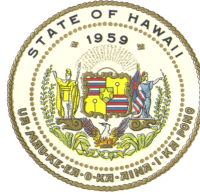
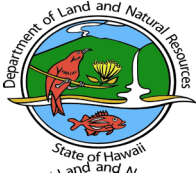


DAVID Y. IGE
GOVERNOR OF HAWAII



APPROVED AS SUBMITTED
AT ITS BOARD MEETING
HELD ON
JULY 8, 2022

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

daw

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

SUMMARY MINUTES
FOR THE MEETING OF THE
BOARD OF LAND AND NATURAL RESOURCES

DATE: May 13, 2022
TIME: 9:15 A.M.
LOCATION: In person at 1151 Punchbowl St. Room 132 (Kalanimoku Building),
online via ZOOM, livestream via YouTube

MEMBERS

Suzanne Case
Chris Yuen
Vernon Char
Kaiwi Yoon

Doreen Canto
Aimee Barnes
Karen Ono

STAFF

Russell Tsuji-Land
Kevin Moore-Land
David Smith-DOFAW
Scott Fretz-DOFAW
Bill Stormont-DOFAW
Curt Cottrell-Parks
Richard Howard-DOBOR
Ed Underwood-DOBOR
Cathy Gewecke-DAR
Carty Chang-ENG

Calen Miyahara-Land
Gordon Heit-Land
David Penn-DOFAW
Jackson Bauer-DOFAW
Carlton Helm-DOCARE
Martha Yent-Parks
Carl Young-DOBOR
Brian Neilson-DAR
David Sakoda-DAR
Edwin Matsuda-ENG

OTHERS

Colin Lau/AG
William Haase/C1
Shaelene Kamakaala/C1
Scott Crawford/C1
Dan Ramsauer/D1
James Souza/D1,D3
Bruce Albrecht/D3
Inga Gibson/F2

Abby Lareau/DOT AIR
John Stinton/C1
Lea Hong/C1
Bruce Albrecht/D1
Gary Brown/D1
Rick Egged/D3
Gary Brown/D3
Bob Rocheleau/J1

Nicole Chang/J2
Bob Egbert/J2
Dan Nellis/L1
Gregory Richards/L1

Sean Monahan/J2
Alan Pflueger/J2,
Kyle Barber/L1
Keone Downing/J2

05.13.2022/00:00:40

Chair Case called the meeting to order at and noted that this is a hybrid meeting with (5) Board members in the Boardroom and (2) Members and the public joining the meeting via Zoom and live streaming on YouTube. Those who requested to provide oral and written testimony have done so in advance of the meeting.

05.13.2022/00:01:40

Chair Case proceeded to conduct roll call of the Members present. Noted that Item C-3 and D-5 are withdrawn from the agenda.

05.13.2022/00:03:43

Member Canto read the standard Contested Case statement.

05.13.2022/00:04:38

ITEM A-1 Approval of the March 24, 2022, Board Meeting Summary Minutes.

Board Discussion-None

Public Testimony-None

05.13.2022/00:04:54

MOTION

Approved as submitted (Canto, Yoon) 6-Ayes, 1-Abstain (Ono)

05.13.2022/00:05:22

ITEM A-2 Approval of the April 8, 2022, Board Meeting Summary Minutes.

Board Discussion-None

Public Testimony-None

05.13.2022/00:06:36

MOTION

Approved as submitted (Canto, Yoon) 5-Ayes, 2-Abstain (Barnes, Ono)

05.13.2022/00:06:50

ITEM M-1 Issuance of a Revocable Permit for Curbside Check-In Area as Part of its Signatory Airline Operations, American Airlines, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003, Portion of 001.

- ITEM M-2** Issuance of a Revocable Permit for Space for Acceptance, Delivery and Storage of Air Cargo and Support Equipment, Kamaka Air LLC, Lihue Airport, Tax Map Key: (4) 3-5-01: Portions of 146.
- ITEM M-3** Issuance of a Revocable Permit for Offices and Counter Space in the Commuter Terminal for Air Transportation and Cargo Operations, Kamaka Air LLC, Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 217.
- ITEM M-4** Issuance of a Revocable Permit for Commercial Use of Three T-Hangars, an End Room and Ramp Space for Commercial Helicopter Utility and Charter Operations, Windward Aviation Inc., Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 019, (2) 3-8-01: Portion of 195, (2) 3-8-01: Portion of 212.
- ITEM M-5** Issuance of a Lease for the Installation of Four Aviation Weather Cameras, a Small Weather Instrument and a Fiberglass Enclosure Housing a Camera Control and Lightning Arrestor Unit to Support Air Traffic Operations, United States of America, Federal Aviation Administration, Kapalua Airport, Tax Map Key: (2) 4-3-01: Portion of 68.

Abby Lareau, DOT Airports present to answer any questions for Item M-1 through M-5.

Board Discussion-None

Public Testimony-None

05.13.2022/00:07:05

MOTION

Approved as submitted (Yoon, Yuen) unanimously.

05.13.2022/00:07:22

- ITEM M-6** Issuance of two (2) Month-to-Month Revocable Permits to Sause Bros., Inc., for Temporary Office Space, Warehouse Space, Storage Space, Parking Space, and Utility Easements situated at Pier 27, Honolulu Harbor, Island of Oahu, Tax Map Key Nos: (1) 1-5-038: Portion of 073, (1) 1-5-038: Portion of 001, and (1) 1-5-038: Portion of 074, Governor's Executive Order No. 2903.

Jennifer Tomita, DOT Harbors available to answer any questions.

Board Discussion-None

Public Testimony-None

05.13.2022/00:07:31

MOTION

Approved as submitted (Yoon, Yuen) unanimously.

05.13.2022/00:10:09

ITEM L-1 Request Authorization for Time Extension for Wahiawa Dam (OA-0017) Remediation Schedule Wahiawa, Oahu, Tax Map Keys: 7-1-012:014, 7-3-013:003, 7-3-012:002, 7-3-007:001

Carty Chang, Engineering presented the submittal and distributed a schedule. Tony Koyamatsu and Edwin Masuda (Engineering), Dan Nellis (Dole), Kyle Barber, Gregory Richards (Sustainable Hawaii) available to answer questions.

Board Discussion

Are there mitigation plans in place to prevent hazards, information dam failure and loss of life, City & County activation in case of flood, is schedule viable, construction schedules, fines, liability and time lines were discussed. Chang conveyed there is a plan in place with Emergency Management should there be a flood event. They are working with a consultant to include climate change factor. Further discussion of the fines and schedules were discussed at length.

Public Testimony

Nellis (Dole), asked for amendments to the staff recommendations, (1) remove automatic penalties, fines should be assessed if the Board finds that they are not working in good faith. (2) Application fees to be paid when the application is submitted. (3) Immediate suspension of all deliverables once there is an executed contract. It is in the process to be sold to the State. (4) Recognition that the upstream Hydraulic meter (5) Time extension for the contractor.

Greg Richards

05.13.2022/01:12:20

MOTION

Approved as submitted (Yoon, Char) 6-Ayes 1-Oppose (Barnes)

05.13.2022/01:17:10 Break

05.13.2022/01:29:58

ITEM J-1 Issuance of a Revocable Permit to Hui Nalu O' Hawaii for Hawaiian Outrigger Canoe Storage, Located at Maunalua Bay Boat Ramp, Honolulu, Oahu, Tax Map Key: (1) 3-9-007:034 (Por.) and;

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

Carl Young, Division of Boating and Ocean Recreation presented the submittal. Ed Underwood (DOBOR) available for questions. Bob Rocheleau

Board Discussion

Variation of rent for Item J-1 and J-2. Underwood noted J-1 is considered a non-profit & J-2 is does not meet the qualifications for a non-profit.

Public Testimony-None

05.13.2022/01:35:25

Motion

Approved as submitted (Barnes, Char) unanimous

05.13.2022/01:36:14

ITEM J-2 Issuance of a Revocable Permit to Ka Lahui Kai for Hawaiian Outrigger Canoe Storage Located at Maunalua Bay Boat Ramp, Honolulu, Oahu, Tax Map Key: (1) 3-9-007:034 (Por.) and;

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

Ed Underwood, Division of Boating and Ocean Recreation presented the submittal

Board Discussion

Do they provide equal opportunity for women to participate in, and become members of, the racing association? The applicant Alan Pflueger responded that they did and that training and recreation for youth was a major part of the association's activities.

Public Testimony

Alan Pflueger provided information regarding the canoe club's operation. Nicole Chang, Bob Egbert, and Keoni Downing provided testimony in support.

Amendment:

Reduce Monthly rent of \$600.00 to \$40.00

05.13.2022/02:09:55

Motion

Approved as amended (Canto, Yuen) 6-Ayes 1-Opose (Barnes)

05.13.2022/02:10:51

ITEM J-3 Approve the Adopt-A-Harbor Agreement with Ma'alaea Village Association, for Landscape Beautification Purposes at Ma'alaea Small Boat Harbor, Ma'alaea, Wailuku, Maui, Hawaii, Tax Map Key: (2) 3-8-014:027 (Por).

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

Board Discussion-None

Public Testimony-None

05.13.2022/02:11:27

Motion

Approved as submitted (Canto, Yoon) unanimously.

05.13.2022/02:12:07

ITEM J-4 Mediated Settlement of Rent Reopening Dispute in Harbor Lease No. H-70-14, Keehi Marine, Inc. Lessee, Ke'ehi Small Boat Harbor, Kalihi-Kai, Honolulu, Island of Oahu, Hawaii, Tax Map Key: (1) 1-2-023:030.

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

Board Discussion-None

Public Testimony-None

05.13.2022/02:13:14

Motion

Approved as submitted (Char, Yuen) unanimously.

05.13.2022/02:15:34

ITEM B-1 Request the Board of Land and Natural Resources to Delegate Authority to the Chairperson to Negotiate and Sign Facility Use Agreements and Memorandum of Agreements with the Division of Conservation and Resources Enforcement (DOCARE) Training Academy Program Partners, for the use of the Hawaii Convention Center, Aloha Stadium Facilities, and the University of Hawaii for Educational Support and use of the Marine Education and Training Center, that is necessary to Conduct the DOCARE Academy Program for Entry Level Conservation and Resources Enforcement Officer I Positions, from July 11, 2022 to March 31, 2023, and for Future Training Academy Programs.

Carlton Helm, Division of Conservation and Resources Enforcement, presented the submittal.

Board Discussion

How is training going? Very well conveyed Helm. Facilities availability is a challenge.

Public Testimony-None

05.13.2022/02:20:20

Motion

Approved as submitted (Yoon, Yuen) unanimously.

05.13.2022/02:21:38 Lunch Break

05.13.2022/03:48:48 *(Note: Member Yoon has left the meeting)*

ITEM C-1 Approve Grant Awards from Available Funds in the Land Conservation Fund, as Requested in Applications to the Fiscal Year 2022 Legacy Land Conservation Program and as Recommended by the Legacy Land Conservation Commission, for the Acquisition of Interests and Rights in Specific Parcels of Land Having Value as a Resource to the State, for:

- a) Hawaiian Islands Land Trust, \$3,000,000, for the Acquisition of Approximately 642.46 Acres at Kohala District, Island of Hawai'i (Māhukona Navigation and Ecological Complex), Tax Map Key Numbers: (3) 5-7-002:011, :027, :036, :037 and (3) 5-7-003:001, :002, :003, :007, :008, :010, :018
- b) Division of Forestry and Wildlife, \$1,000,000, for the Acquisition of Approximately 257.8 Acres at Wailuku District, Island of Maui (Pohakea Watershed Lands), Tax Map Key Number: (2) 3-6-001:018
- c) Ke Ao Hali'i (Save the Hāna Coast), up to \$675,000, for the Acquisition of Approximately 8.58 Acres at Hāna District, Island of Maui (Haneo'o Lands), Tax Map Key Number: (2) 1-4-010:015; and

Exempt Three Proposed Awards of Grant Funds—for the Acquisition of Interests and Rights in Specific Parcels of Land, Identified as Items A, B, and C, above (Māhukona Navigation and Ecological Complex; Pohakea Watershed Lands; and Haneo'o Lands)—from the Requirement to Prepare an Environmental Assessment, Pursuant to Chapter 343, Hawai'i Revised Statutes, and Chapter 11-200.1, Hawai'i Administrative Rules.

David Penn, Division of Forestry and Wildlife, Legacy Land Conservation a presented the submittal and amended the submittal to remove Recommendations 3 and 4 on page 13 . David Smith and Scott Fretz (DOFAW) available to answer questions.

Board Discussion

Fretz, Item C-1.b provided the status of the acquisition.

Public Testimony

Scott Crawford provided testimony in support of Item C-1.a. Lea Hong stands on their written testimony. William Haase, John Stinton, and Shaelene Kamakaala, support the submittal.

05.13.2022/04:01:48

Motion

Approved as amended (Canto, Yuen) 6-Ayes (Yoon Absent)

05.13.2022/04:02:52

ITEM C-2 Request Approval and Delegation of Authority to the Chairperson of the Department of Land and Natural Resources to Negotiate and Sign Contract(s) for the Management of the Department of Land and Natural Resources state-wide Nā Manu 'Elele Land Steward Program.

David Smith, Division of Forestry and Wildlife presented the submittal. Jackson Bauer and Bill Stormont (DOFAW) available to answer questions.

Board Discussion-None

Public Testimony -None

05.13.2022/04:05:08

Motion

Approved as submitted (Canto, Yuen) 6-Ayes (Yoon Absent)

05.13.2022/04:08:14 *(Note: Member Yoon has returned to the meeting)*

ITEM F-1 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Conservation and Management Permit to Mr. James Morioka, Papahānaumokuākea Marine Debris Project (PMDP) for Access to State Waters to Survey and Remove Marine Debris and Disentangle Marine Life as Needed within the Waters of the Northwestern Hawaiian Islands.

Cathy Gewecke, Division of Aquatic Resources presented the submittal. Kevin O’ Brian represents the applicant and present to answer questions.

Board Discussion

Member Barnes disclosed that Kevin O’Brian is a family friend and that she believes there is no conflict of interest in voting on this item. Federal funding and location of debris were addressed by O’brian

Public Testimony-None

05.13.2022/04:14:59

Motion

Approved as submitted (Yoon, Yuen) unanimously.

05.13.2022/04:15:30

ITEM F-2 Reconsideration of Prior Board Action of December 10, 2021 to Approve Holding Public Hearings to Amend and Compile Hawaii Administrative Rules (HAR) Chapter 13-75, “Rules Regulating the Possession and Use of Certain Fishing Gear”; to Amend: §13-75-1 (Definitions) to Add New Definitions for “Freshwater Stream”, “Multi-Panel Lay Net”, and “Throw Net”; §13-75-2 (Penalty) to Clarify the Authorized Penalties for Violations of This Chapter; §13-75-8 (Firearms) to Prohibit the Take of Sharks with Firearms; §13-75-12.2 (Akule Nets) to Clarify that Akule May be Taken With Legal Throw Nets; §13-75-12.4 (Lay Nets) to Establish a Lay Net Permit Requirement and Fee for the Use and Possession of Lay Nets, to Remove the Existing Lay Net Registration Requirement, and to Prohibit Leaving a Lay Net Unattended for Any Amount of Time; §13-75-12.5 (State Waters Around Molokai, Special Rules) to Make Conforming Amendments to Special Lay Net Rules That Apply to Molokai; to Adopt §13-75-2.5 (Asset Forfeiture) to Provide Notice of the State’s Authority to Utilize Civil Asset Forfeiture as an Enforcement Tool for Violations of This Chapter; and to Make Other Non-Substantive Amendments for Formatting and Style

The proposed rule amendments can be reviewed in person, by appointment only, at the Division of Aquatic Resources (DAR) office on Oahu at 1151 Punchbowl St. Room 330, Honolulu, Hawaii 96813 from 8:00 am to 3:30 pm, Monday through Friday, except Holidays. To schedule an appointment to review the proposed rules in person, email dlnr.aquatics@hawaii.gov.

The proposed rules, including a statement on the topic of the proposed rule amendment, can be reviewed online at: <https://itgov.hawaii.gov/the-office/administrative-rules/proposed-changes/>.

The proposed rules can also be viewed online at: <http://dlnr.hawaii.gov/dar/rules-and-public-notice/>

David Sakoda, , Division of Aquatic Resources presented the submittal. Brian Nielson (DAR) available to answer questions.

Board Discussion

What are the plans for Lobster nets regulations in the future? Sakoda replied that they plan to do public scoping. Notice of Public hearings and public scoping were discussed

Public Testimony

Inga Gibson supports the submittal, felt that was not adequate community outreach.

05.13.2022/04:35:21

Motion

Approved as submitted (Barnes, Yoon,) unanimously.

05.13.2022/04:35:45

ITEM E-1 Selection of Projects for Federal Grant Awards through the Land and Water Conservation Fund Program with Fiscal Year 2021 Funds: Repairs to the Kapa'a Swimming Pool, Kaua'i; Construction of a New Multipurpose Building at Hanapepe Stadium, Kaua'i; Renovation of Ballcourts at Four (4) County of Kaua'i Parks (Puhi Park, Bryan J. Baptiste Sports Complex, Wailua Homesteads Park, and Wailua Houselots Park), Island of Kaua'i; and Construction of a New Comfort Station at Wai'anapanapa State Park, Island of Maui. Tax Map Keys: (4) 4-5-012: Portions 001 and 002, (4) 1-9-009: Portion of 001, (4) 3-3-005: Portion of 008, (4) 4-5-015: Portion of 032, (4) 4-2-003: Portion of 018, (4) 4-1-016: Portion of 042, and (2) 1-3-005: Portion of 009.

Curt Cottrell, State Parks presented the submittal.

Board Discussion

How the grants are administered and appropriated was explained by Cottrell.

Public Testimony-None

05.13.2022/04:42:25

Motion

Approved as submitted (Ono, Char) unanimously.

05.13.2022/04:46:10

ITEM D-1 Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Displays on June 12, 2022, and May 26, 2022, at Shipwreck Beach, Paa, Koloa, Kauai, Tax Map Key: (4) 2-9-001: seaward of 002.

Russell Tsuji, Land Division presented the submittal. Calen Miyahara (Land), Stephanie Pascual (Applicant) available to answer questions

Board Discussion

DAR comments, litter from the fireworks, noise impacts on animals, eco-friendly fireworks, future of the business of fireworks, light show alternatives, sound mitigation, sustainability goals, constructive solutions, Pascual addressed the concerns. Board member made an amendment to the Motion which was later withdrawn after further discussion.

Public Testimony

Stephanie Pascual (Applicant, provided company background, Bruce Albrecht, Dan Ramsauer, Gary Brown, James Souza, Rick Egged in support of the submittal.

Keone Downing testified in opposition.

05.13.2022/05:45:25

MOTION

Approved as submitted (Char, Yuen) 3-Ayes (Char, Yuen, Yoon), 4-Oppose (Case, Canto, Barnes, Ono). MOTION DOES NOT PASS.

05.13.2022/05:46:38

ITEM D-4 Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach Every Friday From May 27, 2022, to May 19, 2023, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037: portion of 021.

Russell Tsuji, Land Division presented the submittal. Calen Miyahara (Land), Stephanie Pascual (Applicant) available to answer questions

Board Discussion

This was discussed along with Item D-1. Is it possible to reduce the number of shows?

Public Testimony

Rick Egged, Bruce Albrecht, Gary Brown, and James Souza support the submittal and answered questions by the Board as discussed along with Item D-1.

Amendment:

At or before the next annual renewal of the applicant's fireworks ROE, applicant shall provide to the Board a status report on a sustainability plan and its participation in reducing waste in the ocean and the Ala Wai area other than for cleanups after firework shows.

05.13.2022/05:51:14

MOTION

Approved as amended (Yuen, Char) 5-Ayes (Yuen, Char, Ono, Barnes, Yoon), 2-Oppose (Case, Canto)

05.13.2022/05:52:12

ITEM D-2 Sale of Remnant Flume Right-of-way to: (i) Bryan Hiroaki Sugiyama and Faye Kumiko Sugiyama, Trustees of the Bryan Hiroaki Sugiyama and Faye Kumiko Sugiyama Family Revocable Trust, dated April 11, 2006, and Sandy T. Sugiyama and Diane H. Kimura-Sugiyama, Trustees of that Certain Unrecorded Revocable Living Trust of Sandy T. Sugiyama and Diane H. Kimura-Sugiyama Dated January 17, 2002; (ii) Tomie Nishie, Trustee of the Tomie Nishie Revocable Living Trust dated June 23, 2000; and (iii) Aaron James Braud and Anna Marie Mackey; Manowaiopae Homesteads, North Hilo, Hawaii, Tax Map Key: (3) 3-6-007:022, portions.

Board Discussion

The flume should be offered to the abutting landowners and if there is a section that no one wants to purchase it will leave the State with a new remnant, then Staff can report back if necessary.

Public Testimony -None

05.13.2022/05:58:56

MOTION

Approved as submitted (Char, Yuen) unanimously

05.13.2022/05:59:02 *(Note: Items D-6 & D-7 were presented together)*

ITEM D-6 Annual Renewal of Revocable Permit 7851; Jacob Kaleo Hines, Permittee; Waimanalo, Koolaupoku, Oahu, Tax Map Key: (1) 4-1-018:050.

ITEM D-7 Cancellation of Revocable Permit No. S-7477, Raymond T. Yanagihara, Permittee; Request for Waiver of Requirement for Conducting Phase I Environmental Site Assessment Upon Cancellation of Revocable Permit No. S-7477, Kaneohe, Koolaupoko, Oahu, Tax Map Key: (1) 4-5-006:039.

Board Discussion-None

Public Testimony-None

05.13.2022/05:59:05

MOTION

Approved as submitted Item D-6 and Item D-7 (Yuen, Canto) unanimously approved

05.13.2022/05:59:29

ITEM D-3 Issuance of a Right-of-Entry Permit to O'ahu Hawaiian Canoe Racing Association Hawaii for Two (2) Canoe Race Events to be held on October 1 to 2, and October 8 to 9, 2022, at Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037: portion of 021.

Russell Tsuji, Land Division presented the submittal.

Board Discussion

The Applicant's non-profit status and the amount of time was taken into consideration

Public Testimony

Keone Downing noted that the fee should be adjusted.

Amendment:

*The Board reduced the total fee to **\$2,590.00** (\$740 per day for 3 days; and \$370 for 1 day)*

05.13.2022/06:07:16

MOTION

Approved as amended (Canto, Yuen) 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 S. 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