

DAVID Y. IGE
GOVERNOR OF HAWAII



**APPROVED BY THE
BOARD AT ITS
MEETING HELD ON
NOVEMBER 13, 2020**

dec
SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

**STATE OF HAWAII
BOARD OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

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

DATE: OCTOBER 9, 2020
TIME: 9:00 A.M.
LOCATION: Online via ZOOM, Livestream via YouTube

MEMBERS

Suzanne Case
Sam Gon
Chris Yuen
Kaiwi Yoon

Jimmy Gomes
Tommy Oi
Vernon Char

STAFF

Russell Tsuji-Land
Wesley Matsunaga-Land
Ian Hirokawa-Land
Gordon Heit-Land
Scott Fretz-DOFAW
Bob Mederios-Land
Brian Neilson-DAR
Emma Yuen-DOFAW
Alan Downer/SHPD
Richard Howard-DOBOR
Mike Millay-DOFAW

David Smith-DOFAW
Kevin Moore-Land
Allison Neustein-Land
Curt Cottrell-Parks
Daniel Ornellas-Land
Barry Cheung-Land
Sam Lemmo-OCCL
David Sakoda-DAR
Van Matsushige-Land
Ed Underwood-DOBOR
Jason Misaki-DOFAW
Jackson Bauer-DOAW

OTHERS

Colin Lau/AG
Lauren Chun/AG
Abby Lareau/DOT-Air
Donne Dawson/M6
Craig Luke/M5
John Guinan/D4
Robert Garrett/K1

Melissa Goldman/AG
Linda Chow/AG
Kevin Simons/DOT- HWYS
Lawrence Laus/DOT-HWYS
Thomas Zizzi/D4
James Leonard/K1

ITEM A-3

10.09.2020/00:00:07

Chair Case, welcomed everyone and conveyed that due to the Covid-19 Emergency measures, the meeting is being held via Zoom and live-streaming on YouTube, and noted that written testimony and request for oral testimony have been received in advance.

Member Gon read the standard contested case statement.

ITEMS J-1 and J-2 have been WITHDRAWN

NOTE: WE WILL BE MOVING UP THE M-ITEMS TO THE BEGINNING OF THE AGENDA

10.09.2020/00:02:17

ITEM A-1 Request approval of the August 14, 2020 Board of Land Natural Resources meeting minutes.

Board Discussion-None

Public Testimony-None

MOTION

Approve as submitted (Yoon, Gon) unanimous.

10.09.2020/00:04:50

ITEM M-4 Consent to Revocable Permit between the Department of Business, Economic Development and Tourism and Eye Productions Inc. over Portions of Lands under Governor's Executive Order No. 4097, Honolulu, Oahu, Tax Map Key (1) 3-1- 042: Portion of 009.

Donne Dawson, Department of Business, Economic Development & Tourism, presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approve as submitted (Gon, Oi) unanimous.

10.09.2020/00:06:23

ITEM M-1 Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, George Hanzawa, Daniel K. Inouye International Airport, Tax Max Key: (1) 1-1-76: Portion of 20.

ITEM M-2 Issuance of a Revocable Permit for Three Aircraft Parking, Raymond Stockton, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-76: Portion of 23.

ITEM M-3 Issuance of a Revocable Permit for Ramp Space for Office Containers, Hawaiian Airlines, Inc., Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43: Portion of 40.

Abbey Lareau, DOT-Airports, present to answer any questions for Item M-1, Item M-2 and Item M-3.

Board Discussion-None

Public Testimony-None

MOTION

Approve as submitted, Item M-1, Item M-2 and Item M-3 (Oi, Gomes) unanimous.

10.09.2020/00:08:24

ITEM M-5 Request Authorization to Acquire Land for the Department of Transportation, Highways Division, for Highway Purposes, relating to Farrington Highway Widening, Kapolei Golf Course to Fort Weaver Road, Project No. 7101A-01-20, Honouliuli, Ewa, Island of Oahu, State of Hawaii, Tax Map Key Nos.

(1) 9-1-016: Portion 004, (1) 9-1-016: Portion 007, (1) 9-1-016: Portion 008,
(1) 9-1-016: Portion 179, (1) 9-1-016: Portion 182, (1) 9-1-016: Portion 183,
(1) 9-1-016: Portion 220, (1) 9-1-016: Portion 221, (1) 9-1-017: Portion 043,
(1) 9-1-017: Portion 070, (1) 9-1-017: Portion 097, (1) 9-1-017: Portion 099,
(1) 9-1-017: Portion 172, (1) 9-1-018: Portion 006, (1) 9-1-018: Portion 008,
(1) 9-1-018: Portion 009, (1) 9-1-018: Portion 010, (1) 9-1-018: Portion 012,
(1) 9-1-018: Portion 013, (1) 9-1-018: Portion 014, (1) 9-1-018: Portion 015,
(1) 9-1-018: Portion 016, (1) 9-1-018: Portion 018, (1) 9-1-181: Portion 006,
(1) 9-1-181: Portion 022, and (1) 9-1-181: Portion 034.

Link to EA & FONSI

<https://group70int.sharefile.com/d-saebb1e7456848778>

Kevin Simons and Lawrence Laus, Department of Transportation, Highways Division present to answer question. Craig Luke, RM Towill, is also present. Simon's revised *Page 3, regarding compensation; Compensation to the Land Owners may exceed the appraisal to the extent allowed by Section 171-30E, Hawaii Revised Statute. Page 4; Recommendation A. Authorize the acquisition of the subject lands subject to an appropriate conveyance document, as reviewed and approved by the Department of the Attorney General and by the Department of Transportation"*

Board Discussion-None

Public Testimony-None

MOTION

Approve as amended submitted (Gon, Gomes) unanimous.

10.09.2020/00:10:18

ITEM M-6 Authorizing the Department of Transportation, Highways Division (DOT) to approve Revocable Permit HY-20-155 (RP) at Liliha Street, Federal Aid Project No. U-097-1(1), Honolulu, Oahu, Hawaii, Tax Map Key (TMK): (1) 1-7-023:024.

Board Discussion-None

Public Testimony-None

MOTION

Approve as submitted (Oi, Gomes) unanimous.

10.09.2020/00:11:51

ITEM C-1 Request to designate existing forestry trails as a Nā Ala Hele "program trails" within the Hawai'i Island Nā Ala Hele trail and access program inventory.

<i>Trail</i>	<i>Ahupua'a</i>	<i>Tax Map Key</i>
A) Kūlanihāko'i Mountain Bike Park	Waiākea, S. Hilo (Waiākea Forest Reserve)	(3) 2-4-008:022
B) Pu'uwa'awa'a Cone Trail	Pu'uwa'awa'a, N. Kona (Pu'uwa'awa'a Forest Reserve)	(3) 7-1-001:004
C) 'Ōhi'a Trail	Pu'uwa'awa'a, N. Kona (Pu'uwa'awa'a Forest Reserve)	(3) 7-1-001:006
D) Makāula-'O'oma Trails	Makāula, 'O'oma, Kalaoa, Kohanaiki, N. Kona (Honua'ula Forest Reserve)	(3) 7-3-001:002
E) Palila Forest Discovery Trail	Ka'ohe, Hāmākua (Ka'ohe Game Management Area)	(3) 4-4-015:004

David Smith, Division of Forestry and Wildlife, Mike Millay and Jackson Bauer, Na Ala Hele, presented the submittal.

Board Discussion

The Board was happy to be adding the trails to the program for Management.

Public Testimony-None

MOTION

Approved as submitted (Yuen, Gon)

10.09.2020/00:14:44

ITEM C-2 Informational only. Submission of Annual Report of activities, conducted by Hika'alani at the reinternment site at Wai'auia, Kailua, Oahu, Tax Map Key: (1) 4-2-016:002. **(NON-ACTION ITEM)**

David Smith and Jason Misaki presented the Annual Report.

10.09.2020/00:18:49

ITEM D-1 Withdrawal of 0.75 Acre from General Lease No. S-6065, Natural Energy Laboratory of Hawaii Authority, Lessee; Set Aside 0.75 Acre to County of Hawaii, Department of Public Works, for Roadway Purposes, Kapoho, Puna, Island of Hawaii, Tax Map Key: (3) 1-4-001:082 por.

Issuance of a Right-of-Entry Permit to County of Hawaii, Department of Public Works for Survey, Equipment and Material Storage Purposes, Kapoho, Puna, Island of Hawaii, Tax Map Key: (3) 1-4-001:082.

Russell Tsuji, Land Division, presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Yuen, Gon) unanimous

10.09.2020/00:21:32

ITEM D-2 Consent to Assign General Lease No. S-4662, Southern Foods Group, LLC dba Meadow Gold Dairies-Hawaii (formerly known as Southern Foods Group, L.P.), Assignor, to MGD Acquisition, LLC and ARS Holding, LLC, Assignees, Waiakea, South Hilo, Hawai'i, Tax Map Key: (3) 2-1-012:025.

Russell Tsuji, Land Division, Kevin Moore and Gordon Heit, Land Division, present to answer questions.

Board Discussion

Heit relayed information regarding the lease and the 7-million dollars of the purchase of the improvements on the property and information on the foreclosure. The lease rent is current, the sale is in bankruptcy, any proceeds would go to the creditors.

Public Testimony-None

MOTION

Approved as submitted (Yuen, Oi) unanimous

10.09.2020/00:35:40

ITEM D-3 Annual Renewal of Revocable Permits for the County of Maui, See Exhibit 2 for list of Revocable Permits.

Daniel Ornellas, Land Division, presented the submittal. Scott Fretz, DOFAW was present to answer any questions on lands to be transitioned to DOFAW. Ornellas made an amendment to RP 7343, regarding annual rent.

Board Discussion

A lengthy discussion regarding the Maui Revocable Permits; which ones were heading for long-term disposition, which lands were transitioning to DOFAW and addressing OHA's written testimony. There were concerns regarding public access for RP 7343. The RP to Nobriga was also addressed. Ornellas will follow up with Chair Case.

Public Testimony-None

Amendment:

Revocable Permit No.7343 to Club Lanai Properties, LLC the Board approved staffs' recommendation to amend the submittal by reducing the annual rent from \$29,093.04 a year to \$21,000 a year, effective January 1, 2021; the reason for the change was based on a recent fair market value appraisal by the Division dated September 15, 2020.

MOTION

Approved as amended (Gomes, Gon) unanimous.

The Board took a 10-minute break.

10.09.2020/01:19:40

ITEM D-4 RESUBMITTAL: Enforcement of Sanitation Violation under Unencumbered Public Lands Rules, Hawaii Administrative Rules Chapter 13-221, and Section 171-6, Hawaii Revised Statutes, by The Trash Man, LLC, on State Lands at Mapunapuna, Honolulu, Oahu, Tax Map Key: (1) 1-1-064:006.

Russell Tsuji, Land Division, presented the submittal. Barry Cheung and Bob Medeiros, Land Division also present to answer any questions. Thomas Zizzi (Counsel) for Applicant present to answer questions.

Board Discussion

Member Yuen conveyed to the Applicant the option of requesting a contested case and explained the procedure. Chair Case added that Mr. Zizzi should follow up with a written request within 10-days. Wynhoff, offered to assist Zizzi if he had any questions.

Counsel for respondent requested a contested case and therefore no further action was taken at this time.

10.09.2020/01:31:40

ITEM E-1 Issuance of a Revocable Permit to Republic Parking for a Reservation System for Parking and Entry Management at Wai'anapanapa State Park, Honokalani, Wakiu and Kawaipapa, Hana, Maui, Hawai'i, Tax Map Key: (2) 1-3-005:009 And (2) 1-3-006:009 (Por.); and

Request Approval of Declaration of Exemption from Chapter 343, Hawai'i Revised Statutes, Environmental Compliance Requirements for this Revocable Permit.

Curt Cottrell, Land Division, presented the submittal. Alan Carpenter and Sang Kim present to provide additional information and answer questions.

Board Discussion

Carpenter explained to the Board how the financial side of managing the Reservation System. This will help manage the number of visitors into the park. We are trying this model and they will monitor and make changes as needed.

Public Testimony-None

MOTION

Approved as submitted (Gomes, Gon) unanimous.

10.09.2020/01:47:23

ITEM F-1 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit to Ms. Jennifer Lynch, Co-Director, Center for Marine Debris Research (CMDR), Hawaii Pacific University (HPU) for Access to State Waters to Conduct Marine Debris Research Activities

Catherine Gewecke, Division of Aquatic Resources, presented the submittal. Drew McWhirter for the applicant, present to answer any questions.

Board Discussion

What type of debris do you find, and do you document what you find? McWhirter, yes. Further discussion on origination of debris and how can we hold those accountable? McWhirter described protocols as requested.

Public Testimony-None

MOTION

Approved as submitted (Gon, Oi) unanimous.

10.09.2020/02:08:47

ITEM J-3 After-the-Fact Consent to Sublease Under Harbor Lease No. H-82-4, GKM, Inc., Lessee, to Sidney Wayne Knight dba Knight Machine Shop, Sublessee, Kealakehe, Kailua-Kona, Hawaii, Tax Map Key: (3) 7-4-008:042.

Richard Howard, Division of Boating and Ocean Recreation, presented the submittal. Dan Morris, Deputy AG, present to answer questions.

Board Discussion

Percentage rent on the subleases to the State were discussed in detail. The Division is working on a policy.

Public Testimony-None

Amendment:

Reserving to BLNR the right to revisit the question of DOBOR receiving sublease participation rent in the future based on its pending appraisal and policy review and the provisions of the Master Lease.

ITEM J-4 After-the-Fact Consent to Sublease Under Harbor Lease No. H-82-4, GKM, Inc., Lessee, to Csige Tackle LLC, Sublessee, Kealakehe, Kailua-Kona, Hawaii, Tax Map Key: (3) 7-4-008:042.

Board Discussion

Item J-3 and Item J-4 are similar and the amendment applies to both.

Amendment:

Reserving to BLNR the right to revisit the question of DOBOR receiving sublease participation rent in the future based on its pending appraisal and policy review and the provisions of the Master Lease.

Public Testimony-None

MOTION

Approve as amended Item J-3 and Item J-4 (Char, Gon) unanimous.

10.09.2020/02:22:47

ITEM K-1 Conservation District Use Application (CDUA) OA-3859 for Robert Garrett Representing Kamahole Farms LLC's Single-Family Residence, Agricultural Use/Farm with Associated Farm/Utility Shed, Landscaping and Associated Improvements at Government Beach Road, Makuu, Puna, Hawaii Tax Map Key: (3) 1-5-010:009

FEA link:

http://oeqc2.doh.hawaii.gov/Doc_Library/2020-08-08-HA-FEA-Garrett-Single-Family-Residence-and-Farm-at-Makuu.pdf

Sam Lemmo, Office of Conservation and Coastal Lands, presented the submittal. James Leonard, Applicant's Agent and Robert Garrett, Applicant present to answer any questions.

Leonard, asked for a change in the language on conditions for the site, burial and agricultural treatment preservation plans due to the time it would take to get all approvals from SHPD, and they are unable to move forward with construction plans.

Board Discussion

Clarification was requested for the site of construction, cultural site, the endangered grass and the lineal descendants access. There was a detailed discussion on the permitting process and time frames. Leonard requested an amendment to the language in Recommendations 12 & 13, which were further discussed and agreed upon. OCCL to be kept updated.

Public Testimony-None

Amendment:

Recommendation 12, amend to read:

The applicant shall develop an appropriate burial treatment plan in consultation with the lineal descendants for the identified burial plot on the property and shall obtain a SHPD determination and shall consult with the HIBC “prior to grading and building permit approval whichever comes first” in lieu of “construction plan approval”

Recommendation 13, amend to read:

The applicant shall develop an archaeological preservation plan for the agricultural complex (Site 18980) and obtain a SHPD determination “prior to grading and building permit approval whichever comes first” in lieu of “construction plan approval”

MOTION

Approved as amended (Yuen, Oi) unanimous.

There being no further business, Chair Case, adjourned the meeting. Recording(s) of the meeting and all written testimonies submitted at the meeting can be found on-line for review. Certain Items on the agenda were taken out of sequence to accommodate applicants or interest parties present.

Respectfully submitted,

Darlene Ferreira

Darlene S. Ferreira
Land Board Secretary

Approved for submittal:

Suzanne D. Case

Suzanne D. Case, Chairperson
Board of Land and Natural Resources
Department of Land and Natural Resources