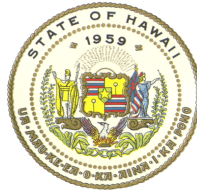


DAVID Y. IGE  
GOVERNOR OF HAWAII



**APPROVED AT ITS  
BOARD MEETING  
HELD ON  
NOVEMBER 12, 2021**

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

*ds*

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: SEPTEMBER 10, 2021  
TIME: 9:00 A.M.  
LOCATION: Online via ZOOM, Livestream via YouTube

**MEMBERS**

Suzanne Case  
Sam Gon (absent)  
Chris Yuen  
Kaiwi Yoon

Tommy Oi  
Vernon Char  
Doreen Canto

**STAFF**

Russell Tsuji-Land  
Seiko Machida-Land  
David Smith-DOFAW  
Richard Howard-DOBOR

Sheri Mann-DOFAW  
Jason Vercelli-DOFAW  
Marigold Zoll-DOFAW  
Tiger Mills-OCCL

**OTHERS**

Melissa Goldman/AG  
Lauren Chun/ AG  
Jennifer Tomita/DOT HAR  
Jesse Schiel/C1  
Lisa Vares/D2  
Michael Matsuo/D5  
Jonathan Mauri/J1  
Ed Tseu/J2  
Margery Bronster/K1

Abby Lareau/DOT AIR  
Derrick Carne/DOT HAR  
Travis Tomomi/DOT HWYs  
Scott Pingrey/C1  
Thomas Zizzi/D3  
Barry Usagawa/D5  
Dave Fuga/J2  
Catherine Lo Griffin/J2  
David Bettencourt/M4

**09.10.2021/00:00:20**

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-1**

**09.10.2021/00:01:36**

Member Canto read the standard contested case statement. Chair Case noted that they plan to go in order of the agenda.

**09.10.2021/00:02:35**

**ITEM A-1** Approval of the June 25, 2021, Meeting Minutes (*Deferred from 08.27.2021*)

Board Discussion-None

Public Testimony-None

**MOTION**

**Approved as submitted, (Oi, Yuen) 4-Ayes (Char & Canto did not vote)**

**09.10.2021/00:03:54**

**ITEM A-2** Approval of the July 9, 2021, Meeting Minutes.

**ITEM A-3** Approval of the July 23, 2021, Meeting Minutes

Board Discussion-None

Public Testimony-None

**MOTION**

**Approved as submitted Items A-2 and A-3 (Char, Canto) unanimous.**

**09.10.2021/00:06:23**

**ITEM C-1** (1) Approve and Delegate to the Chairperson the Authority to Execute a Settlement Agreement with O. Thronas, Inc. to resolve *O. Thronas, Inc. v. Board of Land and Natural Resources, State of Hawaii*, Civil No. 19-1-0029 in the Circuit Court of the Fifth Circuit, State of Hawai'i;

(2) Approve the Issuance of a Right-of-Entry ("ROE") to O.Thronas, Inc. for removal of sand from Mānā Plains Forest Reserve for wetland restoration at Mānā, Waimea, Kaua'i, Tax Map Key: (4) 1-2-002: Portion 001.

(3) Determine that no additional environmental review under Hawai'i Revised Statutes ("HRS") Chapter 343 is required.

Pursuant to HRS § 92-5(a)(4) 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.

Sheri Mann, Division of Forestry and Wildlife presented the submittal Jason Vercelli, Marigold Zoll, Jesse Schiel (DOFAW), Lauren Chun (AG), Scott Pingrey, present to answer questions.

Board Discussion

Lauren Chun, Deputy AG clarified that the motion to dismiss was not granted and DOFAW and O. Thronas worked out a settlement with conditions to restore the contours to what was previously agreed to. The agreement was discussed in detail.

Public Testimony

Jesse Schiel representing O. Thronas supported the submittal. Scott Pingrey answered questions by the Board regarding the agreement and the Right of Entry.

**09.10.2021/00:45:38**

Member Yuen made the Motion to go into Executive Session, Member Yoon seconded the Motion. Unanimous.

**09.10.2021/01:10:10 Back in Session**

*Amendment:*

*Language to be added to the settlement, which would impose an obligation on O'Thronas to remove the sand and to contour to the finishes previously agreed to and to allow the State a remedy for specific performance (and/or damages for cost to complete the work) should O'Thronas fail to do that within the term of the agreement.*

**MOTION**

**Approved as amended (Oi, Yoon) 5-Ayes, 1-Nay (Yuen)**

**09.10.2021/01:42:00 Recess**

**09.10.2021/01:52:00 Back in Session**

**ITEM D-1** Amendment of Extended, Amended and Restated General Lease No. S-4212, Ruby & Sons Hospitality, LLC, Lessee, Government Lands Situate on the West Side of South Kihei Road, Kamaole, Wailuku (Kula), Maui, Tax Map Key: (2) 3-9-004:029.

The purpose of the amendment is to insert rent reopening and redetermination intervals that were inadvertently omitted from the lease and to correct the date of Board approval of the issuance of the lease referenced on its signature page.

Russell Tsuji, Land Division presented the submittal.

Board Discussion-None

Public Testimony-None

**MOTION**

**Approved as submitted (Canto, Yoon) unanimous.**

**09.10.2021/01:57:35**

**ITEM D-2** Request for Issuance of Right-of-Entry Permit to Vares Contracting, Inc. for Purposes of Sand Pushing of One-Hundred Cubic Yards, More or Less, of Beach Quality Sand for Sand Dune and Beach Restoration, on Lands located at Kahana, Lahaina, Maui, Tax Map Key: (2) 4-3-005: Seaward of 029.

Russell Tsuji, Land Division presented the submittal with an amendment. Seiko Machida (Land) and applicant Lisa Vares present to answer questions.

Board Discussion

Is the beach access affected? Vares replied, no and Tsuji clarified the location. This a County beach park. Monitoring of the project was addressed.

Public Testimony-None

*Amendment:*

*The Board amended the Staff submittal: (1) page 2 of the Environmental Assessment section by amending the General Exemption Type to Type 1: "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond. (2) Reduce 100 cubic yards to 90 cubic yards.*

**MOTION**

**Approved as amended (Canto, Yuen) unanimous.**

**09.10.2021/02:12:41**

**ITEM D-3** Approve and Delegate to Chairperson Authority to Execute Settlement Agreement with The Trash Man, LLC & John T. Guinan, Jr. Relating to Use of State Lands at Mapunapuna, Honolulu, Oahu, Under Board Action November 13, 2020, Item #D-1 - 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. Thomas Zizzi, representing The Trash Man, LLC & John T. Guinan, Jr.

Board Discussion

Goldman, Deputy AG clarified the details of the settlement to answer the Board's questions. Enforcement was discussed and the ability to collect if the Corporation was dissolved. There was a lengthy discussion regarding the settlement. Zizzi provided information going forward on the settlement plan and answered questions.

Public Testimony-None

**MOTION**

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

**09.10.2021/02:41:41**

**ITEM D-4** Issuance of Right-of-Entry Permit to Eye Productions Inc. for Filming at the Beach fronting Kahala Hotel; Waialae, Honolulu, Oahu, Tax Map Key: (1) 3-5-023: portions of 041.

Russell Tsuji, Land Division presented the submittal with an amendment. Donne Dawson present to answer any questions.

Board Discussion

Does the Kahala Resort support this? Dawson replied yes. The fee is consistent with Land Division's policy. Dawson noted there are other fees paid to other entities as well.

Public Testimony

Dawson noted that there are no specific dates.

*Amendment:*

*The Board amended the Staff submittal, page 2 of the Environmental Assessment section starting at the beginning of the fourth line in that paragraph -- to read as follows:*

*. . . from the preparation of an Environmental Assessment pursuant to General Exemption Type No. 1, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing", under Part 1, and Item No. 44, which states the "Permits, Licenses, Registrations, and Rights-of-Entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing". See Exhibit B.*

**MOTION**

**Approved as amended (Yoon, Char) unanimous.**

**09.10.2021/02:55:01**

**ITEM D-5** Grant of Two (2) Perpetual, Non-Exclusive Easements and Issuance of Construction and Management Right of Entry Permits to (1) City and County of Honolulu, for the use by the Board of Water Supply, for Access and Utility Purposes and for Underground Injection Control Area Purposes, (2) Hawaiian Electric Company, Inc. for Utility Purposes, Kalaeloa, Ewa, Oahu, Tax Map Key: (1) 9-1-031: portions of 001.

Russell Tsuji, Land Division presented the submittal. Michael Matsuo and Barry Usagawa (BWS) are present to answer questions. Usagawa provided a presentation on the project.

Board Discussion

Usagawa answered various questions from the Board regarding funding, approval from Department of Health, DOA's role in this.

Public Testimony-None

**MOTION**

**Approved as submitted (Char, Yoon) unanimous.**

**09.10.2021/03:14:56 Recess**

**09.10.2021/03:38:17 Back in Session**

**ITEM J-1** Issuance of a Revocable Permit to Secure Parking Hawaii LLC, for Management of Vehicular Parking in the Designated Areas located within the Ala Wai Small Boat Harbor, Honolulu, Island of Oahu, Identified by Tax Map Keys: (1) 2-6-010:003 (Portion), (1) 2-3-037: Portion of 012, :024, :027, :033, :035 and :037; and

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

Richard Howard, Division Boating and Ocean Recreation, presented the submittal. Ed Underwood (DOBOR), and Jonathan Mauri applicant is available for questions

**Board Discussion**

How are you to determine the 6-hour free parking area? Everyone needs to pull a parking ticket whether it is free or paid. Mauri's company will do the monitoring.

**Public Testimony-None**

**Amendment:**

*The 343 paragraph on p.3 of the Staff submittal should be amended to read as follows: "In accordance with Section 11-200.1-15, Hawaii Administrative Rules (HAR) and the Exemption List for the Department of Land and Natural Resources reviewed and concurred in by the Environmental Council on November 10, 2020, the subject request is exemption from the preparation of an EA pursuant to General Exemption Type 1, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing", Part 1, Item No. 44, which states that "Permits, Licenses, Registrations, and Rights-of-Entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing."*

**MOTION**

**Approved as amended (Oi, Char) unanimous.**

**09.10.2021/03:44:43**

**ITEM J-2** Issuance of a Revocable Permit to Manu O Ke Kai Canoe Club, for storage of Hawaiian Outrigger Canoes and Related Equipment and for Cultural Practices on Kawailoa, Waialua, Island of Oahu, Hawaii, Tax Map Key: (1) 6-2-003: Portion of 010; and

Issuance of a Direct Lease to Manu O Ke Kai Canoe Club, for storage for Hawaiian Outrigger Canoes and Related Equipment and for Cultural Practices on Kawailoa, Waialua, Island of Oahu, Hawaii, Tax Map Key No. (1) 6-2-003: Portion of 010; and

Declare 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. Dave Fuga representing the Canoe Club is present to answer questions.

#### Board Discussion

How does the canoe club sustain itself? Fuga noted through membership dues and the community support to help maintain the structure. The Board questioned under Recommendation C, regarding fundraising and asked that it be revised to fundraising for the canoe club only and not for other types of commercial fundraising.

#### Public Testimony

Edward Tseu, Catharine Lo Griffin and Dave Fuga, provided testimony in support of the submittal.

#### *Amendment:*

*The 343 paragraph on page 4 of the Staff submittal should be amended to read as follows: "In accordance with Section 11-200.1-15, Hawaii Administrative Rules (HAR) and the Exemption List for the Department of Land and Natural Resources reviewed and concurred in by the Environmental Council on November 10, 2020, the subject request is exemption from the preparation of an EA pursuant to General Exemption Type 4, "Minor alterations in the conditions of land, water, or vegetation", Part 1, Item No. 44, which states that 'Permits, Licenses, Registrations, and Rights-of-Entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing.'"*

*Amend Recommendation #2, Item C: to allow fundraising in support of Manu O Ke Kai Canoe Club. Notify Division of Boating and Ocean Recreation of any fund-raising event.*

#### **MOTION**

**Approved as amended (Yoon, Canto) unanimous.**

**09.10.2021/04:02:45**

**ITEM K-1** Approve and Delegate to Chairperson Authority to Execute Settlement Agreement with Mr. Norman Caris Relating to Use of Conservation District Lands at Aliomanu Estates, Kawaihau, Kauai, Under Board Action February 27, 2015, Item #K-1, Conservation District Enforcement Case (ENF) KA-14-58; Finding of Violation for Unauthorized (1) Construction of Erosion Control Structures, (2) Landscaping including grubbing and grading, and (3) Drainage Improvements Located in the Conservation District *Limited* and *General* Subzones, Aliomanu Estates, Kawaihau District, Kauai, Tax Map Key (4) 4-9-005:027

Tiger Mills, Office of Conservation and Coastal Lands, noted that a request for Contested Case issue that needs to be addressed. Margery Bronster, representing Mr. Caris responded that a limited withdrawal of the request for the Board to have the ability to address the proposed settlement. Mills (OCCL) presented the submittal and deferred to Golden (AG) to provide the background of the settlement. The request for contested case was withdrawn by Bronster.

Board Discussion

Is OCCL comfortable with the work that was done? Mills, replied yes, the fine should be sufficient.

Public Testimony-None

**MOTION**

Approved as submitted (Canto, Yoon) unanimous.

**09.10.2021/04:13:03**

**ITEM M-9** Request for Acquisition of Land to the Department of Transportation, Highways Division, for Highway Purposes, Relating to Interstate Route H-1, Addition and Modification of Freeway Access, Palailai Interchange to Makakilo Interchange (Kapolei Interchange Complex – Phase 1), Project No. IM-H1-1(257), at Honouliuli, Ewa, Island of Oahu, State of Hawaii Tax Map Key: (1) 9-1-016: Portion of 054.

Gary Gasper, DOT Highways Division, present to answer any questions.

Board Discussion-None

Public Testimony-None

**MOTION**

Approved as submitted (Oi, Yuen) unanimous.

**09.10.2021/04:14:19**

**ITEM M-6** Issuance of Month-to-Month Revocable Permit to Pacific Fishing & Supply, Inc., for the purpose of selling Fishing Supplies, Gear, and Equipment to Maritime-Related Companies and Commercial Fishing Vessels, Situated at Pier 31, Honolulu Harbor, Island of Oahu, Tax Map Key: (1) 1-5-035: Portion of 012, Governor's Executive Order No. 4167.

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

Board Discussion-None

Public Testimony-None

**MOTION**

Approved as submitted (Oi, Char) unanimous.



**09.10.2021/04:14:19**

**ITEM M-7** Issuance of Two (2) Month-To-Month Permits to Hawaii Stevedores, Inc., for a Portable Office, Equipment Storage, and Container Office, at Pier 7, Kalaeloa Barbers Point Harbor, Oahu, Tax Map Key No: (1) 9-1-014: Portion of 024, Governor's Executive Order No. 3383.

Oliva Pham-DOT Harbors present to answer any questions.

Board Discussion-None

Public Testimony-None

**MOTION**

**Approved as submitted (Oi, Char) unanimous.**

**09.10.2021/04:15:38**

**ITEM M-8** Authorizing the Department of Transportation, Highways Division (DOT) to approve Revocable Permits HY-21-155 and HY-21-157 (RPs) at Liliha Street, Federal Aid Project No. U-097-1(1), Honolulu, Oahu, Hawaii, Tax Map Key: (1) 1-7-023:024.

Travis Tomomi, DOT Highways present to answer questions.

Board Discussion-None

Public Testimony-None

**MOTION**

**Approved as submitted (Char, Oi) unanimous.**

**09.10.2021/04:16:13**

**ITEM M-1** Issuance of a Revocable Permit for a T-Hangar for storage and maintenance of aircraft, Gregory Baker, Kalaeloa Airport, Tax Map Key: (1) 9-1-013: Portion of 032.

**ITEM M-2** Issuance of a Revocable Permit for Aircraft Parking, South Pacific Flying Club, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-076: Portion of 023.

**ITEM M-3** Issuance of a Revocable Permit for Aircraft Parking, K & S Helicopters, Inc., Hana Airport, Tax Map Key: (2) 1-3-003: Portion of 022 and (2) 1-3-003: Portion of 036.

**ITEM M-5** Issuance of a Revocable Permit for shared use of Baggage System, Southwest Airlines Co., Lihue Airport, Tax Map Key: (4) 3-5-001: Portion of 135.

Abby Lareau, DOT Airports present to answer questions for Items M-1, M-2, M-3, and M-5.

Board Discussion- None

Public Testimony- None

**MOTION**

**Approved as submitted Items M-1, M-2, M-3, and M-5 (Char, Yoon) unanimous.**

**09.10.2021/04:17:07**

**ITEM M-4** Issuance of Amendment No. 2 to Heliport Lease No. DOT-A-14-0009 to extend the lease term and to add a helipad with adjacent land for commercial helicopter operations, Island Helicopters Kauai, Inc., Lihue Airport, Tax Map Key: (4) 3-5-001: Portion of 148.

Chair Case acknowledged that David Bettencourt requested a Contested Case and asked on what basis? Bettencourt explained his basis. Discussion and questions followed.

Member Yuen made the Motion to go into Executive Session, the Motion was seconded by Member Char. The vote was unanimous. Before going into Executive session, the Board asked Lareau if she had any comments. Lareau stated that it is not the intention of DOT Airports provide favorable treatment. DOT Airports is in the process of reviewing the leases one by one.

**09.10.2021/04:30:37**

Member Yuen motioned to go into Executive session, seconded by Char. Unanimous

**09.10.2021/04:43:03**

Member Yuen made a motion to deny the request for contested case. Member Char seconded the motion. Unanimous.

Abby Lareau, DOT Airports, presented the submittal.

Board Discussion

Regarding the waiting list for pads, Lareau conveyed they were the first one on the waiting list. Is it DOT Airports intention to offer the General Aviation rates to all the Heliport operators or just the ones who made substantial improvements? Lareau replied, there is a policy that was put into place, we want to be similar across all the airports as much as possible to be compliant. Lareau went on to explain how they would be proceeding going forward.

Public Testimony

David Bettencourt provided testimony regarding the processes that DOT Airports that have issues and rulemaking.

**MOTION**

**Approved as submitted (Oi, Yoon) 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*

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Darlene S. Ferreira  
Land Board Secretary

Approved for Submittal:

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