

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

DATE: FRIDAY, JUNE 28, 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 9:08 a.m. The following were in attendance:

**MEMBERS**

William J. Aila, Jr.  
Jerry Edlao  
David Goode

Rob Pacheco  
Dr. Sam Gon  
John Morgan

**STAFF**

Dan Quinn/SP  
Maria Carnevale/NWHI

Russell Tsuji/LAND  
Dr. William "Bill" Walsh/DAR

**OTHERS**

Linda Chow, Deputy Attorney General  
Minnie Cole: D-18  
Brian Yesland: D-9  
Tony Costa: F-2  
Mel Malinowski: F-2  
Marni Herkes: F-2  
Phil Fernandez: F-2  
Kim Kolh: F-2  
Carl Jellings, Sr.: F-2  
Evander Faletogo: F-2  
Glennon Gingo: F-2  
Mike Sur: F-2  
Matthew Ross: F-2  
Dennis Yamaguchi: F-2

Patrick Funtanilla: E-2  
David Nakamura: D-6  
Sterling Wong: F-2  
Bob Hajek: F-2  
Francis Ruddle: F-2  
Tina Owens: F-2  
Makani Christensen: F-2  
Tate Marks: F-2  
Donald Haley: F-2  
Carl Jellings, Jr.: F-2  
Randy Cates: F-2  
Joe Gilman: F-2  
Chad Wiggins: F-2  
Melva Aila: F-2

**Item E-2 Update on the Status of Efforts to Acquire Private Lands for Park Purposes, Waikapū, Wailuku, Maui, Tax Map Key: (2) 3-8-007:101 por.**

A written testimony from Lieutenant Governor Shan Tsutsui was distributed to the Board members on item E-2.

Dan Quinn, Administrator for the Division of State Parks (SP), conveyed some background on item E-2. The Lieutenant Governor (LG) first initiated this project when he was a Senator and currently supports the project. The proposed property is located within the master planned project known as Wai'ale. Alexander and Baldwin, Inc. (A&B) is planning install a drainage basin as part of their project on the property. The Board approved the expenditure of funds for due diligence and other requirements as outlined in the submittal. SP requests an opportunity to update the Board with respect to progress on the efforts to acquire the property. Mr. Quinn also noted that they may have to reassess costs due to easement's potentially affecting the value of the property. A&B's goal is to complete the project's acquisition by the end of 2013, and they are doing their best to meet their schedule.

Patrick Funtanilla, staff in the LG Office, testified on item E-2. He expressed that the LG continued support of the project. The LG considers the project to be economically and socially beneficial to the island of Maui as well as to the State of Hawaii.

**Nonaction item**

**Item D-18 Approval to Enter into a Memorandum of Understanding with the Kosong Foundation to Cooperate in the Identification and Provision of Suitable Land for the Establishment of the Michuhol Museum and International Center.  
*SUBMITTAL TO BE DISTRIBUTED***

Russell Tsuji, Administrator for the Land Division, conveyed some background on item D-18, a Memorandum of Understanding (MOU) that will allow the Foundation to identify and secure international funding to assist with the planning and construction of the museum.

Minnie Cole, representing the Kosong Foundation (Foundation), a non-profit organization for the purpose of establishing the Michuhol Museum, which means "Beautiful Space" (using Chinese Characters) and International Center to promote Korean art and community activities and to provide space for local artists.

There was a discussion and some questions regarding the background of the organization, location, whether private properties were also being looked at, and assurances to the Board that the ultimate disposition will come back to the Board for review and approval.

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

**Item D-4 Approve Lease Form for Issuance of Direct Lease to the University of Hawaii for Marine Research and Educational Purposes, Lalamilo, South Kohala, Hawaii, Tax Map Key: (3) 6-6-02:45 (formerly known as 6-9-01: por. of 01).  
The Proposed Lease Includes Non-Standard Provisions Relating to**

**Compliance with Laws, Improvements, Liens, Indemnity, Lessee Limitations, Lessor Limitations, Breach, Condemnation, Right to Enter, Surrender or Termination, and Hazardous Materials.**

Mr. Tsuji conveyed some background on item D-4. Staff has been working with the University of Hawaii (UH) since 2010 to determine whether a compromise could be reached on the lease language. Many of UH's requested changes are technical but others are substantive. After consulting with the Deputy Attorney General (AG), staff is recommending that the requested changes be accepted.

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

**Item D-6 Rescind Prior Board Action of January 25, 2013, Agenda Item D-5, Grant of Term, Non-Exclusive Easement to 3900 WA Associates, LLC, a Delaware limited liability company for Encroachments related to the Presetting of Chairs on the Beach Purposes, Honuaula, Maui, TMK (2) 2-1-023: seaward of 007.**

Mr. Tsuji conveyed some background on item D-6.

David Nakamura testified on item D-6 and was available to answer any questions that the Board may have.

Member Jerry Edlao commended Mr. Nakamura for doing the right thing.

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

**Item D-3 Cancellation of Revocable Permit No. S-7784, I. Kitagawa & Company, Ltd. and Issuance of a New Revocable Permit to I. Kitagawa & Company, Ltd., Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-1-07: 50, 55 and 56.**

Mr. Tsuji conveyed some background on item D-3 and said that the applicant was available to answer any questions.

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

**Item D-8 Grant of Term, Non-Exclusive Easement to Association of Apartment Owners (AOAO) of Kihei Surfside for Rockwall and Stairway Encroachment Purposes, Keawakapu, Kamaole, Kula, Maui, Hawaii, Tax Map Key: (2) 3-9-004: Por. of 001.**

Mr. Tsuji presented the nonexclusive shoreline easement for a rockwall and said that the applicant was available to answer any questions and was in favor of item D-8.

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

**Item F-3 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine Monument Special Ocean Use Permit to Mr. Kevin Bachar, Pangolin Pictures, National Geographic Channel, for Access to State Waters to Conduct Filming Activities.**

Maria Carnevale, Co-Manager of Papahānaumokuākea Marine National Monument, conveyed some background on the geography and the filming activity for item F-3.

Member Edlao had questions concerning the Federal Endangered Species Act consultation policy relating to the filming monk seals underwater. Ms. Carnevale answered Member Edlao's questions and noted that Pangolin Pictures went through the proper consultation.

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

**Item D-9 Impose a \$1,000.00 Fine and \$420.00 in Administrative Costs Against Island Adventure Tours, LLC, dba Kelii's Kayak Tours, for Unauthorized Commercial Activities Conducted on State Unencumbered Lands at Olowalu, Lahaina, Maui, at TMK: (2) 4-8-003:001.**

A written testimony from Brian Yesland was distributed to the Board members on item D-9.

Mr. Tsuji conveyed some background on item D-9.

Brian Yesland, operator of County parks for 20 years, shared his experiences with the Division of Conservation and Resource Enforcement (DOCARE's) inspection and investigations. He explained that he uses the Olowalu beach area mainly for entry and egress purposes and does not conduct any commercial business operations. He has a permit for a nearby beach but it's a smaller area.

Member Edlao shared some feedback in regards to Mr. Yesland's experiences.

Chairperson William Aila emphasized that Mr. Yesland was conducting commercial business operations without a permit on unencumbered State land in a County Park and in State waters and is in violation.

The Board members, Mr. Yesland and Land Division staff discussed their complaints, citation, violation, and lack of permit rule on unencumbered State lands.

**Member Pacheco requested that the Board hold a 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. Member Edlao seconded that.**

10:01 AM EXECUTIVE SESSION

10:30 AM RECONVENE

The Board members expressed their thoughts and feelings concerning the item.

**The Board found a violation occurred but because the incident occurred 8 years ago and some other factors, the Board decided to amend recommendation no. 1 by deleting the \$1000 fine and the \$420 administrative costs; and the Board added recommendation no. 3 directing the Maui offices of the Land Division and DOCARE to continue their diligent inspections or investigations of unencumbered lands for unauthorized commercial activities.**

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

**Item D-17 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, General Lease Nos. S-5844 and S-5372.**

**The Board may hold a 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. *NO STAFF SUBMITTAL***

**Nonaction item**

**Member Pacheco requested that the Board hold a 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. Member Gon seconded that.**

10:37 AM EXECUTIVE SESSION  
11:14 AM RECONVENE

**Item F-2 Request for Final Approval to Amend Hawaii Administrative Rules ("HAR") Title 13, Chapters 54, "Puako Bay and Puako Reef, Hawaii", and 57, "Keauhou Bay, Hawaii"; to Repeal HAR Title 13, Chapter 60.3, "West Hawaii Regional Fisheries Management Area, Hawaii"; to Adopt a New Chapter 60.4, "West Hawai'i Regional Fishery Management Area, Hawai'i"; and to Amend Title 13, Chapter 75, "Rules Regulating the Possession and Use of Certain Fishing Gear"**

Written testimonies from the following were distributed to the Board members on item F-2 (all testimonies are on file): Kristina L. Anderson, Shauna Banta, Mark Barville, William Bellessis, Bruce Carlson, Makani Christensen, Jeremy Claisse, Denny Coffman, Judy Condon, Clifford Cooter, Suzanne Cooter, Tony Costa, Kamana'opono Crabbe, David Dart, Jim Donovan, Judy Donovan, David Dye, Annabel Edwards, Allen Eggleston, Robert Flatt, Liz Foote, Rebecca Giovannetti, Janet Goodmanson, Robert S. Hajek, Estela Halverson, Jerry F. Halverson, Cory Harden, Eva Hillman, Mara Hisiger, Dave Hirt, Steve Howard, Josh Inaba, Caroline Ishida, Gary Jacob, Carl P. Jellings Sr., Velvet Johnson, Paul Jokiel, Jerry Kane, Velora Kane, John Kellam, Susan Kellman, Tanya Kellam, Malia Kipapa, Rachel Kochubievsky, Aimee Kolman, Megan R. McWhite Lamson, Teri Leicher, Carla Lejade, John P. Lockwood, Stewart Maeda, Mel

Malinowski, Tate Marks, Betsy Morrigan, Lorraine Newport, John D. Nunn, Terrence Olivier, Kirk Olsen, Lucinda Olsen, Kara Osada-D'Avella, Tina Owens, Sara Peck, Doug Perrine, Christ Perritt, Darrell Post, Patrea Post, Moshe Rapaport, Dulice Reden, August Rimkus, Daiva Rimkus, Larry Rivera, Ku'ulei Rodgers, Stefanie Sakamoto, Dale Sarver, Tom Sena, Dean Sensui, Mikalee Shaffer, Robert "Bob" H. Smith, Kostantinos (Kosta) Stamoulis, Jojo Tanimoto, Arthur J. Tarsa, Leighton Taylor, Stephen E. Thompson, Brian N. Tissot, The Nature Conservancy (TNC), Terry Tokuda, Timothy C. Tricas, Ron Tubbs, Rene Umberger, Jan C. Weber, Linda White, Evelyn Wight, George G. Wilson, Judy Wormington and Zachary Zorn.

Dr. William "Bill" Walsh, the Division of Aquatic Resources (DAR) Biologist for West Hawaii, conveyed some background on item F-2, along with two exhibits that were provided for the submittal. Exhibit 1 is the analysis and summary of the public input and testimony in regards to the rule package. DAR received 1,206 testimonies (written and oral) and 2,390 general comments on the proposal. The overwhelming majority was in support of the proposed rule changes. Exhibit 2 is the actual rules for Puako Bay and Puako Reef. The recommendation from DAR was for the Board to approve the amendments.

Sterling Wong, Manager for the Office of Hawaiian Affairs (OHA), testified in support of the submittal which ensures that West Hawaii's marine resources will be managed in a sustainable manner. However, OHA had concerns about the no take list, but appreciated the need to protect the overall environment for the marine resources. He encouraged DLNR to revisit the prohibitions in the next couple of years, particularly regarding certain species on the no take list.

Member Rob Pacheco asked for confirmation concerning Mr. Wong's testimony, and Mr. Wong reiterated his support and concerns. Chairperson Aila asked if there was a timeframe that Mr. Wong suggested, and Mr. Wong said that rules take a long time to change.

Member Sam Gon said that clarification in cultural use of species that are affected by rules could be assessed even as the rules are changed, recommended or modified. Member Gon asked if OHA had a list of species of concern and if the list could be generated and offered. Mr. Wong provided the example of shark skin that is used for sacred purposes and for a number of cultural practices, such as making drums or weapons. Mr. Wong said that he would be able to provide a list of species that OHA had concerns about on the no take list.

Tony Costa testified on behalf of Hawaii Nearshore Fishermen (HNF). He submitted testimony earlier during the hearing process on the Big Island, and his testimony is on record. In his testimony, he conveyed the history of the conflict on the Big Island with aquarium fish collectors. The conflict continues today although now there are food fishermen in the conflict as well. Hawaiian fishermen are opposed to all aspects of this measure, the white list and the enhancement of further area closures. This increases pressure on smaller areas and encourages conflict, as you can see happening today. Hawaiian shore fishermen testified on behalf of an organized tight group of near shore fishermen and other near shore commercial fishermen. They catch an average of 60,000-125,000 pounds per month. HNF feels that the proposed rule package will inhibit their ability to continue to provide markets and communities with this very important food source. All near shore species caught are sold and consumed locally, and are not usually exported. HNF is fundamentally opposed to the ban on scuba spear fishing. The use of

scuba is essential for safety, selectivity, and their operations. The proposal to ban scuba and spear is dangerous and compromises the community's ability to gather food, threatens the livelihood of small businesses and the safety of food providers. The proposal to ban scuba spearfishing is irresponsible. All this does is make it unsafe and difficult for people to fish for food. They believe that fisheries management should be based on science versus public opinion. They are in opposition to the complete rule package.

Bob Hajek, President of the 30+ member, Big Island Association of Aquarium Fishermen (BIAAF), opposed item F-2 and read his testimony. He claims that there is misinformation, intimidation, manipulation and blatant disregard for established procedure and protocols by the West Hawaii Fisheries Council (WHFC) and West Hawaii's Division of Aquatic Resources Department. Mr. Hajek feels that the rule package is a product of a corrupt and arrogant small group of individuals who feel that they know what's good for West Hawaii. He continued to say that the WHFC is nothing more than a special interest group lobby, disguised as community interest representatives with a set agenda where not even facts and science will derail them from attempting to accomplish their goals. They do not have the public's interest or the fishery's well-being in mind when they act. BIAAF is a small group of about 35 guys and have no chance against anti-aquarium fishing lobbies, the media, and DAR. There is no accountability, no system of checks and balances, and no transparency. The problem is, and has always been, user conflict. Unless the problem is resolved, our fishery will continue to be the easy target for all dive and snorkel operation problems. Another problem is the corruption at DAR and WHFC where there is seemingly total disregard for the process, the fishery and rules.

The BIAAF has four issues to address. There are four non-vetted fishery related late additions to the rule package that are unacceptable. They include:

- (1) Fixed AQ letters on the fishing vessel.
- (2) Identifying all fishing gear with names and license numbers.
- (3) Notifying DAR by phone any time we are out after sunset or before sunrise.
- (4) Request for West Hawaii Aquarium Permit.

DAR claims that this is an all-or-nothing rule package. Chairperson Aila stated at the May 25<sup>th</sup> BLNR meeting that any single or number or parts of the rule package could be eliminated from the body of the package at the discretion of the Board.

Mr. Hajek discussed the unnecessary requirement for a West Hawaii Aquarium Permit, which started as "housekeeping" and is now a major component of the rule package.

Mel Malinowski from South Kohala testified on item F-2, read his testimony and provided examples of the over-extraction of sandalwood from the rain forest, which is similar to the reefs today. Many studies have shown that scuba spearfishing is damaging to our reefs. It results in the removal of the large breeding fishes that are needed to replenish fish stocks. Mr. Malinowski supported the banning of scuba spear fishing and provided some recommendations to the Board to move forward with the rule package. He suggested to the Board ideas for the recovery of fish population.

Francis Ruddle, who has lived in Puako for 75 years, has seen the decline in fish. He believes that there should be no take zones, especially for the sake of the future generations. He

supported the West Hawaii rule package on item F-2 and wanted to give back to the community and move forward.

Marni Herkes, a West Hawaii Fishery Council staff, testified on item F-2 and supported the West Hawaii rule package. She provided a background and explained the functions of the Council. The West Hawaii Fishery Council was in favor of protecting the resources in West Hawaii, and they and the Hawaii Council requested the Board to approve the rule package.

Tina Owens, representing Fish Coalition, a Member of the West Hawaii Fishery Council, supported the rule package, especially the ban on scuba spearfishing. She discussed the reasons and support for the four unvetted items. Ms. Owens has a 10-year history of working with agencies, AG's office, Board members, and the public. She has attended numerous public and fishery meetings.

Phil Fernandez, a fisherman from Kona, Hawaii, sits on the Humpback Whale National Advisory Council and is a Chairman of the Development Group. He is a current member of the Marine and Coastal Zone Management Advisory Group (MACZMAG) of Office of Planning (OP), marine boating member, advisory council in West Hawaii, and a member of fishing clubs. He is opposed to the West Hawaii Rule Package, especially the ban on scuba spearfishing. Mr. Fernandez expressed his passion for fishing and experiences in the water and shared that fishing is not a factor in the coral reef health. He provided examples of using sunscreen and the effects of the lotion to the water. He previously was employed with a company who made sunscreen so he is familiar with the ingredients in the product. He demonstrated the discoloration of the sunscreen lotion and the effects on the ocean reefs. He believes that banning scuba spear fishing is not the answer and is the wrong approach. Blaming fishermen for the decline in fish is also the wrong approach. Mr. Fernandez said that the focus should be on habitat degradation. He shared the many different types of reef fish and emphasized that reef fishing feeds the people of Hawaii.

Makani Christensen, a passionate fisherman, opposed the West Hawaii rule package. Mr. Christensen shared a 10-minute video and is in opposition to the entire rule package. He read his Uncle Robert's, Auntie Mary's, and Tate Marks' written testimonies. He stated that the overwhelming video evidence and scout reports indicate a flourishing ecosystem and a large abundance of fish in the Puako and Kona area. Based on the areas that were monitored, they found that localized environmental and terrestrial factors have decreased the number of fish and caused the reef to die. It is paramount that we find the root of the problem. Although he is in strong opposition to the West Hawaii rule package, he recommends all fishermen to work together and look at the science behind what is causing the destruction of coral reefs. He wants to help make a change in the environment to address the concerns of the reef.

Member Pacheco finds the scientific reports to be valid.

The Board members and Mr. Christensen discussed using scuba gear for spearfishing and how the West Hawaii rule package will affect fishermen's lifestyle and cultural traditions.

Kim Kohl testified on item F-2, read her written testimony, suggested amending the bag limits, and adding management language to move forward.



Tate Marks testified on item F-2 and was in opposition to the rule package and the white list. The areas that have been affected by the decline in fish are the newly developed areas. The fishermen are not to blame.

Carl Jellings, Sr., Waianae resident, testified on item F-2 and is in opposition to the West Hawaii rule package, Title 13, Chapter 75, "Rules Regulating the Possession and Use of Certain Fishing Gear." He testified on the benefits of using spear and scuba. He strongly expressed his passion for fishing and only takes what he needs from the ocean for his family and friends. He shared his experiences in the ocean and the pros and cons of the rule package. He is very familiar with the many different types of fishes that are non-seasonal and seasonal. He expressed that it doesn't make sense to ban scuba spearfishing because that's not the problem.

Member John Morgan shared his thoughts on the opposing testimonies.

Donald Haley, who worked with Mr. Jellings, Sr. for 10 years, testified on item F-2. He was in opposition of the West Hawaii rule package and pointed out that certain fishing gear is meant for certain fish. You can do more selective fishing with scuba gear.

Evander Faletogo testified that he cannot do free diving. He needs the scuba gear while spearfishing. He does scuba spearfishing to support his livelihood. The spear is a protective weapon from predators in the water.

Carl Jellings, Jr., a fisherman for 14 years, testified on item F-2 and is in opposition of the West Hawaii rule package. He shared his experience in the ocean with using safety gears to survive in the water and his experience with ocean critters that are harmful. If he doesn't have the spear to protect him, he has to stop fishing because he cannot take the risk of being attacked.

Glennon Gingo, Big Island resident and Chairperson of the Hawaii Fisheries Council, testified in support of item F-2. He was the facilitator when the rule package was formalized.

Randy Cates testified in opposition to item F-2. He shared that scientists need to rely on the fishermen's knowledge and experience, and not only on scientific data and recommended to be cautious of agenda-based science.

Mike Sur was in opposition to item F-2.

Joe Gilman, a Kailua resident, testified in opposition of scuba gear and item F-2.

Matthew Ross discussed aquarium fishing. He was bitten by an eel and did not have a spear. Scientists and fishermen have different perspectives. He was in support of item F-2.

Chad Wiggins is a scientific diver at Puako. Something has been done to save the reef. He supported item F-2.

Dennis Yamaguchi was in opposition to item F-2. Having a spear doesn't mean that a fisherman is protected from sharks, eels, etc. With the ban, new data can be used to analyze if the ban is effective.

Melva Aila was in opposition to item F-2.

There were other testimonies from the members of the public which were not included in the minutes because their names were not on record.

Chairperson Aila commented on the way the rules are made.

Member Pacheco mentioned the reef of Cortez.

Member Edlao shared that it was the best available data.

Member Pacheco made a motion to accept staff recommendation. Member Edlao seconded that.

The Board Members discuss together on the safety issue. Member Pacheco made some recommendations on the scuba spearfishing gear proposed changes.

- 1) **Amend Hawaii Administrative Rules (“HAR”) Title 13, Chapters 54, “Puako Bay and Puako Reef Fisheries Management Area” and 57, “Keauhou Bay Fisheries;**
- 2) **Repeal HAR Title 13, Chapter 60.3, “West Hawaii Regional Fisheries Management Area, Hawaii”;**
- 3) **Adopt a new Chapter 60.4, “West Hawai’i Regional Fishery Management Area, Hawai’i; and**

The Board made a motion to accept staff recommendation on the final approval of agenda item F-2: items 1), 2) and 3).

Four Board members support items 1), 2) and 3) and two Board members were in opposition.

**Approved as submitted (Pacheco, Edlao)**

- 4) **Amend HAR Title 13, Chapter 75, “Rules Regulating the Possession and Use of Certain Gear”.**

Member David Goode made a motion to accept staff recommendation. Member Gon seconded that.

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

**Item B-1 Request Board Approval to Enter Into Contracts for Furnishing and Delivery of Full Size Crew Cab Pick Up Trucks for the State of Hawaii, Department of Land and Natural Resources, Division of Conservation and Resources Enforcement.**

DOCARE staff said there were no changes on item B-1.

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

**Item E-1 Request for Approval of the Placement of Act 82, SLH 03, Warning and Management Signs on the Island of Kaua'i at selected locations within Kaua'i's Wailua River State Park including Wailua Falls, Uluwehi Falls, Kaumuali'i, Old Smith's Landing, and Fern Grotto as well as the Canyon and Cliff Trails within Kōke'e State Park and along Kūhiō Highway within Hā'ena State Park.**

**Request for Approval of the Design and placement of a New Warning Sign at Waiakanaloa Wet Cave in Hā'ena State Park and at Kalalau Beach in Nāpali Coast State Wilderness Park, Kaua'i, Pursuant to Act 82, SLH 2003.**

Dan Quinn conveyed some background on item E-1.

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

**Item D-5 Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display Purposes at Honuaula, Makena, Maui, Tax Map Key:(2) 2-1-006: seaward of 036.**

Mr. Tsuji presented item D-5.

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

**The following items have been deferred to July 12, 2013 Land Board meeting.**

**Item C-1 Request for Delegation of Authority to the Chairperson to Negotiate, Approve, Execute, Amend, and Extend a Memorandum of Agreement with the City and County of Honolulu Board of Water Supply (BWS) Regarding Disbursement of Funding for Watershed Protection Activities on BWS Priority Watershed Areas on Oahu.**

**Item D-1 After-the-Fact Consent to Assign Grant of Non-Exclusive Easement, Kenneth M. Rowell, Assignor, to Shirley A. Jensen, Trustee of the Kenneth M. Rowell and Ellen A. Rowell Trust, Assignee, Wailua, Kawaihau, Kauai, Tax Map Keys: (4) 4-1-002:007 and (4) 4-1-009:002.**

**Item D-2 Request to Amend Prior Board Action of April 14, 2000, Agenda Item D-4, Set Aside to the DLNR - Division of Aquatic Resources, Freshwater and Marine Fisheries Development Program, and Issuance of Immediate Right-of-Entry; Request for a Revocable Permit to Darrell Horner for Aquaculture Purpose, Hanapepe, Waimea, Kauai, Tax Map Key: (4) 1-9-007:046.**

**Item D-7 Issuance of Right-of-Entry Permit to Hawaiian Dredging Construction Company on Lands Encumbered by Executive Order No. 3694, Kahului, Maui, Tax Map Key: (2) 3-8-001:019 por.**

- Item D-10** Impose a \$1,000.00 Fine and \$420.00 in Administrative Cost Against KRS Investments LLC, dba South Pacific Kayaks & Outfitters, and Tiki Team Adventures, for Unauthorized Commercial Activities Conducted on State Unencumbered Lands at Olowalu, Lahaina, Maui, at TMK: (2) 4-8-003:001.
- Item D-11** Issuance of Right-of-Entry Permit to Fireworks By Grucci, Inc., for Set up and Firing of Aerial Fireworks Display on July 24 & 25, 2013, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037:021 (Portion).
- Item D-12** Issuance of a Right-of-Entry Permit to Oahu Hawaiian Canoe Racing Association and the Lanikai Canoe Club for the Duke Kahanamoku Long Distance Canoe Race Event to be held on August 18, 2013, at Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037: portions of 021.
- Item D-13** Withdrawal from Governor's Executive Order No. 1997; Grant of Perpetual, Non-Exclusive Easement to the City and County of Honolulu for Traffic Signal Equipment and Sidewalk Easement; Set Aside to the Department of Land and Natural Resources, Division of State Parks for Baseyard Purposes; Issuance of Management and Construction Right-of-Entry Permits; Diamond Head, Honolulu, Oahu, Tax Map Key: (1) 3-1-042:portions of 006 and 020.
- Item D-14**
- (1) Rescind Prior Board Action of June 4, 2004, Item D-12, Fee Simple Sale of Reclaimed (Filled) Land to Michael Gallagher and Ada Murakami, Niu, Honolulu, Oahu, TMK (1) 3-7-002:seaward of 008; and
  - (2)(a) Authorize Grant of 55-Year Term, Non-Exclusive Easement to Michael Gallagher and Ada Murakami for Seawall and Filled Lands Purposes, Niu, Honolulu, Oahu; TMK (1) 3-7-002:seaward of 008; or alternatively,
    - (b) Enforcement Action Against Michael Gallagher and Ada Murakami As Owners of TMK (1) 3-7-002:008 for Unauthorized Encroachment, Niu, Honolulu, Oahu, TMK (1) 3-7-002:seaward of 008.
- Item D-15** Amend Prior Board Action of March 8, 2013 (Item D-7) by Removing Reference to Governor's Executive Order No. 1423 in the Submittal; Sale of Remnants to Grant T. Hamachi, as Trustee of the Grant T. Hamachi Revocable Living Trust, dated November 19, 1999 and Toyoko Hamachi, as Trustee of the Toyoko Hamachi Revocable Living Trust, dated November 19, 1999; Withdrawal from Governor's Executive Order Nos. 1598 and 1423, Waimanalo, Koolaupoko, Oahu; Tax Map Key: (1) 4-1-025:036 portion and 052.

- Item D-16** Amend Prior Board Action of July 27, 2012, (Item D-6) by Adding Legal Reference to the Submittal; Grant of Term, Non-Exclusive Easement to Frank H. Barton Trust and Elsie M. Barton Trust for Pier, Seawall, and Landscaping Area Purposes in Kaneohe, Koolaupoko, Oahu, Tax Map Key: (1) 4-4-037:seaward of 033.
- Item E-3** Request for Permission for the Diamond Head State Monument Foundation to an Exercise Park along the Fort Ruger Pathway, Diamond Head State Monument, O'ahu
- Item F-1** Request for Approval to Hold Public Meetings and Hearings to Adopt a New Chapter Under Hawaii Administrative Rules ("HAR") as Title 13 Chapter 95.1, Island-Based Fisheries Rules, to Establish New Bag and Size Limits for Maui and Lana'i Island Fisheries.
- Item J-1** Approval Of Request For Contested Case Hearings by Maurice Rosete, Patrick Kirkland, Robert Jeralds, Donald Krispin, and Jonathan Alexander; Denial of Request for Contested Case Hearing by Sierra Masters and Delegate to the Chairperson the Authority to Select a Hearing Officer to Conduct the Contested Case Hearings Regarding the Enforcement Actions Brought Against the Individuals Listed Above.
- Item L-1** Certification of Election of Arryl Kaneshiro and Appointment of Edward Kawamura, Jr. to Serve as Directors of the East Kauai Soil and Water Conservation District.
- Item L-2** Authorization to Issue Procurement Solicitations and Award of Contracts under Hawaii Revised Statutes Chapter 103D for Various Capital Improvements Program Projects Listed in Exhibit 1. Attached to this Agenda and Incorporated herein are the Various Capital Improvements Program Projects (Exhibit 1).

**Adjourned**

There being no further business, Chairperson William Aila adjourned the meeting at 6:35 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:



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