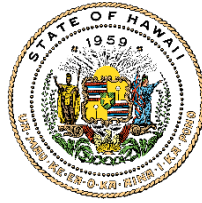


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



**APPROVED BY THE
BOARD AT ITS
MEETING HELD ON
DECEMBER 7, 2023**

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

**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

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

Audio Links: <https://files.hawaii.gov/dlnr/meeting/audio/Audio-LNR-230609-1.m4a> (1)
<https://files.hawaii.gov/dlnr/meeting/audio/Audio-LNR-230609-2.m4a> (2)

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

MEMBERS

Dawn Chang
Vernon Char (absent)
Kaiwi Yoon
Riley Smith

Doreen Canto
Aimee Barnes
Karen Ono

STAFF

Russell Tsuji-Land
David Smith-DOFAW
Keiki Kipapa-Parks
Cathy Gewerke-DAR
David Sakoda-DAR

Kevin Moore-Land
Curt Cottrell-Parks
David Smith-DAR
Brian Neilson-DAR

OTHERS

Danica Swenson/AG
Olivia Pham/DOT HAR
Luana Froiseth/D2,D3
Chris Kiser/F1
Charlie Young/F1
Steven Barren/F1
Richard Haviland/J3

Abby Lareau/DOT AIR
Shae Kamakaala/C3
Mac Curran/D6
Inga Gibson/F1
Mark Nakachi/F1
Kate Thompson/J3
Scott Allen/J3

ITEM A-1

06.09.2023(1)/00:03:14

Chair Chang called the meeting to order. The Board members and public may join in person, via phone and via Zoom. Those who requested to provide oral and written testimony have done so in advance of the meeting. The contested case standard statement was read and Roll Call of the Members conducted. Member Char is excused today. Noted the order of the Agenda items to be heard and clarified that the Naniloa is not on the agenda. The following have been withdrawn: Item C-1, Item C-2, Item D-7, and Item F-3.

06.09.2023(1)/00:10:50

ITEM A-1 Approval of the February 24, 2023, Summary Minutes.

ITEM A-2 Approval of the March 10, 2023, Summary Minutes.

Board Discussion

Items A-1 and A-2 were taken together.

Public Testimony-None

06.09.2023(1)/00:10:59

MOTION

Approved as submitted Items A-1 and A-2 (Canto, Ono) unanimously.

06.09.2023(1)/00:11:48

ITEM M-1 Issuance of a Revocable Permit for Aircraft Parking, N4232J LLC, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-076: Portion of 023.

ITEM M-2 Issuance of a Revocable Permit for Land for Ground Service Vehicle Parking and Storage of Materials to Support Its Helicopter Tour Operations, Novictor Aviation LLC, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-072: Portion of 018.

ITEM M-3 Issuance of a Revocable Permit for Ramp Space for Ground Service Equipment Parking, Air Service Hawaii, Inc., Hilo International Airport, Tax Map Key: (3) 2-1-012: Portion of 009.

ITEM M-4 Issuance of a Revocable Permit for Aircraft Parking, Manu Aviation LLC, Kalaeloa Airport, Tax Map Key: (1) 9-1-013: Portion of 032.

ITEM M-5 Issuance of a Revocable Permit for Aircraft Parking, William Moody, Kalaeloa Airport, Tax Map Key: (1) 9-1-013: Portion of 032.

ITEM M-6 Issuance of a Revocable Permit for an Office and Break Room, Delta Air Lines, Inc., Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-043: Portion of 003.

Amendment:

Chapter 343 HRS amend Environmental Assessment, pursuant to HAR 11-200.1.16 Bravo, the Department of Transportation deems the action to issue a Month-to-Month Revocable Permit to Delta Airlines to use Building 383-102 for Office and Break room as de minimis and Exempt from the preparation of an Exemption Notice. The DOT cites Exemption Type 3 Part 1 modification of existing facilities or installation of new equipment, we're going to cite Item 9 modify existing structures and buildings and personal shelters storage facilities and carports.

- ITEM M-7** Issuance of a Revocable Permit for a T-Hangar End Room for an Office to Support Flight School Operations, Hawaii Pacific Aviation Inc., Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-043: Portion of 003.
- ITEM M-8** Issuance of a Hangar Facilities Lease for Private Fixed-Wing General Aviation Operations By Notice of Public Auction, Lihue Airport, Tax Map Key: (4) 3-5-001: Portion of 158.
- ITEM M-9** Issuance of a Revocable Permit for Office Spaces and a Ticket Counter to Support Its Fixed-Base Operations, Signature Flight Support LLC, Lihue Airport, Tax Map Key: (4) 3-5-001: Portion of 147.
- ITEM M-10** Issuance of a Revocable Permit for a Concession to Sell Small Personal Electronics Through Vending Machines, Prepango LLC, Kahului Airport, Tax Map Key: (2) 3-8-001: Portion of 019.
- ITEM M-11** Issuance of a Revocable Permit for Improved, Paved Land for Storage of a Safety Cabinet, Big Island Gravity LLC, Upolu Airport, Tax Map Key: (3) 5-5-006: Portion of 007.

Abby Lareau, DOT Airports available to answer questions for Items M-1 through M-11.

Board Discussion

Item M-1, regarding Honolulu Airport does have the required Wash Rack Area for Key Hangers and Tie downs as well as Kawailoa.

Item M-2, a question regarding the company has had fatalities. This is an Operations question and not specifically for the Contract part for the use of the land. When issuing a contract, we are looking at the whole picture, they are required to provide their Certification, Air Worthy Certificate from FAA and other requirements and conditions of the contract. Applicant's permits must be up to date.

Previously, a tenant built a wall without the proper approvals and the Property Managers have been informed to ensure their tenants are in compliance.

Public Testimony-None

06.09.2023(1)/00:17:20

MOTION

Approved as submitted Items M-1, M2, M-3, M-4, M-5, M-7, M-8, M-9, M-10 and M-11 (Ono, Smith) unanimously.

Approved as amended M-6 (Ono, Smith) unanimously.

06.09.2023(1)/00:17:45

ITEM M-12 Request for Authorization to Issue three Month-to-Month Revocable Permits to Young Brothers, LLC, for a Building, Vehicle Parking, and Equipment Storage, Pier 19, Honolulu Harbor, Island of Oahu, Tax Map Key No: (1) 1-5-039: Portion of 007, (1) 1-5-039: Portion of 017, (1) 1-5-039:041, and (1) 1-5-039: Portion 063, Governor's Executive Order No. 2903.

Olivia Pham, DOT Harbors present to answer any questions.

Board Discussion-None

Public Testimony-None

06.09.2023(1)/00:17:55

MOTION

Approved as submitted (Barnes, Yoon) unanimously.

06.09.2023(1)/00:18:38

ITEM C-3 Request Approval to Authorize the Chairperson to sign a Notice of Federal Participation form required by U.S Fish and Wildlife Service to be recorded with the Purchase of Property in Māhukona, North Kohala District, Hawai'i Island, Tax Map Keys: (3) 5-7-003:002, (3) 5-7-003:003, (3) 5-7-003:010, (3) 5-7-002:011, (3) 5-7-003:001, (3) 5-7-003:018, (3) 5-7-003:007, (3) 5-7-003:008, (3) 5-7-002:027, (3) 5-7-002:036, and (3) 5-7-002:037, under Subgrant Agreement between the State of Hawai'i, Department of Land and Natural Resources, Division of Forestry and Wildlife, and Hawai'i Land Trust.

David Smith, Division of Forestry and Wildlife introduced the submittal. Shae Kamakaala (HILT) available to answer questions.

Board Discussion

Subgrant process was discussed for the Notice of Federal Participation from U.S. Fish and Wildlife Service and requirements. Cultural sites significances' were explained, and the preservation of these sites were shared.

Public Testimony

Shae Kamakaala provided additional information on the acquisition lands by her written testimony.

06.09.2023(1)/00:38:10

MOTION

Approved as submitted (Smith, Canto) unanimously.

06.09.2023(1)/00:48:35

ITEM D-1 Issuance of Right-of-Entry Permit to MC&A, Inc., for One-Day Team Building Event Purposes, Wailea, Honua'ula, Maui; Tax Map Key: (2) 2-1-023: Seaward of 007.

Russell Tsuji, Land Division presented the submittal.

Board Discussion

There should be some Notice to the public when these types of events may have an effect on public access.

Public Testimony-None

06.09.2023(1)/00:48:35

MOTION

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

06.09.2023(1)/00:56:28

ITEM D-2 Issuance of Right-of-Entry Permit for Ten (10) total Days to O'ahu Hawaiian Canoe Racing Association Hawaii for the Hawaiian Airlines Moloka'i Hoe Long Distance Canoe Race Event to Take Place Over Two Days Each Year in October 2023, October 2024, October 2025, October 2026, and October 2027, at Waikīkī, Honolulu, O'ahu, Tax Map Key: (1) 2-3-037: portion of 021.

Russell Tsuji, Land Division presented the submittal.

Board Discussion

Coordinating submittal within DLNR to create one approval for the race. Molokai Community engagement reach. Clarification on the future dates. Rent established will be good for all 5-years.

Public Testimony

Luana Froiseth, asked to have Hawaiian Airlines removed as title sponsor and provided additional information on the race asked for approval of the submittal.

Amendment:

The Board amended the recommendation section by adding a condition 2 e. to read as follows: 2 e. Notify the community in advance of the scheduled event of the temporary use of public lands on Oahu and on Molokai.

06.09.2023(1)/01:19:28

MOTION

Approved as amended (Barnes, Canto) unanimously.

06.09.2023(1)/01:23:04 Break

06.09.2023(1)/01:35:09

ITEM D-3 Issuance of Right-of-Entry Permit for One (1) Day to O'ahu Hawaiian Canoe Racing Association Hawaii for the Duke Kahanamoku Men's Long Distance Canoe Race Event to Take Place on August 20, 2023, at Waikīkī, Honolulu, O'ahu, Tax Map Key: (1) 2-3-037: portion of 021.

Russell Tsuji, Land Division presented the submittal.

Board Discussion-None

Public Testimony-None

Amendment:

The Board amended the recommendation section by finding the event will likely have minimal or no significant impact on the environment and is presumed exempt from the preparation of an environmental assessment and added an exemption notification in the form attached hereto as Exhibit C to the submittal.

06.09.2023(1)/01:36:04

MOTION

Approved as amended (Barnes, Ono) unanimously.

06.09.2023(1)/01:36:04

ITEM D-4 Issuance of Right-of-Entry Permit for One (1) Day to Waikiki Roughwater Swim Committee, Inc. for the 52nd Annual Waikiki Roughwater Swim Finish Line Area on September 4, 2023, at Waikīkī, Honolulu, O'ahu, Tax Map Key: (1) 2-3-037: portion of 021.

Russell Tsuji, Land Division presented the submittal.

Board Discussion-None

Public Testimony-None

06.09.2023(1)/01:37:05

MOTION

Approved as submitted (Yoon, Barnes) unanimously.

06.09.2023(1)/01:37:19

ITEM D-5 Amend Prior Board Action of March 23, 2018, (Item D-5), *Grant of Perpetual, Non-Exclusive Easement and Issuance of Construction Right-of-Entry Permit to Hawaiian Electric Company, Inc. for Utility Purposes; Mutual Cancellation of Perpetual Easement recorded as Liber 4170, page 220; Consent to the Disposition between the City and County of Honolulu and Hawaiian Electric Company, Inc. over the Lands under Governor's Executive Order No. 569 for Staging Areas; Waikīkī, Honolulu, O'ahu, Tax Map Keys: (1) 2-7-036:001, 007, and portions of Ala Wai Canal.*

This amendment is to note Governor's Executive Order No. 2036 to the City and County of Honolulu as an additional encumbrance on the land over which the easement is requested.

Russell Tsuji, Land Division presented the submittal.

Board Discussion-None

Public Testimony-None

06.09.2023(1)/01:38:49

MOTION

Approved as submitted (Barnes, Canto) unanimously.

06.09.2023(1)/01:38:49

ITEM D-6 Issuance of Right-of-Entry Permit for One (1) Day to Oahu Pentathlon LLC for the Oahu Pentathlon Swim, Run, Paddle, Bike, Ruck, and Bike Race Event to Take Place On August 26, 2023, at Castles Beach, Kailua, O'ahu, Tax Map Key: (1) 4-3-083: seaward of 016 and Laniloa/ Clissold's Beach, Lā'ie, O'ahu, Tax Map Key: (1) 5-5-002: seaward of 061.

Russell Tsuji, Land Division presented the submittal.

Board Discussion

Signage concerns, types of impacts affecting the public, time frame of the event, contact information. Notification to DOT regarding race route. Size of the event. Clean-up as far as leaving it better than you found it.

Public Testimony

Mac Curran provided information regarding the event.

Amendment:

The Recommendation Section add a Condition 2 f. to read as follows:

2 f. .Notify the community in advance of the scheduled event of the temporary use of public lands.

06.09.2023(1)/01:51:32

MOTION

Approved as amended (Barnes, Yoon) unanimously.

06.09.2023(1)/01:54:50

ITEM E-1 Amend Prior Board Action of June 9, 2022, Item E-1, Twenty (20) Year Extension of General Lease SP0006 Hawai'i Nature Center, Inc. at Makiki Valley State Recreation Area, Honolulu, O'ahu, Hawai'i, Tax Map Key: (1) 2-5-019:008 Portion to fix typographic errors; and

Amendment of General Lease No. S-97-01 Hawai'i Nature Center, Inc. for the reduction of the leased area and the proposed removal of the condition requiring the living accommodation and open and closing of the Park's gate.

Curt Cottrell, Division of State Parks presented the submittal. Keiki Kipapa (SP), available for questions.

Board Discussion

Review if a performance bond is part of their lease to be consistent within all Divisions the lease termination language. Environmental Site Assessment, Lessees reason for reducing the area were discussed and DOFAW will take over the cabin on the property.

Public Testimony-None

06.09.2023(1)/02:08:33

MOTION

Approved as submitted (Barnes, Yoon) unanimously.

06.09.2023(1)/02:09:46

ITEM F-1 Request for Approval of a Special Activity Permit (SAP 2024-27) for Chris Kiser, Ecoharvest Hawaii LLC, Project Coordinator, to Collect and Possess Regulated Organisms (Yellow Tang and Potter's Angelfish), Using Regulated Gear (Small Meshed Nets; < 2 Inches Stretched Mesh), in the Regulated Area within the West Hawai'i Regional Fishery Management Area (WHRFMA) on Hawai'i Island, for the Purpose of Researching Propagation/Aquaculture Techniques (for Aquarium Purposes*).

Brian Neilson, Division of Aquatic Resources joined by Cathy Gewecke presented the submittal. Noted that an amendment to the submittal regarding non-regulated in the submittal should be regulated. David Sakoda (DAR) also available to answer questions.

Board Discussion

Compliance of prior violations was determined to be procedural. Letter from DAR addressing the violations to the Permittee was sent, difference between a Special Use Activity Permit and an Aquarium Permit was discussed extensively. It was clarified that the Permittee, although not

selling the fishes he is collecting, is planning on selling the fishes that are propagated from the eggs of the fish collected for aquarium trade. Community outreach was addressed as not being sufficient.

Public Testimony

Chris Kiser, applicant explained how they use the collection of fish to propagate the eggs and sell the fish that are from the eggs of the fish they collect off the reef.

Charlie Young, Mark Nakachi, and Inga Gibson provided testimony in opposition.

06.09.2023(1)/03:20:33

MOTION

Denied (Smith, Ono) unanimously.

06.09.2023(1)/03:21:17 Break

06.09.2023(1)/04:05:34

ITEM F-2 Request for Approval to Hold Public Hearings on Proposed Adoption of a New Chapter under Hawaii Administrative Rules as Title 13, Chapter 13-78, "Ocean Stewardship User Fee" to Establish Provisions for the Ocean Stewardship User Fee Pursuant to Section 187A-52, Hawaii Revised Statutes, Including a Due Date for the Fees to be Submitted to the Department, Reporting Requirements for Commercial Operators, Record Keeping Requirements for Commercial Operators, and Applicable Penalties for Violations of the Chapter.

The proposed rule amendments can be reviewed in person, by appointment only, at the Division of Aquatic Resources (DAR) office on O'ahu at 1151 Punchbowl St. Room 330, Honolulu, Hawai'i 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 rules, can be reviewed online at: <https://ltgov.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/>.

Brian Neilson, Division of Aquatic Resources, David Sakoda (DAR) provided a PowerPoint presentation.

Continuation: **06.09.2023(2)/00:00:01**

Board Discussion

Public Hearings schedule, type of penalties/criminal/enforcement when violations are cited, how and where the Ocean Stewardship User Fee would be used, compliance for Commercial operators was discussed. The nature of the new Rule was discussed at length and if or how it would apply to other areas. How the funds will be distributed and who pays DAR versus who pays DOBOR.

Public Testimony-None

06.09.2023(2)/00:20:49

MOTION

Approved as submitted (Yoon, Canto) unanimously.

06.09.2023(2)/00:22:10

ITEM F-4 Request for Approval to Enter Into a Memorandum of Agreement Between the State of Hawai'i Department of Land and Natural Resources, Division of Aquatic Resources, and the Arizona Board of Regents, on Behalf of Arizona State University and its Center for Global Discovery and Conservation Science, Regarding the Management of the Ridge to Reef Restoration Center, Located at the Hawai'i Ocean Science and Technology Park, Hawai'i Island: and

To Authorize the Chairperson to Amend, Finalize, and Execute this Memorandum of Agreement Subject to Approval as to Form by the Department of the Attorney General; and

To Delegate Authority to the Chairperson to Enter Into, Amend, Finalize, and Execute Future Non-Binding Memorandums of Agreement and Memorandums of Understanding Between the Hawai'i Department of Land and Natural Resources' Division of Aquatic Resources and other Federal, State, and Municipal Agencies, for the Purposes of Environmental Restoration, Propagation, or Natural Resource Protection, Without Formal Board Approval.

Brian Neilson, Division of Aquatic Resources presented the submittal and handed out the revised MOA to the Board.

Board Discussion

Research and Education of Coral restoration work is one of the components of the goals of ASU which DAR will be providing support. Cultural component is part of the stewardship portion of the program. Data will be available. Discussion on the amendments.

Public Testimony

Dr. Greg Asner, representing ASU provided information on the partnership and goals to be achieved.

Amendment:

See attached revised MOU. (attach when PDF is received by DAR)

06.09.2023(2)/00:49:23

MOTION

Approved as amended (Smith and Barnes) unanimously.

06.09.2023(2)/00:50:10

ITEM J-1 Issuance of Right-of-Entry Permit to Hawaiian International Billfish Association for the Inaugural 4 Flags 30 Pound Billfish Tournament and the 61st Annual Hawaiian International Billfish Tournament, Situated at Kailua-Kona Pier, Lanihau, North Kona, Island of Hawaii, Hawaii, Tax Map Key: (3) 7-5-006:039 (por): and

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

Richard Howard, Division of Boating and Ocean Recreation presented the submittal. Ed Underwood and Kim Kahaleua (DOBOR) available to answer questions.

Board Discussion

Alcohol will be served, and it was clarified that they do not need a liquor license as they are not selling it, just providing the alcohol. Liability concerns to the State. DOBOR did check with the Liquor Commission, are they aware, even if they are not selling the alcohol, to participate in the tournament they have to pay to enter the fishing tournament.

Public Testimony-None

06.09.2023(2)/00:50:10

The Board decided to move on to Item F-2 while waiting for confirmation from the Hawaii Liquor Commission regarding the serving of alcohol and will return to Item F-1 after receiving that information.

MOTION-See 06.09.2023(2)/02:23:10 Below

06.09.2023(2)/00:52:15

ITEM J-3 **NON-ACTION ITEM:** Informational Briefing on DOBOR's Strategy for Conversion of Revocable Permits to Long-Term Dispositions Statewide.

Richard Howard, Division of Boating and Ocean Recreation and Kim Kahaleua provided a PowerPoint presentation on DOBOR's strategies going forward along with Ed Underwood (DOBOR) providing information on proposals on the parking and harbors.

Board Discussion

Advantage of direct leases, eleemosynary groups, moving forward with clear conditions on leases, performance bonds, robust discussion of processes and what can stay on a Revocable Permit and what you would consider as long-term disposition.

Public Testimony

Kate Thompson provided testimony on harbor parking. Richard Haviland and Scott Haviland provided testimony on the process and community engagement.

06.09.2023(2)/02:23:10

Continuation of Item J-1

Deputy AG Danica Swenson noted that under Hawaii Administrative Rule 13-232-60 typically consumption of alcoholic beverages on State Small Harbors and launching facilities are prohibited however the Department can permit the consumption of intoxicating liquor in agreement with approved designated areas.

Board Discussion

There was concern regarding protecting the State from liability,

Condition:

Add to the submittal a condition to defend, indemnify ,and hold harmless from all claims resulting from this Right-of Entry permit.

06.09.2023(2)/02:32:49

MOTION

Approved with added condition (Smith, Ono) unanimously.

06.09.2023(2)/02:33:12

There being no further business, Chair Chang 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 interested parties present.

Respectfully Submitted:

Darlene S. Ferreira

Darlene S. Ferreira
Land Board Secretary

Approved for Submittal:



Dawn N.S. Chang, Chairperson
Board of Land and Natural Resources
Department of Land and Natural Resources