Chelius on State Unencumbered Beach Lands for Emergency Temporary Shore Protection, Kikiaola, Waimea, Kauai, Tax Map Key: (4) 1-2-013:031.**
- Item D-3** **Authorize a One-Year Holdover of General Lease No. S-3795 to Hawaiian Telcom, Inc., for Telecommunication Purposes, Hanapepe, Waimea, Kauai, Tax Map Key: (4) 1-9-003 portion, and Waimea, Kauai TMK: (4) 1-4-001 portion.**
- Item D-4** **After-the-Fact Issuance of Right-of-Entry Permit and Issuance of Revocable Permit to G&K Kalaheo Shell Repair Shop, LLC for Automotive Repair Shop Purposes, Portion of Hanapepe Town Lots, Waimea, Kauai. Identified as TMK (4) 1-9-005:007.**
- Item D-6** **Sale of Remnant to Donald R. Leininger and Jennifer J. Leininger, Por. Kapaa Town Lots, Kawaihau, Kauai, Tax Map Key: (4) 4-5-012: por. 3.**
- Item D-7** **Mutual Cancellation of General Lease No. S-5405, Yvonne K. Okamoto, Lessee, Kikala-Keokea, Puna, Hawaii, Tax Map Key: (3) 1-2-043:005.**
- Item D-9** **Consent to Assign General Lease No. S-5452, Adeline K. Hauanio, Assignor, to __Michael Keola Hauanio, Assignee, Kikala-Keokea, Puna, Hawaii, Tax Map Key: (3) 1-2-043:052.**
- Item D-11** **Authorize a One-Year Holdover of General Lease No. 3163, Robert Emmett Hamilton and Susan Weinert Hamilton, Trustees under The Hamilton Joint Revocable Trust, Lessee, to be Immediately Followed by the Issuance of a Month-to-Month Revocable Permit and Issuance of a Bill of Sale Transferring All Improvements on the Property to the Lessee, Ocean View Lease Lots, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-1-007:029.**
- Item D-16** **Amend Prior Board Action of December 11, 2009, Agenda Item D-9, Sale of Abandoned State Road Reservation to Owners of Lots 1, 2A, 2B, 4, 5B, 6, 7, and 35, Lalamilo Farm Lots, Lalamilo and Waikoloa, South Kohala, Hawaii, Tax Map Keys: 3rd/6-6-05:19, 20, 22, 24, 25, 27, 29 & 32.**
- Item D-19** **Consent to Assign General Lease No. S-4962, Rose M. Olsen, Assignor, to Herman Sabino Martines, Milolii-Hoopuloa, South Kona, Hawaii, Tax Map Key: 3rd/ 8-9-014: 007.**

- Item D-20** Forfeiture of Grant of Easement Bearing Land Office Deed No. S-28678 for Access and Utility Purposes to Jeffrey A. Guild and Cynthia L. Guild, Husband and Wife, as Tenants by the Entirety “Grantee”, Hanawana West, Makawao, Maui, Tax Map Key:(2) 2-9-011: Portion of 011.
- Item D-21** Approval in Principle for the Issuance of Right-of-Entry Permit to Rodney Kilborn dba Handsome Bugga Productions for a Professional Women’s Surf Event at Lipoa Point, Honokohau, Honolua, Lahaina, Maui, Tax Map Key: (2) 4-1-001: Portion of 010.
- Item D-22** After-the-Fact Approval of Right-of-Entry Permit to Envisions Entertainment & Productions, Inc., Hawaii Representative for Pyro Spectaculars, Inc. for Aerial Fireworks Display Purposes at Honolua, Lahaina, Maui, Tax Map Key:(2) 4-2-004: seaward of 015.
- Item D-23** Request that the Board Grant Petition for Contested Case Hearing by Maui Kayaks, Inc. for a Contested Case Hearing as to the Imposition of a \$1,000.00 Fine and \$580.00 in Administrative Costs Against Maui Kayaks Inc., for Unauthorized Commercial Activities Conducted on State Unencumbered Lands at Olowalu, Lahaina, Maui, at TMK: (2) 4-8-003:001.
- Item D-24** Amend Prior Board Action dated November 22, 2010, Agenda Item D-10; Grant of Perpetual, Non-Exclusive Easement to Board of Water Supply for Water Meter Purposes; Sand Island, Honolulu, Oahu; Tax Map Key (1) 1-5-041:039, 046, 119, 302 And
- The Amendment is to Seek Board’s Authorization to Replace Board of Water Supply with the City and County of Honolulu as the Applicant for the Subject Request and Other Pending Requests.
- Item D-25** Denial of Request to Modify Fee for Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Displays at Duke Kanahamoku Beach situate at Waikiki, Honolulu, Oahu, Tax Map Key No.: (1) 2-3-037:021 (portion).
- Item D-28** Withdrawal from Governor’s Executive Order No. 3879 and Reset Aside to Department of Transportation for Ka Iwi Scenic Shoreline Phase 1, Increment 2 Improvements; Amending the Purposes of Governor’s Executive Orders 3520 and 3879 to “Kaiwi State Scenic Shoreline”, Maunaloa, Honolulu, Oahu, Tax Map Key: (1) 3-9-011:002 and 007, (1) 4-1-014:001.
- Item D-29** Sale of Remnant to Doris L. Kawagoe, Karen C. Yoneda, and Judy Hideko Hiratsuka Revocable Trust Agreement dated November 17, 1983; Withdrawal from Governor’s Executive Order No. 1598, Waimanalo, Koolau-poko, Oahu; Tax Map Key: (1) 4-1-024:portion of 066.

Item D-30 **Sale of Remnant to Kathleen Y. Thomas, formerly known as Kathleen Yap Hise and Kathleen Y. Hise, Trustee of Kathleen Yap Thomas Declaration of Trust dated June 17, 1985, Kaneohe, Koolaupoko, Oahu, Tax Map Key: (1) 4-5-043:portion of 003.**

Item D-33 **Amend Prior Board Action of September 13, 2013 (Item D-7) Consent to Subleases; General Lease No. S-4644, Aiea, Ewa, Oahu, Tax Map Key: (1) 9-8-013:014; Vallejo Venture 99 LLC, Lessee, to the following Sublessees:**
Kazi Foods Corporation of Hawaii dba KFC
Calvin K. W. Lau dba Superior Jewelry
El Tres Burros Ltd. dba Chez Sports Bar and Grill
Mihn To dba JP Serrato Pasta
Hawaii State Federal Credit Union
Tax Services of America, Inc. dba Jackson Hewitt Tax Service
Kim Chee Restaurant #7, LLC
Royal Trading International Inc. dba Toys N Joys II
Hawaii Dental Group, Inc. and American Dental Alliance, Inc.
dba Hawaii Family Dental Center
Mimi Nails and Spa Inc.
Pho My Lien Ltd
HI Energy Alternatives Inc. dba Solar Wave Hawaii
The Amendment Seeks the Board's Approval of Adding Dr.
Wayne S. Matsuyama, dba Styleyes as Sublessee, Updating the
Sublease Term for Respective Subleases, and Authorizing
After-the-Fact Consent to Subleases for Housekeeping
Purposes.

Russell Tsuji said that there were no changes to items D-1, D-2, D-3, D-4, D-6, D-7, D-9, D-11, D-16, D-19, D-20, D-21, D-22, D-23, D-24, D-25, D-28, D-29, D-30, and D-33.

Unanimously approved as submitted (Pacheco, Gomes)

Item F-1 **Request for Approval to Authorize the Chairperson, Board of Land and Natural Resources, to Expend *Port Royal* Trust Funds (Not to Exceed \$150,000) to Expand the Capacity of the Sea Urchin Hatchery at the Division of Aquatic Resources Anuenue Fisheries Research Center.**

Chair Aila said item F-1 is similar to an item staff brought prior to this to increase capacity and he was happy to announce that by the end of this month over 80,000 urchins have hatched and there should be an increase next year.

Unanimously approved as submitted (Gon, Gomes)

Item L-1 **Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawaii Administrative Rules**

Job No. J45CK60A, Anahola Landslide Mitigation, Kauai, Hawaii.

Item L-2 Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawaii Administrative Rules

Job No. F00CF32A, Individual Wastewater System Improvements, Iao Valley State Monument, Wailuku, Maui, Hawaii.

Alyson Yim- Engineering Division presented items L-1 and L-2 and both items are to declare exemption from Chapter 343 where she described each item. Staff had no changes.

Unanimously approved as submitted (Gomes, Gon)

Adjourned (Pacheco, Gomes)

There being no further business, Chairperson William Aila adjourned the meeting at 2:51 p.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Kuulei Moses
Land Board Secretary

Approved for submittal:



William J. Aila, Jr.
Chairperson
Department of Land and Natural Resources