

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

DATE: THURSDAY, NOVEMBER 13, 2014
TIME: 10:00 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 10:14 a.m. The following were in attendance:

MEMBERS

William J. Aila, Jr.
Christopher Yuen

Thomas Oi
Vernon Char

STAFF

Russell Tsuji-LAND
Ian Hirokawa-LAND
Curt Cottrell-PARKS
Chris Asao-PARKS
Rene Tanaka-PARKS
Jason Redulla-DOCARE

Kevin Moore-LAND
Dan Quinn-PARKS
Rene Kamasaki-PARKS
Alan Carpenter-PARKS
Carty Chang-ENG
Randy Awo-DOCARE

OTHER

Colin Lau/Deputy AG
Jim Anthony/ Item 1, 2 &3

Christen Mitchell/ Item 1
Dan Purcell/ Item 3

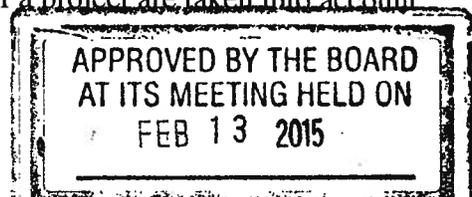
Chair Aila announced that this was an informational briefing and there would be no decision making. Testimony would be taken after each item is presented.

ITEM 1 Informational Briefing: Consolidating Multiple Dated Department of Land and Natural Resources Division Environmental Assessment ("EA") Exemption Lists into a Single Modern Department-Wide List.

No decisions will be made.

Christen Mitchell, a consultant that has been working with the department on updating exemption lists into one comprehensive modern list for the entire department spoke on this item. She acknowledged that Deputy Director Bill Tam has been actively involved in this as well, but was unable to attend today.

Mitchell did a quick review of Chapter 343. It's the environmental review process that is in place to ensure that environmental, social and economic impacts of a project are taken into account



during the planning and the rule stage. There are 9 triggers and 2 that apply to DLNR; the use of State lands or funds, and use in the conservation district. Anytime an agency such as DLNR does an action, they either need to do an exemption declaration, a draft environmental assessment-EA followed by a finding of no significant impact or full impact statement. DLNR has an exemption list, agencies are required to develop an exemption list that informs the public of the types of actions that they would consider exempt. There is currently one department wide list that was done in 1991; there have been some amendments since then; additions in 2011 & 2012. There are 6 division lists, most of which are outdated. For this process they wanted to develop one comprehensive list for the entire department. In 2010 the department started this effort and went to the environmental council with an updated list; however that effort eventually stalled because that council didn't have quorum. The council asked that the department come up with one list for the entire department instead of a bunch of lists for the divisions as well.

Mitchell explained that she gathered all the lists, met with all division administrators, and developed a draft consolidated list for the divisions to review. She then met with each division individually to make sure that the consolidated list met their needs. There will be a final draft that will be sent to the environmental council for their review and concurrence.

The changes that were made were to reduce duplication and inconsistency. Also to ensure that changes would apply to the entire department, not just one division. The anticipated outcome of this effort is to reflect best practices and then ensure that there will be consistent exemption determinations across the whole department. This should increase the efficiency of division operations and reduce the overall time from funding to implementation.

Member Yuen asked if new things were going to be added. Mitchell said there wasn't anything entirely new. The language was slightly changed to reflect current activities. She noted that for any particular action, if the cumulative impact of the action over time in the same place or if the particular nature of the action seems to require an EA, the department can always do an environmental assessment for an activity that's already on the exemption list.

Jim Anthony asked what the status of the 6 proposed leases in Kahana. Chair Aila told him an EA has been proposed and is in progress right now.

ITEM 2 The Land Division will give a General briefing on the Land Management Division and the Special Land and Development Fund.

No decisions will be made.

Russell Tsuji Administrator for Land Division-LAND introduced Kevin Moore and Ian Hirokawa who have been Acting Administrator and Assistant Administrator during Tsuji's absence. Tsuji conveyed that LAND does lots of leasing, easements for access and utilities, revocable permits, right of entries for fireworks, and zipline tests. There is one beach concession for beach activities at Hilton Hawaiian Village; they generate revenue of \$600,000 annually for the department. LAND also does a shoreline certification project. LAND partners with the Office of Conservation and Coastal Lands-OCCL. LAND also deals with enforcement of shoreline encroachment, as well as illegal unauthorized commercial activities. LAND has a property

management system that is in the process of being up graded (2015-2016). 1.3 million dollars has been allocated for the upgrade. They are also involved in a 15.1 million dollar settlement with the Office of Hawaiian Affairs-OHA that the state pays, there is ACT 178, which requires all state agencies to report their ceded land revenues to the Legislature, but is also so that OHA can see revenues of all agencies. LAND is also involved with the ACT 54 system which is legislation that was passed several years ago, the idea was to capture land inventory of those agencies that do not necessarily have to go before the Board, they have power to acquire their own land or hold their own title in their own name. The Department of Transportation -DOT was an example. The agencies are also tasked with how they use the lands correctly. LAND only knows up until what is given and don't keep track of how the land is used.

Tsuji wanted to focus on the financial and administrative side because that's not something that comes before the Land Board. In the packet Tsuji prepared for the Board, he explained that Land Management Division doesn't get any general funds; they rely on revenues generated by leasing, easements, etc. They have been fortunate in generating revenue more than their needs for the operating funds; they have been trying to share excess revenue within the department. 2013 was quite significant; Land Management was able to transfer 6 million dollars to the other division in the department.

Chair Aila asked Tsuji to briefly cover the Kanoelehua leases. Tsuji explained that under HRS §171, leases that hit the term of 55 years could no longer get any further extensions. There was some disconnect because at one point a 65 year lease were allowed. The idea was that after 65 years a business should be allowed to go back out to public auction because there may be others waiting in line who would like to have the opportunity to these state leases. Kanoelehua has lots of industrial leases there, and they are not all contiguous lots, they are all tending to come due around the same time. Lots of them have been coming before the Board to ask for the final 10 year extension and the Board has generally been approving them. Land Division has attained a consulting firm to come up with a plan of future disposition. This will be brought before the Board once finalized.

Chair Aila added that the policy of what is going to be done after 25 years is something that the legislature will have to provide new guidance for; otherwise the department will end up with these non-contiguous small lots.

Member Yuen asked if there were any other industrial leases on Kauai or Maui. Tsuji said there were some commercial sites on Kauai and none on Maui. Land Division is working on something called the Pulehunui project for the future.

Jim Anthony testified state leases for residential purposes were one of the issues he was present for. He found it interesting that Tsuji mentioned there was a condition that allowed lessees to purchase. Anthony explained that he had been trying to get an answer on whether the state was exempt HRS 516 for residential leases. After reading the law he understood that the state was never exempted. Anthony said that an issue was going to soon come before the Board as to whether the state might be disposed if it is not exempt of the conditions of HRS 516. Anthony believed the Kahana leases are one of the most retroacted leases in the state. He said there were legal issues that were going to come before the Board. If the State takes position that they are

exempt, he doesn't think the State can argue it both ways. He hoped this issue can be addressed in good sense.

Tsuji said there was a similar issue before, the AGs advised that the condemnation statute did not allow that to happen; meaning the Board would not have the option of going back to condemn it.

ITEM 3 The Division of State Parks will brief the Board of Land and Natural Resources on the Overall Functions and Responsibilities of the Division of State Parks.

No decisions will be made.

Dan Quinn Administrator for State Parks introduced Curt Cottrell Assistant Administrator, Renee Kamisugi Kahana Manager, Steve Soares Property Manager, Chris Asao Property Manager, Alan Carpenter Archeologist, and Lauren Tanaka representing the Planning Branch. Parks mission overall is to preserve and protect the natural, cultural and scenic resources of Hawaii State parks for the use and enjoyment of current and future generations.

There are several programs within State Parks, the administration is responsible for the budget, personnel, permit management, legislative interaction, and property management. The Resource Management Branch is responsible for all the operations and maintenance of the State Parks. The Development Branch is a staff of one (working on another position), in charge of capital improvements. Parks works closely with the Engineering Division on capital improvements. The Interpretive Program is primarily responsible for park interpretation and information. They have also been covering water conservation and easement programs.

Quinn reviewed some areas that Parks covers on Oahu. He noted the Board Member Yuen was instrumental and the primary driving force in the State acquisition through a land swap with an adjacent land owner, which gave the public an additional ahupua'a, including shorefront property.

Curt Cottrell cited that last year there were 18,649 camping and lodging permits servicing about 63,000 people.

Quinn continued citing State Parks in Kauai. He noted how important visitor safety was and indicated which beaches had lifeguards (the most hazardous). Hazardous meaning rough waves and shore breaks. Unexploded ordinance is another issue. Sometimes people decide to bring those onshore and they have to properly be disposed.

Interpretive programs and signs are located around the state where there is not enough staff to provide interaction. Parks is working on a logo and standard signage is being installed throughout the state. Parks accommodates around 10 million visitors a year in all state parks. Quinn identified some heavily visited parks, including Diamond Head.

Quinn presented a chart that showed Parks' budget. In 1992 Parks was able to retain money that was generated within their programs. There is a big gap from where Parks needs to be today from 1992. They have continued to expand special fund generation. The transient accommodations tax (TAT) are funds that the department had been receiving since 2005. The department got 1 million dollars, 100 thousand of that went to the Na Ala Hele Program, 900 thousand went to Parks with the intent to use it for maintenance and repair type projects. In 2013 the Legislature changed that. The money now goes into the general fund and has not been accessible. If that can get changed, the funds will be accessible. Cottrell added that it took years to get recognition by the legislature and tourism association. TAT money plays a very important role.

Member Char asked if the TAT money was a set 3 million dollars. Cottrell said the 1 million came out of the HTA marketing budget, DLNR would get a cut immediately and bypass the HTA funding. The HTA Board would have to approve that along with this Board.

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12:12 PM RECONVENE

Quinn continued his presentation of Parks and historic sites on Hawaii Island. Cottrell noted that Parks is spending more on public safety then they are gaining on parking fees.

Cottrell briefly discussed Kealakekua Bay. The waters around Kealakekua Bay and the Napo'opo'o landing was transferred to State Parks because of Parks' administrative rules; Parks can regulate vessels. Parks' temporarily closed Kealakekua Bay so that they could regulate use. Everyone that transits the water needs a permit. Parks understood the value to the community and the visitor industry. One issue that was targeted was that there were no restrooms at Kaawaloa Flats, the other was eliciting vending at Napo'opo'o. The only entities allow to solicit were 3 Board approved revocable permits that will be coming before the Board shortly. These are the only 3 authorized to land at Kaawaloa because their permits require that they deal with human wastes as well as other safety issues. When these were renewed, their kuleana is to help steward the land. The permits have been conditioned that if state laws or county vending laws are violated, then they will lose the permit. If anyone wants to use Kealakekua Bay now, you have to have a permit. Parks has a data base that tracks permits and who is using the Bay.

Jim Anthony testified that he came specifically for State Parks. He reminded the Board members that their role is different from that of the Chairperson. Their responsibility is to defend the public, they are not an arm of the Executive Branch. Anthony told them it's important for them to listen to members of the public and not be sucked in by the bureaucracy (department staff who present submittals). He made it clear that the people in his community have grave misgivings about the people that work in State Parks. He explained that Malaekahana illustrates something that the Board needs to be careful about; its revenue generation and impact on local people. Anthony disclosed that he would be present to testify on a Kahana issue at the next day's Board meeting and told the Board that they need to educate themselves before making a decision on that action. He went into detail about the history of Kahana and the Kahana planning council. Anthony stated that this was a rare opportunity, and at the end of every Board agenda the public

should be able to offer input for non-decision making. There is currently no way a member of the public can come before the Board unless there is a specific agenda item.

Chair Aila communicated that he once put a non-decision making item on the agenda for public discussion and was advised by the AGs office not to do so.

Dan Purcell commended Chair Aila for listening to the public and what they have to say. He said the he has been to meetings for other Boards where the public is given an opportunity to speak on topics that aren't on the agenda. Purcell appreciated Anthony's comments, and expressed his concern about our State Parks being viewed as "venues". He felt like the travel industry was being subsidized. With these revenue models, he wants to see restrooms improved and better services.

Member Yuen mentioned that Kiholo is so much nicer and quieter now.

Quinn mentioned that it was never their intent to be overly brief on their report.

ITEM 4 The Engineering Division will brief the Board of Land and Natural Resources on its Overall Functions and Responsibilities.

No decisions will be made.

Carty Chang Chief Engineer, explained that he would briefly talk about what the Engineering – ENG division does, their functions and responsibilities. ENG is one of 12 divisions within the department. They consist of 42 positions; 90% of positions are filled. Their total operating budget is about 4.5 million dollars, consisting of variations of Capital Improvement Program-CIP funds, special funds, general funds and some federal funds. They provide engineering services for the entire department. They don't manage lands or own lands, but do engineering services on behalf of other divisions.

There are 4 primary functions: 1) Engineering Services 2) Dam and Reservoir Safety/Flood Control 3) Geothermal Regulation and Resource Management and 4) Soil and Water Conservation Program.

Types of CIP Projects are usually for renovating facilities. Some projects are small boat harbors: boat ramps/piers and restroom facilities, parks: restroom facilities/cabins/ utilities and public access (roads, parking lots, etc.), base yards: maintenance and repair facilities, and equipment storage, public safety: rock fall mitigation and Forestry and Wildlife: hiking trail system and pedestrian bridges.

For the last four years there has been an increase in CIP money, this year has been the highest at almost 90 million.

The Board is responsible for approving CIP projects. HRS Chapter 103D (Procurement Code), which is the authorization to issue procurement solicitation and award of contracts to consultants and contractors. Also HRS Chapter 343 (Environmental Impact Statement/ HEPA) which

includes declaration of exemptions, acceptance of Environmental Assessments (FONSI) and acceptance of Environmental Impact Statements.

Chang explained that the intent of the Hawaii Dam and Reservoir Safety Program was to protect the health, safety and welfare of the people of the State by reducing the risk of failure of the dams and reservoirs. Most dams were built at the turn of the century (80-100yrs old). The Kaloko Dam failure occurred in March 2006 and the law was brought up to national standards. The dam and reservoir safety act in 2007, Hawaii revised statues Chapter 179D (Dams and Reservoirs) and Hawaii Administrative rules 190.1 (2012).

Chang presented a map of the 138 regulated dams. Kauai has 54, Oahu has 17, Maui has 57 and Hawaii Island has 10. This information can be found online at <http://dlnreng.hawaii.gov/dam>.

Next he presented a chart that described the criteria of regulated dams. These dams have to meet a certain criteria, they have to be either 25 ft. in height or able to hold 50 acre feet of water. There are some exceptions, but they are based on quantity and height.

Some major functions of the Dam Safety Program include: training and outreach, inventory and classifications, inspections, enforcement actions, permits- new alteration or removal, technical assistance, certificate to impound water and emergency preparedness assistance.

There are 3 hazard classifications (high, significant and low) that are based on the Pacific Disaster Center (PDC) Inundation studies initiated in 2006. High hazard means if the dam breaks it will result in loss of life, significant is no loss of life, but major economic loss or environmental loss, low is no loss of life and low economic and environmental loss.

Majority of the dams are used for agriculture purposes, some for flood or sediment mitigation, water supply and hydro/ other.

Earthen Dams fail due to leaking/piping, overtopping (spillway), slope failure (stability), or earthquake (liquefaction).

The following actions require Board Actions (Dam Safety): approval of dam permits for construction, alteration and removal, enforcement actions, certificate of approval to impound, approval of MOAs/ Agreements with partnering agencies and updates to dam and reservoir inventory.

The purpose of the Geothermal Program is to regulate the exploration, development and production of geothermal resources and its byproducts on state and reserve lands. The intent is to prevent waste, conserve and provide for the optimum use of geothermal resources, minimize or prevent degradation of the environment, surface and ground waters, and other natural resources and prevent injury to lives and property. The authorities include HRS Chapter 182 (reservation and disposition of governmental mineral rights), chapter 13-183(rules on leasing and drilling of geothermal resources) and HRS chapter 196D (geothermal and cable system development permitting).

The geothermal program royalties: 50% goes to the state, 30% goes to the County of Hawaii and 20% goes to OHA.

There are different types of permits or Land use approvals which include conservation lands and non-conservation lands. Other permits/ approvals include DLNR, DOH and the County. Every permit or lease requires Board action; permits can be administratively processed by the Chair if the requested action is already authorized under a previous Board action.

Soil and Water Conservation Program – SWCD was established by HRS Chapter 180 and is administratively attached to the DLNR. Each SWCD is a geothermal subdivision of the state, governed by 5 volunteer directors, 3 which are elected by occupiers of the district and 2 which are appointed by the district. The DLNR must certify the election or approve the appointment of district directors. There are 16 districts statewide. There are also other duties and activities of the SWCD.

Member Yuen asked what the staffing was on the geothermal program and what their expertise was. Chang explained that in 1999 the program was demolished and 3 years ago it was established again. There are currently 4 positions; one is a geologist, one mineral resource specialist, geotechnical engineer, and a clerk. The geotechnical engineer is licensed, the mineral resources specialist has a degree. The geologist position is currently vacant; they are having difficulties filing that position due to little interest in geothermal. There is one geothermal specialist on Hawaii Island, he helps with special projects with well drilling.

There was further discussion about staff and qualifications.

1:45PM Chair Aila left the meeting.

Member Oi being the most senior Board member present took over for Chair Aila.

ITEM 5 The Division of Conservation and Resources Enforcement (DOCARE) will provide an informational briefing in the Division's overall functions and responsibilities.

No decisions will be made.

Jason Redulla Deputy Enforcement Chief and Assistant Administrator for DOCARE communicated that DOCARE is a combination of the State's conservation officers, game wardens, marine patrol, park ranger, forest ranger, and police officer all in one. They are the department's law enforcement arm. In the 1970s the enforcement was separated by different divisions, and it was thought it would be more efficient to combine them as one division, that's how DOCAR was formed. There are currently about 100 law enforcement officers, the largest number being here on Oahu, smallest on Kauai. There are 2 each on Molokai and Lanai.

The division's mission statement is to effectively uphold the laws which serve to protect, conserve and manage Hawaii's unique and limited cultural and historic resources held in the

public trust for current and future generations of visitors and people of Hawaii Nei. There are 4 guiding principles; kuleana, integrity and professionalism, health and safety, and service.

The statues of authority HRS 199-1, Hawaii Revised Statutes: the Board of land and natural resources shall establish within the Department of Land and Natural Resources conservation and resources enforcement program relating to the enforcement of chapters under title 12 entitle “conservation and resources” and rules and regulations promulgated thereunder.

DOCARE Police Authority HRS 199-4: Section 199-4(a) states the Board of Land and Natural Resources shall have police powers and may appoint and commission enforcement officers within the conservation and resources enforcement program. Persons appointed and commissioned under this section shall have and may exercise all of the powers and authority of a police officer, including the power of arrest, and shall enforce all state laws and rules, and county ordinances within all state lands, state shorewaters and shores and state parks.

Law enforcement functions and duties include: enforce title 12, chapters 6E and 6K, and rules adopted thereunder; investigate complaints, gather evidence, conduct investigations and t field observations and inspections as required or assigned; cooperate with enforcement authorities of the State, counties, and federal government in development of programs and mutual agreements for conservation and resources enforcement activities within the state; cooperate with established search and rescue agencies of the counties and the federal government in developing plans and programs and mutual aid agreements for search and rescue activities within the state; enforce the laws relating to firearms, ammunition, and dangerous weapons contained in chapter 134; enforce the laws in chapter 291E relating to operating a vessel on or in the waters of the state while using intoxicant; whether through a specifically designated marine patrol or otherwise, enforce the rules in the areas of boating safety, conservation and search and rescue relative to the control and management of boating facilities owned or controlled by the state, ocean waters and navigable streams and any activities thereon or therein, and the public, and the rules regulating vessels and their use in the waters of the state and other duties and responsibilities as directed by the Board.

DOCARE works for the following divisions: Commission on Water Resource Management-CWRM, Forestry and Wildlife-DOFAW, Division of Aquatic Resources-DAR, Division of Boating and Ocean Recreation-DOBOR, State Historic Preservation Division-SHPD and State Parks-PARKS.

DOCARE is organized by branches and districts. The division administration is here in Honolulu, with a branch on Kauai, Oahu, Maui and Hawaii Island. Each branch is then broken down into districts.

Redulla then transitioned to more specialized functions of what DOCARE does. Domestic Cannabis Eradication and Suppression Program is the marijuana eradication program of the state. Grant funds are given in exchange for manpower and man hours to eradicate marijuana in both indoor and outdoor grow sites. This is done because Marijuana is an invasive species of plant and could cause environmental damage. It can also affect the watershed protection. There could also be a hazard to the public safety, there are sometimes booby traps and armed growers.

DOCARE also has a joint enforcement agreement with NOAA- JEA. NOAA asked DOCARE to assist them with the enforcement of federally protected and federally interested areas of natural resource enforcement. They provide funds for this. Federally protected species, the deep 7, longline fishery and Hawaii humpback whale marine sanctuary are some example of targeted enforcement focus.

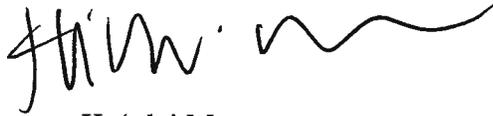
The recreational boating safety grant is another specialized function. This provides equipment for education and law enforcement, provides funding for 18 DOCARE Officer positions and funds for efforts for boating accident investigations and casualty reporting.

Lastly is the community fisheries enforcement unit-FEU. This is a new and innovative program to improve the sustainability of the main Hawaiian Islands near shore fisheries by significantly improve public compliance with the State of Hawaii's fisheries laws and rules. This is a joint initiative of Conservation International Foundation, Castle Foundation and DOCARE to improve fisheries compliance in the Main Hawaiian Islands. The goals are to increase core capacity of DOCARE, create pilot FEU within DOCARE, expand fisheries monitoring by DLNR biologist, strengthen capacity to coordinate and support Makai Watch, and increase support directly to community organizations to conduct Makai Watch surveillance, and education and monitoring. This unit is headed by a field supervisor, and contains an education officer, data and administrative support, conservation & 2 resources enforcement officers, a project coordinator and a makai watch coordinator. DOCARE is hoping to expand this program statewide, funding is the setback.

Member Oi suggested two classifications of officers; ocean and land. He acknowledged that funding is a huge problem, they need more money. Randy Awo DOCARE enforcement chief explained that this is just their starting point, they don't want to wait on the legislature to get this started, which is why they are going to private entities.

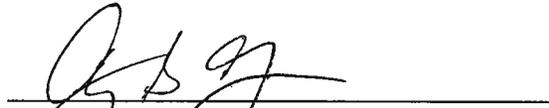
There being no further business, Board Member Oi adjourned the meeting at 2:08 p.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Ku'ulei Moses
Land Board Secretary

Approved for submittal:



Cary S. Chang
Acting Chairperson
Department of Land and Natural Resources