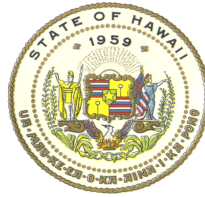


DAVID Y. IGE
GOVERNOR OF HAWAII



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: January 8, 2021
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
Ian Hirokawa-Land
Gordon Heit-Land
Emma Yuen-DOFAW
Richard Howard/DOBOR
Carty Chang-ENG

Kevin Moore-Land
Barry Cheung-Land
Luke Savins-Land
David Smith-DOFAW
Carl Young/DOBOR
Grayson Ching-ENG

OTHERS

Julie China/AG
Olivia Pham/DOT-HAR
Eric Leong/DOT-HAR
Juan Rivera/D4
Tanci Mintz/D5
Keri Mehling/D5
Bernie Bays/D6
Malia Cox/D8
Peter Stokka/J2
Rosemary Fazio/D1
Elizabeth Songvilay/D1
Andrew Tomlinson/D1
Cindy Young/L1
Jeff Pearson/L1
Cal Dorn/M7

Mike Auerbach/DOT-AIR
Jennifer Tomita/DOT-HAR
Derrick Carne/DOT-HAR
Faith Chase/D4, L1
Robert Vafaie/D5
Jon Brandt/D5
Mike Van Woerkom/J2
Peter Young/J2
Dan Morris/J2
Naomi Kuwaye/D1
Everette Kaneshige /D1
Teri Leicher/J5
Scott Meidell/L1
Charles Heakulani/M7

01.08.2021/00:00:10

Chair Case called the meeting to order and noted that due to Covid-19 pandemic, the meeting is held via Zoom. Those who requested to provide oral and written testimony have done so in advance of the meeting.

01.08.2021/00:01:16

Member Gon read the standard contested case statement.

Chair Case announced that Item D-1 will be heard after 11:00 am

01.08.2021/00:02:43

ITEM C-1 Request to Restrict Access to portions of the 'Āhihi-kina'u Natural Area Reserve, Maui, for a period of up to two years (January 9, 2021 - January 8, 2023), pursuant to Hawaii Administrative Rules § 13.209-4.5, Tax Map Keys: (2) 2-1-004:073 (portion) and (2) 2-1-004:113.

Emma Yuen, Division of Forestry and Wildlife, presented the submittal. David Smith (DOFAW) present to answer any questions.

Board Discussion

Member Yuen disclosed that Emma Yuen is his daughter and asked if there was any time frame of when NARS will reopen. Yuen replied not at this time

Is there an update on the species and conditions of the pools? Yuen replied that there are pictures but no written data and will check with Staff for any biological data.

Public Testimony-None

MOTION

Approved as submitted (Gomes, Gon) unanimous.

01.08.2021/00:09:24

ITEM C-2 Acceptance of a Hearing Master's report set aside of 1,260 acres as the Waiea Natural Area Reserve, Tax Map Key: (3) 8-6-001:003, South Kona, Hawaii.

Emma Yuen, Division of Forestry and Wildlife, presented the submittal. David Smith (DOFAW) present to answer any questions.

Board Discussion

What method will you use to remove the feral cattle? Yuen replied, they will fence the area, and create partnerships with others in the area. Smith touched on the previous use of the area.

Public Testimony-None

MOTION

Approved as submitted (Yuen, Gon) unanimous.

01.08.2021/00:23:07

ITEM D-2 Amend Prior Board Action of June 9, 2017, Item D-1, *Partial Withdrawal of 3.20 Acres From Governor's Proclamation dated June 5, 1909; Reset Aside 3.20 Acres to the County of Kauai, Department of Water for Proposed Clearwell Reservoir, Access Road, Water Pipelines, and Related Purposes; Issuance of Management and Construction Right-of-Entry at Kalaheo, Wahiawa, Koloa, Kauai, Tax Map Key: (4) 2-4-009: portion of 003.*

The purpose of this amendment is to: 1) change the Governor's Proclamation referenced from Governor's Proclamation dated June 5, 1909 to Governor's Proclamation dated December 24, 1926, and 2) change the areas withdrawn and reset aside from 3.20 acres to 2.752 acres, more or less.

Russell Tsuji, Land Division, presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Oi, Gomes) unanimous.

01.08.2021/00:24:11

ITEM D-3 Amend Prior Board Action of February 28, 2020, Item D-4, Grant of Term, *Non-Exclusive Easement to Matine A. Borges, Jeffrey D. Borges, Michelle M. Borges, Monique M. Borges, Jennifer A. Lindell, and Troy M. Lindell, as Joint Tenants, for Shoreline Revetment Encroachment Purposes; Issuance of Immediate Management Right-of-Entry Permit for Shoreline Revetment Purposes, Waipouli, Kawaihau, Kauai, Tax Map Key: (4) 4-3-009: Seaward of 049.*

Russell Tsuji, Land Division, presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Oi, Gon) unanimous.

01.08.2021/00:24:42

ITEM D-4 Rescind Prior Board Action of January 13, 2017, Item D-5, *Addition of 0.534 Acre, More or Less, of Submerged Land to the Area Encumbered by Governor's Executive Order 3006 to the County of Maui for Sewage Treatment Plant Purposes, situate at Kahului, Wailuku, Maui, Tax Map Key No. (2) 3-8-001: seaward of 188.*

Cancellation of Governor's Executive Order No. 3006 and Reset Aside to County of Maui, Department of Environmental Management for Sewage Treatment Plant Purposes, Kahului, Wailuku, Maui, Tax Map Key: (2) 3-8-001:188 and seaward of 188.

Grant of Perpetual, Non-Exclusive Easement to the County of Maui, Department of Environmental Management, for Wastewater Force Main Purposes, Kahului, Wailuku, Maui, Tax Map Key: (2) 3-8-001: portion of 119.

Russell Tsuji, Land Division, presented the submittal. Juan Rivera, County of Maui present to answer any questions.

Board Discussion-None

Public Testimony

Faith Chase testified in opposition.

MOTION

Approved as submitted (Gomes, Oi) unanimous.

01.08.2021/00:37:19

ITEM D-5 Amend Prior Board Action of October 9, 2015, Item D-6, *Grant of a 55-Year Term, Non-Exclusive Easement to the Association of Apartment Owners of (AOAO) Milowai-Maalaea for Seawall Purposes, Maalaea Beach Lots, Waikapu, Wailuku, Maui, Tax Map Key: (2) 3-8-014: Seaward 022.*

The purpose of the amendment is to shorten the term of the easement from 55 to 25 years and to note that the easement area will be larger than the 2,512 square feet referenced in the prior approval, though the exact area is subject to survey.

Issuance of Right-of-Entry Permit to the Association of Apartment Owners of Milowai-Maalaea (AOAO Milowai-Maalaea) for Installation of Temporary Sandbags Fronting Seawall and for Seawall Repair; Assess \$500 Fine Against AOAO Milowai-Maalaea Pursuant to Hawaii Administrative Rules Chapter 13-221 For Not Obtaining Right-of-Entry Prior to Performing Sandbags Placement, Maalaea Beach Lots, Waikapu, Wailuku, Maui; Tax Map Key: (2) 3-8-014: Seaward of 022

Russell Tsuji, Land Division, presented the submittal.

Board Discussion

Change from Right of Entry to a Revocable Permit allowed? Deputy AG China confirmed.

Public Testimony

Tanci Mintz, provided information regarding the repair of the wall. Robert Vafaie, Keri Mehling, Jon Brandt, in support.

Amendment:

(1) amended the title to replace Right-of-Entry with Revocable Permit;

(2) amended recommendation 1B on the term of the easement to 25 years or the expiration of the ground lease of the abutting apartment property if the applicant is not successful in acquiring the fee or obtaining an extension of the ground lease of the aforesaid abutting

apartment property; and

(3) amended recommendation 4 to replace Right-of-Entry with Revocable Permit, and delegate to Chair to determine an appropriate rental amount.

MOTION (There were (2) Motions)

Approve to amend the Agenda from Right-of-Entry to Revocable Permit (Gomes, Gon) unanimous.

Approved as amended (Gomes, Yuen) unanimous.

01.08.2021/00:59:34

ITEM D-6 Authorize the Issuance of a Request for Qualifications / Request for Proposals for Lease of Public Lands; Kamaole, Wailuku, Maui, Hawaii, Tax Map Key: (2) 3-9-004:149.

Russell Tsuji, Land Division, presented the submittal. Luke Sarvis, Land Division and Bernie Bays present to answer questions.

Board Discussion

Will there be parking stalls for the public? Tsuji said there are 51 stalls allotted.

01.08.2021/01:07:29 5-minute break due to technical difficulties.

01.08.2021/01:13:07 Back in session, continuation of Board Discussion

Bays provided information regarding the maintenance and use of parking stalls. Zoning was discussed. Chair Case disclosed that her brother and nephew worked for the law firm and has no benefit in this matter.

Public Testimony-None

MOTION

Approved as submittal (Gomes, Yuen) unanimous.

01.08.2021/01:23:21

ITEM D-7 Consent to Assign and Amend Grant of Non-Exclusive Easement No. S-5647, Claire C. Sanford, Trustee of the Wallace G. Sanford Residuary Trust under Agreement dated October 3, 1988, also known as the Wallace G. Sanford Residuary Trust under Agreement dated October 3, 1998, and Claire C. Sanford, Trustee of the Wallace G. Sanford Marital Trust under Agreement dated October 3, 1988, also known as the Wallace G. Sanford Marital Trust under Agreement dated October 3, 1998, Assignor, to James R. Macpherson, Trustee of The James R. Macpherson Revocable Living Trust dated June 13, 2008, Assignee, Waiohuli-Keokea Homesteads, Kihei, Maui, Tax Map Key: (2)3-9-012: Seaward of 001.

Amend Grant of Non-Exclusive Easement No. S-5647 to allow the easement to “Run with the Land” and to be assignable without the prior written consent from the Board of Land and Natural Resources.

Amend Grant of Non-Exclusive Easement No. S-5647, paragraph 11, to increase the minimum liability insurance to \$1,000,000 for each occurrence and \$2,000,000 aggregate.

MOTION

Approved as submitted (Gomes, Oi) unanimous

01.08.2021/01:25:56

ITEM D-8 Quitclaim of State's Interests, if Any, in a Portion of Government Land to the Department of Hawaiian Homelands, Palaua and Hoolehua, Kona, Molokai, Tax Map Key: (2) 5-2-004:046.

Russell Tsuji, Land Division, presented the submittal. Malia Cox, DHHL, present to answer any questions.

Board Discussion

Did the State get anything for the exchange with DHHL? Tsuji, said no.

Public Testimony-None

MOTION

Approved as submitted (Gomes, Gon) unanimous.

01.08.2021/01:29:29 5-minute Break

01.08.2021/01:37:33 Back in Session

ITEM J-2 Sale of Lease at Public Auction of Submerged Lands for Recreational Boat Pier Purposes Subject to Concurrent Resolution from the Hawaii State Legislature, Kaneohe Bay, Kaneohe, Koolaupoko, Oahu, Tax Map Key: (1) 4-4-022:032-A (Seaward of Parcel);

and

Declare the Project Exempt from Requirements of Chapter 343, HRS and Title 11, Chapter 200.1, Hawaii Administrative Rules.

Richard Howard, Division of Boating and Ocean Recreation presented the submittal. Carl Young, DOBOR, and Daniel Morris, Deputy AG.

Board Discussion

If the piers are owned by the Kaneohe Yacht Club, and only the submerged lands are being are up for sale by lease. Howard noted that the eligible pool of bidders is limited as they would need access from the fast lands. Case provided the history and background on the submerged lands and why DOBOR is going out to Sale of the Lease. Questions were directed at the Yacht Club regarding gross revenues. There was lengthy discussion regarding the appraisal.

Public Testimony

Mike Van Woerkom, Peter Young, and Peter Stokka support the submittal.

MOTION

Approved as submitted (Gomes, Yoon) 6-Ayes, Char-Abstain

01.08.2021/02:25:07

ITEM D-1 Terminate Use, Occupancy and Possession of Premises under Expired General Lease No. S-3795 by InSite Towers Development, LLC; Authorize the Issuance of a Direct Lease to New Cingular Wireless PCS, LLC (New Cingular) for Microwave Station and Microwave Tower Facilities Purposes and Grant of Term, Non-Exclusive Easements to New Cingular for Access and Utility Purposes, Hanapepe, Waimea, Kauai, Tax Map Keys: (4) 1-4-001:016, 017 and (4) 1-4-001:002 por.

Russell Tsuji, Land Division presented the submittal. Rosemary Fazio, representing InSite provided information on their position and allow the parties to negotiate a practical settlement. Naomi Kuwaye, Co-Council, provided a timeline on InSite's PUC application delay.

Board Discussion

Clarification that InSite is not a qualified telecommunication provider, they acquire interest in real estate. Ownership of the improvements, lease and rent were discussed at length.

Public Testimony

Elizabeth Songvilay- AT&T & Andrew Tomlinson (G5), noted their interest in being a provider. Everette Kaneshige, (DOD), noted the importance of the network.

01.08.2021/03:38:13

Member Yuen made a Motion to go into Executive Session to discuss legal issues with our Legal Counsel, Member Oi second the Motion. Unanimous. Deputy AG Wynhoff suggested to amend the motion to be read per Statue.

01.08.2021/03:39:12

Chair Case amended the original Motion made by Member Yuen to go into Executive Session to add the following procedural language:

MOTION to go into 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. Member Yuen accepted the amended Motion and Member Oi, second the amended MOTION. Unanimous.

01.08.2021/04:03:35 Back in Session

Continuation of discussion on Item D-1.

There was concerned that if the recommendation is adopted, would it affect service? It was further discussed as to minimize the disruption to service. The Staff recommendations were further vetted.

Amendment:

(1)Amended the title to add the Issuance of a Revocable Permit to New Cingular Wireless PCS, LLC ("New Cingular");

(2) Amended the Recommendation Section in the Staff submittal by Authorizing the Department to issue a Revocable Permit to New Cingular for purposes of allowing Hawaiian Telcom, Inc. to continue to provide service to its customers pending the completion of the new lease between the Department and New Cingular, and a delegation to the Chairperson to determine an appropriate rental amount for the Revocable Permit;

(3) declared that the State owns the improvements, including but not limited to the tower on the site;

01.08.2021/04:14:20

MOTION (there were (2) Motions)

Approved to amend the Agenda Title to add: The Issuance of a Revocable Permit to New Cingular Wireless PCS, LLC, (Yuen, Gon) unanimous.

01.08.2021/04:14:56

MOTION

Approve as amended (Yuen, Yoon) unanimous.

Naomi Kuyawe, representing Insite requested a contested case after the motion.

01.08.2021/04:21:50

ITEM J-3 Approve Settlement Agreement Between the State of Hawaii, Department of Land and Natural Resources, Division of Boating and Ocean Recreation, and GKM, Inc. Concerning Fuel Sales Under Harbor Lease No. H-82-4, Situated at Honokohau Small Boat Harbor, Kailua-Kona, Kealakehe, Island of Hawaii, Hawaii, Tax Map Key: (3) 7-4-008:042 (por.)

Richard Howard, Division of Boating and Ocean Recreation, presented the submitted.

Board Discussion

Ensuring adequate insurance was discussed

Public Testimony-None

MOTION

Approved as submitted (Yuen, Oi) unanimous.

01.08.2021/04:25:29

ITEM J-4 Amend Prior Board Action of September 11, 2020, Item J-4, Sale of Concession by Sealed Bid for a Five-Year Parking Contract to Operate a Parking Concession Situated at Ala Wai Small Boat Harbor Honolulu, Island of Oahu, Identified by Tax Map Keys: (1) 2-6-010:003 (Portion), (1) 2-3-037:012 (Portion), :024, :027, :033, :035 and :037.

The purpose of the amendment is to replace Chapter 102-2 with Chapter 103D-302, Hawaii Revised Statutes to the Legal Reference of the Board Action.

Richard Howard, Division of Boating and Ocean Recreation, presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gon, Gomes) unanimous.

01.08.2021/04:28:55

ITEM J-5 After-The-Fact Consent to Sublease under Harbor Lease No H-83-2, Kona Marine Holdings, LLC, Lessee, to Kona Coast Skin Diver Limited, Sublessee, Kealakehe, Kailua-Kona, Hawaii, Tax Map Key: (3) 7-4- 008:040.

Megan Statts, Division of Boating and Ocean Recreation presented the submittal.

Board Discussion-None

Public Testimony

Teri Leicher supports the submittal as is.

MOTION

Approved as submitted (Yuen, Gomes) unanimous.

01.08.2021/04:35:31

ITEM L-1 Request Authorization for the Chairperson to Enter into a Letter of Intent to Drill an Exploratory Well, Acquisition of Land and Future Well Development and Negotiate and Execute a Right-of-Entry for Job No. J10CMIIA, Upcountry Maui Exploratory Well, Tax Map Key: (2)-2-007:037, Makawao, Maui, Hawaii.

Carty Chang, Engineering Division, presented the submittal, clarified that they did not attach a copy of the draft Letter of Intent. Grayson Ching, Linda Chow, Cindy Young, Scott Meidell, Jeff Pearson, present to answer any questions.

Board Discussion-None

Public Testimony

Jeff Pearson, County of Maui, provided information on the project.

Faith Chase expressed her concern that the submittal was too fatigue and asked the Board to defer.

MOTION

Approved as submitted (Gomes, Yoon) unanimous.

01.08.2021/04:52:48

ITEM M-1 Issuance of a Revocable Permit for Two Aircraft Parking, George's Aviation Services, Inc., Daniel K. Inouye International Airport, Tax Max Key: (1) 1-1-76: Portion of 23.

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

ITEM M-3 Issuance of a Revocable Permit for Aircraft Parking, Paul Leonard, Kalaeloa Airport, Tax Map Key: (1) 9-1-13: Portion of 32.

ITEM M-4 Issuance of a Revocable Permit for Storage Space for Cleaning Supplies, Tunista Logistics Solutions, LLC, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-03: 042 (Portion).

ITEM M-5 Issuance of a Revocable Permit for a Passenger Check-In Counter, ZIPAIR Tokyo, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 058 (Portion).

ITEM M-6 Issuance of a Revocable Permit for Screening Operations for Safe Travels Hawaii and Covid-19 Testing-Coronavirus Response, County of Hawaii, Civil Defense Agency, Ellison Onizuka Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-43: Portion of 03.

Mike Auerbach and Dawn Tsue, DOT- Airports, present to answer questions for Items M-1, M-2, M-3, M-4, M-5, and M-6,

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted Items M-1, M-2, M-3, M-4, M-5, and M-6 (Gomes, Gon) unanimous.

01.08.2021/04:55:33

ITEM M-7 Issuance of a Revocable Permit for Ticket Counter and Office Space, K & S Helicopters, Inc. dba Paradise Helicopters, Waimea-Kohala Airport, Tax Map Key: (3) 6-7-001: Portion of 08.

Mike Auerbach and Dawn Tsue, DOT- Airports, present to answer questions.

Board Discussion

There was discussion regarding helicopters flying over land or offshore or direct, elevation requirements and other details that were not related to the submittal.

Public Testimony

Cal Dorn, K & S Helicopters noted that they are just moving their office and enlarging their counter space.

MOTION

Approved as submitted (Yuen, Gomes) unanimous.

01.08.2021(2)/05:07:40

ITEM M-8 Issuance of Month-to-Month Revocable Permit to Clint M. Kagami, LLC, for Storage of Maritime Oil Spill Clean-up Equipment and Booming Operations Equipment, Portion of

Warehouse 6, adjacent to Pier 21, Honolulu Harbor, Oahu, Tax Map Key No: (1) 1-5-039; 026 (Portion), Governor's Executive Order No. 2903.

ITEM M-9 Issuance of Month-to-Month Revocable Permit to Ty Pryne for Vessel Storage and Repair, Portion of Warehouse 6, Adjacent to Pier 21, Honolulu Harbor, Oahu, Tax Map Key No: (1) 1-5-039:026 (Portion), Governor's Executive Order No. 2903.

Jennifer Tomita, DOT Harbors, present to answer questions for Items M-8 & M-9.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted Items M-8 and M-9 (Oi, Gomes) unanimous.

01.08.2021/05:08:40

ITEM M-10 Issuance of a Right-of Entry Agreement to Royal Contracting Co., LTD, at Kalaeloa Barbers Point Harbor, Oahu, Tax Map Key No: (1) 9-1-014:024 (Portion).

ITEM M-11 Issuance of Twenty-Eight (28) Month-to-Month Revocable Permits to Young Brothers, LLC, for Various Areas to support their Inter-Island Barge Operations at Kahului Harbor, situated at Piers 2 and 3 Kahului Harbor, Maui, Tax Map Key Nos: (2) 3-7-008:002 (Portion), (2) 3-7-08:003 (Portion), (2) 3-7-010:002 (Portion), (2) 3-7-010:003 (Portion), (2) 3-7-010:999 (Portion), (2) 3-7-008:001 (Portion) and (2) 3-7-010:001 (Portion), Governor's Executive Order Nos. 2635, 3318, HWY 2372, Memo dated 9/15/2017, Transfer to DOT Harbors, and Pending Set-aside by Governor's Executive Order.

Jennifer Tomita, DOT-Harbors, present to answer any questions.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gomes, Gon) unanimous.

01.08.2021/05:09:10

ITEM M- 12 Issuance of Month-to-Month Revocable Permit to Pacific Marine & Supply Company, Ltd., for Office Space and Parking, Honolulu Harbor, Oahu, Tax Map Key No: (1) 1-5-038:001 (Portion), Governor's Executive Order No. 2903.

Derrick Carne, DOT-Harbors, present to answer any questions.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted Gomes, Gon) unanimous

There being no further business, Chair Case, adjourned the meeting. Recording(s) of the meeting and written testimonies received by the requested deadline can be found on-line with the submittal and available 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