

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

DATE: FRIDAY, APRIL 11, 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 9:05 a.m. The following were in attendance:

**MEMBERS**

William J. Aila, Jr.  
David Goode

Dr. Sam Gon  
James Gomes

**STAFF**

Deputy AG/Cindy Young  
Kevin Moore/LAND  
Dan Quinn/PARKS  
Ed Underwood/DOBOR

Russell Tsuji/LAND  
Sam Lemmo/OCCL  
Randy Kennedy/DOFAW  
Carty Chang/ENG

**OTHERS**

Ross Smith/DOT-AIR  
William McCorrison/D-11  
Tawa Uyema/D-5  
Kyle Ginoza/K-2  
Kathryn Mitsunaga/K-3  
Lloyd Maki/ D-12  
Christian Porter/J-1  
Ivan Ho/J-1

Karen Chun/ DOT-HWY  
J. Maestas/ D-5  
Bill Moore/D-6  
Ron Agor/K-3  
Morris Mitsunaga/ K-3  
Makena White/ E-1  
David Rick/J-1  
Dan Purcell/M-1-19,D-6 K-2,C-1

**Item A-1 Approval of February 14, 2014 Minutes**

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

**Item A-2 Approval of February 28, 2014 Minutes**

Minutes deferred no quorum.

**Item M-18 Issuance of a Revocable Permit to Morphotrust USA, Inc. dba, MT USA, Inc., Contractor for U.S. Transportation Security Administration, for Pre-**

**Check Enrollment and Processing Center Purposes, Honolulu International Airport, Tax Map Key: (1) 1-1-003:073 (Portion).**

Ross Smith representing Department of Transportation- Airports Division (DOT-AIR) asked to withdraw Item M-18. Chair Aila withdrew Item M-18.

**Withdrawn**

- Item M-1**      **Amendment No. 5 to Concession Agreement No. DOT-A-07-0001, In-Bond (Duty Free) Concession, DFS Group, L.P., in order to extend the term of the concession agreement to May 31, 2027, Honolulu International Airport, Tax Map Key: (1) 1-1-03: Portion of 1.**
  
- Item M-2**      **Issuance of a Revocable Permit to Airport Group LLC for Office and Ticketing Curbside Check-in Purposes, Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43: Portion of 40.**
  
- Item M-3**      **Issuance of a Revocable Permit to Delta Air Lines Inc. for ADA Ramp and Office Trailer Purposes, Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-43: Portion of 40.**
  
- Item M-4**      **Issuance of a Revocable Permit, Aeko Kula, Inc. for Air Cargo Operation Purposes, Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 19.**
  
- Item M-5**      **Issuance of a Revocable Permit to Mokulele Flight Service, Inc. for Office Space Purposes, Waimea-Kohala Airport, Tax Map Key: (3) 6-7-001: Portion of 08.**
  
- Item M-6**      **Issuance of a Revocable Permit to Guardian Flight, Inc. for Office Space for an Air Ambulance Operator Purposes, Hilo International Airport, Tax Map Key: (3) 2-1-12: Portion of 90.**
  
- Item M-7**      **Issuance of a Revocable Permit to Michael Singer for Office Space Purposes, Hilo International Airport, Tax Map Key: (3) 2-1-12: Portion of 09.**
  
- Item M-8**      **Issuance of a Revocable Permit to Airborne Aviation LLC for Company Aircraft Storage and Maintenance Purposes, Lihue Airport, Tax Map Key: (4) 3-5-01: Portion of 8.**
  
- Item M-9**      **Issuance of a Revocable Permit to Reggie Ignacio for Freight and Cargo Storage Purposes, Waimea-Kohala Airport, Tax Map Key: (3) 6-7-001: Portion of 08.**

- Item M-10** Issuance of a Revocable Permit to Kohala Aviation LLC for General Aviation Purposes, Waimea-Kohala Airport, Tax Map Key: (3) 6-7-001: Portion of 08.
- Item M-11** Issuance of a Revocable Permit to Airport Group Services, LLC for Porter Stand Purposes, Līhu‘e Airport, Tax Map Key: (4) 3-5-01: Portion of 8.
- Item M-12** Issuance of a Revocable Permit to Hawaii Island Air, Inc. for Check-in Counter Purposes, Līhu‘e Airport, Tax Map Key: (4) 3-5-01: Portion of 8.
- Item M-13** Issuance of a Revocable Permit to U.S. General Services Administration, Transportation and Security Administration for Office Space Purposes, Kapalua Airport, Tax Map Key: (2) 4-3-01: Portion of 73.
- Item M-14** Issuance of a Revocable Permit to Hawaiian Airlines, Inc. for Ticket Counter and Baggage Make-Up Purposes, Moloka‘i Airport, Tax Map Key: (2) 5-2-04: Portion of 8.
- Item M-15** Issuance of a Revocable Permit to Hawaiian Airlines, Inc. for Office Space Purposes, Moloka‘i Airport, Tax Map Key: (2) 5-2-004: Portion of 008.
- Item M-16** Issuance of a Revocable Permit to U.S. General Services Administration, Transportation Security Administration for Office Space and Training Room Purposes, Kahului Airport, Tax Map Key: (2) 3-8-001: Portion of 019.
- Item M-17** Issuance of a Revocable Permit to William C. Melohn for Tea Hanger for Aircraft Storage Purposes, Honolulu International Airport, Tax Map Key: (1) 1-1-76:22 (Portion).
- Item M-19** Issuance of a Revocable Permit to Trans Executive Airlines of Hawaii, Inc. for Air Cargo Operations Purposes, Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 19.

Ross Smith reviewed items M-1 through M-17 and M-19 and had no changes. Member Gon asked if there was any way these items could be delegated to Chair Aila for him to approve. Chair Aila said he would check with the Attorney General’s Office and explore the idea.

Member Gomes asked what kind of concessions Duty Free would be doing with the money under item M-1. Smith explained that with a portion of that money, they would be building some stores that we don’t have within the airport as well as some of the existing ones.

Member Goode asked where the fees go that are charged. Smith said that they go into the airport funding, which are funding for the entire airport.

Dan Purcell testified that he as a member of the public appreciates having an extra set of eyes on these permits. Purcell said even though these seem minor, they still need to be reviewed and the public relies on this Board to make the right decisions when approving these types of permits.

Member Gon commented that he appreciated that point.

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

**Item D-10 Issuance of Construction Right-of-Entry Permit to Department of Transportation For Highway Improvements Purposes, Waimānalo, Ko‘olaupoko, O‘ahu, Tax Map Keys: (1) 4-1-013: portions of 022 and 032, and Tax Map Key: (1) 4-1-018: portion of 052.**

Karen Chun, project manager representing the Department of Transportation for Highways summarized item D-10 and had no changes.

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

**Item D-11 Request to Amend Prior Board action of November 8, 2013, Item D-13, Amending Prior Board Action of March 8, 2013, Item D-8, Approval of the Modification and Assignment of the Development for the Former ‘Ewa Feedlot site at Campbell Industrial Park, Honouliuli, ‘Ewa, O‘ahu, Hawaii, Tax Map Key: (1) 9-1-031:001. The purpose of the amendment is to (1) change the Assignee previously approved by BLNR; (2) modify the proposed development plan; (3) adjust certain milestones, benchmark deadlines and other terms and conditions previously approved by the Board; and (4) approve the form of the development agreement.**

Russell Tsuji, Land Division Administrator presented item D-11 explaining that this item has come up on many occasions. Last time this new entity was willing to take the whole 100 acres, not just the 15 acres. However, during the finalizing period there were some substantial changes that they felt should be brought back to the Board. The main deal points: 1) it’s a fair market lease of a hundred acres with a cap of \$30,000 per acre which amounts to 3 million dollars a year which would be substantial to the department if this goes through; 2) If the fair market goes over 30 thousand, then the entity has the right to terminate the development; 3) The term of the lease has changed, initially the prior entity was seeking a 20 year lease, the new entity is asking for a 65 year lease. Tsuji stated that he paid attention to how the rental would be determined, which is highest and best use. The objective of this feedlot is to generate revenue for the department. Tsuji explained that this is just the development stage.

William McCorrison said that his primary reason for being present was to state that they are in agreement with Tsuji and staff. McCorrison said that they do have a draft that has been signed

so that the Board has a comfort level, knowing that they are prepared to put up the money for this. He heard the questions and Tsuji's answers and does not disagree with them. He thanked Tsuji and staff for all their kokua in this matter.

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

**Item D-5 Issuance of Right-of-Entry Permit to KAI Hawaii, Inc. on Behalf of the United States Coast Guard, for Archaeological Study Purposes onto State lands Encumbered by General Lease No. S-4473, Ernest and Marion De Luz, Ka'oho 6<sup>th</sup>, Hāmākua, Hawaii, Tax Map Key: (3) 4-1-006:007.**

Tsuji had nothing to add.

J. Maestas representing the 14<sup>th</sup> U.S. Coast Guard was present requesting permission for Kai Hawaii to access a portion of the land that's leased to the Luz family at Hamakua Ranch. They are conducting an AIS as part of an after-the-fact 106 consultation. This is a remote fixed facility for the Rescue 21 system. Rescue 21 allows the Coast Guard to rescue mariners at sea and pinpoint their location at times of distress.

Member Gomes asked how big the area was that the land sits on. Maestas said it was less than 30 yards.

Tawa Uyema representing Kai Hawaii supports the project. He said that they were hiring Scientific Consultant Services to the archeological work (AIS).

Member Gon asked if the AIS w

So I think most of you know the way the Board works, but just in case I'll explain.as triggered due to archeological sites in the area. Uymeasaid that there were archeological sites, but they don't believe it will be in this particular area. Chair Aila asked if there are iwi within a quarter mile of this location. He noted that this AIS is being requested by decedents.

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

**Item D-6 Approval in Principle of Land Exchange between the State of Hawaii and Parker Ranch, Inc. for State-Owned Land at Waimea, South Kohala, Hawaii Tax Map Key: (3) 6-7-003:020 with Privately-Owned Commercial/Industrial Land of Equal or Greater Value to be Identified at a Later Date and Issuance of an Immediate Right-of-Entry to Parker Ranch, Inc. for the Purpose of Conducting an Environmental Assessment on the subject State lands.**

*Written testimony was submitted by Lindsay Kukona.*

Tsuji along with Kevin Moore, the assistant administrator for Land, briefed the Board on item D-6 explaining that the homes in this area were part of Parker Ranch's development. There is a lot that sits next to a home on this land that was formerly a reservoir site, but was abandoned by the department of Agriculture. During the development of Parker Ranch, they built their road, blocking access to the state's main road. The county won't allow them to get rid of the intersection that blocks the state's road.

Member Gomes asked Moore what alternatives exist if this is not approved. Moore said Parker ranch would be agreeable to getting an easement over their land which they own so the department could get an easement for a new connector road. Member Gomes then asked Moore what his thoughts were on the written testimony that was received. Moore pointed out that this road will be a county dedicated road built at Parker Ranch's expense, and he does agree with some of the concerns in the testimony. Member Gomes next questioned what kind of land exchange would be involved and where or what would be the comparison? Tsuji said that value would be on this parcel, which is agricultural lands; they exchange value for value not acre for acre.

Member Goode asked if the surrounding lands were agricultural lands as well. Bill Moore, a planning consultant representing Parker Ranch Inc, testified that he was the one who found this problem. He explained that the area surrounding the reservoir site is zoned for single family residential. He said he doesn't believe there is any physical restriction to drive over this 30 foot easement or getting to the parcel. From a development stand, the county requires a 50 foot access road. B. Moore explained how if for some reason this deal doesn't go through, they still have to do an environmental assessment, then the department will still end up with a developable parcel which is 343 compliant for residential purposes. The EA needs to be done to dedicate this portion to the county. They understand that what they did was not correct; they want to fix it and do what is right for the state.

Member Gon asked for clarity, if the reservoir site is no longer being considered for a reservoir. B. Moore showed pictures of the reservoir in 2003/2004, stating that it was a reservoir and an attractive nuisance. They had permission to remove the reservoir and now it is a flat piece of land. It used to be a watercourse for the Lalamilo Farm lots across the street. There wasn't enough pressure so the department of Agriculture built a new reservoir. When they built that one, this one was no longer necessary.

Member Gon asked B. Moore if there has been any community support or opposition to this. B. Moore explained that they haven't gone out into the community. Member Gon asked what land was exchanged in 1961 and what the status was. B. Moore said he wasn't sure; he wasn't working for Parker ranch at that time. He did know that there was a whole series of exchanges that went on during that time and earlier; but would find out. Member Gon said he was only curious because when he was first put on the Land Board, he was told that whenever ceded lands were part of an exchange, to look at it closely. B. Moore made it clear that they don't want to waste time, if the exchange process doesn't work, then they are going to consider other options such as the easement. The main thing they want is the right of entry so they can begin the process.

Member Gomes asked if they were okay with staff recommendations. B. Moore said they were okay with it and they will pay the fine. They know the department will get more than equal value in the end and they know that the value won't match up and will be in the state's favor. This was done in good intent, it was just done wrong.

Dan Purcell testified that land transfers are very important and felt like a map should be available for the public to see. Purcell requested that staff reports have some sort of presentation with a map so that the public can reference it throughout the hearing.

Member Goode made a motion to approve the staff recommendation. Member Gon seconded, but commented that he was reticent because the land exchange processes should be taken seriously. A land exchange with due process errors doesn't sit well with him.

Member Gomes commented that he feels the same way as member Gon; he said that it's the principle and how it was done.

Chair Aila added that this submittal is to allow the discussion regarding the possibility of a land exchange occurring. Chair Aila commented that he would like to see what Parker Ranch has to offer in terms of revenue generating land.

Member Gon said that he is wavering on this, however the small size of the land is not relatively in an area that he would consider culturally important or historically important. The fact that it is zoned for residential use leans him towards the idea of the exchange for income generation for the state, so that wouldn't involve any environmental compromises with regards to resources.

Chair Aila added that if this doesn't pan out then it will come back to the Board.

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

**Item K-1 Conservation District Use Application (CDUA) MA-3708 for the Hono-a-Pi'ilani Highway Shoreline Erosion Control Boulder Retention by the State Department of Transportation (DOT) -Highways Division Located at Olowalu, Kealahou, Maui, Portion of Tax Map Key: (2) 4-8-003:006 and Adjacent Submerged Land.**

Sam Lemmo administrator for the Office of Conservation and Coastal Lands (OCCL) gave some background on item K-1 explaining that back in 2001 this section of the highway was severely undermined by storm waves so the department issued DOT an emergency authorization for shore protection, subject to them filing an after-the-fact CDUP. They did so in 2003 and the after the fact CDUP was approved by the Board that same year. Today they want to replace what they did back in 2003 with a more permanent, better engineered shoreline protection structure using large armor stones. DOT did an environmental assessment and in 2010 the County of Maui approved the special management area. After looking at the alternatives, abandonment is not an option because the highway is an important link between Lāhainā and Wailuku. Beach restoration is not

feasible at this locations it would create more problems. Lemmo said the OCCL is recommending they go forward with this project, but must seriously consider relocation of the whole highway.

Member Gomes asked about long term plans to relocate the highway. Lemmo recommended DOT staff would be better to answer that question. Karen Chun representing DOT stated that there was a current planning process study that is in the EIS stage, she wasn't sure where it was in the long term plan. Chun said the plan started last year, and has been delayed due to funding. Member Gomes explained that he was frustrated because the whole coastline has been devastated.

Member Goode said that funding will be the main constraint moving forward and said that on the County side he does know what has happened.

Member Gon asked if there was much pedestrian use in that stretch of the highway. Another representative from DOT explained that there is use by fisherman, but in general, pedestrian use is limited.

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

**Item K-2 Conservation District Use Application (CDUA) MA-3688 for the Wailuku-Kahului Wastewater Reclamation Facility's Shoreline Protection Extension by the County of Maui -Department of Environmental Management Located at 281 Amala Place, Kahului, Maui, Portion of Tax Map Key: (2) 3-8-001:188 and Adjacent Submerged Land.**

*Written testimony was submitted by Kyle K. Ginoza, Tom Cannon, and Paul Hanada.*

Member Goode disclosed that he is employed by the County of Maui, but has been cleared by the attorney generals as well as the Ethics Commission to vote on this item as well as the previous item D-12 relating to the County of Maui.

Lemmo gave some history on the item. The project was initially meant to be 1500 ft. long, but they only built 450 ft. due to funding. The land has been set aside to the county of Maui under an executive order. This project involves construction of another 1100 ft. towards Kahului harbor, along with raising the structure 3 ft. After looking at a number of options, OCCL is recommending the approval and opposing the standard conditions.

Kyle Ginoza the County of Maui director of management stated that they understand the challenges of it being near the shoreline. In mid the mid-2000s they did a study to figure out how



to armor or relocate the facility. The study came found it would cost between 300-350 thousand dollars. This is something that requires a staged approach. This particular facility would need to turn into a pump station, not treatment land.

Member Gomes asked about going into a partnership with a private entity. Ginoza said that there are pros and cons to that, a con being a rate increase. Member Gomes then asked how much money is being used now to keep this operational.

Member Gon asked Ginoza if in his opinion a pump station would be less venerable to shoreline impacts. Ginoza said that it would be less equipment, above grade and it would help.

Member Gomes asked what would happen if this is denied. Ginoza said there is no recourse. Denying this would lead to a battle between them and the department of health. Either that or they tell people not to flush their toilet. There is no fall back plan, they have tried to work on mitigating impacts but the only option would be to raise taxes and sewer fees. Member Gomes commented that sewer fees would be raised regardless, even if they relocate.

Member Gon commented that the tipping point to him is that even with the relocation, there would still be a pump station and that pump station would still need shoreline protection. However the question would be, "Would it need that much protection?"

Member Goode asked if and when this gets moved, would they be open to a condition in the CDUP to look at the revetment to minimize the pump station. Ginoza said yes, they would be open to recommendations and alterations and would come back to the Board.

Dan Purcell testified that there needs to be a long term goal, money is cheap right now, so this would be a good time to finance it. He also said this is another example of there being no visual maps for the public to see and follow while giving the presentation. He did pull up an image up on google earth on April 25, 2013 of the location. He said that it's not accessible, but there are 9 cars parked down there. He then offered suggestions, and encouraged not encroaching on the coastline. Purcell then addressed that fact that these meetings aren't live streamed. Purcell asked for a contested case hearing on this item.

Member Goode asked Lemmo if there was a public hearing on Maui. Lemmo said yes, 15-20 people were present and 2-3 opposed. Most people went just to attend.

Member Gomes made a motion to go into executive secession, member Gon seconded.

10:59AM EXECUTIVE SECESSION  
11:36AM RECONVENE

Chair asked if anyone else wanted to testify, there was none.

Member Goode said it would be wise to defer this item to the next meeting, which would give Dan Purcell time to file his papers and pay fees for his contested case and hopefully next time the other two Board members will be present. Member Goode made a motion to defer, member Gomes seconded.

Member Gon commented he is concerned that a deferral would delay a need item. He does hear the argument of a minimal Board and agrees that it would be better if a full Board was present.

**Unanimously approved to defer (Goode, Gomes)**

Purcelll asked if it was possible to get fees waived and how much fees were. Chair Aila said that the fee is \$100 and isn't sure if the fee could be waived. Member Goode stated that he would not be in favor of waiving the fee and feels the fee is important.

**Item K-3 Conservation District Enforcement OA 14-64 for the Unauthorized Construction of a Shoreline Erosion Control Structure by Kathryn and Morris Mitsunaga Located at Waiālua, O`ahu, Makai of Tax Map Key: (1) 6-8-010:009.**

Lemmo presented item K-3 and explained that after site visits, it was evident that work was occurring below the shoreline. Therefore the Mitsunaga's were issued a cease and desists order in January. Lemmo presented pictures that were taken the day before. This area is impacted by erosion; there are vertical seawalls that are west of this location. Then the Mitsunagas decided to install a boulder to save the house, Lemmo said they weren't the only people to do this, there are about 3 more cases like this that will be coming up. Staff is recommending a fine of \$15,000 for failing to get authorization to approve this, as well as \$500 in administrative fees. OCCL wants it in 90 days as well as the complete removal of the boulders.

Ron Agor former Kauai Land Board member, testified by explaining what happened when the storm came through. Agor said the storm knocked the front foundation wall out and eroded 6 ft and parts of the house fell into the ocean. Mrs. Mitsunaga made the decision to protect their home. After the insurance was settled Agor came up with a plan and after meeting with the City & County and was able to receive an emergency permit. They then submitted a site plan to OCCL for approval to remove the boulders and put a temporary erosion control and repair the structure.

Member Gon commented that he does sympathize with the situation.

Member Goode asked Agor what the site plan approval was. Agor said there was no rebar in the foundation wall which, in his opinion, is the wall went, so they are going to rebuild the wall.

Chair clarified that the reason he went to the county to get the emergency permit was because the home is in the County's conservation district. Agor concurred.

Kathryn Mitsunaga testified that she and her husband own the house in Waialua and have had the property for over 20 years. She said that they did what they did to prevent their house from falling into the ocean. Their plan is to go back and remove those boulders and go with sandbags as a holding structure.

Member Gon asked if it would be useful to consult with OCCL for other options. Lemmo stated yes, that OCCL was giving them all that they think is possible. K. Mitsunaga agreed, but emphasized that this happened in the middle of the night, that this was just meant for that one night.

Member Gomes asked Chair Aila if the fine could be reduced or waived. Chair said that it was within the purview of the Board to reduce the fine, but reminded the Board members of the precedent that would be set if the fine was waived.

Member Gon asked if \$15,000 was that standard fine. Lemmo said yes. Member Gon feels like this situation is different from those that have just blatantly violated the process.

Member Goode asked Lemmo if there were opportunities to do something better than what the Mitsunaga's were contemplating. Lemmo said not on a temporary basis, there is lack of sand. The house is inappropriately sited at this time, the zoning is the problem. There are other cases in this area of people building seawalls without government consultation, and these people will claim it was an emergency situation just like the Mitsunagas. Lemmo suggested that the full fine is imposed and work out temporary solution for the Mitsunagas.

Chair Aila asked about the long term prognosis for erosion. Lemmo said that going one direction, there is about a1000 ft. of beach, so there is some room for the beach to stretch and migrate and move. The prognosis in the other direction, toward Kaena, is that there is no beach. Lemmo explained that it is going to be hard to prosecute these cases if there's not a strong record of compliance on these matters.

M. Mitsunaga offered a solution by offering to buy \$15,000 of sand to fill sandbags. Instead of using sand from the riverbank, they would use sand from Makai Ranch, in lieu of paying the fine. They will need about 60 large bags; each bag will fill about 2.5 yards. Makai is selling sand for \$85 a ton. M. Mitsunaga added that the waves were 50ft and violent, people that were trying

to help got swept away. If they didn't protect the house from falling into the ocean then that could end up being illegal as well.

Member Goode appreciated M. Mitsunaga's offer.

Member Gon made a motion to approve staff recommendation, but lower the fine to \$10,000. Everything else remains the same, including administrative fees. Member Gomes seconded.

Member Goode asked clarified that \$15,000 was the max for fines. Lemmo confirmed it's up to \$15,000 and there is a permit schedule of guidelines.

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

**Item D-12 Acquisition of Private Lands for Expansion of Maui Veterans Cemetery, Makawao, Island of Maui, Tax Map Key: (2) 2-4-002: por.009, Cancellation of Governor's Executive Order No. 3279 for Existing Makawao Veterans Cemetery Site, Tax Map Key: (2) 2-4-002:por.009, and Set Aside to County of Maui for Control and Management of Makawao Veterans Cemetery Site, Makawao, Island of Maui, Tax Map Key: (2) 2-4-002:009.**

*Written testimony was submitted by Thomas D. Welch, Jr., Alan M. Arakawa, Ronald P. Han Jr., Mike Molina and Megan Moniz.*

Tsuji highlighted key points of this item: 1) Staff's recommendation is 3 years with a one year extension if necessary; 2) the seller wants 4 years to deliver the post-closing obligations or to stay with 3 with an automatic right to extend to 5 years. Tsuji is requesting that the money that is being held and set aside is not enough. He said that \$50,000 is about half of what would be a realistic cost if they had to do the post-closing obligations themselves. The County and subdivision process is long and there is no fault for the County. Representatives were present.

Lloyd Maki, acting Chief Engineer Officer for the Department of Defense (DOD) testified that this land is very important to DOD. The existing cemetery only has about 126 burial areas left. At a rate of 8-10 veterans a month needing burial, they are going to run out of grave sites. The DOD will not release the funds until they get title to the land. Maki thanked Board for their consideration.

Member Gon asked how the adjustments should be reflected. Tsuji said that the Board would have to approve, but also amend the staff recommendation to allow time to deliver the post-closing obligations.

Member Gomes asked if anyone was present from the seller. Tsuji said they couldn't make it but they sent in testimony in support.

Maki added that their designs have been contingent upon acquiring the lands. Upon approval to proceed it will be put out to bid.

There was more discussion about the change of the time. Attorney general Julie China made some suggestions. After discussion Member Gon said that if they give them 4 years and if the board doesn't mutually agree, then it stays at 4. It was noted the amendment is applicable to the closing documents.

Member Gomes made a motion to extend the time to 4 years (48 months) with a mutual extension of 1 year on the post-closing obligation as previously discussed.

Member Goode explained how important and special this is going to be. He also said that Mr. Santos' father is buried here and member Goode knows him well enough to know that he is not going to back away from his obligation.

The Board amended the staff submittal text and recommendation section, and related closing documents to allow the Seller Jordan Santos to complete the post-closing Seller obligations within forty-eight (48) months from the closing date, with the possibility of an extension of an additional twelve (12) months upon mutual agreement between Seller and the State DLNR. In all other respects, the staff submittal, recommendations and related closing documents were approved unamended.

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

**Item D-7 Cancellation of Governor's Executive Order No. 3185 and Reset Aside to Department of Accounting and General Services for Government Offices and Affiliated Programs Purposes; Consent to Lease under the Requested Set Aside, Honolulu, O'ahu, Tax Map Key: (1) 2-1-002:012.**

Tsuji summarized item D-7. The DAGS representatives were okay with the recommendations.

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

**Item E-1 Resubmittal: Request Approval of the Kiholo State Park Master Plan, Acceptance of the Final Environmental Assessment, and Issuance of a Finding of No Significant Impact for the Proposed Project, TMK: (3) 7-1-02: 02, 08; 7-1-03: 02, 07, Kiholo, North Kona, Hawai'i.**

*Written testimony was submitted by Bruce Dudley, R. Flint Hughes, and Monika Fraizer.*

Dan Quinn administrator for state parks pointed out that there were some tax map key errors in the plan as well as the exhibit, but does not affect the plan at all. The parcels are correct as listed in the submittal.

Makena White, representing Planning Solutions, gave a presentation of the project. He discussed milestones, key elements, and planning modules. The preferred master plan prioritizes resource management and preservation. The concept of the park is a wilderness park, so there would be limited development. The park is over 4,000 acres. There are several entry points and a series of interpretive sites appropriate for visitation have been identified. The Kiholo bay area has 8 camp sites along with the Loretta Lynn residence. Everyone believes that access to the park can be improved. There is an existing DOT scenic view point about 2,000 ft north of the entrance of the park. After talking with DOT the concept is to take advantage of the existing DOT highway improvements and have people enter through the scenic point and have a new section of internal park road built to access the existing road down to Kiholo bay. The Loretta Lynn home will be used to educate people about the park and its history. The Nature Conservancy is engaging in fishpond restoration. There are also anchialine ponds in this area and they are looking into restoring these ponds. A final master plan and environmental assessment was submitted.

Member Gon commented that Kiholo is an amazing place and there are human impacts.

Quinn added that because of the sensitivity they wouldn't but putting up signs inviting mass amounts of people until they have marked signs so that people know where to go. There has been desecration of iwi and they want to prevent this from occurring.

Member Gomes asked if there was any type of enforcement. Quinn said that Hui Aloha Kiholo, the nonprofit group that lives in the inholdings of the area monitors the area. They are working on getting a team of rangers.

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

**Item E-2 Resubmittal: Requesting Approval to Issue a Revocable Permit to Hui Aloha Kiholo for the Management and Improvements of a House at Kiholo State Park Reserve for Adaptation and Re-Purposing as a Public Interpretive Center, Kiholo, Hawai'i, Tax Map Key: (3) 7-1-02: 02, 08; 7-1-03: 02, 07.**

*Written testimony was submitted by Jason E. Adolf, Craig R. Glenn, Linnea Heu, and Rebecca Ostertag.*

Quinn commented that it's interesting that this house was the first piece of property owned by state parks. The intent is to issue a revocable permit to Hui Aloha Kiholo. The Hui has been a major part of getting this park under control and helping with management.

Member Gomes asked if Loretta Lynn lived there. Quinn said he didn't think so, that when the state got the house it still had manufacturer stickers on it. It was called the Loretta Lynn house because she owned it.

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

**Item C-1 Request for Authorization for The Chairperson to Negotiate, Sign, Execute, and Amend Agreement(s), Contract(s), And Other Document(s) Regarding The International Union of Nature World Conservation Congress.**

Randy Kennedy Acting Administrator for the Division of Forestry and Wildlife (DOFAW) reviewed item C-1. He presented handouts and explained that the state has been working for six years to bring this conference to Hawaii. It has never been held in the U.S. before and was narrowed down to two finalist, we are one of the finalist.

Dan Purcell testified in support and suggested hosting part of this on the 4<sup>th</sup> floor, he feels like it would be an awesome place to hold these events.

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

**Item J-1 Request to (A) Amend Prior Board Action on Item J-1 of the October 12, 2012 Land Board Meeting Regarding a Request to (1) Realign the Perpetual Public Access Easement Created by a 1963 Agreement, Recorded in Land Court as Document No. 324984 and Affecting Tax Map Key No. (1) 2-3-37:12, Over the Modern Honolulu (Hotel) Property Owned by M Waikiki, LLC; (2) Accept a Perpetual Non-Exclusive Easement From M Waikiki LLC Over Pedestrian Overpass Above Hobron Lane as a Portion of the Realigned Easement; and (3) Grant a 55-Year Non-Exclusive Easement to M Waikiki LLC for Pool Deck and Outside Dining Purposes on Elevated Deck Adjacent to Second Floor of the Modern Honolulu; and (B) Amend the 1963 Agreement to Allocate Maintenance and Other Obligations Amongst the Property Owners While Remaining Jointly and Severally Responsible and Liable to the State Under the 1963 Agreement.**

*Written testimony was submitted by Benjamin Sill.*

Ed Underwood administrator for Boating and Ocean Recreation (DOBOR) presented item J-1 explaining that at the time the parties were in a dispute, but have resolved their dispute and are all now in agreement for the realignment of the public access way. All parties agree to take responsibility of the portion of their access way that fronts their property

Christian Porter and David Rick agree with staff recommendations and noted that there will be an easement in perpetuity.

Ivan Ho from Unite Air Local Five testified that they are not opposed the realignment, but are opposed to the amendment that will take away the 5 ft. setback along the edge of the pool deck. It's a 30ft wide easement and the public is only asking to keep a 5ft piece of it. He feels its fair exchange that the modern gets a 30ft by 180ft piece of public property for hotel operations in exchange for the public keeping that 5ft section. Ho said that in this new amendment request, there is no additional benefit to the state. The proposed easement agreements are a pure give away. Ho said that the people of Hawaii will be fenced out of their own public spaces. The new public pathway to the pedestrian overpass provides no benefit to the public. Ho urges the Board to deny this request.

Porter responded that there is no recorded access easement across the property. Porter said this is going to be an easement in perpetuity that will benefit everyone. This keeps everyone out of litigation and saves the state money.

Chair commented that the certainty is in the public interest.

Member Goode said that he does remember a little bit, he trust that the intent is met through the agreement.

Rick added that they encourage people to come down and check it out, if you walk the property you can see that the public can walk right to the railing.

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

**Item D-8 After-the-Fact Issuance of Right-of-Entry Permit to Waikiki Beach Activities, Ltd. for Beach Activities Purposes on April 6, 2014, Waikiki, Honolulu, O'ahu, Tax Map Key: (1) 2-3-037:Portion of 021.**

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

**Item D-9 Issuance of Right-of-Entry Permit to Waikiki Beach Activities, Ltd. for Beach Activities Purposes on April 23 and 24, 2014, Waikiki, Honolulu, O'ahu, Tax Map Key: (1) 2-3-037:Portion of 021.**

Member Gon questioned the fee difference between this item and Item D-8 (above). Deputy Attorney Cindy Young explained that D-8 is after-the-fact and D-9 isn't.



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

**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.**

*Written testimony was submitted by Shelby N. Ferrer.*

**Item D-2 Issuance of Revocable Permit to William D. Medeiros for pasture purposes at ‘Ōma‘o Homesteads, ‘Ōma‘o, Kōloa, Kaua‘i, Tax Map Key: (4) 2-7-004:011 & 012.**

**Item D-3 Issuance of Right-of-Entry Permit to Hi Tech FX LLC dba: J & M Displays West on Unencumbered State Beach Lands seaward of Poipu Beach Park on December 31, 2014, for Aerial Fireworks Display, por. of Koloa Beach, Po‘ipū, Kaua‘i, Tax Map Key: (4) 2-8-017:seaward of 001.**

**Item D-4 Issuance of Revocable Permit to Vernon and Charlette Souza for pasture purposes at Wailua & Kula Lots, portion of Lot 7, Wailua, Kawaihau, Kaua‘i; Tax Map Key: (4) 4-1-002:020.**

**Item D-10 Issuance of Construction Right-of-Entry Permit to Department of Transportation For Highway Improvements Purposes, Waimānalo, Ko‘olaupoko, O‘ahu, Tax Map Keys: (1) 4-1-013: portions of 022 and 032, and Tax Map Key: (1) 4-1-018: portion of 052.**

**Item D-13 Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach on April 24, 2014, Waikīkī, Honolulu, O‘ahu, Tax Map Key: (1) 2-3-037:021 (Portion).**

Tsuji had no changes to items D-1, D-2, D-3, D-4, D-10 or D-13.

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

**Item L-1 Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawaii Administrative Rules. Job No. F15C675C, Royal Mausoleum State Monument Driveway Improvements, Honolulu, Hawai‘i.**

Carty Chang, Chief Engineer had no changes to item L-1.

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

**Item M-20 Briefing to the board on the results of a study of the Pre-Contact Hawaiian Ecological Footprint in the Hawaiian Islands. For discussion purposes. No decision making will be made.**

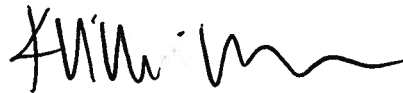
Member Gon asked to defer item M-20.

Chair Aila withdrew item M-20.

**Withdrawn**

There being no further business, Chairman William Aila adjourned the meeting at 1:29 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:



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