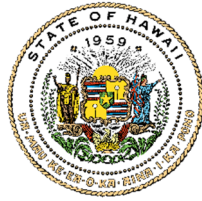


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

LAURA H.E. KAAKUA
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

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

DATE: April 28, 2023
TIME: 9:15 AM
LOCATION: In person at 1151 Punchbowl St, Room 132
(Kalanimoku Building) online via ZOOM, livestream
via YouTube

Board members, staff, applicants, and testifiers can choose to participate either in-person, via ZOOM or by telephone. Members of the public are encouraged to wear a mask if attending in-person.

Meeting materials are available for public review in advance of the meeting at:
<http://www.dlnr.hawaii.gov/meetings>

The meeting will be livestreamed at:
<http://youtube.com/c/boardoflandandnaturalresourcesdlnr>

To provide in person testimony:
Attend live at 1151 Punchbowl St. Room 132 (Kalanimoku Building), Honolulu, Hawaii.
(Note: Testimony may be limited to 3-minutes)

To provide video testimony:
Send your request to blnr.testimony@hawaii.gov
Include your name and the agenda item on which you would like to testify. Once your request has been received, you will receive an email with the Zoom link. Requests should be sent 24 hours in advance of the meeting. Requests may be made during the meeting prior to the agenda item is before the Board. (Note: Testimony may be limited to 3-minutes)

To provide oral testimony by telephone: : +1 669 444-9171
Meeting ID: 854 2406 3308
Note: To unmute, press *6.

Written Testimony:
Interested persons can submit written testimony in advance of each meeting that will be distributed to Board Members prior to the meeting. Submit written testimony to blnr.testimony@hawaii.gov or

via postal mail to the Board of Land and Natural Resources at P.O. Box 621, Honolulu, Hawaii 96809. We request written testimony be submitted no later than 24 hours prior to the meeting to ensure time for Board Member review. Late written testimony will be retained as part of the record and distributed to Board Members as soon as practicable, but we cannot ensure that Board Members will receive it with sufficient time for review prior to decision-making.

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

Individuals requiring special assistance or auxiliary aids or services (e.g., sign language interpreter), please contact staff at least 72 hours prior to the meeting at 808.587.0404 so that arrangements can be made.

In some of the matters before the Board, a person may wish to request a contested case hearing. If such a request is made before the Board's decision, then the Board will consider the request first - before considering the merits of the item before it. A person who wants a contested case may also wait until the Board decides the issue, then request the contested case after the decision. It is up to you. Any request must be made in writing within ten days. If no request for contested case is made, the Board will make a decision. The Department will treat the decision as final and proceed accordingly.

NOTE: Agenda Items may be taken out of order as a moved-up item.

A. MINUTES

1. Approval of the February 10, Meeting Minutes.

C. DIVISION OF FORESTRY AND WILDLIFE

1. (1) Approve Grant Awards from Available Funds in the Land Conservation Fund, as Requested in Applications to the Fiscal Year 2023 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:
 - A. Hookuaaina, up to \$2,900,000, for the Acquisition of Approximately 116.49 Acres at District of Ko'olaupoko, Island of O'ahu (Pālāwai), Tax Map Key Numbers (1) 4-2-006:008 (por), (1) 4-2-007:001, and (1) 4-2-008:001, with a Conservation Easement Held by the City & County of Honolulu and Hawaiian Islands Land Trust
 - B. Kīpuka Kuleana, up to \$1,845,000, for the Acquisition of a Conservation Easement over Approximately 3.45 Acres at District of Halele'a, Island of Kaua'i (Kamealoha Kuleana), Tax Map Key Number (4) 5-9-003:009

- C. Kauluakalana, up to \$1,560,000 for the Acquisition of Approximately 59.27 Acres at District of Ko‘olaupoko, Island of O‘ahu (Makali‘i), Tax Map Key Numbers (1) 4-2-006:001 and (1) 4-2-006:008 (por), with a Conservation Easement Held by the City & County of Honolulu and Hawaiian Islands Land Trust

 - D. Division of Forestry and Wildlife, up to \$650,000, for the Acquisition of Approximately 515.75 Acres at District of Kona, Islands of Molokai (Makolelau 5th Parcel), Tax Map Key Number (2) 5-5-001:015, with an Exemption from any Additional Conservation Easements that may be Required under Section 173A-4, Hawai‘i Revised Statutes, and with Special Conditions that (1) the Department Engage in a Community Outreach and Dialogue Process to Develop a Management Plan for the Makolelau 5th Parcel, and (2) the Community Outreach Management Plan be Completed within 24 Months of Closing on the Land Acquisition Deal.
- (2) Exempt Four Proposed Awards of Fiscal Year 2023 Legacy Land Grant Funds for the Acquisition of Interests and Rights in Specific Parcels of Land—Identified as Items (1)A, (1)B, (1)C, and (1)D above (Pālāwai, Kamealoha Kuleana, Makali‘i, and Makolelau 5th Parcel)—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.

 - (3) Approve—as a Contingency in the Event that Hookuaaina (Item (1)A above), Kīpuka Kuleana (Item (1)B above), Kauluakalana (Item (1)C above), or Division of Forestry and Wildlife (Item (1)D above) Declines its Fiscal Year 2023 Legacy Land Grant Award, or is Unable to Accept or Expend All or Part of its Awarded Funds—Awards of Remaining, Available Funds in the Fiscal Year 2023 Land Conservation Fund, up to the Amounts Originally Requested in the Fiscal Year 2023 Grant Applications, to Each Other Approved Fiscal Year 2023 Grant Awardee, in Equal Percentage, as First Alternates, up to the Full Amounts Requested, and Second, to the Legacy Land Fiscal Year 2023 Management Grant Program, in an Amount not to Exceed \$255,000, as Second Alternate.

 - (4) Authorize the Chairperson, if Needed, to Redirect up to the Full Amount of Remaining, Available Funds from a Fiscal Year 2023 Legacy Grant Award—that were Declined, not Accepted, or not Expended by Hookuaaina (Item (1)A above), Kīpuka Kuleana (Item (1)B above), Kauluakalana (Item (1)C above), or the Division of Forestry and Wildlife (Item (1)D above)—First, in Equal Percentage to the Remaining, Active, Fiscal Year 2023 Legacy Land Grantees so as to Accomplish Full Funding for Each Approved Grant Award, as Funds are Available, and Second, to the Legacy Land Fiscal Year 2023 Management Grant Program, up to \$255,000.

 - (5) Authorize the Department to Proceed with All Due Diligence and Negotiations that may be Necessary to Carry Out the Fiscal Year 2023 Legacy Land Conservation Program Grants and Acquisitions Approved by the Board and the Governor.

D. LAND DIVISION

1. Sale of Remnant (abandoned ditch) and Immediate Right of Entry Permit for Survey Purposes to Charles K. Bright & Eileen I. Bright, Kapaa Homesteads, 4th Series, Kawaihau, Kauai, Tax Map Key: (4) 4-6-027: portion of 025.
2. Deny Lessee's Request for Consent to Mortgage and Security Agreement, General Lease No. S-5844, WHR LLC, Lessee; Waiakea, South Hilo, Hawaii, Tax Map Keys: (3) 2-1-001:012 and 2-1-005:013, 016, 027, 032, and 046.
3. Rescind Prior Board Action of March 24, 2023, Item D-1, *Approve Evaluation Committee's Recommendation for Selection of Proposal Submitted by Savio SB Growth Venture LLC in Response to Request for Qualifications / Request for Proposals for Lease of Improved Public Lands; Issuance of Right-of-Entry Permit to Savio SB Growth Venture LLC for Purposes of Assessing the Physical Condition of the Property and Preparing Construction Documents; Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-1-005:020.*

Approve Evaluation Committee's Recommendation for Selection of Proposal Submitted by Banyan Drive Management LLC (BDM) in Response to Request for Qualifications / Request for Proposals (RFQ/RFP) for Lease of Improved Public Lands; Amend Right-of-Entry Permit No. 4537 and Revocable Permit No. S-7955 to BDM to Reduce the Rent from \$4,635.74 Per Month to \$100.00 Per Month Retroactive to their Respective Effective Dates through December 31, 2023; Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-1-005:020.

The reason for the rescission of the Board's prior action is that Savio SB Growth Venture LLC withdrew from the RFQ/RFP process by letter dated April 6, 2023. Staff are therefore recommending the Board approve BDM's proposal for the property, which was ranked second by the evaluation committee.

4. Cancellation of Revocable Permit No. S-7377 to Ernest Pung and Waiver of Requirement to Conduct a Phase I Environmental Site Assessment; Issuance of Month-to-Month Revocable Permit to Spencer Nagata for Pasture Purposes; Piihonua, South Hilo, Hawaii, Tax Map Keys: (3) 2-3-032:001, (3) 2-3-030:001 with access over (3) 2-3-031:001por.
5. Conveyance By Land Patent Grant of Unencumbered State Land to Hawaii Health Systems Corporation as an Addition to Hilo Medical Center, Piihonua, South Hilo, Hawaii, Tax Map Key: (3) 2-3-032:009.
6. Issuance of Right-of-Entry Permit to Maui's Original Hawaiian Corporate Games, Inc., for Beach Games Competition Purposes, Wailea, Honuaula, Maui; Tax Map Key: (2) 2-1-023: Seaward of 007.

7. **NON-ACTION ITEM:** Update on Compliance with Act 90, Session Laws of Hawaii 2003, Transfer of Non-Agricultural Park Lands to State of Hawaii Department of Agriculture.

E. STATE PARKS

1. **NON-ACTION ITEM:** Informational Briefing of the History, Current Status and Path Forward, Ahupua'a 'O Kahana State Park: Kahana, Koolauloa, Oahu, Hawai'i Tax Map Keys: (1) 5-2-002:006, 020, 021, 022, 023, 024, 026, 027, 028, 029, 030, 031, 034, 035, 036, 037, 038, 039, 040, 041, 043, 044, 044, 045, 046, 047, 048 Portion; (1) 5-2-024: Portion; (1) 5-2-005:022, 023 Portion, and (1) 5-002-001: Portion.

F. DIVISION OF AQUATIC RESOURCES

1. Request Approval to Add Funding and Extend Through September 30, 2024, an Existing Federally Funded Project Agreement between the Department of Land and Natural Resources (DLNR) and the Research Corporation of the University of Hawaii (RCUH) for the Division of Aquatic Resources (DAR) Research Project Entitled "Investigation of Estuarine Habitats."
2. Request Approval to Add Funding and Extend Through September 30, 2024, an Existing Federally Funded Project Agreement between the Department of Land and Natural Resources (DLNR) and the Research Corporation of the University of Hawaii (RCUH) for the Division of Aquatic Resources (DAR) Research Project Entitled "Statewide Marine Resources Assessment."
3. Request Approval to Add Funding and Extend Through September 30, 2024, an Existing Federally Funded Project Agreement between the Department of Land and Natural Resources (DLNR) and the Research Corporation of the University of Hawaii (RCUH) for the Division of Aquatic Resources (DAR) Research Project Entitled "Hawaii Marine Recreational Fishing Survey."
4. Request Approval to Add Funding and Extend Through September 30, 2024, an Existing Federally Funded Project Agreement between the Department of Land and Natural Resources (DLNR) and the Research Corporation of the University of Hawaii (RCUH) for the Division of Aquatic Resources (DAR) Research Project Entitled "Hawaii Freshwater Public Fishing Area (PFA) Resource Monitoring."

J. DIVISION OF BOATING AND OCEAN RECREATION

1. Consent to Sublease under Harbor Lease No. H-70-14, Keehi Marine, Inc., Lessee, Various Subtenants as Listed in **Exhibit B** (Sublease Documents can be found at: <https://dlnr.hawaii.gov/dobor/2023-keehi-marine-subleases>) Sublessees, Keehi Small Boat Harbor, Kalihi-Kai, Honolulu, Hawaii. Tax Map Key: (1) 1-2-023:030.

2. Authorize the Chairperson to Negotiate and Sign a Settlement Agreement between the Department of Land and Natural Resources and Department of Health, Wastewater Branch for NOVO No. 21-WW-EO-01, Relating to the Wastewater Treatment System at Heeia Kea Small Boat Harbor, Kaneohe, Oahu, Hawaii; Tax Map Key: (1) 4-6-006:069 and:

Authorize the Chairperson to Execute Any Other Agreement or Contract that May Be Necessary for DLNR to Comply with the Settlement Agreement.

3. Issuance of a Revocable Permit to Honolulu Transpac, Ltd., for Temporary Support Areas and Mooring Sites, for the 2023 Transpacific Yacht Race from Los Angeles, California to Honolulu, Hawaii, Situated at The Ala Wai Small Boat Harbor, Tax Map Key: (1) 2-3-037:012 (Portion); and

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

4. Issuance of a Right-Of-Entry Permit to University of Hawaii Sea Level Center, for Sea Level Monitoring Purposes at Lahaina Small Boat Harbor, Maui, Tax Map Key: (2) 4-6-001:017 (por.), Manele Small Boat Harbor, Lanai, Tax Map Key: (2) 4-9-017:006 (por.), Kaunakakai Small Boat Harbor, Molokai, Tax Map Key: (2) 5-3-001:011 (por.), Hanalei Wharf, Kauai, Tax Map Key: (4) 5-5-001:008 (por.), Port Allen, Kauai, Tax Map Key: (4) 2-1-003:010 (por.), Miloli'i Landing, Hawaii Island, Tax Map Key: (3) 8-9-004:019 (por.), and Honokohau Small Boat Harbor, Hawaii island, Tax Map Key: (3) 7-4-008:003 (por.); and

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

K. OFFICE OF CONSERVATION AND COASTAL LANDS

1. **NON-ACTION ITEM** Informational Briefing by the City and County of Honolulu Department of Parks and Recreation Regarding the Carrying Capacity Studies for the Hanauma Bay Nature Preserve located at the Hanauma Bay Nature Preserve, O'ahu Tax Map Keys: (1) 3-9-012:002, (1) 3-9-012:010, (1) 3-9-012:012, (1) 3-9-012:014, (1) 3-9-012:016, and adjacent submerged lands.
2. Request to Amend Condition #12 of Conservation District Use Permit (CDUP) OA-2957 regarding Reporting Requirements for the Carrying Capacity Studies by the City and County of Honolulu Department of Parks and Recreation at the Hanauma Bay Nature Preserve located at Hanauma Bay Nature Preserve, O'ahu Tax Map Keys: (1) 3-9-012:002, (1) 3-9-012:010, (1) 3-9-012:012, (1) 3-9-012:014, (1) 3-9-012:016, and adjacent submerged lands.

L. ENGINEERING

1. Authorization for the Chairperson to Extend the Notice of Deficiency Deadlines and Make a Finding of Violations Sufficient to Support Specified Fines on Kalihiwai Ridge Community Association, CG Utilities LLC, and Porter Irrigation if Extended Deadlines are Missed for Kalihiwai Dam Removal Project (KA-0024), Kilauea, Kauai, Tax Map Key: (4) 5-1-005:025.
2. Approval of a Petition for a Contested Case Hearing and the Delegation to the Chair for Appointment and Selection of a Hearing Officer to Conduct All Hearings for the Case Contested by Eric A. Knudsen Trust, and John Horwitz, Executive Trust Manager and Trustee Eric A. Knudsen Trust, regarding February 24, 2023 Agenda Item L-1 Dam Safety Enforcement Action on Puu O Hewa Dam (KA-0107) for Failure to Comply with Notice of Deficiency Issued November 2, 2022, and to make a finding of violations sufficient to support a specified fine on the owner, Eric A. Knudsen Trust and John Horwitz, Executive Trust Manager and Trustee Eric A. Knudsen Trust. Koloa, Kauai, Tax Map Key: (4) 2-7-002:001.

M. OTHERS

1. Issuance of a Revocable Permit for a Passenger Assistance Desk and Office Space for Airline Passenger Assistance Operation, G2 Secure Staff, L.L.C., Hilo International Airport, Tax Map Key: (3) 2-1-012: Portion of 009.
2. Issuance of a Revocable Permit for Aircraft Parking, The Realty Investment Company, Limited, Hilo International Airport, Tax Map Key: (3) 2-1-012: Portion of 009.
3. Issuance of a Revocable Permit for a T-Hangar for the Storage and Maintenance of an Aircraft, Ellen C.M. Leonard, Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-043: Portion of 003.
4. Issuance of a Revocable Permit for Ramp Space for Parking of Mobile Refuelers, FSM Group, LLC, Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-043: Portion of 003.
5. Issuance of a Revocable Permit for Sprung Structure Containers for Storage, Hawaii Pacific Aviation, Inc., Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-043: Portion of 003.
6. Issuance of a Revocable Permit for Ramp Space for Field Offices, Nan, Inc., Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-043: Portion of 003.
7. Issuance of a Revocable Permit for Ramp Space for a Modular Office, Aeko Kula, LLC, Lihue Airport, Tax Map Key: (4) 3-5-001: Portion of 008.

8. Issuance of Directly Negotiated Concession Agreement for the Management and Operation of the Automobile Parking Facilities, SP Plus Corporation, Hilo International Airport, Tax Map Keys: (3) 2-1-012:127 and (3) 2-1-012: Portion of 009.
9. Request for Authorization to Issue five (5) Month-to-Month Revocable Permits to Marisco, LTD., for Mooring of Vessels, Parking and Storage of Equipment, Dry Dock Mooring, a Power Easement, a Blast and Paint Facility and Overflow Laydown, Piers 3 and 9, Kalaeloa Barbers Point Harbor, Island of Oahu, Tax Map Keys: (1) 9-1-014: Portion of 008, (1) 9-1-014: Portion of 024 and (1) 9-1-014:030, Governor's Executive Order No. 3383.
10. **NON-ACTION ITEM.** Informational, lunchtime briefing by Department of the Attorney General regarding pending litigation, to which the Board is a party. Discussion to include: *Ka Malu O Kahālāwai, et al. v. Bd. of Land & Nat. Res., et al.*, Civil Nos. 2CCV-21-0000292 and 2CCV-22-0000002 (consolidated); *Ka Malu O Kahālāwai, et al. v. Adm'r of Div. of Boating & Ocean Recreation, et al.*, Civil Nos. 2CCV-22-0000003, 2CCV-22-0000026, and 2CCV-22-0000107 (consolidated); *Ka Malu O Kahālāwai, et al. v. Bd. of Land & Nat. Res., et al.*, Civil No. 2CCV-22-0000108; and *Ka Malu O Kahālāwai, et al. v. Bd. of Land & Nat. Res., et al.*, Civil No. CAAP-22-0000337 (pending before the Intermediate Court of Appeals; appeal from judgment in Civil No. 2CCV-21-0000336).

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