

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

DATE: FRIDAY, APRIL 12, 2013  
TIME: 9:00 A.M.  
PLACE: KALANIMOKU BUILDING  
LAND BOARD CONFERENCE ROOM 132  
1151 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813

Chairperson William Aila called the meeting of the Board of Land and Natural Resources to order at 9:06 a.m. The following were in attendance:

**MEMBERS**

William Aila, Jr.  
Rob Pacheco  
Jerry Edlao

David Goode  
John Morgan  
Dr. Sam Gon

**STAFF**

Russell Tsuji/LAND  
Ed Underwood/DOBOR  
Roger Imoto/DOFAW

Dan Quinn/PARKS  
Meghan Statts/DOBOR  
Carty Chang/ENG

**OTHERS**

Bill Wynhoff, Deputy Attorney General  
Wayne Matsumura/DOT: M-2  
Michael W. Gibson: D-12  
Dean Uehara: D-10  
Donald Pascual: D-14  
Yang Suh: J-1  
Cynthia Jolima: D-6  
Robert L. O'Donoghue: J-1  
Johnathan White: J-1

Ross Smith: M-1  
Carol Soga: E-1  
Camille Kalama: E-1  
Saiva Siddhanta: D-2  
Patrick Kirkland: J-1  
Donna Kalame: D-6  
Maurice Rosete: J-1  
John Morton: J-1  
Donald Christin: J-1

{NOTE: Language for deletion is [bracketed], new/added is underlined.}

**Item A-1      March 22, 2013 Minutes**

**Item M-1 Issuance of a Direct Lease to Exacta Sales, Inc. 2875 Ualena Street, Honolulu International Airport, TMK: (1) 1-1-04:08**

Ross Smith, Property Manager, Airports Division, Department of Transportation (DOT), after offering the background on Item M-1, requested the approval of issuance of a direct lease to one of the existing tenants. The Lessee acquired the land many years ago subject to the existing lease. The lease has now expired and a five year lease with the existing operator is now required.

**Unanimously approved as submitted (Morgan, Gon)**

**Item M-3 Amendment to Prior Board Action of March 8, 2013, Item M-1, Issuance of Direct Lease to Aeko Kula, Inc. dba Aloha Air Cargo for Cargo/Maintenance Facilities and Issuance of a Right-of-Entry, for the Construction of Dust Control Fencing and Soils Remediation, at Honolulu International Airport, TMK: (1) 1-1-002:014 (portion)**

Mr. Smith explained that the resubmittal corrects the periods of fixed lease to read “corrects the periods of fixed lease by deleting the reference to fourth and fifth year periods and replacing with the third five year period.”

The remaining three five-year periods of the lease are covered in the paragraph entitled "Reopening of Annual Ground Lease Rental" of the March 8, 2013 submittal.

**Unanimously approved as submitted (Morgan, Gon)**

**Item E-1 Consent to Assignment of General Lease No. S-5304 (Lot No. 27 C, Kahana, District of Ko'olauloa, City and County of Honolulu, State of Hawai'i) to Beatrice Soga and General Lease No. S-5305 (Lot No. 27 B, Kahana, District of Ko'olauloa, City and County of Honolulu, State of Hawai'i) to Carol A. Soga.**

Dan Quinn, representing the Division of State Parks, conveyed some background on Item E-1. The department was asked to assign the leases to lessees' widows but on the advice of the Deputy Attorney General (AG) Bill Wynhoff, declined to do so. The widows sued. The department recommended that the Board approve assignment of both leases as ordered by the court and to authorize the Chair to execute the appropriate documentation.

Mr. Wynhoff said that this has been a controversial subject for quite some time. He apologized for making it difficult for the Lessees and was pleased that guidance was provided by the court.

Member Rob Pacheco asked about the disagreement on in kind services. Mr. Quinn explained that at previous meetings it was disclosed that the Lessees were behind in their hours.

Member Jerry Edlao asked who documented the in-kind service, to which Mr. Quinn replied that he had a staff member, along with the State Parks Manager, documented the hours for the people

and the number of Lessees who were behind. There was an extensive list of what the Lessees were required to do.

**Unanimously approved as submitted (Gon, Morgan)**

**Item D-12 Grant of Two (2) Perpetual, Non-Exclusive Easements to Clara Matthews, Sonny P. Lucas, and Debbie May Silva-Lucas for Access Purposes, Kunawai, Honolulu, Oahu, Tax Map Key: (1) 1-7-036:adjacent to 014 and 015.**

**Approved as amended. The Board having heard and considered the arguments of all parties and counsel, and based on the special facts and circumstances of this particular easement area where the public apparently regularly crosses-over often, albeit without any legal easement or authority, the Board approved amending the standard approved easement form of the document in the following manner for all easement holders, namely Clara Matthews, Sonny P. Lucas, and Debbie May Silva-Lucas and their respective successors and assigns:**

- (a) Deletion of paragraph 7 which relates to the obligations of the easement holder if the easement area ever needed to be relocated. In this case, as a practical matter there really isn't a readily alternative site in which the easement could be relocated.**
- (b) Paragraph 12 relates to the easement holder's obligation to pay the State's attorneys fee and all other costs if the State and the easement holder are made parties to a lawsuit. The Board approved limiting this requirement to cases where the lawsuit arises out of the actions or inactions of the easement holder (or the easement holder's guests or invitees), or the easement holder's failure to comply with any term or condition of the easement document.**
- (c) Paragraph 5 relates to insurance covering the easement area. The Board approved limiting the insurance coverage for those cases or claims arising out of the actions or inactions of the easement holder (or the easement holder's guests or invitees), or the easement holder's failure to comply with any term or condition of the easement document.**
- (d) To the extent the amendments to paragraphs 7, 12, and 5 noted above does not cover an indemnity provision in the easement document, then the Board approved limiting the indemnity in favor of the State to those cases or claims arising out of the actions or inactions of the easement holder (or the easement holder's guests or invitees), or the easement holder's failure to comply with any term or condition of the easement document.**

Russell Tsuji representing Land Division indicated Mr. Wynhoff was involved with a settlement with the parties on this matter. This matter involves a standard form easement document at no cost due to a kuleana's access. The Attorney submitted testimony about his and his client's concern. From the staff's perspective, the Board issued a kuleana's access easement in the past at

no cost, but it's a standard provision for easement documents, insurance documents, liability, etc. If people do have an actual access easement from a particular parcel, they have a legal walking access. Mr. Wynhoff added that there was a lawsuit, but nothing in the lawsuit binds the Board and agreed to present to the Board a recordable easement.

Camille Kalama, Attorney representative for client Cynthia Matthews, mentioned that she has a summary judgment decision from the court that determined the property as a kuleana and was entitled a legal impersonal access in the form of a perpetual easement. As far as the current standard form, her client agreed to standard form easement terms. Due to both parties being the same kuleana, she requested they should be treated equally for if one party is applied to the standard form, the other should be granted as well.

Micheal Gibson representing Debbie May Silva-Lucas and Sonny P. Lucas, owners of a portion of a kuleana (where the other portion was owned by Ms. Kalama's clients) stated that Native Hawaiian Legal Corp. (NHLC), representing the plaintiffs, sought to have a court find an easement in their paper for ingress from their lot. Mr. Gibson described the area off a map he displayed of the location of the kuleana lots which were mauka of Liliha Bakery on Kuakini Street just makai of Kunawai Park. Pat Tummons, a licensed surveyor, prepared a survey of the area. The map showed illustrations of the mauka end of Kunawai Lane and Kunawai Park and easement. The easement is a piece of Government lands formerly an auwai and currently a foot path. The Kunawai auwai begins near the Lucas's lot and goes makai along Mr. Gibson's client's lot and down to the Church. It makes a right turn and continues toward Kuakini Street. His clients are grateful for a chance at a recorded easement, but there is financial difficulty for each title report showing no legal access to the government road. About a hundred people walk back and forth on the government road or land on a daily basis. Ms. Kalama's clients may be using it also. Mr. Gibson said that if someone walking on the government land tripped and fell and decided to sue Mr. Gibson's client, under the grant of easement, it would be his client's obligation to pay for their defense of the State of Hawaii. If the State decided to move the access, his client under the grant of easement, would be obligated to pay for the cost. He understands the State would impose and request an easement to the State lands and he understands the difficult situation where someone comes to the Board and is interested in using the government land, but the kuleana lot has a legal right access whether it is a government land versus private land. Mr. Gibson was concerned about the language and requested for grant of easement so his clients were able to use the property similar to others using their property.

Member Sam Gon asked whether there are requested revisions. Mr. Gibson replied that they didn't want to indemnify the State if the State gets sued; they didn't want to pay the cost of moving it if it gets moved; they didn't want to have to pay for insurance if nobody else used it or signed waivers; they just wanted to walk on it like how his client would walk on it as addressed in his letter. Member John Morgan felt there were a lot of issues that were impractical such as owners who decide to move it.

Mr. Gibson said that the auwai used to go straight through the Church property to Kuakini Street. Currently, it went around as an accommodation to the Church by the State, and as a result, the land has been moved around.

Member Pacheco asked whether the purpose was for people to use the easement. Mr. Gibson said that Kunawai Lane was there and Kunawai Park was on the lane. Liliha Bakery and Liliha Fire Station were on the makai end and were reasons for the public to go mauka and makai to the park to Kuakini Street. Member Pacheco understood the pedestrian use between Kunawai Lane and Kuakini Street, but he asked if the Church used the easement.

Ms. Kalama pointed out that the Church owned property on either side according to the map on display. The State properties still existed and cut the Church's property almost in half. Thus, the auwai continued to Kuakini Street and is still owned by the State. Ms. Kalama disliked the agreement the Church had with the State but because they offered an accommodation, the Church had a parking lot on the Kuakini Street side. She explained that they built a preschool and the auwai goes right between buildings. In order to protect the children and enclose the gates, they moved the access around the playground and down to the parking lot. Thus, people go out of their way to avoid going all the way to Liliha Street, which is a considerable distance especially for the elderly.

Member David Goode asked if any of Ms. Kalama's clients' standard homeowner policies cover some liability on these easements. Mr. Gibson said to contact their insurance company and mentioned their easement which they previously did not have. His concern was that his client may not be insured due to the public having access to the property.

Mr. Gibson introduced his client, Debbie May Silva-Lucas. Ms. Silva-Lucas shared her testimony as a law-abiding citizen who wanted to do the right thing. She said that there were many people from the public who used the access daily on the property. Mr. Gibson conveyed some additional background history and Chair Aila thanked him for the additional history and thanked the representatives and clients.

Mr. Tsuji said that the Board issues a lot of easements, kuleana lots, and easement gratis, but the conditions were the standard easement leases and granted a perpetual easement which gives them legal right on their property. He was unclear about the public's legal right so he requested Mr. Wynhoff to clarify the questions. Currently, Land Division is not taking any enforcement action against anyone from the public walking over the area without any legal easement document. Member Goode said he understood the neighborhood has a nice path access, but there are many unanswered questions and recommended Land Division work on it for the next couple of weeks to check with the overall public homeowner providers on coverage. Member Morgan agreed that it did not sound unreasonable to do so. Mr. Wynhoff referred to the insurance indemnity and waiver and that they could indemnify those they invite. He suggested that maybe the staff and kuleana community could work together and takes action on the Board's and staffs' guidance.

Member Edlao elaborated on the importance of insurance, but not to insure everyone and favored limiting the liability to the owners and guests. Member Pacheco suggested requirements to keep them safe and clean with maintenance purpose and to disregard any action on the easement that clutters.

Mr. Wynhoff asked who was maintaining the nice sidewalks to which Ms. Kalama responded that the Matthews were maintaining the sidewalk. Member Edlao recommended posting signs

and Member Pacheco recommended amending the requirement for the liability insurance to work with the client and maintenance provision. Member Morgan questioned eliminating the relocation and indemnification.

Mr. Gibson shared his concern with attorney's fees if the public was against the State. Chairperson Aila recommended creating language to peel off a third party. Members Edlao, Goode and Pacheco agreed to work on the language.

**A motion by Member Pacheco and seconded by Member Gon: To approve staff's recommendation amending it with the provision partaking staffs work with applicants on language pertaining to the issue of liability insurance and attorney's fees and indemnification cause for both parties and delegated to the Chair for the final language.**

**Unanimously approved as amended (Goode, Edlao)**

**Item D-10 Grant of Perpetual, Non-Exclusive Easement to Department of Defense, Civil Defense Division, for Public Warning Siren Purposes; Issuance of Immediate Construction Right-of-Entry, Mala Wharf, Lahaina, Maui, Tax Map Key: (2) 4-5-005: Portion of 001.**

Mr. Tsuji related some background on Item D-10.

Dean Uehera, the applicant's representative agreed to the submittal.

**Unanimously approved as submitted (Goode, Edlao)**

**Item D-2 Authorize an After-the-Fact One-Year holdover of General Lease No. S-5153, Saiva Siddhanta Church, Lessee; Issuance of After-the-Fact Revocable Permit to Saiva Siddhanta Church, Permittee; Issuance of New Direct Lease to Saiva Siddhanta Church, Lessee, for Religious Purposes, Wailua, Kawaihau, Kauai, Tax Map Key: (4) 4-2-002:114.**

Mr. Tsuji briefed the Board on some background and that there were no changes to Item D-2.

Member Gon asked whether the Church representatives accepted staff's recommendation. Saiva Siddhanta, the Church representative said yes.

**Unanimously approved as submitted (Gon and Edlao)**

**Item D-14 Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Set up and Firing of Aerial Fireworks Display and Torch and Close Proximity Displays on April 24, 25, 30, May 2, and May 6, 2013, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037:021 (Portion).**

Mr. Tsuji said he had no changes to Item D-14.

Member Pacheco said he felt it was a standard Item and asked if the Chair alone was able to approve the permits or blanket approve. Mr. Tsuji said staff is working on a "Board's policy" for "ROEs" and a premium of an example of \$1000 or above, per se, and the Land Division was in the process of putting it together.

Chair Aila asked for any testifiers.

Donald Pascual, 25 years with Hawaii Explosives Pyro, testified for Item D-14. He submitted a request of Right-of-Entry for a new location. He asked the Board to consider allowing his requests.

Member Gon said he was concerned with possible effects to natural or cultural environments and recommended watching the timing of these requests, but was pleased with Mr. Pascual's testimony.

Mr. Tsuji said that although it was a Right-of-Entry, it was still a commercial activity. Mr. Gibson mentioned that there was a lawsuit on the matter. Mr. Pascual related his concerns on enforcing weddings and bringing his requests to the Board or to the Chair to make the decision. Mr. Pascual gave the example of a client willing to pay \$5 million and requested by the President.

The Chair questioned Hilton on their Friday nights fireworks, but also recommended Mr. Pascual to get his permit in early and suggested coming up with a policy and present it to Land Division to provide.

The Chair recommended that Mr. Tsuji work with Mr. Pascual and his men to identify all potential possibilities and to set parameters.

**Unanimously approved as submitted (Morgan, Pacheco)**

**Item D-6 Discussion on the Status of Chapter 11 Bankruptcy Case No. 12-02279, Hawaii Outdoor Tours, Inc., Debtor, Filed in the United States Bankruptcy Court, District of Hawaii, Including the Debtor's Disclosure Statement and Proposed Plan of Reorganization dated and filed on March 20, 2013**

**The Board will hold the discussion in 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**

Russell Tsuji representing Land Division relayed a brief background on Item D-6.

**Nonaction item**

**A motion by Member Pacheco and seconded by Member Gon to go to Executive Session**

10:39 AM EXECUTIVE SESSION  
11:11 AM RECONVENED

Chair Aila shared with the Board and public to honor Ms. Adaline Cummings promotion with Division of State Parks and her seven years of service to the Board where a presentation was made.

**Item J-1 Administrative Enforcement Action for Violation of Hawaii Administrative Rule, Section 13-231-26, Use of a Vessel as a Place of Principal Habitation, Alawai Small Boat Harbor, to the Following Individuals: Robert O'Donoghue, John Morton (Marjorie Coleman - Owner of Vessel), Donald Krispin (Jonathan Alexander - Owner of Vessel), Patrick Kirkland (Sierra Masters - Owner of Vessel), Walter Kelley, Maurice Rosete and Minako Hiyashi, Robert Mathews and Troy Sunderland, Robert Jeralds and Starrlynn Honeycutt (Yang Suh - Owner of Vessel), Dean Powell, Troy Lynch, Johnathan White (David Stewart - Owner of Vessel)**

Ed Underwood representing Division of Boating and Ocean Recreation (DOBOR) conveyed some background on Item J-1. Mr. Underwood asked the Board to authorize administrative enforcement action for violation of Administrative Rules 13-231-26 pertaining to the use of vessels as a place of principle habitation or vacation for the individual listed in the agenda title. Ala Wai Small Boat Harbor (AWSBH) and Ke'ehi Small Boat Harbor (KSBH) are the only two boat harbors in the State that allow live-a-boards. For years, the Division received complaints from people living in the harbor without a valid permit and not paying the appropriate fees. It's been very difficult to enforce. Staff enforced with DOCARE in the past and had also taken to court, but was thrown out of court. He believes that the prosecutors and judges don't understand the rules. Staff also received complaints from the Ombudsman's Office. Overall documentation is necessary and the process is as follows: identify the people, issue a verbal warning, follow-up with a certified letter, and pay a visit to the site with DOCARE. During the site visit, each individual was found at their boats. To deter unwanted behavior consequences to their action is required but when all that was said and done the behavior continued. As a result, the people who knowingly violated the rules faced their permit being revoked and required to vacate the harbor. If people had a warning, but were still using the vessel, they must pay a \$1,000 fine and this is staff's recommendation.

Member Morgan asked Mr. Underwood as to how to increase the process if there were 129 live-a-boards in the AWSBH and 39 in KSBH. Mr. Underwood referred to the Hawaii Revised Statutes and the possibility that staff may need to go back to the Legislature to increase. In 1976, it was made available, but now only 15% was available. There is a wait list for the permits and staff uses it in a timely manner when people come up. Some people who were present at this meeting were down on the wait list. The Statutes sets \$5.25 overall in addition to the normal warning.

Member Pacheco asked if staff went out on site visits suspecting people living there, received complaints, sent people a letter, and found them living there. Mr. Underwood replied "yes". Any future issues such as suspected boats in KSBH noting that the residents at the Harbor tend to be

reluctant to come forward to avoid retribution where people were told to slide an anonymous note under the office door with the slip number and DOBOR would follow up.

Referring to the first verbal warning with a follow-up certified letter, Member Goode questioned if there will be a second inspection done at a different night to see if the activities were continuing. Mr. Underwood said that when people sign up for their permit they sign an addendum to the permit that spells out how they can stay on their boat or live on their boat. On the contrary, if it's reported as suspected illegally living in or staying on the boat, the Division provides a verbal warning and follows up with a certified letter. It was uncertain if a second verbal warning was delivered prior to the final notice going out and the inspection. An advanced notice will be provided ahead of time so residents could follow the rules. Mr. Underwood said the Hawaii Revised Statutes 214.5 for first offense goes up to \$5,000 which the Board could increase. The person without the permit will be issued a fine of \$1,000 for being on the boat.

The Chair asked for Patrick Kirkland, but Mr. Kirkland was not present

Young Suh testified to item J-1. He said that she received a certified letter stating that someone was living in his boat for a few weeks and to remove them immediately. He was not living on his boat and that he lived a few blocks away. Later when he received the slip and was told by other boat tenants the different rules it made Mr. Suh uncertain about the rules. He asked for forgiveness from the Board.

Maurice Rosete, aka "Aha", testified referring to slip 536. Mr. Rosete related his encounter with DOBOR and the documented events that occurred. He received the slip from Megan Statts in 2007 and became a tenant at the Ala Wai Boat Harbor. He admitted that he was at the Ala Wai Boat harbor the night of the event, but he was allowed three days out of the week (30 days) year round, and was also allowed vacation time to stay on his boat. Chair Aila asked if he understood the responsibility for prior notification and Mr. Rosete agreed to that responsibility. Mr. Rosete passed out all necessary documents to the Board which he received from staff and addressed the Board as to why he was notified of the fees, but was confused as to why he was being charged \$56,000 worth of fines with an immediate termination from the Harbor. He asked if those credentialed people were security or were workers of the Harbor or residents who complained by making their own rules. The notification of being on the wait list for "live-a-board" slip and the only way to be a qualified is to be recognized as a permanent non-live-a-board resident where you are allowed three days a week year round.

Member Pacheco clarified that the rule was up to three days a week, but not to exceed 60 calendar days in a year, but Mr. Rosete made it clear that he was allowed on his boat. The Chair emphasized that Mr. Rosete was allowed on his boat with proper notification. Mr. Rosete agreed to the Chair's advice. Mr. Rosete provided proof of residency by providing his 2007 residency forms; he shared his proof of residency timeline. His records showed an application of proof of residency to present. He gave his reasons why he had built the boat from 2007 and about the misleading notification form from DOBOR staff.

Member Pacheco asked the three days a week, not to accede 60 calendar days a year and wanted to make sure that Mr. Rosete was clear with his numbers. Mr. Rosete showed evidence 1E form

that was given to him from the office and that the stay-on-board form was misleading and confusing. Examples such as vacation total time allowed per calendar year of 90 days were given. There was no identification on this paperwork stating where or who it came from. Mr. Rosete claimed that it does not show who printed the form, whether it was from DLNR, State of Hawaii, or the Ala Wai Harbor and that there was no stamp of DLNR to show legal proof.

Member Goode said what was being stated was irrelevant. Mr. Rosete disagreed and said that it was relevant because the procedure was an improper execution of notification from the advice of DOBOR's clerk. Based on a total of \$56,000 worth of fines, Mr. Rosete desired to dispute the fine because there claims was a lack of computer system that follow and update or have security passcodes. He was concerned about fraudulent identity theft that could transpire due to improper execution by the administrative process.

Chair Aila asked under the fine section was the third or fourth violation cumulative and all the reason to be compliant. Mr. Rosete agreed but he disliked the military action that was done to him and his wife. Mr. Rosete said that he stayed at his boat after a long flight, but was awoken up at 1am by the Harbor Master who came into his boat and was forced to stay outside due to their violation. Mr. Rosete felt as if he and his wife were treated like criminals and the Ala Wai Harbor violated their privacy law. He did not ask to have his name be published to the State public or be treated like criminals and posting their names as criminals. He requested for a different policy program to be created instead of being pulled out of their vessels at 1am in the morning. He felt confused about the raids and disliked being treated wrongly. His request to the Board was to resolve the problem and to create a computer system to registrar their vessels so he does not have to slip forms under doorways and to make sure DLNR's internal problems were dealt with.

John Morton testified reading a letter from Oahu District Manager, Meagan Statts. Mr. Morton said that he had a live-a-board slip and had a principle harbor permit and power of attorney to continue doing maintenance on the boat. He explained he was staying on the boat to keep the boat from sinking. He shared his background history of working on boats since 1999 and then provided a documented copy of the invoice, his check and his deposit slip from his account.

Chair Aila asked if Mr. Morton had an electronic pump to remove water off the boat and suggested that it would make sense to have a pump rather than to do it manually. Mr. Morton said that these occur five times a year so manually works for him at this time. It was a courtesy warning during the night of the event when staff came with a verbal warning.

The Chair said that Mr. Morton had to be the owner of the boat to be on the boat. Mr. Morton clarified that he was not the owner of the vessel, but had a power of attorney. Member Morgan stated the rules of the Department and that residents had to follow the rules, but some people disagreed with the rules. Mr. Morton said that a lot of times the owners were out of town and are called by the neighbors and his customers, including divers, to inform Mr. Morton about the owner's boat. Member Goode asked for an amendment to allow people being on Board who repair boats. Mr. Morton agreed with Mr. Goode and thanked the Board.

Robert O'Donoghue testified that he had a boat that needed work on a regular basis. He had a live-a-board status and filled out the form in a timely manner since he got caught in January. He paid his slip fee and has never been delinquent. He has safety inspections and has insurance. He reported that his boat was vandalized many times, people breaking into his boat and doing things inside where he had valuables damaged, but not stolen. Currently, he was staying two days a week and five nights a week at his elderly friend's boat to help his friend get around. Mr. O'Donoghue related his personal work history and his military family background and requested mercy from the Board as far as being able to keep his slip and to pay a fine and try to make things right so there is no severity from the Board.

Member Pacheco asked to clarify Mr. O'Donoghue's live-in status on his and his friend's boats, but Mr. O'Donoghue claimed that he had a live-a-board permit and did not go over his living status. Mr. O'Donoghue said that he is allowed to stay in his friend's boat and has paperwork to prove it. Chair Aila asked Mr. O'Donoghue if he was found in his boat during those hours to which Mr. O'Donoghue said yes.

The mother of Mr. Rosete testified and conveyed Mr. Rosete's background of the event and the timeline of when the boat was built.

The Chair asked if there were any questions from the staff. No response from staff was forthcoming.

Jonathan White, a caretaker of the vessel testified that the owner of the vessel was currently in Australia and that he informed the owner of the current issue. He read the owners' email to the Board about the verbal warning or certified letter warning. Mr. White claimed that he did not receive any of the warnings and was happy to play by the rules, that he had a power of attorney, and would put the slip under the door. He would only be in Hawaii until May and requested the Board to be lenient on the fee and would abide by the rules from then on. Mr. White was aware that the owners pay their live-a-board fee.

Donald Christin, an owner of the boat testified and provided proof of ownership relaying some background status on the boat. He addressed the Board on the Hawaii State Rules. Chair Aila advised Mr. Christin to obtain permission from the administration that he violated being a part of the ownership may also have violated another rule. Mr. Christin claimed that it was always his boat.

Member Pacheco and Member Goode said Mr. Morton will owe \$100. Sierra Masters would be revoked and for those people who were found on the boat who were not owners will pay \$1,000.

A contested case hearing was requested by Mr. Christin. Mr. Wynhoff said to follow up in writing within 10 days.

**Member Morgan made a motion to fine the boat owner \$1,000, but not to revoke the slips at this time and made it clear that the Department is very interested in the rules and procedures.**

**Unanimously approved as amended (Edlao, Pacheco)**

**Item M-2 Authorizing the Department of Transportation (DOT) to Dispose of Remnant Parcel R-2A and a Portion of R-2 (Remnant Parcel R-2B), Tax Map Key: (4) 4-9-05: Road.**

Wayne Iwamasa, representing Department of Transportation (DOT), conveyed some background on Item M-2. Mr. Iwamasa said that DOT had a blanket approval since 1984 and requested an approval for individuals to dispose of the remnant. Mr. Iwamasa worked with the client for years. DOT used the DLNR template format for 30 years, which Mr. Iwamasa finds favor with, but requested there were no grandfathered clause and Mr. Iwamasa felt as if the applicant was treated unfairly.

Mr. Tsuji stated DOT, under its own agenda item M-2 apparently presented and received Board approval to sell as a remnant parcel; and their own DOT staff together apparently with the DOT lawyers handled the initial documentation and deed. Chair was asked to sign the deed with DOT. Chair referred to Land Division for review prior to execution, and Land Division asked its lawyers to review the form of the Deed, and relevant Board approvals and acquisition documents, DLNR's lawyers and paralegal request certain changes and corrections to the deed and back-up documentation like the approvals. Mr. Iwamasa requested rather than going back and revises or corrects the documents and record, the Board grandfathered in the Deed because it was signed by the buyer already.

There was some discussion between Mr. Tsuji, Mr. Iwamasa and Chair Aila regarding DOT's request for a grandfather clause, but there are errors that need to be resolved. There is a disconnect between DLNR's attorneys and DOT's attorneys and the Chair recommended deferring until the attorneys solve the issue.

Mr. Iwamasa requested requiring a change to allow a sale to the individual entity and that DLNR's and DOT's AG's made sure all forms was reviewed properly to avoid multiple errors in front of the applicant.

**Unanimously approved as submitted (Gon, Goode)**

**Item C-1 Request Approval for Selection of Competitive Sealed Proposal Process and Authorize the Chairperson to Award and Execute a Contract for the Program Management of the Hawaii Urban and Community Forestry Program**

**Item C-2 Acceptance of Hearing Master's Report, Withdrawal of Approximately 1,500 Acres of a Portion of Governor's Proclamation Dated March 9, 1906 From the Ewa Forest Reserve and Re-set Aside as the Poamoho Natural Area Reserve, TMK: (1) 7-2-001:006 por, Wahiawa, Oahu**

**Item C-3 Request for Approval of Federal Funds Sub-grant to the Hawaii Islands Land Trust for the Fee Acquisition of a 12 Acre Parcel on the North Shore of Kauai, TMK: (4) 5-1-005:012**

Roger Imoto representing Division of Forestry and Wildlife (DOFAW) said there were no changes to Items C-1 and C-3 and that Item C-2 lease amended copy will be present at the next meeting.

**Unanimously approved as submitted (Gon, Edlao)**

**Item D-1 Issuance of Right-of-Entry Permit to St. Theresa School for Parking Purposes for Annual School Carnival on State Unencumbered Lands, por. of Kekaha House Lots, Kekaha, Waimea, Kauai, Tax Map Keys: (4) 1-3-004:054 and (4) 1-3-011:001**

**Item D-3 Request to Write-Off Uncollectible Accounts on the Island of Kauai (Island Power Company, GL 5193 owing \$3,446.79) and Oahu (Charles Vierra c/o Stewart Vierra, RP 6274, owing \$2,019.95)**

**Item D-4 Request to Write-Off Uncollectible Accounts on the Island of Hawaii; Franklin Hulce, RP 6986, owing \$227,131.85**

**Item D-5 Amend Prior Board Action of December 12, 2003, Item D-18 (Attached): Approval of Lease of Private Property with Kahua Ranch, Limited, on Behalf of the Department of Accounting and General Services, Information and Communication Services Division (DAGS), for Radio Facility Purposes, Waiaka and Kahualilii, North Kona, Hawaii, TMK: (3) 5-9-02: Portion 02. Amendment Request: That the Board Authorize the Preparation of a Land Court Petition Designating Easements for the purposes of a Radio Facility, Utilities, Drainage, Driveway, and Microwave Signal Clearances.**

**Item D-7 Grant of Term, Non-Exclusive Easement to CMBY 2011 Investment, LLC for Access and Utility Purposes, Pulehunui, Wailuku, Maui, Tax Map Key: (2) 3-8-008:001 por.**

**Item D-8 Amend Prior Board Action of December 14, 2012, Item D-8 (Attached): Cancel Revocable Permit No. S-7368 and Reissuance of a Revocable Permit to Alexander & Baldwin, Inc., Pulehunui, Wailuku, Maui, Tax Map Key: (2) 3-8-08: 1, 8, 35 and 38. Amendment Request: 1) Include Tax Map Key: (2) 3-8-08: 20 as a Portion of Revocable Permit No. S-7368, and 2) Waive Additional Condition No. 14 in Revocable Permit No. S-7368.**

**Item D-9 Issuance of Right-of-Entry Permit to Envisions Entertainment & Productions, Inc., Hawaii Representative for Pyro Spectaculars, Inc. for Aerial Fireworks Display Purposes at Honolua, Lahaina, Maui, Tax Map Key:(2) 4-2-004: seaward of 015.**

- Item D-11** Grant of Perpetual, Non-Exclusive Easement and Issuance of Construction and Management Right-of-Entry to Department of Transportation for Navigation Lighting Purposes, Honolulu, Oahu, Tax Map Key: (1) 1-1-003:006 portion.
- Item D-13** Issuance of Right-of-Entry Permit to Hilton Hawaiian Village, LLC for Beach Activities Purposes to be held from April 23 to May 3, 2013 at Duke Kahanamoku Beach, Honolulu, Oahu, Tax Map Key: (1) 2-3-037:portion of 021
- Item D-15** Grant of a Perpetual, Non-Exclusive Easement and Issuance of a Construction and Management Right-of-Entry to the City and County of Honolulu, Board of Water Supply for Water Meter Purposes, Aiea, Ewa, Oahu, TMK:(1) 9-9-078:004 (Portion).

Mr. Tsuji said there were no changes to items D-1, D-3, D-4, D-5, D-7, D-8, D-9, D-11, D-13 and D-15

**Unanimously approved as submitted (Edlao, Pacheco)**

- Item L-1** Certification of Elections of James Boswell, Bryan Plunkett and Noah Freeman and Appointment of Lance “Kip” Dunbar and Faith Tuipulotu to Serve as Directors of the Molokai-Lanai Soil and Water Conservation District
- Item L-2** Appointment of Morgan Toledo as Mauna Kea Soil and Water Conservation District Director

Carty Chang representing Engineering Division said he had no changes for items L-1 and L-2.

**Unanimously approved as submitted (Edlao, Pacheco)**

**Adjourned**

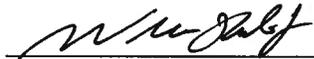
There being no further business, Chairperson William Aila adjourned the meeting at 1:19 p.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Marlou Lamblack  
Land Board Secretary

Approved for submittal:



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William J. Aila, Jr.  
Chairperson  
Department of Land and Natural Resources