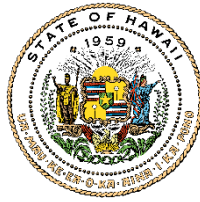


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



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

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

DEAN D. UYENO
ACTING 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 HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I
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**

DATE: December 7, 2023 (anticipated continuation on
December 8, 2023, December 15, 2023, at 9:00 a.m.)
TIME: 9:00 a.m.
PLACE: DLNR Boardroom, Kalanimoku Bldg.
1151 Punchbowl Street, 1st Floor / & Online via Zoom

MEMBERS (12.07.2023)

Audio Link (1) <https://files.hawaii.gov/dlnr/meeting/audio/Audio-LNR-231207-1.m4a>

Audio Link (2) <https://files.hawaii.gov/dlnr/meeting/audio/Audio-LNR-231207-2.m4a>

Audio Link (3) <https://files.hawaii.gov/dlnr/meeting/audio/Audio-LNR-231207-3.m4a>

Dawn Chang
Kaiwi Yoon
Aimee Barnes
Riley Smith

Vernon Char
Doreen Canto (Zoom)
Karen Ono (Zoom)

12.07.2023 (1) 00:01:23

Chair Chang noted the meeting protocols and conducted roll call of the Members.

12.07.2023 (1) 00:07:05

ITEM A-1 Approval of the June 9, 2023, Board of Land and Natural Resources Summary Meeting Minutes.

12.07.2023 (1) 00:07:15 **To Approve Summary Minutes as Submitted**
MOTION (Barnes, Smith)

12.07.2023 (1) 00:07:25 **PASSED**
VOTE 7- Unanimous

12.07.2023 (1) 00:08:25

ITEM M-1 Issuance of a Revocable Permit for a Cargo Facility and Ramp Equipment Parking, Delta Air Lines, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: Portion of 001 and (1) 1-1-003: 035.

ITEM M-2 Issuance of a Revocable permit for Parking and Storage of Rental Car Vehicles, The Hertz Corporation, Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43: Portion of 003.

12.07.2023 (1) 00:08:45 **To Approve as submitted Items M-1 and M-2**
MOTION (Barnes, Smith)

12.07.2023 (1) 00:08:52 **PASSED**
VOTE 7- Unanimous

12.07.2023 (1) 00:09:08

ITEM M-3 Request to Withdraw Land from Governor's Executive Order No. 3947 and Reset Aside to the State of Hawaii Department of Agriculture (HDOA) and Withdraw Lands from Governor's Executive Order No. 4075 and Reset Aside to the State of Hawaii Department of Transportation, Honolulu Harbor, Island of Oahu, Tax Map Key: (1) 1-2-025: Portion of 011.

12.07.2023 (1) 00:09:22 **To Approve Staff Recommendation as Submitted**
MOTION (Char, Barnes)

12.07.2023 (1) 00:09:28 **PASSED**
VOTE 7- Unanimous

12.07.2023 (1) 00:09:40

ITEM M-4 Request for Authorization to Issue a Month-to-Month Revocable Permits (RP) to Na Pali Sea Tours, Inc., for storage of dry goods, tools, parts, supplies and equipment for Repairs and Maintenance for Tour Boat Operations, situated at Pier 1, Port Allen, Island of Kauai, Tax Map Keys: (4) 2-1-003: Portion of 006, and (4) 2-1-003: Portion of 020. Governor's Executive No.1047.

12.07.2023 (1) 00:09:55 **To Approve Staff Recommendation as Submitted**
MOTION (Barnes, Smith)

12.07.2023 (1) 00:10:00 **PASSED**
VOTE 7- Unanimous

12.07.2023 (1) 00:10:28

ITEM M-6 Request for Authorization to Issue Two (2) Month-to-Month Revocable Permits to Holo Charters, Inc., for Storage and Staging Areas to Support a Sightseeing Charter Business, situated at Port Allen Harbor, Island of Kauai, Tax Map Keys:

(4) 2-1-003: Portion of 019 and (4) 2-1-003: Portion of 020. Governor's Executive Order No. 1047

12.07.2023 (1) 00:10:55 **To Approve Staff Recommendation as Submitted**
MOTION (Barnes, Smith)

12.07.2023 (1) 00:11:00 **PASSED**
VOTE 7- Unanimous

12.07.2023 (1) 00:11:10

ITEM M-7 Request for Authorization to Issue (17) Month-to-Month Revocable Permits (RP) to Hawaii Stevedores, Inc., for Stevedoring Service Operations, situated at Piers 1 and 2, Honolulu Harbor, Island of Oahu, Tax Map Key: (1) 2-1-015 Portion of 009. Governor's Executive Order No. 4238.

12.07.2023 (1) 00:11:29 **To Approve Staff Recommendation as Submitted**
MOTION (Smith, Yoon)

12.07.2023 (1) 00:11:34 **PASSED**
VOTE 7- Unanimous

12.07.2023 (1) 00:11:50

ITEM M-5 Authorize the Issuance of a Month-to-Month Revocable Permit (RP) and a New 55-year Lease by Direct Negotiation to The Gas Company, LLC, for a Non-Exclusive Subsurface Pipeline Easement, Four Cathodic Beds, and a Valve Box for Storage and Distribution of Liquefied Petroleum Gas (LPG), situated at Pier 3, Nawiliwili Harbor, Island of Kauai, Tax Map Keys: (4) 3-2-003: Portion of 041, (4) 3-2-003: Portion of 001, (4) 3-2-003: Portion of 007, and (4) 3-2-003: Portion of 051. Governor's Executive Order Nos. 3134, 1332, and 3411.

Amendment:

Changing the 55-year lease term to a 20-year lease term

12.07.2023 (1) 00:54:45 **To Approve Staff Recommendation as Amended**
MOTION (Barnes, Yoon)

12.07.2023 (1) 00:56:50 **NOT PASSED**
VOTE 2-Ayes (Barnes, Yoon),
5-Neys (Char, Ono, Canto, Chang, Smith)

12.07.2023 (1) 00:58:00 **To Approve Staff Recommendation as Submitted**
MOTION (Smith, Char)

12.07.2023 (1) 00:58:12 **PASSED**
VOTE 5-Ayes (Char, Ono, Canto, Chang, Smith)

2-Neys (Barnes, Yoon)

12.07.2023 (1) 00:59:00

ITEM D-1 Amend Prior Board Action of August 25, 2023, Item D-1, *Amend Prior Board Action of July 28, 2023, Item D-4, Issuance of Direct Lease to The Gas Company, LLC for Storage Site and Tank Farm, Operating Yard, Related Activities and Appurtenant Pipelines to Said Tanks, Nawiliwili, Lihue, Kauai Tax Map Key: (4) 3-2-003:030.*

The purpose of the prior amendment was to issue a one (1) year holdover of General Lease S-4250.

The purpose of the current amendment is to include a decommissioning bond for the removal of all trade fixtures and other equipment on the property.

12.07.2023 (1) 01:32:40 **DEFER**
MOTION (Ono, Canto)

The Board asked staff to return in sixty (60) days. The Board seeks a recommendation on the removal of improvements at the end term or early termination of the lease, specifically providing the Board with access to a fund, bond or other financial instrument that would pay for the removal of the improvements if so desired by the Board.

12.07.2023 (1) 01:35:00 **PASSED**
VOTE 6 Ayes (Char, Canto, Chang, Yoon, Smith),
1 Ney (Barnes)

12.07.2023 (1) 01:35: 35 The Board went into recess.

12.07.2023 (1) 01:47:14 The Board returned from recess.

12.07.2023 (1) 01:47:18

ITEM D-2 Issuance of Right-of-Entry Permit to Hawaii Amateur Surfing Association, for an Amateur Two (2) Day Surf Event at Lipoa Point, Honolulu, Lahaina, Maui, Tax Map Key: (2) 4-1-001: Portion of 010.

Amendment:

The Board waived the consideration requirement for the Right of Entry and approved a gratis rent for the surf event.

12.07.2023 (1) 01:48:20 **To Approve Staff Recommendation as Amended**
MOTION (Canto, Yoon)

12.07.2023 (1) 01:52:02 **PASSED**
VOTE 7- Unanimous

12.07.2023 (1) 01:52:28

ITEM D-3 Cancellation, by Request, of Revocable Permit (RP) No. S-7529 issued to Solomon Kaauamo, Jr. (now deceased) and Hannah K. Kaauamo; Waive Phase 1 Environmental Site Assessment Requirement in RP S-7529; Wailua Homesteads, Koolau, Hana, Maui, Tax Map Key No. (2) 1-1-004: 013 and 030; 2.99 acres (more or less); and

Issuance of Immediate Right-of Entry Permit and Revocable Permit to Vance Kainoa Kaauamo and Ashley Kalikolehuanani Kaauamo, Husband and Wife, for Agricultural purposes, Wailua Homesteads, Koolau, Hana, Maui, Tax Map Key No. (2) 1-1-004:030; 1.72 acres (more or less).

12.07.2023 (1) 01:55:02 **To Approve Staff Recommendation as Submitted**
MOTION (Canto, Ono)

12.07.2023 (1) 01:55:10 **PASSED**
VOTE 7- Unanimous

12.07.2023 (1) 01:55:21

ITEM D-4 Amend Prior Board Action of May 26, 2023, Item D-3, *Consent to Transfer of 100% Stock Ownership of Parent Company of InSite Towers Development, LLC, Lessee, to American Towers, LLC, Transferee, Amended General Lease Nos.:*

S-4130, Humuula, North Hilo, Hawaii, Tax Map Key: (3) 3-9-002: pors.

S-4223, Mount Kaala, Mokuleia, Waialua, Oahu, Tax Map Key: (1) 6-7-003: pors.

*S-4588, Kalawahine and Opu, Honolulu, Oahu, Tax Map Key: (1) 2-5-019: pors.
and*

S-4614, Humuula, North Hilo, Hawaii, Tax Map Key: (3) 3-8-001: por. 001 & 010

Issuance of Management Right-of-Entry Permit Retroactive to January 1, 2023, and Revocable Permit to InSite Towers Development, LLC for Telecommunication Station, and Telecommunication Tower Facilities Purposes, Humuula, North Hilo, Hawaii, Tax Map Key: (3) 3-9-002: pors.

The purposes of this amendment are to:

- A. Revise the title to clarify that the proposed action is a consent to assignment of the referenced leases by way of a transfer of 100% membership interest (as opposed to 100% stock ownership) in parent company of InSite Towers Development, LLC, Lessee (the parent company being InSite Wireless Group, LLC), to American Towers, LLC, Assignee, and specify Tax Map Key Parcel Numbers for General Lease Nos. S-4130, S-4223, and S-4588; and

- B. Authorize a holdover of expired General Lease No. S-4130 (GL 4130) to InSite Towers Development, LLC through December 31, 2023, Humuula, North Hilo, Hawaii, Tax Map Key: (3) 3-9-002: 012; and
- C. Authorize the issuance of a revocable permit to InSite Towers Development, LLC for the premises covered by GL 4130 for a one-year period beginning, January 1, 2024, Humuula, North Hilo, Hawaii, Tax Map Key: (3) 3-9-002:012; and
- D. Authorize the issuance of a management right-of-entry permit (ROE) to Cellco Partnership, d/b/a Verizon Wireless for maintenance of telecommunication fixture maintenance and continuation of service purposes for the premises covered by GL 4130, Humuula, North Hilo, Hawaii, Tax Map Key: (3) 3-9-002: 012.

12.07.2023 (1) 01:57:46 **To Approve Staff Recommendation as Submitted**
MOTION (Smith, Char)

12.07.2023 (1) 01:57:54 **PASSED**
VOTE 7- Unanimous

12.07.2023 (1) 01:58:05

ITEM L-2 Request authorization for the Chairperson to 1) Enter into a Use and Occupancy Agreement with the Department of Transportation, Highways Division; 2) Declare subject project exempt from the preparation of an Environmental Assessment and approve the Chapter 343, Hawaii Revised Statutes, Exemption Notice; and 3) Procure, award, and enter into the construction contract, supplemental agreements and execute any other necessary documents or agreements for Job No. J40CO30A, Kalauhaihai (Lucas Spring) Fishpond Restoration, Phase 3, Niu Valley, Oahu, Hawaii, Tax Map Key: (1) 3-7-002: 018, 077 and (1) 3-7-011: Kalaniana'ole Highway right-of- way.

12.07.2023 (1) 02:28:40 **To Approve Staff Recommendation as Submitted**
MOTION (Char, Barnes)

12.07.2023 (1) 02:28:48 **PASSED**
VOTE 7- Unanimous

12.07.2023 (1) 02:29:11

ITEM E-1 Consent to the Assignment of General Lease No. SP0181, Erik Paul Coopersmith, Ruth Belmonte, and Adrien Malina, as Assignors, to Roxanne Kahili Belmonte and Preston Ornellas, as Assignees, Lot 29, Waimea (Kona), Kaua'i, Tax Map Key: (4) 1-4-004:021.

12.07.2023 (1) 02:33:58 **To DEFER**

MOTION (Ono, Char)

12.07.2023 (1) 02:34:11 **PASSED**
VOTE 7- Unanimous

12.07.2023 (1) 02:41:07

ITEM E-2 Issuance of Revocable Permit to Pro Park, Inc. for Visitor Parking and Entry Management at Diamond Head State Monument, Kapahulu, Waikīkī, Honolulu, O’ahu, Tax Map Key: (1) 3-1-042:006 portion; and

Request for Delegation of Authority to the Chairperson of the Board of Land and Natural Resources to 1) Solicit an Invitation for Bids for a three (3) year Service Contract through Chapter 103D, HRS via HlePRO with a three (3) year option to renew; 2) Award Bid; 3) Enter into a Service Contract, 4) Issue a Notice to Proceed to Manage Visitors at Diamond Head State Monument; and

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

12.07.2023 (1) 02:47:58 **To Approve Staff Recommendation as Submitted**
MOTION (Char, Canto)

12.07.2023 (1) 02:48:07 **PASSED**
VOTE 7- Unanimous

12.07.2023 (1) 02:49:05

ITEM J-7 Direct Issuance of a Parking Concession to Secure Parking Hawaii LLC, in the Designated Areas Located Within the Ala Wai Small Boat Harbor, Honolulu, Oahu, Hawaii, Identified by Tax Map Keys: (1) 2-6-010:003 (Portion), (1) 2-3-037:012 (Portion), :024, :027, :033, :035 and :037; and

Continuation of Revocable Permit Issued to Secure Parking Hawaii LLC, for Management of Vehicular Parking in the Designated Areas Located Within the Ala Wai Small Boat Harbor, Honolulu, Oahu, Hawaii, Identified by Tax Map Keys: (1) 2-6-010:003 (Portion), (1) 2-3-037:012 (Portion), :024, :027, :033, :035 and :037; and

Declare Project Exempt from Environmental Assessment Requirements of Chapter 343, HRS and Title 11, Chapter 200.1, Hawaii Administrative Rules. (REVISED FROM 11.09.2023)

12.07.2023 (1) 03:32:33 **Executive Session / Lunch**
MOTION (Yoon, Barnes)

12.07.2023 (1) 03:32:56 **PASSED**

VOTE 7- Unanimous

12.07.2023 (2) 00:16:34 **Return from Executive Session**
Continuation of Item J-7

12.07.2023 (2) 00:16:58 **Executive Session**
MOTION (Barnes, Yoon)

12.07.2023 (2) 00:17:00 **PASSED**
VOTE 7- Unanimous

12.07.2023 (2) 00:22:33 **Return from Executive Session**
Continuation of Item J-7

Amendment:
Continue Revocable Permit for 6-months.

12.07.2023 (2) 00:33:53 **To Approve Staff Recommendation as Amended**
MOTION (Char, Canto)

12.07.2023 (2) 00:35:15 **PASSED**
VOTE 5-Ayes (Canto, Char, Chang, Ono, Smith)
2-Neys (Barnes, Yoon)

12.07.2023 (2) 00:35:20

Following the vote on J-7, Kate Thompson and Maggie Hallahan verbally requested contested cases.

12.07.2023 (2) 00:37:50 Member Char left the meeting.

12.07.2023 (2) 00:37:50

ITEM J-1 Consent to Sublease Under Harbor Lease No. H-83-2, Kona Marine Holdings, LLC, Lessee, to Big Island Activities LLC, Hawaii Domestic Limited Liability Company, Sublessee, Honokohau Small Boat Harbor, Kailua-Kona, North Kona, Hawaii Island, Hawaii, Tax Map Key: (3) 7-4-008:040.

12.07.2023 (2) 00:40:16 **To Approve Staff Recommendation as Submitted**
MOTION (Smith, Yoon)

12.07.2023 (2) 00:40:26 **PASSED**
VOTE 6- Unanimous, 1- Absent (Char)

12.07.2023 (2) 00:40:40

ITEM J-2 Consent to Sublease Under Harbor Lease No. H-83-2, Kona Marine Holdings, LLC, Lessee, to "C" Activities, Inc., a Hawaii Domestic Profit Company, Sublessee, Honokohau Small Boat Harbor, Kailua-Kona, North Kona, Hawaii Island, Hawaii, Tax Map Key: (3) 7-4-008:040.

12.07.2023 (2) 00:41:15 **To Approve Staff Recommendation as Submitted**
MOTION (Smith, Barnes)

12.07.2023 (2) 00:41:23 **PASSED**
VOTE 6- Unanimous, 1- Absent (Char)

12.07.2023 (2) 00:41:30

ITEM J-3 Consent to Sublease Under Harbor Lease No. H-83-2, Kona Marine Holdings, LLC, Lessee, to Cyndy Meyer, an Individual, Sublessee, Honokohau Small Boat Harbor, Kailua-Kona, North Kona, Hawaii Island, Hawaii, Tax Map Key: (3) 7-4-008:040.

12.07.2023 (2) 00:41:45 **To Approve Staff Recommendation as Submitted**
MOTION (Smith, Barnes)

12.07.2023 (2) 00:41:58 **PASSED**
VOTE 6- Unanimous, 1- Absent (Char)

12.07.2023 (2) 00:42:07

ITEM J-4 Consent to Sublease Under Harbor Lease No. H-83-2, Kona Marine Holdings, LLC, Lessee, to Jack's Diving Locker, a Hawaii General Domestic Partnership, Sublessee, Honokohau Small Boat Harbor, Kailua-Kona, North Kona, Hawaii Island, Hawaii, Tax Map Key: (3) 7-4-008:040.

12.07.2023 (2) 00:42:44 **To Approve Staff Recommendation as Submitted**
MOTION (Smith, Barnes)

12.07.2023 (2) 00:42:50 **PASSED**
VOTE 6- Unanimous, 1- Absent (Char)

12.07.2023 (2) 00:43:40

ITEM J-6 Issuance of a Revocable Permit to Hone Heke Corporation for Office Space for Maui-Lanai Passenger Ferry Operation Purposes, Situated at Ma'alaea Small Boat Harbor, Ma'alaea, Wailuku, Maui, Hawaii, Tax Map Key: (2) 3-6-001:002 (por.); and

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

Amendment:

DOBOR Staff to have access to Machine Room and Storage Closet, which is located downstairs where the Hone Heke Corporation offices are located.

12.07.2023 (2) 00:44:48 **To Approve Staff Recommendation as Submitted**

MOTION (Canto, Smith)

12:07.2023 (2) 00:45:00 **PASSED**
VOTE 6- Unanimous, 1- Absent (Char)

12.07.2023 (2) 00:45:38

ITEM C-1 Requests for (1) Approval for the use of a Request for Interest for Federal Grants Administered by the National Marine Fisheries Service, National Oceanic, and Atmospheric Administration, and Department of Commerce titled the “Species Recovery Grants to States (Section 6 Program)”; (2) a Delegation of Authority to the Chairperson to Award, Execute, and Extend Agreements with Successful Providers and to Issue Annual Requests for Interest and Awards under this Grant Program.

12.07.2023 (2) 00:47:35 **To Approve Staff Recommendation as Submitted**
MOTION (Barnes, Yoon)

12:07.2023 (2) 00:47:55 **PASSED**
VOTE 6- Unanimous, 1- Absent (Char)

12.07.2023 (2) 00:48:10

ITEM C-2 Request Approval of 1) Set-Aside of Unencumbered Lands to the Division of Forestry and Wildlife as the Waimea Base Yard Annex, 2) Issuance of Immediate Management Right-of-Entry to Division of Forestry and Wildlife in Lalamilo, South Kohala, Hawai’i, Tax Map Key: (3) 6-6-001:073.

12.07.2023 (2) 00:49:00 **To Approve Staff Recommendation as Submitted**
MOTION (Smith, Barnes)

12:07.2023 (2) 00:49:06 **PASSED**
VOTE 6- Unanimous, 1- Absent (Char)

12.07.2023 (2) 00:49:15

ITEM C-4 Authorization of funding for the Nature Conservancy for \$965,197 during FY 25-30 for continued enrollment in the Natural Area Partnership Program and acceptance and approval of the Ka’ū Preserve long range management plan, Tax Map Keys 3-9-7-001:002, 003, 004, 007, Hawaii.

12.07.2023 (2) 00:49:51 **To Approve Staff Recommendation as Submitted**
MOTION (Smith, Barnes)

12:07.2023 (2) 00:49:58 **PASSED**
VOTE 6- Unanimous, 1- Absent (Char)

12.07.2023 (2) 00:50:02

ITEM C-3 Request approval for selection of the Competitive Sealed Proposal process; and Authorize the Chairperson to award, execute, and extend contracts for the implementation of watershed management plans and projects that support native ecosystem protection and management.

12.07.2023 (2) 00:50:40 **To Approve Staff Recommendation as Submitted**
MOTION (Smith, Barnes)

12.07.2023 (2) 00:51:10 **PASSED**
VOTE 6- Unanimous, 1- Absent (Char)

12.07.2023 (2) 00:53:00

ITEM K-2 Conservation District Use Application (CDUA) HA-3921 for a Single-Family Residence, Landscaping, and Related Improvements by Carl J. and Anick L. Reese located at Government Beach Road, Wa'awa'a, Puna, Island of Hawai'i, Tax Map Key: (3) 1-4-028:005.

Amendment:

Landowner to provide access to Cultural Practitioners to gather lauhala from the property.

12.07.2023 (2) 01:12:40 **To Approve Staff Recommendation as Amended**
MOTION (Smith, Canto)

12.07.2023 (2) 01:13:25 **PASSED**
VOTE 5 Ayes (Canto, Chang, Ono, Smith, Yoon)
1 Ney (Barnes), 1 Absent (Char)

12.07.2023 (2) 01:14:15

ITEM K-4 Second Time Extension for Conservation District Use Permit (CDUP) OA-3818 to complete a Single-Family Residence by Dawn Horn located at Kailua, Koolaupoko, Oahu, Tax Map Key parcel: (1) 4-2-004:001.

12.07.2023 (2) 01:25:50 **To Approve Staff Recommendation as Submitted**
MOTION (Yoon, Ono)

12.07.2023 (2) 01:26:30 **PASSED**
VOTE 4 Ayes (Canto, Ono, Smith, Yoon), 2 Ney (Barnes)
1 Abstain (Chang), 1 Absent (Char)

12.07.2023 (2) 01:28:30

ITEM K-1 Request for Administrative Fines and Other Penalties Against 59-181 Ke-Nui LLC, including members Eric and Moniza Freeman, for Conservation District Enforcement Case OA 22-18 Regarding the Alleged Permit Noncompliance,

Construction of Shoreline Erosion Control Device, and Encroachment Upon State Land Located Makai of 59-181 D Ke Nui Rd., Tax Map Key: (1) 5-9-002:034.

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.

12.07.2023 (2) 01:30:00 Member Char returned to the meeting.

12.07.2023 (2) 02:39:32 The Board went into recess

12.07.2023 (2) 02:50:23 The Board returned from recess

12.07.2023 (2) 03:10:28 **Executive Session**
MOTION (Barnes, Yoon)

12.07.2023 (2) 03:11:13 **PASSED**
VOTE 7- Unanimous

Clarification:

Any remediation work within 4-months can be used to offset the fines. Obtain Approval of Right-of-Way from Land Division.

12.07.2023 (2) 03:32:10 **To Approve Staff Recommendation as Submitted**
MOTION (Yoon, Char)

12.07.2023 (2) 03:34:40 **PASSED**
VOTE 7- Unanimous

12.07.2023 (2) 03:35:33

Following the vote on K-1, Attorney Bernie Bays verbally requested contested case.

12.07.2023 (2) 03:32:10 **To Grant the Contested Case**
MOTION (Yoon, Char)

12.07.2023 (2) 03:37:15 **PASSED**
VOTE 7- Unanimous

12.07.2023 (2) 03:40:08 Member Yoon left the room.

12.07.2023 (2) 03:40:09

ITEM K-3 Third Time Extension Request for Conservation District Use Permit (CDUP) KA-3625 Regarding the County of Kaua'i's Kekaha Landfill Phase II Expansion Located at Kekaha, Waimea District, Island of Kaua'i, Tax Map Key: (4) 1-2-002:009.

12.07.2023 (2) 04:07:05 Member Yoon joined the meeting remotely via Zoom.

Recommendation: Provide more community, education, and recycling awareness/option outreach. Provide more recycling bins, establish a higher target for waste conversion before 2030 by the County.

12.07.2023 (3) 00:10:38 **To Approve Staff Recommendation as Submitted**
MOTION (Ono, Barnes)

12.07.2023 (3) 0:40:10 **PASSED**
VOTE 5 Ayes (Barnes, Canto, Char, Ono, Smith)
2 Neys (Chang, Yoon)

12.07.2023 (3) 0:41:30 The Board went into recess

12.07.2023 (3) 00:51:10 The Board returned from recess

12.07.2023 (3) 0:51:19

ITEM K-5 Request for administrative fines and other penalties against Mr. Joshua H. VanEmmerik for Conservation District Enforcement Case OA 23-13 regarding construction of a shoreline erosion control device located Makai of 59-147 A Ke Nui Road, Tax Map Key: (1) 5-9-002:002, and makai of 59-147 Ke Nui Road, Tax Map Key: (1) 5-9-002:003.

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.

12.07.2023 (3) 01:01:21 **To Approve Staff Recommendation as Submitted**
MOTION (Char, Barnes)

12.07.2023 (3) 01:01:48 **PASSED**
MOTION 7- Unanimous

12.07.2023 (3) 01:02:39

ITEM D-5 Cancellation of Governor's Executive Order No. 4566; Issuance of Direct Lease to Kapa'a Business Association, Inc. for Non-Profit Office, Meeting Hall, and Public Parking Purposes, Kapa'a, Kawaihau, Kauai, Tax Map Key: (4) 4-5-008:008.

Amendment:

The Board amended recommendation 3 of the submittal to correct the name of the applicant from "Kauai Business Association" to "Kapaa Business Association, Inc." and likewise corrected the applicant's name in the header of the submittal.

12.07.2023 (3) 01:17:40 **To Approve Staff Recommendation as Amended**

MOTION (Ono, Smith)

12.07.2023 (3) 01:17:57 **PASSED**
VOTE 7- Unanimous

12.07.2023 (3) 01:19:57

ITEM D-9 Mutual Termination of Easement W-1 Recorded in the Bureau of Conveyances as Document No. 2001-195580, Issuance of Right-of-Entry Permit and Grant of Term, Non-Exclusive Easements to Nowhere, LLC for (i) Relocation of Water Transmission Line and (ii) New Electric Transmission Line Purposes, Kula, Maui, Tax Map Key: (2) 2-3-005:002, por.

12.07.2023 (3) 01:23:05 **To Approve Staff Recommendation as Submitted**
MOTION (Canto, Smith)

12.07.2023 (3) 01:23:17 **PASSED**
VOTE 7- Unanimous

12.07.2023 (3) 01:23:23

ITEM D-10 Issuance of Immediate Right-of-Entry Permit to PTSI Managed Services, Inc. for Staging Area Clean Up and Payment of Back Rent for After the Fact Use of Government Lands Related to Replacement of Antenna Platform, Site Plan Approval, MA-20-63, Papaanui, Haleakala, Maui, Tax Map Key: (2) 2-2-007:005 por.

12.07.2023 (3) 01:24:45 **To Approve Staff Recommendation as Submitted**
MOTION (Canto, Ono)

12.07.2023 (3) 01:24:52 **PASSED**
VOTE 7- Unanimous

12.07.2023 (3) 01:25:00

ITEM D-11 Issuance of Construction Right-of-Entry to the City and County of Honolulu, Honolulu Authority for Rapid Transit, for Utility Purposes; Kalihi, Honolulu, Oahu; Tax Map Key: (1) 1-2-026: portions of 010.

12.07.2023 (3) 01:26:30 **To Approve Staff Recommendation as Submitted**
MOTION (Char, Ono)

12.07.2023 (3) 01:26:38 **PASSED**
VOTE 7- Unanimous

12.07.2023 (3) 01:29:26

Chair Chang recessed the meeting until Friday, December 8, 2024, at 9:00 am.

MEMBERS (12.08.2023)

Audio Link (1) <https://files.hawaii.gov/dlnr/meeting/audio/Audio-LNR-231208-1.mp4>

Audio Link (2) <https://files.hawaii.gov/dlnr/meeting/audio/Audio-LNR-231208-2.mp4>

Audio Link (3) <https://files.hawaii.gov/dlnr/meeting/audio/Audio-LNR-231208-3.mp4>

Dawn Chang
Kaiwi Yoon
Aimee Barnes
Riley Smith

Vernon Char
Doreen Canto
Karen Ono

12.08.2023 (1) 00:03:23

Chair Chang called the meeting back into session. Chair Chang noted the meeting protocols and conducted roll call of the Members.

12.08.2023 (1) 00:05:40

ITEM D-8 Issuance of Revocable Permit to Alexander & Baldwin, Inc. and East Maui Irrigation Company, LLC for the Development, Diversion, and Use of Surface Water for Diversified Agriculture, Currently Existing Historical Industrial and Non-Agricultural Uses, Reservoir, Fire Protection, Hydroelectric, and County of Maui Department of Water Supply and Kula Agricultural Park Purposes on the Island of Maui; Tax Map Keys: (2) 1-1-001:044 and 050, 1-1-002:002 (por.), 1-2-004:005 & 007, 2-9-014:001, 005, 011, 012 & 017.

Pursuant to Section 92-5(a) (4), Hawaii Revised Statutes (HRS), 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.

12.08.2023 (1) 01:55:08 **Executive Session**
MOTION (Canto, Barnes)

12.08.2023 (1) 01:55:36 **PASSED**
VOTE 7- Unanimous

12.08.2023 (1) 03:30:00 **Executive Session**
MOTION (Yoon, Canto)

12.08.2023 (1) 03:30:20 **PASSED**
VOTE 7- Unanimous

Amendment:

1. *The FEIS discussed in the Board submittal covers the state action contained in the permit. Therefore, under HAR 11-200.1-11(a) the Board strikes recommendation 1 and finds that the existing FEIS covers the existing state*

- action, the anticipated cumulative effects are similar or the same as the FEIS, and the FEIS already covers the range of alternatives to the proposed action.
2. The Board will add a condition that water from reservoirs shall also be available for fire restoration purposes.
 3. The Board will include Na Moku in the interim committee discussed in condition 6 of the staff submittal.
 4. Based on the 2018 CWRM Decision and the information presented here, the Board determines that the reasonable-beneficial use for diversified agriculture to permittees EMI and A&B under a month-to-month permit revocable on 30-days' notice is 2500 gad.
 5. The Board will not add the additional reporting on diversion structures as suggested by Sierra Club because CWRM has jurisdiction and authority over diversion structures, including removal.
 6. The Board finds that water categorized as reservoir, seepage, fire protection, evaporation, dust control, and hydroelectric are reasonable beneficial uses and therefore will not adopt Sierra Club's suggestion to consider those uses as "unused water."
 7. Based on the permittees' submission of anticipated increased acreage during the term of the RP, the Board finds that total allowable acreage for purposes of calculating the cap amount of water to be 12,500 acres. The Board finds this to be a reasonable estimate for at least six months based on permittees' predictions. If the acreage is planted on time, the Board encourages the permittee to come back to the Board to request an increase based on updated acreage predictions.
 8. As a condition of the permit, the permittees shall provide at least 6 mgd to the County of Maui daily, which is the amount the Board finds to be the reasonable beneficial allocation of water.
 9. Therefore, the total cap amount of the permit is 38.25 mgd averaged annually, with 31.25 mgd granted to the permittee for agricultural use, 6 mgd to the county for Kamole Treatment Center, and 1 mgd to Kula Ag.
 10. The cap amount is subject to the current and any future IIFS determinations.
 11. The permittee shall provide a monthly report instead of quarterly. The report will be provided to members of the working group discussed in condition 6.

12.08.2023 (1) 03:50:45
MOTION

To Approve Staff Recommendation as Amended
(Canto, Yoon)

12.07.2023 (2) 00:01:36
VOTE

PASSED
7- Unanimous

12.08.2023 (1) 00:02:15

Following the vote on D-8, David Frankel verbally requested contested case.

12.08.2023 (2) 00:04:54

ITEM D-7 Continuation of Revocable Permits for Water Use on the Islands of Hawai'i and Kaua'i See **EXHIBIT A**, attached.

Amendment:

The Board addressed the Notice of Default issued to Wood Valley Water & Farm Co-operative.

12.08.2023 (2) 00:23:21 **To Approve Staff Recommendation as Amended**
MOTION (Yoon, Smith)

12.07.2023 (2) 00:24:00 **PASSED**
VOTE 7- Unanimous

12.08.2023 (2) 00:24:38

ITEM F-3 Kalanihale's, KUPA Friends of Ho'okena Beach Park's, Moana 'Ohana's, Ko'olaupoko Hawaiian Civic Club's, and For the Fishes' Petition for Rulemaking to Prohibit the Take of Marine Life for Commercial Aquarium Purposes (With Exemptions).

12.08.2023 (2) 01:51:47 Chair recessed the meeting for a lunch break.

12.08.2023 (2) 02:23:40 The Board returned from the lunch break and the Chair resumed the meeting.

12.08.2023 (2) 03:13:17 **To Deny Staff Recommendation as Submitted**
MOTION (Barnes, Ono)

12.08.2023 (2) 03:19:28 **Executive Session**
MOTION (Canto, Yoon)

12.07.2023 (2) 03:20:00 **PASSED**
VOTE 7- Unanimous

CONDITION:

DAR to take in full consideration the Petitioner request and proceed with Rule making consistent with the statutory provisions.

12.08.2023 (2) 03:41:00 **To Deny Staff Recommendation as Submitted**
MOTION (Barnes, Ono)

12.07.2023 (2) 03:41:50 **PASSED**
VOTE 7- Unanimous

12.08.2023 (2) 03:44:00 Member Yoon and Member Canto left the meeting.

12.08.2023 (2) 03:44:55

ITEM M-27 Request Authorization to the State of Hawaii, Department of Transportation (HDOT) to Issue a Revocable Permit to HomeAid Hawaii to Construct a Housing Project to provide Medical Respite and/or Behavioral Health Support Services on a parcel currently used by (HDOT), Oahu District Kaneohe Baseyard, Kealahala, Kaneohe, Koolaupoko, Oahu, Hawaii, Tax Map Key: (1) 4-5-023:002.

12.08.2023 (2) 04:03:50 **To Approve Staff Recommendation as Submitted**
MOTION (Barnes, Char)

12.07.2023 (2) 04:08:05 **PASSED**
VOTE 7- Unanimous

12.08.2023 (2) 04:08:30

A contested case was verbally requested for F-3.

12.08.2023 (2) 04:09:05

ITEM D-6 Issuance of Term, Non-Exclusive Easements to RP21 Coco Palms LLC, Wailua, Kawaihau, Kauai, Tax Map Keys: (4) 4-1-003:044 and (4) 4-1-005: por. 017.

Issuance of Revocable Permit to RP21 Coco Palms LLC and Sale of Lease at Public Auction for Parking and Landscaping Purposes, Wailua, Kawaihau, Kauai, Tax Map Key: (4) 4-1-003:017; and

Immediate Right-of-Entry for Management Purposes to RP21 Coco Palms LLC, Wailua, Kawaihau, Kauai, Tax Map Keys: (4) 4-1-003:044, (4) 4-1-003:017 and (4) 4-1-005: por.017.

12.08.2023 (3) 00:00:30 Member Yoon rejoined the meeting remotely via Zoom

12.08.2023 (3) 00:38:50 Member Smith left the meeting

12.08.2023 (3) 01:09:42 The Board went into recess

12.08.2023 (3) 01:19:00 Member Barnes left the meeting

12.08.2023 (3) 01:20:00 The Board returned from recess

12.08.2023 (3) 01:38:15 **To Defer Item Until Meeting Reconvenes on**
MOTION **Friday, December 15th, 2024 at 9:00am**
(Yoon, Ono)

12.08.2024 (3) 01:39:30 **PASSED**
VOTE 4-Unanimous

12.08.2023 (3) 01:40:15

ITEM C-5 Request approval for the Chairperson to award, sign, and execute a contract to a vendor selected by a Competitive Sealed Proposals process to develop a Priority Climate Action Plan (PCAP).

12.08.2023 (3) 01:41:18 **To Approve Staff Recommendation as Submitted**
MOTION (Ono, Char)

12.07.2023 (3) 01:41:30 **PASSED**
VOTE 4 Ayes (Chang, Char, Ono, Yoon)

12.08.2023 (3) 01:42:02

Chair Chang recessed the meeting until Friday, December 15, 2024, at 9:00 am

DRAFT

MEMBERS (12.15.2023)

Audio Link: <https://files.hawaii.gov/dlnr/meeting/audio/Audio-LNR-231215.mp3>

Dawn Chang
Kaiwi Yoon
Riley Smith (Zoom)
Aimee Barnes (Absent)

Vernon Char
Doreen Canto (Zoom)
Karen Ono (Zoom)

12.15.2023 00:33:49

Chair Chang called the meeting back into session. Chair Chang noted the meeting protocols and conducted roll call of the Members.

12.15.2023 00:39:10

- ITEM M-8** Issuance of a Revocable Permit for Commercial Use of Four T-Hangars for Storage of Aircraft and Maintenance Hangars to Support an Aeronautical Skydiving Operation, Skydive Academy of Hawaii, Corp., Kawaihapai Airfield, Tax Map Key: (1) 6-08-014: Portion of 016 and (1) 6-08-014: Portion of 017.
- ITEM M-10** Issuance of a Revocable Permit for Aircraft Parking, Honolulu Helicopter Tours Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-76: Portion of 23.
- ITEM M-11** Issuance of a Revocable Permit for a Construction Staging Area for Materials and Equipment for State Project No. AO1021-28, Kiewit Infrastructure West Co., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 001 (Portion).
- ITEM M-12** Issuance of a Revocable Permit for Commercial Use of a T-Hangar for Storage of Aircraft and a Maintenance Hangar to Support a Helicopter Tour Operation, Novictor Aviation LLC, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-076: Portion of 022.
- ITEM M-13** Issuance of a Revocable Permit for Use of a T-Hangar for Storage and Maintenance of Personal Aircraft, True Course LLC, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-76: Portion of 021.
- ITEM M-14** Issuance of a Revocable Permit for Four Aircraft Parking, Civil Air Patrol, Kalaeloa Airport, Tax Map Key: (1) 9-1-13: Portion of 32.
- ITEM M-15** Issuance of a Revocable Permit for Vehicle Parking for Freight Forwarding Operations, Kamuela Trucking Incorporated, 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 Commercial Use of a T-Hangar for Storage and Maintenance of an Aircraft to Support Aerial Surveying Operations, Snowbird

Air 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 Ramp Space for Ground Service Equipment Parking for Signatory Airline Operations, Southwest Airlines Co., 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 Ramp Space to Install an Ice Machine to Support Signatory Airline Operations, Southwest Airlines Co., 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 Aircraft parking, Aloha Helicopter Tours LLC, Lihue Airport, Tax Map Key: (4) 3-5-001: Portion of 008.

ITEM M-21 Issuance of a Revocable Permit for Cargo Delivery Vehicle Parking to Support Air Cargo Operations, Kamaka Air LLC, Lanai Airport, Tax Map Key: (2) 4-9-002: Portion of 041.

ITEM M-22 Issuance of a Revocable Permit for Office Space to Support its Commercial Airline Support Service Operations, PrimeFlight Aviation Services, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 058 (Portion).

12.15.2023 00:41:30
MOTION

To Approve Staff Recommendation as Submitted
M-8, M-10, M-11, M-12, M-13, M-14, M-15, M-16,
M-17, M-18, M-20, M-21 & M-22 (Char, Yoon)

12.15.2023 00:41:35
VOTE

PASSED
6- Unanimous

12.15.2023 00:42:18

ITEM M-23 Request for Authorization to issue a five-year Right-of-Entry Agreement (ROE) between Kapolei Properties LLC, KSEP LLC, and the State of Hawaii, Department of Transportation (HDOT), for access and use of the Hanua Street Extension (HSE), near Kalaeloa Barbers Point Harbor (KBPH), island of Oahu, Tax Map Key Nos. (1) 9-1-014: Portion of 042 and (1) 9-1-014: Portion of 035.

12.15.2023 00:42:32
MOTION

To Approve Staff Recommendation as Submitted
(Char, Canto)

12.15.2023 00:42:43
VOTE

PASSED
6- Unanimous

12.15.2023 00:43:30

ITEM M-24 Request for Authorization to Issue a Month-to-Month Revocable Permit (RP) to Blue Dolphin Charters, Ltd, for Storage of Tools, Equipment and Supplies for

Tour Boat Operations and Minor Repairs, at Pier 1, Port Allen, Harbor, Island of Kauai, Tax Map Keys: (4) 2-1-003: Portion of 006 and (4) 2-1-003: Portion of 019. Governors' Executive Order No. 1047.

ITEM M-25 Request for Authorization to Issue two Month-to-Month Revocable Permits (RP) to McCabe, Hamilton & Renny Company, Limited, for Warehouse Space and Storage Area for Tank and Hand Wash Station, situated at Pier 23, Honolulu, Harbor, Island of Oahu, Tax Map Keys: (1) 1-5-039: Portion of 24 and (1) 1-5-039: Portion of 025, Governor's Executive Order No. 2903.

ITEM M-26 Request for Authorization to Issue a Month-to-Month Revocable Permit (RP) to Marine Spill Response Corporation, for Container Storage of Spill Response Gear, situated at Pier 2, Nawiliwili Harbor Island of Kauai, Tax Map Key: (4) 3-2-004: Portion of 034. Governor's Executive Order No. 1332.

12.15.2023 00:44:31 **To Approve Staff Recommendation as Submitted**
MOTION M-24, M-25, M-26 (Yoon, Char)

12.15.2023 00:44:39 **PASSED**
VOTE 6- Unanimous

12.15.2023 00:40:00

ITEM D-6 Issuance of Term, Non-Exclusive Easements to RP21 Coco Palms LLC, Wailua, Kawaihau, Kauai, Tax Map Keys: (4) 4-1-003:044 and (4) 4-1-005: por. 017.

Issuance of Revocable Permit to RP21 Coco Palms LLC and Sale of Lease at Public Auction for Parking and Landscaping Purposes, Wailua, Kawaihau, Kauai, Tax Map Key: (4) 4-1-003:017; and

Immediate Right-of-Entry for Management Purposes to RP21 Coco Palms LLC, Wailua, Kawaihau, Kauai, Tax Map Keys: (4) 4-1-003:044, (4) 4-1-003:017 and (4) 4-1-005: por.017.

12.15.2023 01:31:50 **Executive Session**
MOTION (Yoon, Char)

12.15.2023 01:32:20 **PASSED**
VOTE 6- Unanimous

Amendment:

The Board approved the grant of one-year, non-exclusive easements to RP21 Coco Palms LLC (RP21) and I Ola Wailuanui (IOW) for access purposes over a 440 square foot portion of Parcel A, designated as Tax Map Key: (4) 4-1-003:044 portion. The Board directed staff to return to the Board in January 2024 with a submittal recommending dispositions to RP21 and/or IOW over the two remaining parcels that are the subject of the submittal, Parcel B, designated as

12.15.2023 04:40:23
MOTION

To Approve Staff Recommendation as Submitted
(Ono, Canto)

12.15.2023 04:40:33
VOTE

PASSED
6- Unanimous

12.15.2023 04:41:00 The Board recessed for a Lunch Break

12.15.2023 05:13:40 The Board returned from a Lunch Break

12.15.2023 05:13:53

ITEM F-5 Request for Final Approval to Amend and Compile Chapter 13-95, Hawaii Administrative Rules, "Rules Regulating the Taking and Selling of Certain Marine Resources."

The proposed amendments would:

- 1) Increase the minimum length for manini (Convict Tang) from five to six inches.
- 2) Establish a new minimum length of five inches for kole (Goldring Surgeonfish).
- 3) Establish a new noncommercial bag limit of four kala (Bluespine Unicornfish) per person per day.
- 4) Establish new restrictions on the commercial harvest and sale of kala, including:
 - a. Requiring commercial kala fishers to first obtain a \$100 annual commercial kala fishing permit.
 - b. Setting a commercial annual catch limit (ACL) for kala of 15,000 lbs.; and
 - c. Requiring commercial marine dealers who sell kala to register with the Department as commercial kala dealers.
- 5) Increase the minimum length for large-bodied uhu (Parrotfish) species from twelve to fourteen inches.
- 6) Establish a minimum length of ten inches for all other uhu species.
- 7) Establish a new noncommercial bag limit of two uhu per person per day.
- 8) Establish restrictions on the commercial harvest and sale of uhu, including:
 - a. Requiring commercial uhu fishers to first obtain a \$100 annual commercial uhu fishing permit.
 - b. Prohibiting the commercial harvest of any uhu species other than *Scarus rubroviolaceus* (uhu pālupaluka and uhu 'ele'ele).
 - c. Setting a commercial ACL for uhu of 30,000 lbs.; and
 - d. Requiring commercial marine dealers who sell uhu to register with the Department as commercial uhu dealers.
- 9) Extend the current closed season (May-August) for pāpa'i kualoa (Kona Crab) to May-September.
- 10) Allow the take of female pāpa'i kualoa; and

- 11) Make other minor housekeeping amendments for clarity and consistency with other chapters including adding new definitions, amending old definitions, and other stylistic and grammatical corrections throughout the chapter.

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 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/>.

12.15.2023 07:14:35
MOTION

To Approve Staff Recommendation as Submitted
(Yoon, Smith)

12.15.2023 07:21:55
VOTE

PASSED
6- Unanimous

12.15.2023 07:23:40

ITEM F-4

Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Conservation and Management Permit to the Monument Co-Trustees: the U.S. Department of the Interior, U.S. Fish and Wildlife Service; U.S. Department of Commerce, National Oceanic and Atmospheric Administration (inclusive of the Hawaiian Monk Seal Research Program's (HMSRP) Management and Recovery Activities) and the Office of Hawaiian Affairs, for Access to State Waters to Conduct Conservation and Management Activities and to Authorize General Conservation and Management Activities by the Department of Land and Natural Resources, Divisions of Aquatic Resources & Forestry and Wildlife.

12.15.2023 07:32:20 Member Canto left the meeting

12.15.2023 07:32:15
MOTION

To Approve Staff Recommendation as Submitted
(Ono, Yoon)

12.15.2023 07:32:27
VOTE

PASSED
5- Unanimous

12.15.2023 07:34:15

ITEM F-1 Request for Final Approval to Adopt a New Chapter Under Hawaii Administrative Rules as Title 13, Chapter 13-78, "Ocean Stewardship User Fee"

The proposed new chapter will implement §187A-52, Hawaii Revised Statutes, which requires all operators of commercial vessels, watercrafts, or water sports equipment that are required to have a commercial operator permit or commercial use permit pursuant to HAR §13-256-3 to collect a \$1 ocean stewardship user fee from each passenger carried or customer served and transfer these fees to DLNR. The proposed rules also establish the due date for the fees to be submitted to DLNR, the reporting and 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 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 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-notices/>.

12.15.2023 07:39:43
MOTION

To Approve Staff Recommendation as Submitted
(Char, Yoon)

12.15.2023 07:39:52
VOTE

PASSED
5- Unanimous

12.15.2023 07:40:00

ITEM F-2 Request for Final Approval to Adopt Proposed Amendments to and Compilation of Hawaii Administrative Rules Chapters 13-31, "Molokini Shoal Marine Life Conservation District, Maui," 13-230, "General Provisions," and 13-257, "Day-Use Mooring Rules"

A. **Hawaii Administrative Rules (HAR) chapter 13-31, "Molokini Shoal Marine Life Conservation District, Maui," (Molokini MLCD or 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 update the Molokini MLCD Use Permit fee schedule, and to grant discretion to the Department of Land and

Natural Resources (DLNR or Department) to waive permit fees in certain circumstances;

- B. **HAR chapter 13-230, “General Provisions,”** to add necessary definitions.
- C. **HAR chapter 13-257, “Day-Use Mooring Rules,” Subchapter 1, “General Provisions,”** 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 guiding the installation of day-use moorings, to add a day-use mooring buoy site proposal requirement for DLNR, to require DLNR to maintain a public listing of sanctioned day-use mooring buoys, 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, and to provide specific exemptions to the day-use mooring rules;
- D. **HAR chapter 13-257, “Day-Use Mooring Rules,” Subchapter 2, “Day-Use Moorings, Island of Hawai’i,”** to repeal the day-use mooring zones for the island of Hawai’i; and
- E. **HAR chapter 13-257, “Day-Use Mooring Rules,” Subchapter 4, “Day-Use Mooring Area, Molokini Shoal Marine Life Conservation District,”** to clarify the boundaries and remove the mooring zones of the Molokini Island Day-Use Mooring Area, to update the fee schedule for commercial use of a day-use mooring within the Molokini Day-Use Mooring Area, to clarify that the commercial day-use mooring fees are in addition to fees required under HAR §13-31-5, to update rules for recreational day-use moorings within the Molokini Day-Use Mooring Area and recreational use of commercial day-use moorings, to prohibit all anchoring within the Molokini Day-Use Mooring Area, and to update the map for the Molokini Island Day-Use Mooring Area.

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 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/>.

Amendment:

Remove 13 Section 132 27-7 regarding rafting. Should there be an issue, AG's office to inform the Board immediately.

12.15.2023 07:57:50
MOTION

To Approve Staff Recommendation as Amended
(Yoon, Char)

12.15.2023 07:58:32
VOTE

PASSED
5 Unanimous

12.15.2023 07:59:20 Joshua H. VanEmmerik requested a contested case at the end of the meeting.

12.15.2023 08:05:30

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 interest 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