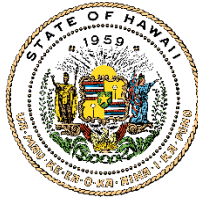


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

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

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

DATE: July 28, 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 (ZOOM)
Vernon Char
Kaiwi Yoon
Riley Smith

Doreen Canto
Aimee Barnes (Absent)
Karen Ono

STAFF

Russell Tsuji-Land
Alison Neustein-Land
Alan Carpenter-Parks
Korine Gowin-Parks
Charles Taylor-DAR
David Sakoda-DAR
Richard Howard-DOBOR

Kevin Moore-Land
Curt Cottrell-Parks
Keiki Kipapa-Parks
Brian Neilson-DAR
Nick Segrum-DAR
Ed Underwood-DOBOR

OTHERS

Julie China/AG
Jennifer Tomita/DOT HAR

Abby Lareau/DOT AIR
Travis Tomono/DOT HWY

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.

- ITEM M-1** Issuance of a Revocable Permit for a Registered Traveler Program Concession, Alclear, LLC dba Clear, Daniel K. Inouye International Airport and Kahului Airport, Tax Map Key: HNL-(1) 1-1-003: 061, and OGG-(2) 3-8-001: Portion of 019.
- ITEM M-2** Issuance of a Revocable Permit for an Employee Break Room and Storage Space, Alclear, LLC dba Clear, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: Portion of 001.
- ITEM M-3** Issuance of a Revocable Permit for Three Aircraft Parking, Corporate Air, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-076: Portion of 023.
- ITEM M-4** Issuance of a Revocable Permit for a Construction Staging Area and Vehicle Parking, Elite Pacific Construction Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: Portion of 001.
- ITEM M-5** Issuance of a Revocable Permit for a VIP Lounge, Hawaiian Airlines, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: Portion of 001.
- ITEM M-6** Issuance of a Revocable Permit for an Office and Storage Space in Support of Maintenance of the Mauka Wing Baggage Handling System, John Bean Technologies Corporation, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 050.
- ITEM M-7** Issuance of a Revocable Permit for Two Aircraft Parking, Kamaka Air LLC, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-076: Portion of 023.
- ITEM M-8** Issuance of a Revocable Permit for a Construction Staging Area for Containers and Materials for the HNL Ticket Lobby Renovations and BHS Improvements Project, Nan, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: Portion of 001.

- ITEM M-9** Issuance of a Revocable Permit for Vehicle Parking and Container Storage, NCNS Environmental, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-004: 014.
- ITEM M-10** Issuance of a Revocable Permit for Office Space in Support of Its Aircraft Maintenance Operations, Pegasus Aviation Services, LLC, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 066.
- ITEM M-11** Issuance of a Revocable Permit for Aircraft Parking, Sergey Rybakov, Kalaeloa Airport, Tax Map Key: (1) 9-1-013: Portion of 32.
- ITEM M-12** Issuance of a Revocable Permit for Ramp Space for Parking of Fuel Trucks, Company Vehicles and Ground Service Equipment, Air Service Hawaii, Inc., Hilo International Airport, Tax Map Key: (3) 2-1-012: Portion of 009.
- ITEM M-13** Issuance of Revocable Permit for Cargo, Warehouse, Offices and Container Storage for Retail Goods Distribution and Contract Home Delivery Operations, Island Movers, Inc., Hilo International Airport, Tax Map Key: (3) 2-1-012: Portion of 009.
- ITEM M-14** Issuance of a Revocable Permit for Terminal and Ramp Space to Support Its Signatory Airline Carrier Operation, Southwest Airlines Co., Hilo International Airport, Tax Map Key: (3) 2-1-012: Portion of 009.
- ITEM M-15** Issuance of a Revocable Permit for Ramp Space for Parking of Ground Service Equipment to Support Its Fixed-Base Operations, Air Service Hawaii, Inc., Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-043: Portion of 003.
- ITEM M-16** Issuance of a Revocable Permit for a T-Hangar for the Storage and Maintenance of a Private Aircraft, Gyros Hawaii LLC, Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-043: Portion of 003.
- ITEM M-17** Issuance of a Revocable Permit for Commercial Use of a Sprung Structure for Aircraft Maintenance and a Storage Container for a General Aviation Aircraft Maintenance Operation, James R. Mann, Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-043: Portion of 003.

- ITEM M-18** Issuance of a Revocable Permit for Spaces in the Main Terminal to be Used for Office, Storage, Break Room and Lei Pick-Up for Greeting Service Operations, Ohana Lei Greeters LLC, Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-043: Portion of 003.
- ITEM M-19** Issuance of a Revocable Permit for Ramp Space for Parking of Ground Service Equipment, Signature Flight Support LLC, Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-043: Portion of 003.
- ITEM M-20** Issuance of a Revocable Permit for Ramp Space for Parking of Mobile Refuelers, Signature Flight Support LLC, Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-043: Portion of 003.
- ITEM M-21** Amendment No. 1 to Revocable Permit No. 9284 to Add a Preferential Holdroom Located at Gate 5 in the Main Terminal, Hawaiian Airlines, Inc., Lihue Airport, Tax Map Key: (4) 3-5-001: Portion of 135
- ITEM M-22** Amendment No. 1 to Revocable Permit No. 9280 to Add a Preferential Holdroom Located at Gate 7 in the Main Terminal, Southwest Airlines Co., Lihue Airport, Tax Map Key: (4) 3-5-001: Portion of 135.
- ITEM M-23** Issuance of a Revocable Permit for a Preferential Hold Room Located at Gate 15 in the Main Terminal, Alaska Airlines, Inc., Kahului Airport, Tax Map Key: (2) 3-8-001: Portion of 224.
- ITEM M-24** Issuance of a Revocable Permit for Storage Space for Greeting Service Operation, Maui Town Car LLC, Kahului Airport, Tax Map Key: (2) 3-8-001: Portion of 220.
- ITEM M-25** Issuance of a Revocable Permit for Three Preferential Hold Rooms Located at Gates 1, 3, and 5 in the Main Terminal, Southwest Airlines Co., Kahului Airport, Tax Map Key: (2) 3-8-001: Portion of 228.

Abby Lareau, DOT Airports, present to answer any questions regarding Items M-1 through M-25.

Board Discussion

Public Testimony-None

MOTION

Approved as submitted Items

ITEM M-26 Request for Authorization to Issue a Month-to Month Revocable Permit (RP) to Par Hawaii Refining, LLC, for Non-Exclusive Subsurface Pipeline Easements for the Distribution of Petroleum products, situated at Piers 31-34, Honolulu Harbor, Island of Oahu, Tax Map Key: (1) 1-5-036: Portion of 001, Governor's Executive Order No. 2903.

ITEM M-27 Request for Authorization to Issue a Construction Right-of-Entry and Grant of Easements (Perpetual, Non-Exclusive) to the County of Maui, Department of Water Supply for a Portion of Waterline D, situated at Kahului Harbor Island of Maui, Tax Map Key: (2) 3-7-010: Portion of 003, Governor's Executive Order No 2635.

Jennifer Tomita, DOT Harbors

MOTION

Approved as submitted Items M-26 and M-27.

ITEM M-28 Request for Authorization to Convey Department of Transportation (DOT) Remnants E-6 Rev.1 (Portion) and 22-A East Molokai Road Secondary Project No. 2-A(1) Kaunakakai-Kamilo, Molokai, Tax Map Key: (2) 5-4-02: Road (Portion) to Gerald Alderson by Quitclaim Deed.

Travis Tomono DOT Highways

MOTION

Deferred

ITEM M-29 Request for Approval to Execute a Memorandum of Agreement to the City and County of Honolulu/Honolulu Police Department (HPD) for an Existing Sub-Station and Emergency Generator constructed on Department of Defense (DOD) property, Retention of an HPD Office Trailer On-Site, and HPD Access to and Partial use of the DOD Hawaii Army National Guard (HIIARNG) Building 300A and Parking at 4087 Diamond Head Road, Honolulu, Oahu, Tax Map Key: (1) 3-1-042:040.

Wayne Ishii, DOD

MOTION

Approved as submitted.

ITEM E-1 Consent to Transfer of General Lease No. S-5285 Jose K. Gaceta, Jr. to Brummel B. Gaceta, Successor Designee, by Succession, Lot A – 11, Ahupua'a 'O Kahana State Park, Kahana, Ko'olauloa, Oahu, Hawai'i, Tax Map Key: (1) 5-2-002:030.

MOTION

Approved as submittals.

- ITEM E-2** Consent to Transfer of General Lease No. S-5298 Sharon Keaweehu to Charles Keaweehu, Successor Designee, by Succession, Lot A-16, Ahupua'a 'O Kahana State Park, Kahana, Ko'olaupua, Oahu, Hawai'i, Tax Map Key: (1) 5-2-002:035.

MOTION

Approved as submitted.

- ITEM E-3** Request for Approval to Amend SP0059 Water Sharing Agreement between the Department of Land and Natural Resources and Pioneer Hi-Bred International, Inc. (Pioneer) at Pā'ūla'ūla State Historic Site, formerly known as Russian Fort Elizabeth State Historical Park, Tax Map Key: (4) 1-7-005:003.

MOTION

Approved as submitted .

- ITEM D-1** Cancellation of Revocable Permit No. S-7683, Michelle K. Walker, Permittee, with Reservation of the State's Right to Charge the Cost and Expense of a Phase I Environmental Site Assessment to Michelle K. Walker; Set Aside to the County of Kauai (COK) for Affordable Housing Purposes; Issuance of Immediate Management Right-of-Entry to COK, Lot 10-B, Block D, Waimea Town Lots, Waimea, Kauai, Tax Map Key: (4) 1-6-004:015.

MOTION

Approved as submitted

- ITEM D-2** Issuance of Revocable Permit to Angela Headley, Island Art LLC. For Business Purposes, Lot 11-B Hanapepe Town Lots, 1st Series, Hanapepe, Waimea, Kauai, Tax Map Key: (4) 1-9-005:053.

MOTION

Approved as submitted

- ITEM D-3** Issuance of Revocable Permit to Bill DeCosta for Intensive Agriculture Purposes, Hanapepe, Waimea, Kauai, Tax Map Keys: (4) 1-9-012:005 and 037.

MOTION

Deferred

- ITEM D-6** Issuance of Revocable Permit to David K. Kaneakua Sr., for Landscape and Maintenance Purposes, Kapaa, Kawaihau, Kauai, Tax Map Key: (4) 4-5-014: portion of 007.

MOTION

Approved as submitted

- ITEM D-7** Sale of Remnant (abandoned ditch) and Immediate Right-of-Entry Permit for Survey Purposes to Joseph Wallace Morgan, Trustee of the Joseph W. Morgan Revocable Living Trust, and Muriel Ann Morgan, Trustee of the Muriel Morgan Revocable Living Trust, Kapaa, Kawaihau, Kauai, Tax Map Key: (4) 4-6-030: portion of 010.

MOTION

Approved as submitted.

- ITEM D-8** Mutual Cancellation of General Lease No. S-4218 and Issuance of Direct Lease to Waipahu Soto Zen Temple Taiyoji for Landscaping, Parking and Memorial Purposes, Waikele, Ewa, Oahu, Tax Map Key: (1) 9-4-027:124.

MOTION

Approved as submitted

- ITEM D-9** Amend Prior Board Action of January 10, 1975, Item F-15, Conveyance in Fee to the City and County of Honolulu, Waikele, Ewa, Oahu, Tax Map Key: (1) 9-4-010:040 (Parcel 1) and (1) 9-4-027:124 (Parcel 4). The purpose of the amendment is to include the current legal references supporting the Board authority to convey the subject lands and to specify that the conveyance shall be effected by quitclaim deed.

MOTION

Approved as submitted

- ITEM F-1** Enforcement Action against Jim Jones, Noelani Yacht Charters, LLC, Kevin S. Albert, Kimberly L. Albert, and the Albert Revocable Trust for Stony Coral and Live Rock Damage resulting from the *Nakoa* grounding incident on February 20, 2023, outside of the Honolua-Mokulē'ia Bay Marine Life Conservation District, island of Maui.

Amendment:

Accept Staff recommendations to accept settlement agreement with Albert Trust and Authorize the Chair and Attorney General's office to further negotiate terms in the best interest of the State.

MOTION

Approve as amended.

ITEM F-2 Joint Division of Aquatic Resource (DAR) & Division of Boating and Ocean Recreation (DOBOR) Request for Approval to Hold Public Hearings on Proposed Amendment and Compilation of Hawaii Administrative Rules (HAR) Chapter 13-31, "Molokini Shoal Marine Life Conservation District, Maui," (Molokini MLCD) to Prohibit Any Commercial Activity Involving Swimming, Snorkeling, Diving, Kayaking, or Paddling Without a Valid Molokini MLCD Use Permit, to Prohibit Anchoring Within the Molokini MLCD, to Replace the Current Molokini MLCD Use Permit Fee of \$50.00 Every Two Years With a New, Tiered Molokini MLCD Use Permit Fee Schedule Consisting of Three Tiers of Permit Fees Based on the Passenger Capacity of the Vessel, and to Grant Discretion to the Department to Waive Permit Fees in Certain Circumstances, and HAR Chapter 13-257, "Day-Use Mooring Rules," to Repeal the Day-Use Mooring Zones for the Island of Hawai'i, to Set a Maximum Time Limit of Two and One Half Hours for Use of Any Day-Use Mooring, to Prohibit Overnight Use of Day-Use Moorings, to Clarify Where Anchoring is Allowed, to Add Provisions for the Installation of Day-Use Moorings Including Approved Mooring Buoy Design Guidelines, to Clarify that Any Deviations from the Mooring Buoy Design Guidelines Must First be Approved by the Board of Land and Natural Resources (Board), to Provide Specific Findings Required by the Board for Approval of a Mooring Buoy Design that Differs from the Mooring Buoy Design Guidelines Within the Chapter, to Add a Day-Use Mooring Buoy Site Proposal Requirement for the Department Including Specific Required Considerations, to Require the Department to Maintain and Make Available on DOBOR's website a Listing of Sanctioned Day-Use Mooring Buoys Installed in the Waters of the State Including a Reasonable Effort by the Department to Provide an Accurate Location for Each State-Owned Day-Use Mooring Buoy Via GPS Coordinates, to Prohibit Rafting of Vessels From Any Day-Use Mooring Buoy, to Clarify That Any Vessel Owner or Operator Assumes the Sole Risk of Using Any Day-Use Mooring, to Provide Specific Exemptions to the Day-Use Mooring Rules for Emergency Situations, Law Enforcement, Patrol, or Rescue Craft, Department Vessels and Personnel Performing Official Duties, Vessels and Personnel Performing Authorized Homeland Security Training Operations, and the U.S. Coast Guard, to Update the Map for the Molokini Island Day-Use Mooring Area, to Clarify the Boundaries of the Molokini Island Day-Use Mooring Area, to Remove the Separate Mooring Zones Within the Molokini Island Day-Use Mooring Area, to Update the Fee for Commercial Use of a Day-Use Mooring Within the Molokini Day-Use Mooring Area From \$100.00 Per Month or Two Percent of Gross Receipts, Whichever is Higher, to a Flat Fee of \$200.00 Per Month With an Exemption for Commercial Operators Presently Paying the Ocean Stewardship User Fee, to Clarify that the Commercial Day-Use Mooring Fees are in Addition to Fees Required under HAR §13-31-5; Chapter 13-230, "General Provisions," to Add Necessary Definitions; and Chapter 13-234, "Day-Use Mooring Rules," to Provide Exclusive Use of Recreational Day-Use Moorings Within the Molokini Day-Use Mooring Area to Recreational Vessels, to Require All Recreational Day-Use Moorings to be Indicated with a Surface Float, to Update the Window Where Recreational Vessels are Prohibited from Using Vacant Commercial Day-Use Moorings Within the Molokini Day-Use Mooring Area from 8:30 a.m.-11:30 a.m. to 7:30 a.m.-9:30 a.m., to Prohibit All Anchoring Within the Molokini Day-Use Mooring

Area, and to Add Other Non-Substantive Housekeeping Amendments for Clarity and Consistency

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, 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/>.

MOTION

Approve as submitted

ITEM J-1 Reissuance of Revocable Permit 22 (RP 22) to Nā Kālai Wa'a for Vessel and General Storage, Maintenance of Improvements, Youth Programs, Education Programs, and Affiliated Community Programs, Situated at South Kawaihae Small Boat Harbor, Kawaihae, Island of Hawaii, Hawaii, Tax Map Key: (3) 6-1-003:026 (por.);and

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

MOTION

Approved as submitted.

ITEM J-2 Mutual Cancellation of Revocable Permit 26 (RP 26) to Pacific Biodiesel Logistics, LLC, and Waiver of Phase I Environmental Site Assessment Required under RP 26; Issuance of a New Revocable Permit to Pacific Biodiesel Technologies, LLC, located at Maalaea Small Boat Harbor, Waikapu, Wailuku, Maui, Hawaii, Tax Map Key: (2) 3-6-001:002 (por.); and

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

MOTION

Approved as submitted

ITEM J-3 Consent to Sublease Under Harbor Lease No. H-70-14, Keehi Marine, Inc. ("Keehi Marine", Lessee, To: Rick Abille, an Individual, Sublessee, Ke'ehi Small Boat Harbor, Kalihi-Kai, Honolulu, Hawaii, Tax Map Key: (1) 1-2-023:030.

MOTION

Approved as submitted

ITEM J-4 Consent to Sublease Under Harbor Lease No. H-70-14, Keehi Marine, Inc. ("Keehi Marine", Lessee, To: Maybe Ready Monday Services LLC, a Hawaii limited liability company, Sublessee, Ke'ehi Small Boat Harbor, Kalihi-Kai, Honolulu, Hawaii, Tax Map Key: (1) 1-2-023:030.

MOTION

Approved as submitted.

ITEM K-1 Third Time Extension Request for Conservation District Use Permit (CDUP) KA-3668 for the Kalāheo Water System Improvements and Subdivision by the County of Kaua'i- Department of Water Supply (DOW) Located at Kalāheo and Wahiawa, Kaua'i, Tax Map Keys: (4) 2-4-004: 005, 039, 049 & 058; (4) 2-4-009:003 & 008; (4) 2-4-003:006 & 007.

MOTION

Approved as submitted.

ITEM L-1 Delegation of Authority to the Chairperson to: (1) Procure, Award and Enter into Professional Service Consultant Contracts for Capital Improvement Program Projects Funded by the Legislature as Listed in Exhibit 1 or with Program Operating Funds; (2) Declare a Construction Project Exempt from the Preparation of an Environmental Assessment or Approve an Environmental Assessment and Issue a Finding of No Significant Impact, if Appropriate; and (3) Approve, Procure and Enter into Construction Contracts for Capital Improvement Program Projects Funded by the Legislature as Listed in Exhibit 1 or with Program Operating Funds.

MOTION

Approved as submitted