

DAVID Y. IGE
GOVERNOR OF HAWAII



APPROVED AS SUBMITTED
AT THE BOARD MEETING
HELD ON
APRIL 9, 2021

dar

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

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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

AGENDA
FOR THE MEETING OF THE
BOARD OF LAND AND NATURAL RESOURCES

DATE: February 26, 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 (10:00 am)

STAFF

Russell Tsuji-Land Division
Candance Martin-Land Division
David Smith-DOFAW
Mike Millay-DOFAW
Torrie Nohara-DOFAW
Chris Teague-DOFAW
Ed Underwood-DOBOR
Finn McCall-DOBOR

Kevin Moore-Land Division
Brian Neilson-DAR
Koa Matsuoka-DOFAW
Jackson Bauer-DOFAW
David Sakoda-DAR
Nikki Smith-DAR
Megan Statts-DOBOR
Carl Young/DOBOR

OTHERS

Bill Wynhoff/AG
Matt Stelmach/C1
Onaona Thoene/C1
Tim Irons/D2
Leimana Damate/E2
Inga Gibson/F1,F2
Greggor Ilagan/J1
Ikaika Marzo/J1
Philip Ong/J1
Gordon Leslie/E2

Mike Auerbach/DOT Air
Alicia Oller/C1
Adam Young/C1
Avery Matro/D2
Shawna-Lei Kuehu/E2
Kim Koch/F1,F2
Leila Kealoha/J1
Dan Dupont/j1
Bob Masuda/J1

ITEM A-1

02.26.2021/00:05:50

Chair Case called the meeting to order and noted that due to Covid-19 pandemic, the meeting is being held via Zoom and live-streamed on YouTube. Those who requested to provide oral and written testimony have done so in advance of the meeting. Noted that Items will be taken out of order.

02.26.2021/00:06:52

Member Gon read the standard contested case statement.

02.26.2021/00:07:52

ITEM M-1 Issuance of a Revocable Permit for Aircraft Parking, Kupau Inc. dba Kupau Tours Inc., Ellison Onizuka Kona International Airport, Tax Max Key: (3) 7-3-43:003 (Portion).

ITEM M-2 Issuance of a Revocable Permit for a T-Hangar for storage and maintenance of Aircraft, Wailea Aircraft, L.L.C., Ellison Onizuka Kona International Airport, Tax Max Key: (3) 7-3-43: Portion of 03.

Board Discussion

How many new T-Hangers do you have there? Auerbach replied 21. They are tearing down the old ones to make room for a new Federal Inspection Building.

ITEM M-3 Issuance of a Revocable Permit for a T-Hangar for storage and maintenance of Aircraft, Jim Barrett Photography, Inc., Kalaeloa Airport, Tax Max Key: (1) 9-1-13: Portion of 32.

Mike Auerbach, DOT Airports and Abby Lareau, DOT Airports present to answer questions for Items M-1, M-2 and M-3.

Public Testimony-None

MOTION

Approved as submitted Items M-1, M-2 and M-3 (Gomes, Gon) 6-Ayes (Member Char Absent)

02.26.2021/00:09:49

ITEM J-1 Board Briefing on Pohoiki Boat Ramp Puna District, Island of Hawaii, Hawaii.

This is a Non-Decision-Making Item

Finn McCall, Division of Boating and Ocean Recreation provided a PowerPoint presentation on Pohoiki Boat Ramp.

Board Discussion

There were many different aspects of rebuilding the Boat Ramp that were discussed

Public Testimony

Greggor Ilagan, Leila Kealoha, Ikaika Marzo, Dane Dupont, Philip Ong, and Bob Masuda, provide testimony in support of reopening the ramp.

02.26.2021/01:20:21 Break

02.26.2021/01:29:51

ITEM J-2 Sale of Lease at Public Auction for Commercial Marine Storage and Light Industrial Purposes, Kalihi-Kai, Honolulu, O‘ahu, Hawai‘i Tax Map Keys: (1) 1-2-023:053, :057, , :054, :037 & :059; and

and
Declare that after considering the potential effects of the proposed project as provided by Chapter 343, HRS, and Chapter 11-200.1, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an Environmental Assessment

Carl Young, Division of Boating and Ocean Recreation, presented the submittal with a correction to page 2, under Method of Payment, the last sentence should read *“Subletting shall be with the Board’s approval, if no percentage gross receipts, then the Lessee shall pay an additional percentage of gross sublease rent”*

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gon, Gomes) unanimous.

02.26.2021/01:34:24

ITEM C-1 Request for Approval of amendments to the Incidental Take License and Habitat Conservation Plan to increase take allowance for Hawaiian Hoary Bat and add Hawaiian Petrel for the Kawaiiloa Wind Energy Project, Applicant Kawaiiloa Wind, LLC, in the Waialua District, Island of O‘ahu, Hawai‘i, Tax Map Keys: (1) 6-1-006:001, (1) 6-1-007:001, (1) 6-2-011:001. Approved as amended

David Smith, Division of Forestry and Wildlife presented the submittal. Koa Matsuoka (DOFAW), Matt Stelmach, Alicia Oller, Onaona Thoene, Adam Young, present for the Applicant.

Board Discussion

Location for review by the public of the HCP amendment and Supplemental EIS were clarified and DOFAW will be working on making their website more user friendly. The deterrents that are on the turbines were discussed as to effectiveness.

Public Testimony

Onaona Thoene, representing the Applicant, provided information on the project and an update. Adam Young gave a presentation for the Applicant.

Amendment:

*The Final SEIS was already approved by the BLNR at its September 27, 2019 meeting.
Approve the proposed amendments to the Conservation Plan that are presented in the submittal and the Incidental Take License.*

MOTION

Approved as amended (Gon, Char) unanimous.

02.26.2021/01:34:24 (Member Char has joined the meeting)

ITEM C-2 Request to designate the following Nā ala Hele trails as Commercial Trails:

- 1.) 'Ōhai Loop Trail, Maui Island, Wailuku District, Tax Map Key: (2) 3-1-003-006;
- 2.) Plum Trail, Maui Island, Makawao District, Tax Map Keys: (2) 2-2-007-001 & (2) 2-007-003;
- 3.) Waiakoa Loop Trail Maui Island, Makawao District, Tax Map Keys: (2) 2-2-007-001 & (2) 2-2-007-002;
- 4.) Pu'u Wa'awa'a Cone Trail, Hawai'i Island N. Kona (Pu'uwa'awa'a Forest Reserve) Tax Map Key: (3) 7-1-001:004;
- 5.) 'Ōhi'a Trail, Hawai'i Island (Pu'uwa'awa'a Forest Reserve), Tax Map Key: (3) 7-1-001:006;
6. Palila Forest Discovery Trail, Hawai'i Island (Ka'ōhe Game Management Area) Tax Map Key: (3) 4-4-015:004.

David Smith, Division of Forestry and Wildlife, presented the submittal. Jackson Bauer, Mike Millay, Torrie Nohara (DOFAW) present to answer questions.

Board Discussion

What is the extent of the commercial activity? Millay relayed there is a capacity limit to the identified trails. Bauer clarified that these trails are for pedestrian use only. There are different trails for bikers, ATV or other types of motorized bikes.

Public Testimony-None

MOTION

Approved as submitted (Gon, Gomes) unanimous.

02.26.2021/02:04:06

ITEM D-1 Amend Prior Board Action of October 23, 2020, Item D-2, *Amend Prior Board Action of August 23, 2020, Item D-2, Authorization of Sale of Lease at Public Auction for Business and/or Commercial Purposes, Hanapēpē Town Lots, Waimea, Kaua'i, Tax Map Key: (4) 1-9-005:007.*

The purpose of the prior amendment was to clarify that the minimum upset annual rent for the lease should be based on land and improvements.

The purpose of the current amendment is to correct an error in the reference to the date of a prior Board action. The reference should have been August 23, 2019, Item D-2, instead of August 23, 2020, Item D-2.

Russell Tsuji, Land Division presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Oi, Gomes) unanimous.

02.26.2021/02:05:30

ITEM D-3 Rescind Prior Board Action of August 26, 2011, Item D-8, as amended by Board Action of February 14, 2014, Item D-9, Regarding the Grant of Perpetual, Non-Exclusive Easement to Honolulu Seawater Air Conditioning, LLC for Seawater Air Conditioning Waterlines Purposes on State Submerged Lands off Kaka'ako, Honolulu, O'ahu, Tax Map Key: (1) 2-1-060:Seaward of 008; and

Rescind Prior Board Action of December 9, 2011, Item D-16, Issuance of Revocable Permit to Honolulu Seawater Air Conditioning, LLC, Sand Island, Honolulu, O'ahu, Tax Map Key: (1) 1-5-041: Seaward of 006.

Russell Tsuji, Land Division presented the submittal.

Board Discussion

Is there anyone else interested in doing this kind of project? Tsuji, no.

Public Testimony-None

MOTION

Approved as submitted (Oi, Gomes) unanimous.

02.26.2021/02:07:06

ITEM D-2 Consent to Sublease of Term Non-Exclusive Easement No. S-5913, KW Kona Investors, LLC, Lessee, to Charter Boat Holdings, Inc., Sublessee, Kahuwai Bay, Ka'ūpūlehu, North Kona, Hawaii, Seaward of Tax Map Key: (3) 7-2-010:010.

Russell Tsuji, Land Division presented the submittal. Candace Martin, Tim Irons, Avery Matro (Applicant)

Board Discussion

There was no one available to provide an update on the resort. Tim Irons noted that Charter Boat Holdings, Inc. is a subsidiary of Hualailai Investment.

Public Testimony-None

MOTION

Approved as submitted (Yuen, Yoon) unanimous.

02.26.2021/02:11:15

ITEM E-2 Request for Issuance of a Revocable Permit to Hanalike Ohana, LLC dba Moana Ocean Adventures to Moor a Double Hulled canoe and use Napo'opo'o Landing for Embarking and Disembarking of Patrons for Commercial Tours at Kealakekua Bay State Historical Park (KBSHP), South Kona, Hawai'i Island, Tax Map Keys: (3) 8-2-004:015, Seaward of 8-1-010 and 011; 8-2-002, 004, 005, and 006; and

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

Curt Cottrell, State Parks, presented the submitted and made corrections to the submittal regarding Chapter 343.

Board Discussion

Regarding proposed rate on lineal foot on the double hulled canoe, is it double? Cottrell confirmed that the rate is based on one length.

Public Testimony

Shawna-lei Kuehu, Gordon Leslie, Leimana DaMate (Stands by her Written Testimony) in support.

Amendment:

Chapter 343, HRS and Title 11, Chapter 200.1, Hawaii Administrative Rules. Made a correction to Page 2, to Chapter 343, HRS Environmental Assessment paragraph, it should read "Part 1 Item 44, State permits, license, registration, rights of entry issued by the Department routinely in nature involving negligible or no expansion or change of use beyond that was previously existing. Change the date of the Exempt List to November 20, 2020.

MOTION

Approved as amended (Gon, Yoon) unanimous.

02.26.2021/02:22:06 10-Minute Break

02.26.2021/02:33:07

ITEM F-1 Enforcement Action against Stephen Howard and Yukako Toriyama for Unlawful Collection of Aquatic Life for Aquarium Purposes within the West Hawai'i Regional Fishery Management Area, Island of Hawai'i.

Chair Case noted that the alleged violators have not signed up to participate and were not present. have not requested a contested case hearing. DAR summarized their attempts to notify the alleged violators.

Brian Neilson and David Sakoda, Division of Aquatic Resources presented the submittal. Chris Teague, and Nikki Smith (DAR) present to answer questions.

Board Discussion

The Board wanted to confirm that all available resources to contact the alleged violators regarding the violators that this was coming before the Board. Sakoda confirmed. Fines, consequences and the extent of violation was discussed in detail.

Public Testimony

Inga Gibson and Kim Koch provided testimony in support of the submittal.

02.26.2021/02:59:22

Member Yuen made the MOTION to into Executive Session, Chair Case read the standard statement and Member Gon seconded the MOTION, the vote was unanimous.

02.26.2021/03:18:00 Back in Session

Continuation of Board Discussion. Member Yuen made a motion to levy the maximum possible fine: \$235,000 for the 235 fish taken, and \$28,000 for the other violations for Howard, and \$9,000 for the other violations for Toriyama. Yuen noted that \$235,000 of each of the fines was attributed jointly and severally to Howard and Toriyama, meaning that that amount can be collected from either of them, but only up to the total of \$235,000.

Amendment:

Adopt Staff recommendation and increase the fine to \$263,000.00 for Howard. Increase fine to \$244,000 for Toriyama.

MOTION

Approved as amended (Yuen, Gomes) unanimous.

02.26.2021/03:32:15 5-minute Break

02.26.2021/03:32:15

ITEM F-2 Enforcement Action against Jason Beevers for Unlawful Collection of Aquatic Life for Aquarium Purposes within the West Hawaii Regional Fishery Management Area, Island of Hawai'i.

Chair Case conveyed that a written request for a Contested Case has been received and there will no further discussion on this item.

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

Submitted for Approval,

Suzanne D. Case

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