

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

DATE: FRIDAY, MARCH 14, 2014
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 J. Aila, Jr.
Dr. Sam Gon
Reed Kishinami

Robert Pacheco
David Goode
James Gomes

STAFF

Pam Matsukawa/ Deputy AG
Carty Chang/ENG
Randy Kennedy/ DOFW

William Tam/ CWRM
Kevin Moore/ LAND

OTHER

Sandy Gillis/DOT-AIR
John Foster/ F-5
Vergil Koehne/F-5
Henry Curtis/ D-5

Eric Leong/ DOT-Harbors
Morgan Evans/ F-5
Kelsey Anderson/ F-5
Alan Okamoto/D-6

Item A-1 Approval of January 24, 2014 Minutes

Member Gon recused.

Unanimously approved as submitted (Gomes, Pacheco)

**Item M-2 Amendment to Prior Board Action of May 11, 2012 (Item M-1),
as Amended on May 24, 2013 (Item M-1) and August 24, 2013 (Item M-1)
Issuance of a Direct Lease to Hyak Aviation LLC
at Honolulu International Airport
to Change the Location and Tax Map Key, Area
and Annual Lease Rental
Tax Map Key: (1)1-1-072:81 and 82 (Portion).**

- Item M-3** **Amendment No. 1 to State Lease No. DOT-A-12-0011
to Change the Commencement Date of the Lease
Straube's Aircraft Services Hawaii, Inc.
Kalaeloa Airport
Tax Map Key: (1) 9-1-13:32 (Portion).**
- Item M-4** **Issuance of a Revocable Permit
International Express, Incorporated
3159 Ualena Street; Honolulu International Airport
Tax Map Key: 1-1-14:15 (Portion).**
- Item M-5** **Issuance of a Revocable Permit
Ad Walls, LLC.
Honolulu International Airport
Tax Map Key: (1) 1-1-003: 1 and 61 (Portions).**
- Item M-6** **Amendment No. 20 to Lease No. DOT-A-92-0018
Restaurant and Lounge Concession Lease
Host International, INC.; Honolulu International Airport
Tax Map Key: (1) 1-1-03:01 (Portion).**
- Item M-7** **Amendment No. 3 to Concession Agreement No. DOT-A-11-0006
Restaurant and Lounge Concession, Additional Space
Host International, Inc.
Lihūe Airport; Tax Map Key: (4) 3-5-01:8 (Portion).**
- Item M-8** **Issuance of a Revocable Permit
Mokulele Flight Service, Inc.
Waimea-Kohala Airport
Tax Map Key: (3) 6-7-001: Portion of 08.**
- Item M-9** **Issuance of a Revocable Permit
Alan R. Wehmer
Honolulu International Airport
Tax Map Key: (1) 1-1-76:21 (Portion).**
- Item M-10** **Issuance of a Revocable Permit for Parking
Richard Bridges
Hilo International Airport
Tax Map Key: (3) 2-1-12: Portion of 09.**
- Item M-11** **Issuance of a Revocable Permit
BCP Construction of Hawai'i, Inc.
Diamond Head Concourse; Honolulu International Airport**

Tax Map Key: (1) 1-1-003:001 (Portion).

**Item M-12 Issuance of a Revocable Permit for Parking
US Aviation Services Corp.
Kona International Airport at Keāhole
Tax Map Key: (3) 7-3-43: Portion of 03.**

**Item M-13 Issuance of a Revocable Permit
Kahala Surf Corporation
Honolulu International Airport
Tax Map Key: (1) 1-1-72: 69 (Portion).**

**Item M-14 Issuance of a Revocable Permit to
The Right Flight School LLC.
Honolulu International Airport
Tax Map Key: (1) 1-1-27:69 (Portion).**

**Item M-15 Issuance of a Revocable Permit for Parking
Air Ambulance Specialist, Inc.
Kahului Airport
Tax Map Key: (2) 3-8-01: Portion of 19.**

Sandy Gillis representing the Department of Transportation- Airports Division (DOT/AIR) had no changes to items M-2 to M-15.

Member Gomes questioned items M-10, M-12 and M-15, and asked how come there is inconsistency in the price amount. Gillis said that she thought it was because the ground space is unpaved, or paved, or could be because rates in the area could differ. Gillis said that she would get back to him on these three items.

Unanimously approved as submitted (Gon, Kishinami)

**Item M-1 Issuance of a Revocable Permit to Container
Storage Company of Hawaii, Ltd., Ke‘ehi Industrial
Lots, Kalihi-Kai, Honolulu, O‘ahu, Tax Map Key
No: 1st/1-2-23:41, 42, 45 & 71.**

Eric Leong, Property Manager representing DOT-Harbors had no changes to item M-1.

Unanimously approved as submitted (Kishinami, Gon)

**Item F-1 Request for Approval to Add Funding (\$601,000 Federal, \$10,000 Sport Fish
Special Fund) and Extend through FY15 the Project Agreement (Contract
No. 60395, Amendment No. 3) between the Board of Land and Natural
Resources (BLNR) and The Research Corporation of the University of**

Hawai'i (RCUH) for the Division of Aquatic Resources (DAR) Research Project Titled "Investigation of Estuarine Habitats."

- Item F-2** Request for Approval to Add Funding (\$611,250 Federal, \$141,750 Commercial Fisheries Special Fund) and Extend through FY15 the Project Agreement (Contract No. 60393, Amendment No. 3) between the Board of Land and Natural Resources (BLNR) and The Research Corporation of the University of Hawai'i (RCUH) for the Division of Aquatic Resources (DAR) Research Project Titled "Hawai'i Marine Recreational Fishing Survey."
- Item F-3** Request for Approval to Add Funding (\$326,000 Federal, \$78,000 General Fund) and Extend through FY15 the Project Agreement (Contract No. 58627, Amendment No. 5) between the Board of Land and Natural Resources (BLNR) and The Research Corporation of the University Of Hawai'i (RCUH) for the Division of Aquatic Resources (DAR) Research Project Titled "Maui/O'ahu Marine Resources Assessment."
- Item F-4** Request for Approval to Add Funding (\$330,000 Federal, \$20,000 Commercial Fisheries Special Fund) and Extend through FY15 the Department of Land and Natural Resources (DLNR)/University of Hawai'i (UH) Contract No. 60379 (Supplemental Contract No. 3) for the Project Titled "Collaborative Administration of the Hawai'i Fish Aggregating Device System."

William Tam, Deputy Director of the Commission on Water Resource Management (CWRM) was present on behalf of Fraizer Mcglivray. Tam reviewed items F-1 through F-4 and had no changes.

Unanimously approved as submitted (Gon, Kishinami)

- Item F-5** Request For Final Approval To Amend Hawaii Administrative Rules Chapter 13-95, Rules Regulating The Taking And Selling Of Certain Marine Resources, To More Effectively Regulate Stony Coral And Live Rock By Clarifying The Definition Of Damage, To Prescribe How Per Specimen Fines Will Be Calculated, And To Eliminate The Use Of An Implement As A Provision In The Rule. The Rules To Be Amended Are Hawai'i Administrative Rules §13-95-1 Definitions; §13-95-1.1 Licenses, Permits, And Other Exemptions; §13-95-2 Penalty; §13-95-70 Stony Corals; And §13-95-71 Live Rocks.

Tam explained that this arose from a couple of problems. One was that the previous rule said that if someone used an implement to damage coral then it was necessary to prove that someone had

violated the rule. The AGs office and others got into discussions about what implements meant and what would happen if someone stepped on the coral, but didn't use an implement. The goal in these rules is to get rid of that requirement and simply say, if coral is damaged then there is a violation of rule. An important reason to pass this rule is so it can be used as an argument that the department has a strong rule ourselves.

Member Goode asked how this works with the clean water act. Tam said that under the clean water act, which is a federal authority, no pollutant may enter the water of the United States without a permit. The proposed rule is a natural resource damage issue, and does not deal with permits. It says that if you damage coral, then you will be liable for damaging coral. Tam said that if someone with a clean water act permit damages the coral then they will be held liable under this rule.

Chair Aila explained that the department is not trying to penalize someone for something that was not done intentionally or by an act of God. The end result will be the same mitigation, would be necessary.

John Foster and Morgan Evans stated that they stood on their written testimony in support.

Vergil Koehne suggested adding language in the permit stating that they will be liable for any damage to the coral.

Kelsey Anderson, a student from UH, elaborated on her written testimony. Anderson said she was concerned about the lack of the definition for "pollution" and "biological contaminants." She used the molasses spill as an example, questioning if a spill like that would fall under the rule.

Tam said that the critical aspect is if the coral is killed in the tort sense, the coral is damaged. The virtue of the clean water act is it covers anything that damages the coral and is a mechanism where you restrict the effect of these events.

Unanimously approved as submitted (Gon, Gomes)

Item L-1 Appointment of Harry "Pono" von Holt to Serve as a Director of the Mauna Kea Soil and Water Conservation District.

Item L-2 Appointment of Troy Keolanui to Serve as a Director of the Hāmākua Soil and Water Conservation District.

Carty Chang, Chief Engineer had no changes to items L-1 or L-2.

Unanimously approved as submitted (Gon, Pacheco)

Item L-3 Application for a Dam Safety Construction/Alteration Permit, Permit No. 62-Ahukini Reservoir (KA-0044), Dam Removal, Kilauea, Kaua'i, Hawai'i.

Chang had a change to the title; replacing “Kilauea” with “Lihue”.

Unanimously approved as submitted (Pacheco, Gomes)

Item L-4 Application for a Dam Safety Construction/Alteration Permit, Permit No. 29-Morita Reservoir (KA-0029) Dam Removal, Kilauea, Kaua‘i, Hawai‘i.

Chang reviewed item L-4 and had no changes.

Unanimously approved as submitted (Gon, Gomes)

Item D-12 Approval in Principle for Issuance of Direct Lease to Kosong Foundation, Inc. for Michuhol Museum and International Center Purposes; Issuance of Right-of-Entry for Site Investigation Purposes, Honolulu, O‘ahu, Tax Map Key: (1) 2-4-005:019.

Kevin Moore representing the Land Division went over item D-12. Kosong presented the Board with photo samples of their project, explaining that their goal is to build a museum to bring improvement to the area of the city they are in.

Unanimously approved as submitted (Goode, Kishinami)

Item D-5 Approval-in-Concept for Grant of a 65-Year Term, Non-Exclusive Easement to Hoku Kai Biofuels LLC for an Underground Transmission Pipeline to Transfer Biofuels from Cargo Ships to an Off-Site Privately-Owned Storage Facility with Issuance of an Immediate Right-of-Entry to Conduct an Environmental Assessment, Baseline Soil Sampling and Pipeline Inspection and Cleaning, Hilo Harbor, Waiākea, South Hilo, Hawai‘i, TMK: (3) 2-1-009: portion of parcels 007 & 031.

Moore presented item D-5 explaining that the parts that are being presented are department of Transportation (DOT)- harbors portions of the pipeline easements that the Board retains jurisdiction over. Moore detailed the pipeline and what steps were next

Henry Curtis testified and asked to defer this item until Hoku Kai Biofuels LLC shows up to attend so that it is known exactly what biofuels are being shipped in.

Member Pacheco and member Gon commented that they would like the applicants to be present and asked to defer.

Member Gomes said he too had questions for the applicants.

Deferred. Board members expressed disappointment that no representative of applicant Hoku Kai Biofuels LLC attended the meeting to answer questions Board members had regarding applicant’s business plan, the condition of the existing pipeline and its suitability

for the requested use. The Board requested applicant to have a representative attend the meeting the next time the matter is on the agenda.

Item D-6 Consent to 10-Year Term Extension of General Lease No. S-3583; Yamada Consolidated, Inc., Lessee, Pursuant to Act 207, Session Laws of Hawai'i 2011, Waiākea, South Hilo, Hawai'i, Tax Map Key: 3rd/2-2-037:052, 092 & 093.

Moore conveyed item D-6 and said the internal recommendation is to extend these leases, do the planning and come up with a master plan.

Member Pacheco noted that the applicant was in a dispute over lease arbitration and that has been settled.

Alan Okamoto, Yamada Consolidated's corporate attorney since 1979 was present to answer any questions. Okamoto said that they are prepared to accept staff's recommendations. Yamada wants this done and is not opposing any conditions.

Unanimously approved as submitted (Pacheco, Gomes)

Item D-1 After-the-Fact Approval of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Set up and Firing of Aerial Fireworks Display at Shipwreck Beach on March 14, 2014, Po'ipū, Kaua'i, Hawai'i, Tax Map Key: (4) 2-9-01: seaward of 2.

Item D-2 Issuance of Right-of-Entry Permit to County of Kaua'i, Department of Public Works on Lands Encumbered by Revocable Permit No. S-7466, por. of Kapa'a Rice & Kula Lots, Kawaihau, Kaua'i, Tax Map Key: (4) 4-5-015:030.

Item D-3 Consent to Assign General Lease No. S-3993, Melvin Matsumura, Assignor, to Ronald Matsumura and Shane Matsumura, Assignees, Portion of Kapa'a Homesteads, 1st Series, Kawaihau, Kaua'i, Tax Map Key: (4) 4-6-005:009.

Item D-4 Mutual Cancellation of General Lease No. S-5585, Rosaline Lopez, Lessee, and Request for Waiver of Level One (1) Hazardous Waste Evaluation Requirement, Kapa'a River Remnant B, Kapa'a Homesteads 4th Series, Kapa'a, Kawaihau (Puna), Kaua'i, Tax Map Key: (4) 4-6-009:050.

Item D-7 Request for Consent to Extension of Lease Term Pursuant to Act 207, Session Laws of Hawai'i 2011, General Lease No. S-3599 Central Supply, Inc., Lessee; Amendment of Terms and Conditions Regarding Allowed Use, Assignment and Sublease Provisions for General Lease No. S-3599; Lot 22 Kanoelehua Industrial Lots, Waiākea, South Hilo, Hawai'i, Tax Map Key: (3) 2-2-50:90.

- Item D-8** Forfeiture of General Lease No. S-5372, Hawaii Outdoor Tours, Inc., Lessee, Kapāpala, Ka'u, Hawai'i, Tax Map Key: (3) 9-8-01:02.
- Item D-9** Issuance of Right-of-Entry Permit to Nalu Kai Inc. dba. Naish Sails Hawaii, at Ukumehame Beach, Olowalu, Lāhainā, Maui, Tax Map Key: (2) 4-8-002: Portion of 040.
- Item D-10** Amend Prior Board Action of February 14, 2014, Item D-11, by Revising the Date of Event to February 18, 2014; Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc., for Aerial Fireworks Display at Duke Kahanamoku Beach on February 17, 2014, Waikīkī, Honolulu, O'ahu, TMK: (1) 2-3-037:021 (Portion).
- Item D-11** Issuance of Right-of-Entry Permit to Waikīkī Beach Activities, Ltd. for Beach Activities Purposes on May 8, 2014, Waikīkī, Honolulu, O'ahu, Tax Map Key: (1) 2-3-037:Portion of 021.

Moore had no changes to items D-1, D-2, D-3, D-4, D-7, D-8, D-9, D-10 or D-11.

Unanimously approved as submitted (Pacheco, Kishinami)

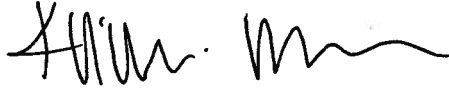
- Item C-1** Memorandum of Understanding Between the Division of Forestry and Wildlife and the United States Department of the Interior, U.S. Fish and Wildlife Service, Big Island National Wildlife Refuge complex for providing Firefighting Assistance.

Randy Kennedy acting administrator for the Division of Forestry and Wildlife had no changes to item C-1.

Unanimously approved as submitted (Pacheco, Gomes)

There being no further business, Chairman William Aila adjourned the meeting at 10:05 am. 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:



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