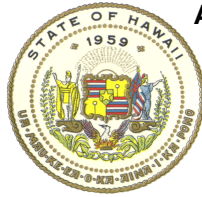


DAVID Y. IGE
GOVERNOR OF HAWAII



APPROVED BY THE BOARD
AT ITS MEETING HELD ON
SEPTEMBER 10, 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

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: JULY 23, 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
David Smith-DOFAW
Robert Hauff-DOFAW
Candace Martin (Land)
Blue Kaanehe -Land

Kevin Moore-Land
Edwin Matsuda-ENG
Marigold Zoll-DOFAW
Cathy Gewecke-DAR
Tanya Rubenstein-DOFAW

OTHERS

Dan Morris/AG
Carty Chang-ENG
Abby Lareau/DOT AIR
Avery Matro/M16
Rebecca Allen/L1
H. Kapua Kawelo/C1
Alan Nagakura/D1
Elliot Parsons/D2

Morris Atta/DOA
Edwin Matsuda-ENG
Cory Harden/M1
Tom McCary/M16
Dan Sargent/L1
Jin (Hyun) Fisher/C1
Roland Kim/D1
Ken Kaleiwahea/D2

07.23.2021/00:00:59

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.

ITEM A-3

07.23.2021/00:01:55

Member Gon read the standard contested case statement.

07.23.2021/00:02:59

ITEM A-1 Approval of the May 14, 2021, Meeting Minutes.

Board Discussion-None

Public Testimony-None

MOTION

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

07.23.2021/00:04:10

ITEM M-1 Issuance of a Revocable Permit for a Commercial T-Hangar for storage and maintenance of Aircraft, Flying Mermaid, LLC, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-076: Portion of 021.

Abby Lareau, DOT Airports presented the submittal

Board Discussion

Lareau clarified that the T-hanger is to be used for repair and maintenance of their helicopters. There are rules and regulations regarding towing their helicopters to the location.

Public Testimony

Cory Harden, representing Sierra Club, provided testimony regarding State's Public Trust responsibility, outdated Environmental Assessment and the safety of the company's helicopters. Michelle Matson stands by her written testimony.

MOTION

Approved as submitted (Char, Oi) 6-Ayes, 1-Abstain (Yoon)

ITEM M-2 Issuance of a Revocable Permit for the Installation of Twenty-Two (22) CCTV Cameras on the ground level, second level and roof level of the Inter-Island Mauka Terminal, Hawaiian Airlines, Inc., Daniel K. Inouye International Airport, Tax Map Key (1) 1-1-003: Portion of 001.

ITEM M-3 Issuance of a Revocable Permit for Construction Staging Area for materials and to store a rubbish bin, Nan, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: Portion of 001.

ITEM M-4 Issuance of a Revocable Permit for Passenger Check-in Kiosks Diamond Head Extension Terminal, Southwest Airlines Co., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: Portion of 042.

ITEM M-5 Issuance of a Revocable Permit for an Office Space for Administration purposes at the Inter-Island Mauka Terminal, United States of America, Department of Homeland

Security, Transportation Security Administration, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: Portion of 001.

ITEM M-6 Issuance of a Revocable Permit for Aircraft Parking, Pacific Electro-Mechanical, Inc., Kahului Airport, Tax Map Key: (2) 3-8-001: Portion of 019.

ITEM M-7 Issuance of a Revocable Permit for Storage Space in the Commuter Terminal to perform Airline Carrier Operations, Southern Airways Express, LLC, Kahului Airport, Tax Map Key: (2) 3-8-001: Portion of 217.

ITEM M-8 Issuance of a Revocable Permit for Ticket Counters in the Terminal for Airline Carrier Operations, Southern Airways Express, LLC, Kapalua Airport, Tax Map Key: (2) 4-3-001: Portion of 073.

ITEM M-9 Issuance of a Revocable Permit for Ticket Counter Space in the Terminal for Airline Carrier Operations, Southern Express, LLC, Lanai Airport, Tax Map Key: (2) 4-9-002: Portion of 055.

ITEM M-10 Issuance of a Direct Lease for Cargo Operations, United Parcel Service, Inc., Kahului Airport, Tax Map Key: (2) 3-8-079: Portion of 021, (2) 3-8-001: Portion of 019, and Portion of Former Haleakala Highway as shown on Tax Map, County of Maui, Zone 3, Section 8, Plat 79.

ITEM M-11 Issuance of a Directly Negotiated Lease for a Hangar Facility, Windward Aviation, Inc., Kahului Airport, Tax Map Key: (2) 3-8-001: Portion of 019.

ITEM M-12 Issuance of a Revocable Permit for Aircraft Parking, David A. Osterholt, Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-043: Portion of 003.

ITEM M-13 Issuance of a Revocable Permit for an Office Trailer, Ticket Counters, and Kiosk Space for Airline Operations, Delta Air Lines, Inc., Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-043: Portion of 003.

ITEM M-14 Issuance of a Revocable Permit for T-Hangar for storage and maintenance of Aircraft, Timothy Gaffney, Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-043: Portion of 003.

ITEM M-15 Issuance of a Revocable Permit for Office Spaces in the Terminal to perform security services operations, Universal Protection Services, LP dba Allied Universal Security Services, Hilo International Airport, Tax Map Key: (3) 2-1-012: Portion of 009.

Abby Lareau, DOT Airports, present to answer any questions regarding Items M-2, M-3, M-4, M-5, M-6, M-7, M-8, M-9, M-10, M-11, M-12, M-13, M-14 and M-15.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted Items M-2, M-3, M-4, M-5, M-6, M-7, M-8, M-9, M-10, M-11, M-12, M-13, M-14 and M-15 (Canto, Char) unanimous.

07.23.2021/00:15:56

ITEM M-16 Approval of Request for Acceptance of Perpetual Non- Exclusive Drainage Easement from Amazon.Com Services LLC, as Grantor, in Favor of State of Hawaii, as Grantee; Tax Map Key:(1)1-2-025:036; Honolulu, Island of Oahu, Hawaii.

Morris Atta, Department of Agriculture presented the submittal. Avery Matro and Tom McCary, representing applicant were available for questions.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Canto, Oi) unanimous.

07.23.2021/00:21:17

ITEM L-1 Request Approval of Variance of Hawaii Administrative Rules Title 13, Subtitle 7, Chapter 190.1, Section 13-190.1-4 (3); Spillway constructed in natural ground, for Huinawai Reservoir (KA-0104), Kauai. Dam Owners: McBryde Resources, Inc. Mr. Dan Sargent, Vice President/Manager P.O. Box 8 Eleele, HI 96705, Alexander and Baldwin, Inc., Mr. Jerrod Schreck, Senior Vice President Land Stewardship, 822 Bishop Street, Honolulu, HI 96813, Location: Lawai, Kauai, Tax Map Key: (4) 2-5-010:043

Carty Chang, Engineering presented the submittal. Edwin Matsuda (ENG), Dan Sargent and Becky Allen available for questions.

Board Discussion

Minimum requirements? Matsuda explained the minimum spillway for the request of the variance so they can design according to site conditions and maintain safety.

Public Testimony-None

MOTION

Approved as submitted (Yoon, Oi) unanimous.

07.23.2021/00:33:24

ITEM C-1 Amend Prior Board Action of March 13, 2015, Item D- 9 Issuance of Direct Lease of Building Space to United States of America, Department of the Army for Nursery, Storage, and Staging Area Purposes, Kaena, Waialua, Oahu, Tax Map Key: (1) 6-8-001:Portion of 004.

The purpose of this amendment is to add to the description of the areas to be leased, and

to expand the “character of use” description.

Marigold Zoll, Division of Forestry and Wildlife presented the submittal. H. Kapua Kawelo and Jin (Hyun) Fisher, representing the applicant available to answer any questions.

Board Discussion

Does the character of use anticipate any improvements or expansion? Zoll conveyed the character of use will remain the same.

Public Testimony-None

MOTION

Approved as submitted (Gon, Yoon) unanimous,

07.23.2021/00:33:24

ITEM F-1 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Native Hawaiian Practices Permit Amendment to Mr. Nainoa Thompson, Polynesian Voyaging Society, for Access to State Waters to Conduct Sails for Navigators Using Non-Instrumental Navigation Activities to clarify language in the existing permit.

Cathy Gewecke, Division of Aquatic Resources presented the submittal.

Board Discussion

Can we provide more flexibility in cases of weather conditions? Gewecke noted that voyages are limited to 30-days, if an emergency came up it should be authorized.

Public Testimony-None

MOTION

Approved as submitted (Gon, Yoon) unanimous.

07.23.2021/00:48:55

ITEM D-1 Approve an After-the-Fact Holdover of General Lease No. S-3935, Alan R. Nagakura and Lori E. Nagakura, Trustees under Irrevocable Trust of Roy S. Nagakura dated March 4, 1996, Lessee, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-037:066;

Authorize the Chairperson to Approve and Execute a Development Agreement for a 39-Year Extension of Lease Term and to Execute Lease Extension Document for General Lease No. S-3935, Alan R. Nagakura and Lori E. Nagakura, Trustees under Irrevocable Trust of Roy S. Nagakura dated March 4, 1996, Lessee, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-037:066; and

Consent to Mortgage, General Lease No. S-3935, Alan R. Nagakura and Lori E. Nagakura, Trustees under Irrevocable Trust of Roy S. Nagakura dated March 4, 1996, Lessee, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-037:066.

Russell Tsuji, Land Division presented the submittal. Candace Martin (Land), Alan Nagakura and Ronald Kim are available to answer any question. There were concerns regarding the amount of the loan. Kim replied based on the real cost of improvements versus the estimate of the cost.

Board Discussion

The Deputy AG confirmed that the policy of Board could approve the after the fact holder as long it is less than 1-year, the holdover period is treated like an extension, so the Board could approve the holdover period and then the extension period as two separate items.

Public Testimony

Ronald Kim pointed out that they did turn in their application in mid-June of last year and appreciate the efforts made during this time.

MOTION

Approved as submitted (Yuen, Oi) 6-Ayes 1-Abstain (Char)

07.23.2021/01:04:14

ITEM D-2 Issuance of Right-of-Entry-Permit to the Division of Forestry and Wildlife (DOFAW) on Unencumbered State Lands for Lowland Dry Forest Management Purposes; Authorize Memorandum of Understanding (MOU) between the University of Hawaii and DOFAW to Collaboratively Steward and Manage Lands; Request Delegation of Authority to the Chairperson to Negotiate, Finalize and Execute the MOU Subject to Approval as to Form by The Department of the Attorney General, at Palamanui, North Kona, Hawaii, Tax Map Key Numbers: (3)7-3-010:032, (3) 7-3-010: Portion of 046, and (3) 7-3-010: Portion of 062.

Russell Tsuji, Land Division presented the submittal. Blue Kaanehe (Land), Elliot Parsons and Ken Kaleiwahea available to answer questions.

Board Discussion

The Board asked if the extension can be extended for up to 3 years. Tsuji, replied, yes.

Public Testimony-None

Amendment:

The Board favored a Right-of-Entry to DOFAW for (3) years instead of only (1) year. Accordingly, the Board amended the term of the Right-of-Entry to Three (3) years, subject to renewals by the Chairperson on page 2 of the submittal, and replaced Recommendation 1.B with the following:

1. B. "The Chairperson is authorized to extend or renew the right-of-entry [~~annually~~] for good cause shown; and"

MOTION

Approved as amended (Canto, Gon) unanimous.

07.23.2021/01:04:14

ITEM D-3 Sale of Remnant State Land to Ho'ala Honua, LLC, Hauula, Koolaupoko, Oahu, Tax Map Key: (1) 5-4-005:012.

Russell Tsuji, Land Division presented the submittal. Blue Kaanehe (Land) and Russell Kaupu available for questions

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gon, Yoon) unanimous.

07.23.2021/01:33:29

ITEM D-4 Informational Briefing Regarding Litigation in:
(1) *Sierra Club v. Board of Land and Natural Resources, et al.*, Civil No. 20-0001541; and
(2) *Sierra Club v. Board of Land and Natural Resources, et al.*, Civil No. 19-1-0019 (JPC)

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

Non-Action Item.

Blue Kaanehe, Land Division provided the briefing. Lauren Chun (Deputy AG), Kimo Frankel and David Schulmeister present for discussion.

07.23.2021/01:50:17

Member Yuen made a Motion to go into Executive Session after the discussion and Member Canto second the Motion. The vote was unanimous.

07.23.2021/03:19:12

Return from Executive Session.

There being no further business, Chair Case, asked for a Motion to adjourn the meeting. Member Gon made the Motion to adjourn and Member Oi seconded the Motion. 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