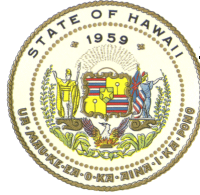


DAVID Y. IGE
GOVERNOR OF HAWAII



**APPROVED AT ITS
MEETING HELD ON
SEPTEMBER 10, 2021**

dan

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

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

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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

DATE: JULY 9, 2021, 9:00 A.M.
LOCATION: Online via ZOOM, Livestream via YouTube

MEMBERS

Suzanne Case
Sam Gon
Chris Yuen
Kaiwi Yoon

Tommy Oi
Vernon Char
Doreen Canto

STAFF

Russell Tsuji-Land
Carty Chang-ENG
Dina Lau-ENG
Emma Yuen-DOFAW
Curt Cottrell-PARKS
Shelby Habel-OCCL
Ed Underwood-DOBOR
Sang Kim-PARKS

Kevin Moore-Land
Alyson Yim-ENG
David Smith-DOFAW
Sam Lemmo-OCCL
Trevor Fitzpatrick-OCCL
Megan Statts-DOBOR
Alan Carpenter-PARKS
Korine Gowin-PARKS

OTHERS

Colin Lau/AG
Abby Lareau/DOT AIR
Eric Leong/DOT HAR
Jennifer Tomita/DOT HAR
Derrick Carne/DOT HAR
Leni Knight/K1
Dolan Eversole/K2
Makaala Kaaumoana/K2
Tiare Lawrence/K2
Tamara Paltin/K2
Jeremy Dellaseras/K2

Peter Locateli/D3
Robyn Tanaka/D4
Wendy Oda/D-4
Kalani Morse/D5
D.G, Anderson/K1
Peter Young/K1
Elena Bryant/K2
Caren Diamond/K2
Kai Nishiki/K2
Francine Aarona/K2

07.09.2021/00:00:14

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 and members of the public may watch the meeting live streaming on YouTube.

07.09.2021/00:01:30

Member Canto read the standard contested case statement

07.09.2021/00:02:50

ITEM A-1 Approval of the April 23, 2021, Meeting Minutes.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gon, Yoon) 6-Ayes (Canto did not vote)

07.09.2021/00:00:03:44

ITEM M-1 Issuance of a Revocable Permit for Truck Parking and Equipment and Container Storage for Moving and Transportation Services, Royal Hawaiian Movers, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-004: Portions of 103 and 114.

ITEM M-2 Issuance of a Revocable Permit for Vehicle Parking, TM Designers, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: Portion of 066.

ITEM M-3 Issuance of a Revocable Permit for Office Space for the Purpose of Providing 24-Hour Security Services, Universal Protection Service, LP dba Allied Universal Security Services, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: Portion of 055.

ITEM M-4 Issuance of a Revocable Permit for Office Spaces and Employee Breakrooms for the Purpose of Providing 24-Hour Security Services, Universal Protection Service, LP dba Allied Universal Security Services, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: Portion of 055.

ITEM M-5 Issuance of a Revocable Permit for Office Spaces in the Terminal to Perform Security Services Operations, Universal Protection Service, LP dba Allied Universal Security Services, Kahului Airport, Tax Map Key: (2) 3-8-001: Portion of 019 and (2) 3-8-001: Portion of 246.

ITEM M-6 Issuance of a Revocable Permit for Office Space in the Terminal to Perform Security Services Operations, Universal Protection Service, LP dba Allied Universal Security Services, Molokai Airport, Tax Map Key: (2) 5-2-004: Portion of 106.

ITEM M-7 Issuance of a Revocable Permit for Office Space in the Terminal to Perform Security Services Operations, Universal Protection Service, LP dba Allied Universal Security Services, Lana'i Airport, Tax Map Key: (2) 4-9-002: Portion of 059.

ITEM M-8 Issuance of a Revocable Permit for Land to Place a Trailer to be Used as a Field Office, Oxford Electronics, Inc., Līhu'e Airport, Tax Map Key: (4) 3-5-001: Portion of 008.

ITEM M-9 Issuance of a Revocable Permit for Office Spaces in the Terminal to Perform Security Services Operations, Universal Protection Service, LP dba Allied Universal Security Services, Līhuʻe Airport, Tax Map Key: (4) 3-5-001: Portion of 135.

Abby Lareau, DOT Airports present to answer questions Items M-1 through M-9.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted Items M-1, M-2, M-3, M-4, M-5, M-6, M-7, M-8 and M-9, (Canto, Gon) unanimous.

07.09.2021/00:04:44

ITEM M-10 Issuance of a Construction Right-of-Entry, Grant of Easement (Perpetual, Non-Exclusive), to Hawaiian Electric Company, Inc., for the Installation of Underground Utility Lines and Related Facilities needed to service the Sand Island Container Facility, Honolulu Harbor, Island of Oʻahu, Tax Map Key: (1) 1-5-041: Portion of 200, Governor’s Executive Order No. 2931.

Derrick Carne, DOT Harbors present to answer any question.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gon, Yoon) unanimous.

07.09.2021/00:05:30

ITEM M-11 Issuance of a Month-to-Month Revocable Permit to Frank V. Coluccio Construction Company Inc., for a Construction Staging Area for Equipment and Materials, situated at the Keehi Industrial Lots, Honolulu Harbor, Island of Oʻahu, Tax Map Keys: (1) 1-2-023: Portions of 046, 047, 048, 049, 066, and 073, Governor’s Executive Order No. 3708.

Submitted by Eric Leong, DOT Harbors.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Oi, Char) unanimous.

07.09.2021/00:06:12

ITEM M-12 Issuance of Three (3) Month-to-Month Revocable Permits to Marine Spill Response Corporation, for Vessel Storage and Storage of Emergency Oil Spill Response Equipment, situated at Kaunakakai Harbor, Island of Molokai, Tax Map Keys: (2) 5-3-001: Portion of 066 and (2) 5-3-001: Portion of 011, Governor's Executive Order No. 1673.

ITEM M-13 Issuance of Two (2) Month-to-Month Revocable Permits to PAR Hawai'i Refining, LLC, for a Non-Exclusive Subsurface Easement for two Subsurface Fuel Pipelines for the Distribution of Petroleum Products and a Fuel Tank Facility, situated at Kaunakakai Harbor, Island of Molokai, Tax Map Keys: (2) 5-3-001: Portion of 066 and (2) 5-3-001: Portion of 011, Governor's Executive Order No. 1673.

Jennifer Tomita, DOT Harbors present to answer questions for Items M-12 and M-13.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted Items M-12 and M-13 (Canto, Gon) unanimous.

07.09.2021/00:07:00

ITEM C-1 Request Approval for Selection of the Competitive Sealed Proposal Process pursuant to Hawaii Administrative Rules Chapter 3-122 and to Authorize the Chairperson to Award, Execute, and Extend Contracts for the Implementation of the Department of Land and Natural Resources Green Job Youth Corps Program and Appoint Evaluation Committee Alternates Should the Need Arise,

Emma Yuen, Division of Forestry and Wildlife presented the submittal. David Smith available to answer questions

Board Discussion

Member Yuen recused himself. Chair Case noted that confirmation from Budget and Finance that the funding as appropriated by the Legislature meets the requirements of the federal emergency funding.

Public Testimony-None

MOTION

Approved as submitted (Gon, Canto) 6- Ayes, Recused (Yuen)

07.09.2021/00:11:25

ITEM D-1 Issuance of Revocable Permit to Donald Lee Dale and Cheryl Ann Dale, Trustees of the Donald Lee Dale, and Cheryl Ann Dale Revocable Living Trust for an Emergency Temporary Shoreline Protection Structure on Unencumbered State Land; Issuance of Immediate Construction and Maintenance Right-of-Entry Permit to Donald Lee Dale and Cheryl Ann Dale, Trustees of the Donald Lee Dale, and Cheryl Ann Dale Revocable Living Trust; Kapa'a, Kawaihau, Kaua'i, Tax Map Key: (4) 4-3-009:seaward of 028.

Russell Tsuji, Land Division presented the submittal.

Board Discussion

When was the home built? It looks to be before the Shoreline set-back rules came into play. Tsuji could not say.

Public Testimony-None

MOTION

Approved as submitted (Oi, Yoon) unanimous.

07.09.2021/00:13:44

ITEM D-2 Amend Prior Board Action of November 8, 2019, Agenda Item D-8, *Amend General Lease No. S-5971, Makua Lani Christian Academy, Lessee, to Provide that the Annual Rental shall be Reopened and Redetermined Based on the Board's Then Prevailing Minimum Rent Policy for Eleemosynary Organizations, 'Ili of Papa 'akoko, Honokōhau 2nd, North Kona, Hawai'i, Tax Map Key: (3) 7-4-006:001.*

Consent to Assign General Lease No. S-5971, from Makua Lani Christian Academy to Kona Vocational and Life Education Center, Papa 'akoko, Honokōhau 2nd, North Kona, Hawai'i, Tax Map Key: (3) 7-4-006:001.

The purpose of this amendment is to change the language of lease paragraph 49 regarding licensure requirements applicable to lessee to enable Kona Vocational and Life Education Center (KVLEC) to qualify as a lessee under the lease so that staff may complete the assignment of lease to KVLEC.

Russell Tsuji, Land Division presented the submittal.

Board Discussion

Clarification was requested regarding the language of lease. Tsuji responded on page 2 of the submittal is where the language was amended to the lease and that they maintain their 501(c) status. To clarify that the direct lease serves a public purpose.

Public Testimony-None

MOTION

Approved as submitted (Yuen, Canto) unanimous.

07.09.2021/00:17:25

ITEM D-3 Grant of Term, Non-Exclusive Easement for Access Purposes to the Peter Joseph Locatelli and Linda Jasmine Locatelli, Pahoehoe 2nd, South Kona, Hawai'i, Tax Map Key: (3) 8-7-007: Portion of 019.

Russell Tsuji, Land Division presented the submittal. Applicant Peter Locatelli present to answer questions.

Board Discussion

There was a question regarding the issuing the easement over the public trail for vehicular use. Locatelli explained the circumstances and that the trail is now under lava and wants to create a gravel access to his lot.

Public Testimony-None

MOTION

Approved as submitted (Yuen, Gon) unanimous.

07.09.2021/00:20:30

ITEM D-4 Grant of Perpetual, Non-Exclusive Easement to Hawai'ian Electric Company, Inc. for Overhead Electrical Transmission Lines Purposes; Issuance of Construction Right-of-Entry Permit, Honolulu, O'ahu, Tax Map Key: (1) 1-8-020: Portion of 030.

Russell Tsuji, Land Division presented the submittal. Robyn (Kono) Tanaka, Wendy Oda (HECO) available to answer questions.

Board Discussion-None

Public Testimony

Tanaka conveyed that the lines will be overhead.

MOTION

Approved as submitted (Gon, Char) unanimous.

07.09.2021/00:22:56

ITEM D-5 After-the-Fact Consent to Assignment of Grant of Non-Exclusive Easement No. S-5343 for Revetment Purposes from MARTIN A YESTER, aka Martin A. Yester to MARTIN A YESTER, TRUSTEE of the Martin A. Yester Revocable Living Trust under that certain unrecorded Trust Agreement dated April 23, 1992, as amended and restated; After-the-Fact Consent to Assignment of Partial Interest in Grant of Non-Exclusive Easement No. S-5343 for Revetment Purposes from MARTIN A YESTER, TRUSTEE of the Martin A. Yester Revocable Living Trust under that certain unrecorded Trust Agreement dated April 23, 1992, as amended and restated, to Craig Yester and David Yester, as to an undivided 0.62% interest; Pūpūkea, Ko'olauloa, O'ahu, Tax Map Key: (1) 5-9-001: Portion of 038.

Amendment of Grant of Non-Exclusive Easement No. S-5343 for Revetment Purposes, CRAIG YESTER, SUCCESSOR TRUSTEE, of the Martin A. Yester Revocable Living Trust under that certain unrecorded Trust Agreement dated April 23, 1992, as amended and restated; Pūpūkea, Ko'olauloa, O'ahu, Tax Map Key: (1) 5-9-001: Portion of 038.

The purposes of the amendment are to increase the easement area by an additional 48 square feet from 5,141 to 5,189 square feet and to allow the easement to "run with land", subject to the limited term of the easement, so that Board consent will not be required for future assignments of the easement.

Russell Tsuji, Land Division presented the submittal. Kalani Morse representing the Applicant present to answer any questions.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Yoon, Oi) unanimous.

07.09.2021/00:25:54

ITEM E-1 Authorize Rent Adjustment of Revocable Permit No. SP0545, Diamond Parking Services, LLC, Permittee at 'Akaka Falls State Park, Kahua, South Hilo, Hawai'i, Tax Map Keys: (3) 2-8-011: Portion of 018.

ITEM E-3 Authorize Rent Adjustment of Revocable Permit No. SP0544 to Diamond Parking Services, LLC, Permittee, at Nu'uuanu Pali State Wayside, Nu'uuanu, Honolulu, O'ahu, Hawai'i, Tax Map Key: (1) 1-9-007: Portion of 002.

ITEM E-4 Authorize Rent Adjustment of Revocable Permit No. SP0467, Diamond Parking Services, LLC, Permittee, at Mākena State Park, Portions of Maluaka, Mo'oiki, Mo'oloa, Mo'ouku, Nā'ū, Honua'ula, Makawao, Maui, Hawai'i, Tax Map Key: (2) 2-1-006:030 (portion).

Curt Cottrell, State Parks, presented Items E-1, E-3, and E-4 .Alan Carpenter, Sang Kim, Korine Gowin

Board Discussion

What is the projected revenue? There was a discussion regarding how these RP's will be operating and how revenue and net operating costs were determined.

Public Testimony-None

MOTION

Approved as submitted Items E-1, E-3 and E-4 (Gon, Yoon) unanimous.

07.09.2021/00:39:22

ITEM J-1 Request approval to initiate rulemaking proceedings, including public hearings, to amend Hawai'i Administrative Rules (HAR) Title 13, Chapter 256, Ocean Recreation Management Rules and Areas, Subchapter 11, West Hawai'i Island Ocean Recreation Management Area, Section 13-256-152, Kahaluu Bay ocean waters, to clarify commercial activity provisions, and compilation of HAR Chapter 13-256, making technical, non-substantive, and conforming amendments.

The proposed rule amendment can be reviewed in person at the Division of Boating and Ocean Recreation (DOBOR) District Offices, including the Hawai'i District Office from 8:00 am to 3:30 pm, Monday through Friday, except state holidays: Honokōhau Small Boat Harbor, 74-380 Kealakehe Parkway, Kailua-Kona, HI 96740.

The proposed rules, including a statement on the topic of the proposed rule amendment, can be reviewed online at:

<https://ltgov.Hawaii.gov/the-office/administrative-rules/proposed-changes/>

The proposed rules can also be viewed online at: <https://dlnr.Hawaii.gov/dobor/draft-rules>

Location and contact information for DOBOR offices is available online at:

<https://dlnr.Hawaii.gov/dobor/contact>

Megan Statts, Division of Boating and Ocean Recreation presented the submittal. Ed Underwood (DOBOR) present to answer questions.

Board Discussion

How will the applicants be chosen? Statts replied, we will use a lottery system and a waitlist will be created. Permit will be transferable if a business sells their business. Noted that they will be working with the County for access and enforcement.

Public Testimony-None

MOTION

Approved as submitted (Yuen, Yoon) 5-Ayes 2-Oppose (Oi, Canto)

07.09.2021/00:54:52 Break

07.09.2021/01:03:06

ITEM L-1 Delegation of Authority to the Chairperson to: (1) Procure, Award and Enter Into Professional Service Consultant Contracts for Capital Improvement Program Projects Appropriated by the Legislature as Listed in Exhibit 1 or Program Operating Funds; (2) Declare a Construction Project Exempt from the Preparation of an Environmental Assessment or Approve an Environmental Assessment and Issue a Finding of No Significant Impact, if Appropriate; and (3) Approve, Procure and Enter Construction Contracts for Capital Improvement Program Projects Appropriated by the Legislature as **Listed in Exhibit 1** or Program Operating Funds.

Member Gon disclosed that among some of these capital improvement watershed management partnership projects the Nature Conservatory is a part of, and he does not benefit from any of the funding.

Carty Chang, Engineering presented the submittal. Dina Lau and Alyson Yim (ENG) available to answer questions.

Board Discussion

Can we get a copy of the "Good Faith Report" for Ka Wai Eha? Chair Case said they can send whatever is available now to Canto. What happens if projects lapse? It goes back to the general fund, and they would have to reapply for funds. Puna Boat ramps scope of work was also discussed.

Public Testimony-None

Amendment:

Approve funding for the Puna Boat ramps for planning and design and do not approve construction which will come back to the Board.

MOTION

Approved as amended (Yuen, Gon) unanimous.

07.09.2021/01:29:33

ITEM K-1 Conservation District Enforcement Case OA 21-54 Regarding Noncompliance with the Board of Land and Natural Resources Findings in Conservation District Enforcement OA 05-50 by Dominis G. Anderson Trustee of the Dominis G. Anderson 2009 Trust and Leni A. Knight Located at 3552 Pakui Street, Pālolo Hillside Lots, Palolo Valley, O‘ahu Tax Map Key: (1) 3-3-034:001.

Sam Lemmo, Office of Conservation and Coastal Lands presented the submittal. Trevor Fitzpatrick (OCCL), Leni Knight, D.G. Anderson, and Peter Young are also present.

Board Discussion

A lengthy discussion included the history and solutions to ensure the safety of the downhill residents and minimizing the long-term footprint of the structure in the conservation area.

Public Testimony

Leni Knight and D.G. Anderson engaged in the discussion and the solutions to move forward in correcting the non-compliance structure.

Amendment:

- 1) *The current or any future landowner shall retain licensed Geotechnical and Civil Engineers to assess the safety of the unauthorized structure and its potential removal or dismantling;*
- 2) *The Geotechnical and Civil Engineers' report shall focus on 1) ensuring the safety of all downhill residents with respect to the unauthorized structure's existence and/or potential removal/dismantling, and 2) the removal of the unauthorized structure or the minimization of its footprint and visibility;*
- 3) *The current or any future landowner shall submit the Geotechnical and Civil Engineers' reports to the Department within one hundred eighty (180) days of this Board Action;*
- 4) *The current or any future landowner shall complete all work as recommended by the Geotechnical and Civil Engineers' reports within one hundred eighty (180) days after the Department's review and approval of the reports and recommended work;*
- 5) *The current or any future landowner shall remove the unauthorized structure to the extent consistent with the Geotechnical and Civil Engineers' reports;*
- 6) *The current or any future landowner shall implement slope stabilization measures as well as mitigate any potential rockfall hazards created by the unauthorized structure in accordance with the Geotechnical and Civil Engineers' reports;*
- 7) *The current or any future landowner shall be prohibited from utilizing the unauthorized structure;*
- 8) *That the terms and conditions of the BLNR's decision in ENF: OA 21-54 are recorded in recordable form with the deed instrument;*

- 9) *In the event that there is a disagreement between the current or any future landowner and the Department regarding the BLNR's directions or recommended work in ENF: OA 21-54, the matter shall be brought back before the BLNR for final resolution;*
- 10) *The existing violations ENF: OA 05-50 and OA 21-54 shall be considered resolved following the Department's satisfaction with the current or any future landowner's completion of the Geotechnical and Civil Engineer's recommended work contained in their reports;*
- 11) *That in the event of failure of the current or any future landowner to comply with any order herein, the landowner shall be fined \$15,000.00 per day until the order is complied with;*
- 12) *That all directions apply to Dominis G Anderson 2009 Trust, Dominis G Anderson Trustee, and Leni A Knight individually, jointly and severally; and,*
- 13) *That in the event of failure of the current or any future landowners to comply with any order herein, the matter shall be turned over to the Attorney General for disposition, including all administrative costs.*

MOTION

Approved as amended (Yuen, Gon) unanimous.

07.09.2021/01:29:33

ITEM K-2 Conservation District Use Application SH-3877 (Applicant: DLNR) for A Programmatic Statewide Small Scale Beach Restoration (SSBR) Program Affecting Beaches of the Main Hawaiian Islands.

Sam Lemmo, Office of Conservation and Coastal Lands presented the submittal. Shelly Habel (UH Sea Grant/OCCL) provided a PowerPoint presentation on the SSBR program and available to answer questions.

Chair Case conveyed that Caren Diamond has requested a contested case and confirmed with Diamond that she was not requesting a contested case at this time while the Board is in discussion regarding the submittal and reserved her right to request a contested case after the Board votes.

Board Discussion

What is authorized under this program was discussed at length how climate change and sea level rise are affecting the shoreline. There was clarification regarding sandbag revetments not part being a part of this program. Site specific areas in relation to the different categories were clarified and who would authorize the work.

Public Testimony

Dolan Eversole, Makaala Kaaumoana, Elena Bryant, Caren Diamond, Tiare Lawrence (requested a contested case if the submittal is approved), Tamara Paltin, Francine Aarona, Kai Nishiki (requested a contested case if the submittal is approved), Jeremy Dellaseras, provided oral testimony.

Amendment

- 1) *Category 3 actions would come to the Board for final approval;*
- 2) *OHA would be consulted on Categories 1, 2 and 3;*
- 3) *All private owners would be required to certify and not get a regulatory shoreline certification makai of their preconstruction shoreline for Categories 1, 2, and 3;*
- 4) *The grounds for Staff to deny an application would include that the negative effects outweigh the benefits;*

- 5) *There would be a full written Ka Pa'akai analysis for any category 3 project;*
- 6) *Public meeting to held before coming to the Board.*

MOTION

Approved as amended (Char, Yuen) 5-Ayes, 2-Nay (Canto & Yoon)

There was a verbal request by Caren Diamond and Kai Nishiki for a contested case and was advised to follow-up in writing within 10-days.

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