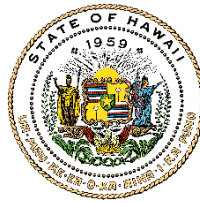




JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE



APPROVED AT ITS
BOARD MEETING
HELD ON
JANUARY 10, 2025

AS

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**

- Audio Link (1): <https://files.hawaii.gov/dlnr/meeting/audio/Audio-LNR-241213-1.m4a>
- Audio Link (2): <https://files.hawaii.gov/dlnr/meeting/audio/Audio-LNR-241213-2.m4a>
- Audio Link (3): <https://files.hawaii.gov/dlnr/meeting/audio/Audio-LNR-241213-3.m4a>

Date: December 13, 2024
Time: 9:00 AM

Place: DLNR Boardroom, Kalanimoku Bldg.
1151 Punchbowl Street, 1st floor/ & Online via Zoom

MEMBERS

Dawn Chang	Doreen Canto
Vernon Char	Riley Smith
Kaiwi Yoon	Karen Ono
Aimee Barnes (Zoom)	

00:00:40 (1) Chair Chang called the meeting to order. The contested case standard statement was read and Roll Call of the Members conducted.

00:09:15 (1) Approval of the Summary Minutes of the November 8, 2024, meeting.
ITEM A-1

00:09:18 (1) **To Approve Summary Minutes as Submitted**
MOTION (Yoon, Ono)

00:10:16 (1) **PASSED**
VOTE 7 – Unanimous

00:10:24 (1)
ITEM F-1 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Conservation and Management Permit to the Monument Management Board Agencies: the U.S. Fish and Wildlife Service Ecological Services and Refuges; National Oceanic and Atmospheric Administration National Marine Fisheries Service and Office of National Marine Sanctuaries 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.

00:19:49 (1) **To Approve Staff Recommendation as Submitted**
MOTION (Canto, Smith)

00:20:04 (1) **PASSED**
VOTE 7 – Unanimous

00:20:20 (1)

ITEM F-2

Request for Final Approval to Amend Hawaii Administrative Rules Title 13, Chapter 60.4, “West Hawai‘i Regional Fishery Management Area, Hawai‘i”.

The proposed amendments would:

- 1) Extend the current moratorium on the take of any Pāku‘iku‘i (“Achilles tang”) put into place on December 19, 2022, through the Department of Land and Natural Resources’ (Department’s) adaptive management rulemaking authority, which is set to sunset after December 18, 2024, for an additional two years (through December 18, 2026).
- 2) Add the definition of “Pāku‘iku‘i” to the list of definitions in HAR §13-60.4-3, “Definitions” section.
- 3) Make other non-substantive amendments to the chapter, such as the addition of Miloli‘i Community-Based Subsistence Fishing Area, Hawai‘i (HAR chapter 13-60.10) to the list of designated areas in subsection (c) of HAR §13-60.4-2, “Geographical Jurisdiction of Chapter Provisions”; and

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://itgov.hawaii.gov/the-office/administrative-rules/proposed-changes/>

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

00:50:27 (1) **To Approve Staff Recommendation as Submitted**
MOTION (Smith, Canto)

00:50:38 (1) **PASSED**

VOTE 7 – Unanimous

00:51:15 (1)

ITEM F-3 Request for Approval of a Standard “Memorandum of Agreement Regarding Use of Division of Aquatic Resources’ Vessel for Research Purposes Only and In Exchange for Data and Research Gained from the Use of Vessel” Template for Use with Governmental Agencies, Non-Governmental Organizations, and Academic Institutions.

And

Request for Delegation of Authority to the Administrator of the Division of Aquatic Resources to Enter Into, Finalize, and Execute Memoranda Of Agreement With Future Partner Organizations, such as Governmental Agencies, Non-Governmental Organizations, and Academic Institutions Utilizing the Board-Approved Standard Template “Memorandum of Agreement Regarding Use of Division of Aquatic Resources’ Vessel for Research Purposes Only and In Exchange for Data and Research Gained from the Use of the Vessel.”

00:52:58 (1) **To Approve Staff Recommendation as Amended**
MOTION (Canto, Ono)

00:53:09 (1) **PASSED**
VOTE 7 – Unanimous

00:53:35 (1)

ITEM C-1 Request for Delegation of Authority to the Chairperson to Negotiate, Approve, Execute, Amend, Extend, and Terminate Memorandums of Understanding, Memorandums of Agreement, Right-of-Entries, and Release of Liability Agreements between the Department of Land and Natural Resources and other entities to conduct Management and Monitoring of Natural Resources in cooperation with the Division of Forestry and Wildlife, consistent with the Department’s Chapter 343 Exemption List.

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.

01:03:49 (1) A contested case was requested for Item C-1 by Kanela if the item is approved by the Board. Contested cases were requested for Items F-2 and F-3. ¹

01:08:23 (1) **Executive Session**

¹ The Board made a motion to deny Kanela’s oral request for contested hearing on item F2. The Board requested the testifier (Kanela) to submit a written petition for Item F-3 and C-1 within ten (10) days. The Board will take an action based on the outcome.

MOTION (Yoon, Smith)

01:08:35 (1) **PASSED**
VOTE 7 – Unanimous

01:08:38 (1) The Board went to the executive session.

01:20:59 (1) The Board returned from the executive session.

01:23:45 (1) **To Deny the Requested Contested Case on Item F-2**
MOTION (Chang, Yoon)

01:25:24 (1) **PASSED**
VOTE 6 – Ayes (Chang, Canto, Ono, Smith, Yoon)
1 – Nay (Barnes)

Amendments to Item C-1:

The Board made motion the staff recommendation the following amendments:

- 1. Delegate to the Chairperson, the authority to negotiate, approve, execute, amend, extend, and terminate Memorandums of Understanding/Agreement, Right-of-Entries, and Release of Liability Agreement, as appropriate, between Nonprofit Agency and Non-Governmental Organization (NGO) to economize Grant Agreement and Timing for the Purposes of Routine and Regular Natural Resources Management Practices. Further subject to the following to remain. the following. Define between as appropriate between state and other entities, define to just include Non-Governmental Organization (NGO).*
- 2. To clarify what type of agreements that we are willing to delegate. This agreement is for routine and regular practices consistent with the department under Chapter 343 Exemption Environmental Impact Statements.*

The Department of Land and Natural Resources and other entities to conduct Management and Monitoring of Natural Resources in cooperation with the Division of Forestry and Wildlife, consistent with the Department Chapter 343 Exemption list.

01:34:25 (1) **To Approve Staff Recommendation as Amended**
MOTION (Yoon, Smith)

01:39:00 (1) **PASSED**
VOTE 7 – Unanimous

01:39:30 (1) Kanela reaffirmed their verbal request for a contested case for Item C-1.

01:39:58 (1) The Board recessed for 10 minutes break.

01:49:45 (1) The Board returned from their break.

01:50:05 (1)

ITEM C-2 Request to Conduct a Public Hearing, pursuant to section 195D-22(a), on the island of Lānaʻi, regarding the Draft Conservation Benefit Agreement (also referred to as a Safe Harbor Agreement) between Lānaʻi Resorts, LLC dba Pūlama Lānaʻi, the U.S. Fish and Wildlife Service, and the Department of Land and Natural Resources for the Introduction of the Endangered Orangeblack Hawaiian Damselfly (*Megalagrion xanthomelas*) to a conservation area on the Island of Lānaʻi, on a portion of Tax Map Key (2) 4-9-002:061.

01:50:50 (1) **To Approve Staff Recommendation as Submitted**
MOTION (Canto, Ono)

01:51:15 (1) **PASSED**
VOTE 7 – Unanimous

01:51:25 (1)

ITEM C-3 Approval of Memorandum of Agreement between the State of Hawaiʻi's Department of Education and Department of Land and Natural Resources for the Joint Management of “Shade Trees for Schools,” a project of Kaulunani Urban and Community Forestry.

Request Approval of Declaration of Exemption from Chapter 343, Hawaii Revised Statutes, for the “Shade Trees for Schools” Project.

01:52:32 (1) **To Approve Staff Recommendation as Submitted**
MOTION (Canto, Ono)

01:52:54 (1) **PASSED**
VOTE 7 – Unanimous

01:53:10 (1)

ITEM D-3 Cancellation of Governor’s Executive Order No. 4623 to the Department of Health for Health-Related Services and Conveyance by Land Patent Grant to Hawaiʻi Health Systems Corporation (HHSC) as an Addition to the Samuel Mahelona Memorial Hospital; and

Issuance of Immediate Management Right-of-Entry to HHSC for Hospital Purposes, Kapaʻa Kawaihau, Kauaʻi, Tax Map Key: (4) 4-6-014:112.

02:19:55 (1) **To Approve Staff Recommendation as Submitted**

Board Member Ono requested the minutes to reflect HHSC's representations at the meeting regarding its intent to communicate and coordinate with Easter Seals Hawaii on the use of the existing building on the property for both adult day health services and dialysis. Board Member Yoon requested that HHSC report to Land Division on milestones achieved in this regard.

MOTION (Ono, Yoon)

02:21:01 (1) **PASSED**

VOTE 7 – Unanimous

02:21:18 (1)

ITEM D-6

A. Continuation of Revocable Permits for Water use on the Island of Hawai'i. See **Exhibit A** for list of Revocable Permits.

B. Amend Revocable Permit S-7432 to Edmund C. Olson, Trustee of the Edmund C. Olsen Trust No. 2, to acknowledge Paul Alston as Successor Trustee of the Edmund C. Olsen Trust No. 2; and clarify that the Keaiwa Reservoir (and access thereto) is included in the revocable permit; and

C. Issuance of Revocable Permit for Water use to Moa`ula Farms Owners Association, Inc. for Irrigation and Ancillary Agricultural Purposes from the Moa`ula Gulch Tunnel, Ka`u Forest Reserve, Island of Hawai'i, Tax Map Key (3) 9-6-006: por.010.

02:38:22 (1) The Board recessed on D-6 item and moved to D-8 item.

02:38:47 (1)

ITEM D-8

Amend Prior Board Approval of Item D-8, January 12, 2018: *“Grant of Term, Non-Exclusive Easement to the Association of Apartment Owners of Hololani for Steel Sheet Pile Seawall and Rock Retention Purposes; Issuance of Management Right of Entry; Kahana, Lāhainā, Maui, Tax Map Key: (2) 4-3-010: Seaward of 009,”* to approve a construction and management right of entry and revocable permit to the Association of Apartment Owners of Hololani for steel sheet seawall and retention purposes.

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.

00:31:46 (2) **Executive Session and Lunch**

MOTION (Chang, Yoon)

00:31:52 (2) **PASSED**

VOTE 7 – Unanimous

01:08:38 (2) **To Deny Staff Recommendation as Submitted**
MOTION (Canto, Yoon)

01:08:55 (2) **PASSED**
VOTE 4 – Ayes (Aimee, Canto, Chang, Yoon)
3 – Nay (Char, Ono, Smith)

01:12:00 (2) The Board returned to Item D-6.

Amendment to Item D-6:

The Board limited condition 5 by amending RP S-7432 to acknowledge Paul Alston as Successor Trustee of the Edmund C. Olson Trust No. 2, correcting the spelling of the Edmund C. Olson Trust No. 2, and delegating to Land Division any other changes, that need to be made with respect to RP S-7432.

01:17:53 (2) **To Approve Staff Recommendation as Amended.**
MOTION (Smith, Ono)

01:18:50 **PASSED**
VOTE 7 – Unanimous

01:19:15 (2)

ITEM D-10 Denial of Petition for Contested Case Hearing filed by the Sierra Club on December 18, 2023, Regarding Agenda Item D-8, Approved as Amended on December 8, 2023: 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.

01:28:56 (2) **To Approve Staff Recommendation as Submitted**
MOTION (Char, Canto)

01:29:30 (2) **PASSED**
VOTE 5 – Ayes (Chang, Char, Canto, Ono, Smith)
1 – Oppose (Barnes)

1 – Abstain (Yoon)

01:30:37 (2)

ITEM D-9 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.

03:03:30 (2) The Board recessed for 5 minutes break.

03:12:08 (2) The Board returned from their break.

Amendments to Item D-9:

The Board amended conditions 6, 17 and 18 as follows: [?]

- (6) Permittee shall coordinate with an interim committee to discuss water usage issues in the areas where the streams that water may be diverted from under this revocable permit are located. The committee shall consist of ~~eight~~ seven members, representing EMI/Mahi Pono, Farm Bureau, Office of Hawaiian Affairs, the Native Hawaiian Legal Corporation, the Huelo Community Association, the Sierra Club, Na Moku Aupuni O Ko`olau Hui, ~~and the County of Maui,~~ the Department of Hawaiian Homelands, and the Aha Moku Advisory Council. The interim committee shall meet at least monthly. The County of Maui shall be responsible for organizing and scheduling these meetings.
- (17) As a condition of the permit, the Permittee shall provide ~~at least 5.0 mgd~~ not to exceed 7.0 mdg averaged monthly, to the County of Maui daily, which is the amount the Board finds to be the reasonable and beneficial allocation of water.
- (18) Therefore, the total amount of water allocated under this revocable permit shall be:
 - the amount of water equal to 3263 gallon per acre a day multiplied by the total amount of planted acreage to be used by the Permittee for diversified agriculture and other existing uses,

[?] Deletions indicated by strikethrough and new material indicated by underscoring.

- 5.0 mgd to the County of Maui Department of Water Supply for the Kamole Treatment Plant and
- ~~4.0 mgd~~ for the County of Maui Kula Agricultural Park.

All of the above allocations shall be based on a monthly average.

03:54:29 (2) **To Approve Staff Recommendation as Amended Above.**
Motion made for Discussion; no vote was taken. This motion was withdrawn later in the meeting.

MOTION (Canto, Yoon)

00:02:06 (3) The Board recessed Item D-9 and moved to Item D-14

00:02:06 (3) Member Barnes left the meeting.

00:02:06 (3)

ITEM D-14 Issuance of Right-of-Entry Permit to Wrecking Leo Productions LLC at the Duke Kahanamoku Beach for Filming Purposes, Two (2) days during the Week of January 13-17, 2025; Waikīkī, Honolulu, O‘ahu, Tax Map Key: (1) 2-3-037: portions of 021.

00:07:35 (3) **To Approve Staff Recommendation as Submitted**

MOTION (Canto, Yoon)

00:07:43 (1) **PASSED**

VOTE 6 – Unanimous

00:09:36 (3) Member Yoon left the meeting.

00:10:01 (3)

ITEM D-7 Decision Making Regarding the Denial or Approval of a One-Year Holdover of General Lease No. S-5731, Kaheawa Wind Power, LLC, Lessee, Ukumehame, Lāhainā, Wailuku, Maui, identified as Tax Map Key: (2) 4-8-001: portion of 001.

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.

Amendment to Item D-7:

2.b. Declare that the project may have a significant impact on the environment, but that by incorporating the information in the previously accepted Final EIS, Final EA/FONSI, and HCP documents, that the Board is sufficiently informed on the environmental impacts of the one-year holdover and that the impacts on the environment are the same as disclosed in the previous documents and can

*therefore be considered exempt from the preparation of a new EA or EIS **for the one-year term**.*

3. *Grant KWP a one-year holdover of General Lease No. S-5731 for the period of February 1, 2025, to January 31, 2026, the holdover shall be conditional upon KWP being compliant with Chapter 343, HRS and the terms of GL 5731, under the terms and conditions cited above, [3] which are by this reference incorporated herein and further subject to the following:*

- a. *The standard terms and conditions of the most current holdover of lease form, as may be amended from time to time.*
- b. *Review and approval by the Department of the Attorney General; and*
- c. *Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.*

4. *Add a condition to the holdover agreement that requires KWP (Lessee) to completely remove all improvements (at the end of the term or upon earlier termination) including, but not limited to, all wind turbine foundations with no depth limitation and posting a removal bond. Lessee shall pay all costs incurred by Lessor to remove said improvements, including any costs to procure a consultant to estimate the cost of removal. [4]*

00:30:18 (3) **Executive Session**
MOTION (Canto, Riley)

00:30:26 (3) **PASSED**
VOTE 5 – Unanimous

00:49:20 (3) **To Approve Staff Recommendation as Amended**
The Board approved recommendations 2.b., 3 and 4 as amended above: [5]
MOTION (Canto, Char)

00:49:32 (3) **PASSED**
VOTE 5 – Unanimous

00:50:04 (3) The Board moved back to Item D-9.

³ Chair Chang noted Board found KWP be compliant and exempt for the holdover period pursuant to its approval of recommendation 2.b above, which Deputy Attorney General Danica Swenson confirmed.

⁴ Chair Chang and Deputy Attorney General Swenson noted that removal of improvements would only be triggered if KWP does not secure a new lease for the premises after expiration of the holdover period.

⁵ New language indicated by underscoring. Recommendations 1 and 2.a of the staff submittals were not approved.

Member Canto withdrew her previous motion for Item D-9.

00:59:50 (3) A written request for a contested case was submitted by the Sierra Club for Item D-9.

01:01:00 (3) **Executive Session**
MOTION (Canto, Ono)

01:01:10 (3) **PASSED**
VOTE 5 – Unanimous

01:14:25 (3) **To Deny the Written Petition for a Contested Case Hearing Filed by the Sierra Club**
MOTION (Chang, Smith)

01:16:22 (3) **PASSED**
VOTE 5 – Unanimous

Amendments to Item D-9:

The Board amended conditions 6, 17 and 18 as follows: [9]

- (6) ~~Permittee~~ The County of Maui shall coordinate with an interim committee to discuss water usage ~~issues~~ in the areas where the streams that water may be diverted from under this revocable permit are located. The committee shall consist of ~~eight~~ members, representing EMI/Mahi Pono, Farm Bureau, Office of Hawaiian Affairs, the Native Hawaiian Legal Corporation, the ~~Huelo~~ Haiku Community Association, the Sierra Club, Na Moku Aupuni O Ko`olau Hui, ~~and the County of Maui, the Department of Hawaiian Homelands, the Aha Moku Advisory Council, and interested members of the Huelo community as determined by the County of Maui.~~ The interim committee shall meet at least monthly. The County of Maui shall be responsible for organizing and scheduling these meetings.
- (17) As a condition of the permit, the Permittee shall provide ~~at least no more than~~ 5.250 mgd, averaged monthly, to the County of Maui daily, which is the amount the Board finds to be the reasonable and beneficial allocation of water.
- (18) Therefore, the total amount of water allocated under this revocable permit shall be:
- the amount of water equal to 3263 gallon per acre a day multiplied by the total amount of planted acreage to be used by the Permittee for diversified agriculture and other existing uses, averaged annually less 1 million gallons per (mgd) day and:

[9] Deletions indicated by strikethrough and new material indicated by underscoring.

- ~~5.25~~ ~~5.0~~ mgd to the County of Maui Department of Water Supply for the Kamole Treatment Plant.
- ~~4.0 mgd for~~ and the County of Maui Kula Agricultural Park.

~~All of the above allocations shall be based~~ on a monthly average.

01:18:12 (3) **To Approve Staff Recommendation as Amended Above.**
MOTION (Canto, Smith)

01:18:30 (3) **PASSED**
VOTE 5 – Unanimous

Item D1, D2, D4, D5, D11, D12, D13, E1 and E2 to be deferred.

01:18:55 (3) There being no further business, Chair Chang adjourned the meeting.

Respectfully Submitted:

Henny Saraswati

Henny Saraswati
Land Board Secretary

Approved for Submittal:



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