

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

**DATE:** FRIDAY, SEPTEMBER 12, 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 9:03 a.m. The following were in attendance:

**MEMBERS**

William J. Aila, Jr.  
Thomas Oi  
Christopher Yuen

James Gomes  
Stanley Roehrig  
Vernon Char

**STAFF**

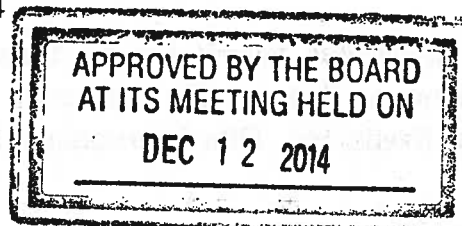
Kevin Moore-LAND  
Russell Sparks- DAR  
Lisa Hadway- DOFAW  
Kevin Yim- DOBOR

Sam Lemmo- OCCL  
David Sakoda- DAR  
Curt Cottrell-PARKS  
Carty Chang- ENG

**OTHER**

Amanda Weston/ Deputy AG  
Dan Purcell/M-15, D-4, K-2, K-3  
Ed Sniffen/ D-4  
Jun Yang/ D-4  
Tabitha Martin/ D-4  
Larry Geller/D-4  
Michael Dailey/ D-4  
Liko Martin/ D-4  
Don Crsimano  
Christopher Smith/ D-4  
Alexander Shore/ D-4  
Mike Dorego/ D-3  
Martin Shia/ K-1  
Gregg Kugle/ K-2

Ross Smith/ DOT-AIR  
Lloyd Maki/ M-16  
Peter Hirai/ D-4  
Kathryn Xian/ D-4  
Beatrice Cantelmo/ D-4  
Al Pono Kealoha/ D-4  
Laulani Teale/ D-4  
Arbert Young/ D-4  
Lisa Mitchell/ D-4  
Gregg Mooers/ D-4  
Walter Viera/ D-3  
Edmin Safray/ L-1  
Lahela Hite/ K-1



**Item F-2      Enforcement Action Against Mr. Elpie Valdez for Engaging in Illegal Lay Net Activity at Kanahā Beach Park, Maui.**

**Deferred**

**Item A-1      Approval of June 27, 2014 Minutes**

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

**Item M-1      Issuance of a Revocable Permit for Parking and Storage of Busses, Robert's Tours and Transportation, Inc., Ualena Street, Honolulu International Airport, Tax Map Key: (1) 1-1-014:024.**

**Item M-2      Issuance of a Hanger Facilities Lease by Public Auction, Honolulu International Airport, Tax Map Key: (1) 1-1-076:003.**

**Item M-3      Issuance of a Revocable Permit for Aircraft Storage, Gould, Richard A., Honolulu International Airport, Tax Map Key: (1) 1-1-076:022.**

**Item M-4      Issuance of a Revocable Permit for Aircraft Storage, Ho'opai, Ronald C.K., Honolulu International Airport, Tax Map Key: (1) 1-1-076:022.**

**Item M-5      Issuance of a Revocable Permit for Aircraft Parking, Nam Ko, Dillingham Airfield, Waialua, Hawai'i, Tax Map Key: (1) 6-8-014:016.**

**Item M-6      Issuance of a Revocable Permit for a Skydiving Facility, Sky-Med, Inc., DBA Pacific International Skydiving Center, Dillingham Airfield, Waialua, Hawai'i, Tax Map Key: (1) 6-08-014:001, and (1) 6-08-002:018.**

**Item M-7      Amendment to No. 1 to Direct Lease DOT-A-12-0012 Issued to Hawai'i Fueling Facilities Corporation for a Fueling Facility to Provide Onsite Fuel Storage and Delivery of Aviation Fuel Via Underground Pipeline at Kahului Airport, Tax Map Key: (2) 3-8-001:019.**

**Item M-8      Issuance of a Revocable Permit for Aircraft Parking, Hele Lani, LLC, Kahului Airport, Tax Map Key: (2) 3-8-001:019.**

**Item M-9      Issuance of a Revocable Permit for the Installation and Maintenance of Radio Equipment to Support the Operation of the USFAA Air Traffic Control Tower, Exelis, Inc., Hilo International Airport, Tax map Key: (3) 2-1-012:090.**

- Item M-10** Issuance of a Revocable Permit to Tiare Enterprises, Inc. for Additional Spaces, for an Office and a Trailer for Storage of Merchandise, Retail Concession, Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-043:001.
- Item M-11** Issuance of a Revocable Permit for Land for Storage of an Office Trailer, Hawai'i Pacific Aviation, Inc., Space No. 006-107, Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-043:040.
- Item M-12** Issuance of a Revocable Permit for Land for Storage of an Office Trailer, JTB Hawai'i, Inc., Kona International Airport to Keāhole, Tax Map Key: (3) 7-3-043:040.
- Item M-13** Issuance of a Fueling Facility Lease, Hawai'i Fueling Facilities Corporation, Līhu'e Airport, Tax Map Key: (4) 3-5-001:008.
- Item M-14** Issuance of a Revocable Permit for Ground Transportation Access, Essex House Condominium Corporation, Līhu'e Airport Tax Map Key: (4) 3-5-001:008.
- Item M-15** Issuance of a Revocable Permit for Three Podium Spaces, Alaska Airlines, Inc., Līhu'e Airport, Tax Map Key: (4) 3-5-001:008.

Ross Smith representing the Department of Transportation- Airports Division (DOT-Air) reviewed items M-1 through M-15 and had no changes.

Dan Purcell commented that these are all very important items and he hoped that all of the Board members were reviewing each of these items. He suggested a "consent calendar".

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

- Item M-16** Approval to Issue a Use Permit to the Pacific Regional Medical Command and Telehealth (PRMC/TH) for Access to, and Partial Use of, the Hawai'i Army National Guard (HIARNG) Pu'unēnē Armory Building 1 Located at 2701 Mokulele Highway, Kihei, Maui, Tax Map Key (2) 3-8-008:001.

Lloyd Maki with the Department of Defense-DOD was present to answer questions.

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

- Item D-4** Issuance of Direct Lease and Immediate Right-of-Entry to the City and County of Honolulu for Temporary Mobile Access to Services and Housing

**(TMASH) for Housing First Transition Purposes, Sand Island, Honolulu, O‘ahu, Tax Map Key: (1) 1-5-041:Portions of 130 and 334, together with rights of access and utility easements.**

*Written testimony was submitted by Kamanopono Crabbe for the Office of Hawaiian Affairs.*

Kevin Moore with Land Division-LAND presented item D-4 explaining that the department is recommending a chapter 343 HRS exemption for this project because there are no planned permanent facilities or structures. Staff is also recommending issuing a direct lease and an immediate right of entry.

Ed Sniffen with the City & County- C&C of Honolulu was present with Peter Hirai, Deputy Director of Emergency Management and Jun Yang, Executive Director of the Office of Housing. The County would like to use the Sand Island property for a Housing First Transition Center. The Housing First Program recognizes that the chronically homeless often cannot meet shelter pre-requisites because of mental health issues. A Housing First transitional center assesses a person’s needs and refers them to an appropriate program. For those who do not fit into an existing program, Housing First provides shelter while working on other issues, until the client is ready to enter another program.

Hirai presented a slide show with the proposed layout of the Transition Center. Copies of the presentation were provided to the Board members. . A conceptual layout was provided with the guard shack noted at the entrance. The Purpose of the Center is to provide 1) a triage site 2) a safe, stable, supportive environment 3) a place for assessment, supportive services, referral to appropriate programs & housing 4) transition to permanent housing. The Facility Description includes 1) Temporary infrastructure, 2) Light grading, less than 1 acre, 3) lay down recycled asphalt product (RAP), 4) removal of kiawe trees down to grade, 5) minimal disturbance of land, 6) electricity lines and water line in, 7) no sewer/ grey water lines out. The Center criteria for Participation 1) Voluntary, 2) Must not have been convicted of a violent crime within the last 2 years, 3) must be a documented resident of Hawaii, 4) focus will be on most vulnerable population. Center House Rules- the basis of all rules: Encouraged to respect the privacy, property and safety of others. Proposed Services 1) Assessment with Hale O Mālama vulnerability index tool, 2) Referral to appropriate housing, health care or treatment program, 3) case management to optimize accessibility to eligible community benefits, 4) Pet friendly areas, 5) Transportation services to and from site to bus hub, 6) trash disposal services, 7) hygiene centers, 8) work with community organizations to assist with basic needs. Anticipated timing 1) Continue due diligence and site preparation after right of entry is granted, 2) Reach out to homeless community and service providers for input, 3) Begin operations after due diligence & community meetings, 4) Anticipate opening in 2 to 3 months, 5) Site operate at capacity for 1 year while Housing first units are available; reassess at end of 1 year 6) Site transition out of operation, 7) Anticipate a maximum 2 year time frame.

Sniffen added that since they don’t have right of entry onto the site yet, they are very early in their due diligence process. This is just a “Conceptual” plan which will be vetted for public comments. So far the biggest concern has been the City isn’t ready. Sniffen agreed and acknowledged that they are still working things out and talking with the neighboring

communities, the service providers and the homeless community. There have been concerns about the site being hot, they are looking into that. There have been concerns about the site having hazardous materials on it, the C&C is working with the Department of Health-DOH to make sure those concerns are being addressed.

Member Gomes asked what the purpose of the RAP was. Hirai explained that the intent was to put the canopy on the RAP with some type of padding or air mattress to mitigate that for the people that sleep on it. The key is to cut out anything permanent and prevent tent cities. Hiari also assured that there would be 24 hour security. Sniffen confirmed that the one year would start after due diligence is done.

Member Oi asked who would be doing the background checks to identify criminals. Hirai described how the assessments would be part of the intake process, and therefore the service providers will be doing the background checks. This is not to eliminate these clients from the shelter, having criminal history would not disqualify any one from assistance. Those who have criminal history within the last 24 months will be helped to seek shelter elsewhere. It is just to make sure that the other clients at the site are going to be safe. A service provider will be on site 24/7.

Member Char asked what the capacity would be. Hirai said that the maximum capacity would be 100 people. However, they expect the population to ebb and flow as people are referred to other programs. Member Char questioned the service providers. Hirai spoke about how the C&C is going through a bid process, but the providers would be organizations who have been working with the homeless community for many years.

Member Yuen asked for clarification on the criteria for people that would be served at the site. Sniffen reminded the Board that this is meant to be a transition site, no one will be turned away. Once the clients go through the assessments, they will be referred to the appropriate program. The criteria previously laid out was for Housing First specifically, which will service those that do not fit into other programs. Sniffen explained that for the Housing First program, they would like to have 100 units available by the end of the fiscal year. By the end of this year, they are hoping to get 20 units online. During the intake process, once the clients are assessed and the units become available, they will be referred to permanent housing.

Member Roehrig asked if there would be a relationship between the paddlers in the area and this facility. He asked if there had been discussions with others in the surrounding area. Sniffen said yes, there has been some discussion, but again they are still early in their due-diligence. Sniffen also shared that everyone from the community has expressed some concerns with this site. Concerns that have come up with surrounding neighbors have been mainly about transportation safety along the route. Member Roehrig asked if the security would be present where the canoes are in the event that a homeless person tries to take apart a canoe and if so, can security can stop it. Sniffen said no, their security will be specifically at the guard shack on the site itself. Their purpose is to keep the residents in the facility safe. Member Roehrig commented that it would be prudent to reach out to the paddlers in the area.

Chair Aila clarified that their security is right off Sand Island Access Road, the only way in or out. If there's any unauthorized/ non-owners leaving the property with something they don't own, security will be there to witness any suspicious activity..

Member Yuen asked what general population this site is meant to house. Hirai responded by disclosing that their assessments have found that most of the chronically homeless are individuals. This site is purely voluntary. They expect that most of the people who will access these services will be individuals. However, families will also be able to access services. Chair Alia noted that this is not necessarily a shelter and housing facility, but a transition facility. Hirai confirmed. Member Yuen asked if families with children would be allowed. Sniffen explained that this is available for anyone who qualifies to stay, until the units become available. There could be families and there could be individuals.

Member Gomes said that the information provided says on July 22, 2014 there were 4,712 homeless across the island, and of that 1,633 are unsheltered homeless. Member Gomes asked 1) if the C&C is only going to house 100 people, where will the other 1,500 homeless be? 2- What happens if there is an outcry from the public saying "not in my back yard." Sniffen said that the outcry will be there no matter what. No one wants a homeless shelter in their back yard. He said they looked at 25 different sites, and based on their assessments this was the best site. Member Gomes' concern was that there are over 1,600 people that need housing, but they are only offering it to 100 people, how are they going to tell some people they can stay and others they have to go because they need to house other people? Hirai explained they are trying to target the chronically homeless areas. After assessments of who would be appropriate for the Housing First Program, they concluded that it would be about 250 people. The State has other programs that can help as well.

Kathryn Xian, a service provider with the Pacific Alliance to Stop Slavery testified that there were several issues with this proposal that are very ill thought out and badly put together by people who have no experience constructing sites like this for the houseless. All other Housing First programs are permanent; therefore a temporary Housing First transitional center is a contradiction in terms. They feel that existing services are already out there that do exactly what the Sand Island internment is proposed to do. Xian feels like the only reason this is being created is because of recent criminalization laws that made it illegal for houseless persons to exist in public spaces after hours. She explained that the other alternative is fully implementing Housing First, not creating an internment camp like this. Furthermore, the Department of Human Services came out with a legislative report in 2012 found that homeless internments were too much of a liability for the State, because they would not be able to ensure the safety of all the occupants. With this proposal there are 2 designated security personnel to facilitate 100 people diagnosed as chronically homeless; that can range from severe mental illness to drug addiction or both. There are some families that don't suffer from any of those. Putting all those types of people together in one facility with 2 security guards is a lawsuit waiting to happen; not to mention the concerns with the surrounding community. Not all homeless are violent but there is a minority that is. There is also a significant risk of toxic poisoning that the city and the state would be liable for. The C&C proposal for solving the toxicity scare involves putting asphalt on some of the affected areas. Asphalt is petroleum based and toxic. Xian again stated that the only thing that will be effective in helping these houseless people will be fully implementing Housing

First resources. She also said that an EA needs to be done before putting people on this site and this enactment will not protect anyone from the next hurricane or natural disaster. A report from the Board of Water Supply confirmed the presence of soil contamination at this site.

Member Gomes asked Xian what alternatives she would suggest. Xian said that there are so many solutions that other cities have done, Housing First just being one of them. Houseless people are safer and feel safer in populated areas. This Sand Island location is not safe especially for single women and families with children. The alternative would be to use RVs.

Chair Aila commented that there are already a significant number of homeless in and around the Sand Island area, so to him it makes sense to get an organization there to control the situation.

Member Roehrig commented that no matter where the homeless are, they are subject to all kinds of contaminants. One concern Member Roehrig has is not having 24/7 adequate security around the entire site. Sniffen told Member Roehrig that the first requirement was indemnification of the State and they are prepared to do that.

Tabitha Martin testified on behalf of all homeless, because she is homeless. She and her family reside in Kakaako and have been through a dozen homeless sweeps. She rides her bike to and from work and said that Sand Island has no street lights. Martin suggested doing an assessment and ask the homeless where they think would be a good idea. Get the homeless leaders together and come up with a solution together. Martin asked the Board to consider empathy.

Beatrice Cantelmo, Honolulu Amnesty International Director testified focusing on the human rights aspect of Sand Island. Cantelmo said Sand Island is not a housing first initiative; it's a transitional and temporary solution. She feels like this does not address homelessness at its core and the way the proposal is designed brings forth a lot of legal and enforcement issues.

Member Roehrig asked Don Kitaoka, Deputy Corporation Council, C&C of Honolulu, what Bill 42 says. Kitaoka said that Bill 42 is to impose a restriction on sitting and lying on sidewalks on Waikīkī. There is a warning provision. He said the bill has been vetted on constitutionality.

Larry Geller testified in opposition to the proposal and suggested the Board consult with its own counsel. Geller said that the City has misrepresented their application as a triage center. He is also concerned that this site is contaminated.

Al Pono Kealoha, a Hawaiian Kingdom Subject said he wanted to give the Board a heads up that everything they are doing is a national and international war crime. He is opposed because the laws belong here, and everything being done is illegal.

Michael Dailey said he was in opposition. He said this location has been an internment camp, and seems to be a place to put people who are not wanted. Dailey also addressed his concerns with bill 42.

Laulani Teale addressed concerns regarding cultural trauma if this lease is granted to the City. She feels it is important to recognize that Native Hawaiians make up a large amount of the houseless population. Historic trauma from the Japanese Sand Island internment camp area needs to be considered. Teale said she doesn't feel like this proposal should go forward as is and

cultural impacts need to be considered. Teale added that the Board needs to understand the concept of “aea” – the sovereign life breath of each person and “aloha”.

Liko Martin presented documents including an unclassified memorandum with respect to the human rights treaty reports. Martin hoped the Board will read it and get an idea of the complexity of this issue.

Dan Purcell told the Chair some people may want to file a contested case and he may want to file one as well. Chair Aila made an announcement that anyone wishing to file a contested case needs to say it verbally (member of the public said they request a contested case), and need to follow up in writing in 10 days. He told them to see Barry Cheung so he could get their names.

Arbert Young said he’s against this request, because it’s for immediate occupancy. He believes the requirement should be that this area is made of concrete, not asphalt.

Don Crsimano a physicist who graduated from UH with honors, has been homeless for 3 years now. He has a company that is planning to build secure shelter, because that is what a homeless person needs; a safe secure place where they can live and make the rules. He explained that Housing First is to put people in individual permanent housing. Crsimano’s biggest concern is how kupuna or older people are going to get to the grocery store. This is going to impact the Handi-van. This site does not accommodate people, and he feels this plan will fail miserably.

Member Gomes asked Crsimano what he thought would be a cost factor. Crsimano said a 45ft shipping container would be suitable.

Lisa Mitchell feels this location is not a good idea, and this homeless problem is not going away. She feels that one of the basic issues is ridiculous real estate prices and suggested giving homeless parking stalls. The positive side, she said, is that this is being looked at. Chair told her that if there is an organization that comes to the Board with a plan then the department will look at it and try to help. Mitchell also offered suggestions of sites and ideas.

Christopher Smith said that low capacity and trust are issue. He said the trust has been lost and violated with the city and state. Smith feels that it’s the state’s responsibility to be sure that land is safe to lease.

Gregg Mooers built a transitional housing project 20 years ago. The only solution he sees is 1000 solutions. This is only going to serve 100 people, but that’s 100 less people on the street. If people don’t like it they won’t go. Mooers supported the application. While it may not be perfect, every time you do a project you learn and the next one will be a little bit better.

Alexander Shore, associate Dean of UH, is the neighbor next to this site. They are not opposed, they just have questions about security and infrastructure.

Dan Purcell testified about procedural issues. Purcell’s concerns about this item are safety and environmental issues.



Member Gomes made a motion to go into Executive Session pursuant to Section 92-5(a) (4), Hawai'i 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 Roehrig seconded.

11:58AM                   EXECUTIVE SECESSION  
1:15PM                   RECONVENE

Member Yuen asked Sniffen and Jun Yang what the C&C was going to do and what approvals will they need to start housing people on site if the Board grants this. Sniffen indicated that part of their due-diligence is to work with the Department of Health –DOH and find out what additional actions would be required. DOH does have a veto on the C&C, however Sniffen made it clear that if they go through the due-diligence process and they find that there are safety hazards on this site, then they C&C will not move forward on this site.

Member Yuen then asked why the C&C wants to use asphalt. Sniffen explained that they are still exploring their options that this is just one type of material they are looking at. Asphalt is a material that they have on hand, will keep the dust down, and will be easy to place.

Member Gomes asked how come the division did not solicit comments from other agencies. Sniffen wasn't sure, but their initiative was to bring their discussions up now, early with the public.

Member Roehrig asked if 3 years was all the C&C would ask for, or if they would be back. Sniffen assured that 3 years is all he would ask for.

Member Yuen commented that the role of the Land Board is to authorize the lease of the land to the government agency that's asking for it or to deny that. He said he didn't want to veto this, and wants to see something done to help the homeless. The opposition that was made today is tied to the ordinances being passed by the city. This gives people an opportunity that they otherwise wouldn't have had. If people don't like it then they don't have to go.

Member Yuen made a motion to approve the staff recommendation subject to some additional conditions. 1) Applicant shall obtain approval from the Department of Health for the intended use; 2) In the event the lease is extended beyond three years for any reason, the HRS Chapter 343 environmental assessment exemption shall no longer be applicable; 3) Applicant shall be responsible for security at the site and for getting input from other State and City and County agencies on the project; 4) Before occupying the site, Applicant shall report to the Chairperson on the status of the project and required approvals; and 5) The Board stayed the effectiveness of its approval of the lease and right-of-entry until administrative proceedings on any contested case requests are concluded. Member Yuen commented that he had concerns about the use of asphalt and urged the C&C to use something else. Member Gomes seconded.

Member Roehrig disclosed that part of the reason he is in support of this was because in his extended family he has had homeless family members and takes this to heart.

Member Char commented that he would probably vote in opposition of this due to the number of comments about the due-diligence. His concern and preference would be to grant the right of entry, but defer consideration on the lease until further questions are answered.

**The Board amended the staff recommendation to include the following conditions: 1) Applicant shall obtain approval from the Department of Health for the intended use; 2) In the event the lease is extended beyond three years for any reason, the HRS Chapter 343 environmental assessment exemption shall no longer be applicable; 3) Applicant shall be responsible for security at the site and for getting input from other State and City and County agencies on the project; 4) Before occupying the site, Applicant shall report to the Chairperson on the status of the project and required approvals; and 5) The Board stayed the effectiveness of its approval of the lease and right-of-entry until administrative proceedings on any contested case requests are concluded.**

5:1 vote, Member Char voted in opposition.

**Approved as amended (Yuen, Gomes)**

**Item D-3      Issuance of a Right-of-Entry Permit to Na Wahine O Ke Kai for the 2014 Ka'iwi Channel Canoe Race for Event Operations and Staging Purposes; Tax Map Key: (2) 5-1-002: 012, Hale-o-Lono, Kaluako'i, Moloka'i.**

*Written testimony was submitted by The Na Wahine O Ke Kai Race Committee and Luana Foriseth, Hawaiian Canoe Racing Association.*

Moore-LAND conveyed item D-3. Staff recommendation is to approve the right of entry, however they did include a number of conditions restricting use in different parts of the facility because Land Division generally doesn't operate boat harbors or piers. This one fell on Land Division due to a series of historical events, which included an incident where someone got hurt, which lead to a tort claim. The pier itself is not in very good condition so LAND would like to limit the applicants use. The applicant is here for questions.

Member Roehrig asked if there were warning signs on the pier. Moore said yes, there is one shown on exhibit C- WARNING/ DANGER/ KEEP OFF/ PIER DAMAGED/ AREA UNSAFE. Member Roehrig said he had a biased point of view on this because he's been there and it was very rough and dangerous. Not being able to use part of the harbor to get into the boats is going to make it very difficult. Given the importance and popularity of this even, Member Roehrig did not feel it was in the public interest to put up roadblocks to having the race. He also commented that there needed to be emergency personal there. Moore disclosed that DOCARE may have staff for the event, but didn't want to speak on their behalf, and the applicant has private security for the event. Member Roehrig would prefer to have a State official there.

Chair Aila explained that in the past in the event of bad weather, the event organizers would decide whether or not to cancel the event.

Walter Viera, President of the Hawaiian Canoe Racing Association, the Parent Canoe Association for all the Canoe Associations in Hawaii testified that he was standing for Haunani

Olds, who submitted written testimony. It was their intention to coordinate with the Moloka'i DOCARE to have an officer there, since they have had issues with people from Moloka'i not wanting outsiders parking their boats in certain areas. Viera clarified that since the tort issue mentioned earlier, there have been no issues and there have been 6 races since then.

Member Yuen asked why this was a Land Division item. Moore said the harbors commission issued a license to a private entity to build this facility; it was a sand mining operation. It was a 40 year operation that would've ended in the 1990's, however back in the 1990's the holder of the license sought earlier termination. The Land Board at that time approved the cancelation of the license and set aside the site to DOBOR, but the set-aside was never completed.

Member Yuen asked if this was the first time this came to the Board. Luana Froiseth, President of the Hawaiian Canoe Racing Association testified that they pulled two permits, one for water and one for land. Water won't give them a permit if they don't have the land permit, because they start on the land. In prior years, they got the permit from DOBOR, because DOBOR thought they had the jurisdiction, they now know that they don't, which is why it's being done this way.

Member Yuen asked Kevin Yim, DOBOR boating staff officer if boating gave a permit last year to allow the race. Yim wasn't sure, but said didn't think there were any permits involved on the land side, but there were on the water. He wasn't sure what was in the conditions.

Chair Aila explained that it changed this year because a legal action brought it to the attention of the department that it wasn't clear on who owns the pier. It appeared that Boating owned the pier because of a resolution in the legislature. However, through the land title search, it's not clear. The title issue is still being resolved.

Froiseth explained that in the past canoes and escort boats have never been combined, it's not safe. The canoes go into the water then people get into the boat. The escort boats have always been in a different area. She showed a map of the different areas, as well as the areas of the pier that are safe to tie the boats.

There was discussion about the wording of the conditions.

Mike Dorego in charge of the official boats that run the race and safety said there is a complete medical staff. He also explained that the main concern was about boats and canoes.

**Member Roehrig made a motion to approve the recommendation with the following changes, amended the conditions listed on page 3 of the submittal by deleting condition 3; amending condition 4 to read: "Prohibit the use of existing concrete piers / pilings within the harbor facility where marked off and identified by Applicant's race officials;" deleting condition 5; and renumbering the remaining/amended conditions accordingly. Member Gomes seconded.**

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

**Item K-5      Conservation District Use Application (CDUA) HA-3709 by Charles and Diane Bundrant for a Single Family Residence, Well Restoration, and Landscaping at Kahauloa, South Kona, Hawai'i, TMKs (3) 8-3-005:001, 020, and 021.**

Sam Lemmo Administrator for the Office of Conservation and Coastal Lands-OCCL reviewed item K-5. Lemmo noted that this land is owned by Kamehameha Schools-KS and lessees have lease with KS and now want to build a single family residence. They currently have a house on their property, but want this house to serve as a caretakers home. One of the conditions is that it cannot be used for rental or commercial purposes unless approved by the Board. The consultant was present for questions; the applicant is happy with the submittal and recommendations.

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

**Item K-4      Conservation District Use Application (CDUA) OA-3717 to Construct the Pahole Radio Facility by Department of Accounting and General Services (DAGS) Information and Communication Services Division (ICSD) Located at Waialua, Island of O'ahu, Tax Map Key: (1) 6-8-001: 004 (por.)**

Lemmo briefed the Board on item K-4. Bob Levack a radio engineer for ICSD clarified that they are not going to construct a radio tower, instead make use of the abandoned Nike concrete pillar. They are going to clean up the site, they understand that the C&C are going to want to change or modify their facility in the future.

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

**Item K-1      Conservation District Enforcement Case (OA 14-02) for Unauthorized Landscaping, Drainage Improvements and Earth Retention Structures by Poka Place LLC, Located at Diamond Head State Monument, Island of O'ahu, Tax Map Key: (1) 3-1-042:017 (por.)**

*Written testimony was submitted by Martin E. Hsia.*

Lemmo explained that this was an enforcement proceeding regarding Diamond Head State Monument. The allegation is that Poka Place LLC irrigated and landscaped areas in the park, built earth retention structures, and did terracing and landscaping. OCCL issued them a notice of violation and they came back with a report that identified all of the areas they used. The report recommends allowing them to retain some of the uses, while remediating some of them. Exhibit 5A in the report showed what they would like to retain, Lemmo explained. OCCL recommends a \$10,000 fine for major erosion control that occurred with automation, \$2,000 fine for the unauthorized landscaping and \$2,000 in administrative costs.

Member Gomes asked what triggered this site inspection. Lemmo said that a complaint was received in 2013 but there was not enough information at the time. Member Gomes asked for more information on the retaining wall and the guest residence. Lemmo explained that if the wall is taken out the earth will fill in behind the residence. County approval will be needed for the retaining wall.

Edmin Safray, attorney representing Poka Place LLC. testified that they agree with the staff recommendation and appreciated staff's work and willingness to work on this issue. Safray responded to Member Gomes' question and explained that the engineering report included a video showing that there had been severe flooding and the placements were put in to protect the residence.

Member Gomes then asked where the flow went from there. Safray wasn't for sure, but believed there was a drainage easement. Lemmo said there's a drainage easement over the Poka Place property that is in favor of the State, then beyond the Poka Place property is Diamond Head Rd.

Member Roehrig expressed his concern about the remediation, if it would keep the water flow the same or increase or decrease it. Safray explained that terracing in back of the guest house is the least needed.

Member Gomes suggest the Board increasing the fines to the max amount since there was a complaint. Safray said that the complaint was due to an issue with a neighbor on an ongoing litigation.

Martin Hsia, the next door neighbor handed out a survey provided by Safray's partner. Hsia felt the staff report was incomplete because these encroachments are only part of the land grabbing that is going on in Diamond Head State Monument. This survey was provided to him because Poka Place had encroachments on his property. He wants OCCL to look and see if these are constitutional violations. He added that the State needed to file a counter claim. Hsia said he has a counter claim.

Lehela Hite an associate attorney from the Law firm O'Connor Playdon & Guben testified that they were representing Hsia with respect to Poka Place affirmative claims.

Member Yuen asked for clarification about the guest house. Hsia said that the guest house was built on a swale, land designated for receiving water. Hsia further noted that it's on a map in DLNR's files. He commented that he supported the staff recommendations, but doesn't believe it's complete because it doesn't address all these other issues.

Member Roehrig asked if the litigation claims overlap what is going on here. Hsia said no, because he has no jurisdiction on the staff report. Member Roehrig asked Safray the same question. Safray it doesn't overlap, it's the staff recommendation. He further noted that what Hsia is asking to asking to investigate further are things that are in the lawsuit. Safray read from the August 23, 2013 finding. Safray feels like Hsia was present to gain an advantage in litigation that is ongoing, and urged the Board to continue to stay out of the litigation.

Hite commented that in regards to the litigation, the lawsuit should have no bearing on this Board's ability to enforce its own rules and regulations. She said Hsia was present because the staff recommendation was incomplete because the Board's prior instructions were to investigate any potential violations.

Member Roehrig commented that he was not for re-litigating this dispute. Lemmo said there was no violation on the conservation easement; the subsequent issues are the things that went on in the park.

Safray commented that they have no claims against the State, and they are not targeting the State. Hsia said that if it is not in the conservation zone even though it's on the same tax map, he would withdraw his comments about this being an incomplete report, however there is a walkway that is also not addressed. Lemmo explained that it is a conservation district, there is no violation in the driveway of the conservation easements. That's what the driveway easement is for, landscaping, etc.

Member Char asked if the AG's office has responded. Bill Whynhoff, deputy attorney general representing the State in this case commented that the State is a nominal party. The issue is whether Hsia still has ownership in that easement, an issue beyond the Board's jurisdiction. The court will determine ownership, and the lawsuit will not affect this Board's ability to assess conservation district fines.

Member Yuen made a motion to approve staff recommendation.

**Unanimously approved as submitted (Yuen, Roehrig)**

**Item K-2      Appointment and Selection of a Hearing Officer to Conduct All Hearings for One (1) Contested Case Hearing Regarding Enforcement Case OA 14-66 Unauthorized Placement of Shoreline Erosion Control Structure by Sutton Family Partners Located at Waialua, Island of O'ahu, Tax Map Keys: (1) 6-8-010: 014 and 015.**

Lemmo conveyed item K-2, both the owner and his attorney were present. Lemmo explained that a selection committee that will be set up, and they will pick the hearing officer. The parties will have a chance to comment on the selection.

Gregg Kugle representing the Sutton Family Partners and Mr. Sutton were present to answer questions. They had nothing to add and agreed with the staff submittal. Kugle said they would be back before the Board as soon as the contested case hearing was done, unless they reach a settlement before then.

Dan Purcell testified that he was concerned about armoring the coast and the public's loss of shoreline access. He was interested in following this case, but it wasn't clear to him when can attend a contested case, when he can't and how he can receive notice. He asked to be noticed so that he can attend. He explained that he has inquired about this committee, but can't get any information. Lemmo told Purcell that he would be available to answer questions about the hearing officer, he explained that contested case hearings are like courts, it's open to the public, they can attend, they just can't participate. There is no law that states it needs to be noticed.

Chair Aila suggested letting the hearings officer know that there is someone interested in attending, then it will be the hearings officer's responsibility. Deputy Attorney General Amanda Weston agreed that public is allowed to attend but won't be able to testify.

Purcell commented that he needed to know when the hearings were so he can attend. Weston understood. Lemmo said there is no requirement to notify the public, but he could do it.

Member Yuen understood Purcell's point, how is the public supposed to know, if there is no notice.

Member Roehrig suggest posting a notice somewhere around the building.

Member Yuen informally requested that through the hearing officer, notify Purcell of contested case hearings. He also suggested that the department look into way of notifying the public.

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

**Item F-1      Informational Briefing On Proposal To Adopt A New Chapter Under Hawai'i Administrative Rules as Title 13 Chapter 95.1, Island-Based Fisheries Rules, to Establish New Bag and Size Limits for Maui Island Fisheries (*Non-Decision Making Item*).**

Russell Sparks Aquatic Biologist from the Division of Aquatic Resources –DAR Maui explained that this was driven by the fishing community, about over-harvesting of key resources.

In 2009 DAR began a process to consult with the community through scoping meetings and discussions to come up with a plan on how to best manage the resources for the islands of Maui and Lanai. There have been 4 full rounds of public meetings, large public meetings, facilitated and small talk story groups, as well as lots of less formal community meetings. This all lead to a the November 2013 meeting where there were about 200 people in attendance and 153 testimonies collected; oral, written and emailed. The current proposal will be brought up at the next Land Board meeting, and will reflect considerable changes from the proposal that went to public hearing.

Sparks pointed out data that DAR took to the community, explaining how research was done and compared to the 1900's. The results of the rule proposal were, 35% supported the rule package as drafted, 54% were against specific or all the proposed rules and 11% were not for or against. Sparks went into detail about the specific concerns regarding bag limits. The majority of the comments were that the community wanted to be involved. DAR agreed and wanted them to be involved, so this is where they decided to remove Lanai from the proposal so each community could look at their own issues separately.

Sparks gave some examples of new proposed rules, for example the rule for Parrot fish now sets the minimum size at 12 inches. DAR is going to increase that size to 14 inches. They are also proposing a bag limit of Parrot fish/Uhu to 2, no matter what size. Catching male uhu uliuli and the uhu ele ele will be prohibited.

Sparks clarified that DAR has consulted with staff from National Marine Fisheries who have done a study of the stock, not a stock assessment. The study did give a decent level of what the stock might be. He added that the study suggest that the stock are below a sustainable level.

Chair Aila commented that the department needs to acknowledge fisherman who fish multiple stock. They are still important to the overall picture, even though they report less than \$20,000 worth of reef fish sold. Sparks pointed out that there is a difference between what is reported sold, and what is reported caught; legally it is required to report what is sold and caught.

David Sakoda DAR's Marine Law Fellow noted that the proposed rules attached as exhibit 3 will be amended slightly because two of the goat fish are combined in one subsection. They are going to change it to read, no person may take no more than 2 moano kea per day in a separate section from kumu so that it's clear to understand. This is a non-substantive change so there is no need to go back to public hearing. These proposed rules will come back to the Board at the next Land Board meeting.



**No action made, Non-Decision Making Item.**

**Item K-6 Request for One (1) year Time Extension to Process an Environmental Impact Statement for Conservation District Use Application (CDUA) OA-3698 by Waimalu Holding Company for the Waimalu Nature Center and Zipline Canopy Tour at Waimalu, 'Ewa District, O'ahu, TMK (1) 9-8-073:001.**

*Written testimony was submitted by John White, Pacific Resources Partnership?*

Lemmo conveyed item K-6. The applicant gave more background and supported the staff recommendation.

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

**Item C-1 Request for Authorization for the Chairperson to Sign, Execute, and Amend Contract(s), for the Mākaha Valley Watershed Restoration Project, Tax Map Keys 8-4:002:001 and 8-4:002:014, Mākaha, O'ahu  
And  
Request Approval of Declaration of Exemption to Chapter 343, HRS, Environmental Compliance Requirements for Portions of the Project.**

**Item C-2 Annual Renewal of Right of Entry Permit for Kawainui Marsh State Wildlife Sanctuary: #OA-459-06.**

*Written testimony was submitted by Kamanaopono Crable, Office of Hawaiian Affairs.*

**Item C-3 Request Approval for Selection of Competitive Sealed Proposal Process and Authorize the Chairperson to Award and Execute a Contract for Development of a State Wildlife Action Plan for the State of Hawai'i.**

**Item C-4 Request Acceptance of the Final Environmental Assessment and Approval for the Issuance of a Finding of No Significant Impact (FONSI) for a Proposed Water Dip Tank to Increase Fire Response Capabilities at Ka'ōhe, Island of Hawai'i.**

Lisa Hadway, Administrator for the Division of Forestry and Wildlife- DOFAW had no changes to items C-1, C-2, C-3 and C-4.

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

- Item D-1**      **Approval in Concept for Partial Withdrawal of Lands Under Governor's Executive Order No. 2188 for Reset Aside to County of Hawai'i for Mass Transit Agency Base Yard Facility; Right-of-Entry for Survey Purposes at Waiākea, South Hilo, Hawai'i, Tax Map Key: (3) 2-1-013: Portion of 148.**
- Item D-2**      **Issuance of Right-of-Entry Permit to John Willard of Maui Surf 'Ohana at Haneo'o, Hāmoa, Hāna, Tax Map Key: (2) 1-4-007: Portion of 009.**
- Item D-5**      **Issuance of Right-of-Entry Permit to Hawai'i Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach on October 11, 2014, Waikīkī, Honolulu, O'ahu, Tax Map Key: (1) 2-3-037:021 (Portion).**
- Item D-6**      **Issuance of Right-of-Entry Permit to Waikīkī Beach Activities, Ltd. for Beach Activities Purposes on October 19, 2014, Waikīkī, Honolulu, O'ahu, Tax Map Key: (1) 2-3-037:Portion of 021.**
- Item D-7**      **Authorization to Enter into Non-Exclusive License Agreement with the City and County of Honolulu on behalf of the Hawai'i State Public Library System for Access Purposes, Mānoa, Honolulu, O'ahu, Tax Map Key: (1) 2-9-023:024 (Portion).**

Kevin Moore had no changes to items D-1, D-2, D-5, D-6 or D-7.

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

- Item E-1**      **Establishment of an Agreement with the Pacific Whale Foundation for the Restoration of Paniaka Fishpond, Makena State Park, Maui, Tax Map Key: (2) 2-1-06:80.**

Curt Cottrell Assistant Administrator for State Parks-PARKS had no changes to item E-1.

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

- Item J-1**      **Issuance of Right-of-Entry Permit to World Triathlon Corporation dba Ironman, For a Three Day Event Located on the Kailua-Kona Pier Facility, Lanihau, North Kona, Hawai'i, Tax Map Key: (3) 7-5-006:039.**
- Item J-2**      **Issuance of a Revocable Permit to Dolphin Excursions Hawai'i, Inc. for Operation of a Trailer Boat Storage Yard, Wai'anae Small Boat Harbor, Wai'anae, O'ahu, Hawai'i Tax Map Key: (1) 8-5-002:044.**

Kevin Yim representing the Division of Boating and Ocean Recreation- DOBOR had no changes to items J-1 and J-2.

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

- Item L-1      Certification of Elections of George "Rick" Robinson and Keith Unger to Serve as Directors of the Kona Soil and Water Conservation District.**
- Item L-2      Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawai'i Administrative Rules for Job No. J45CK41B, Menehune Road Rockfall Mitigation, Kaua'i, Hawai'i.**
- Item L-3      Approval for Award of Construction Contract for Job No. D00PH60A, Division of Forestry and Wildlife (DOFAW) Ka'ohe GMA Helicopter Dip Tank - Upper Site, Ka'ohe, Hawai'i.**

Carty Chang Chief Engineer had no changes to items L-1, L-2 and L3.

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

- Item K-3      Appointment and Selection of a Hearing Officer to Conduct All Hearings for Civil Resource Violation System (CRVS) Notices Regarding Encroaching Vegetation, by Sedgwick (KA-14-7), Chulack Family Trust (KA-14-14), Gaige (KA-14-21), Burmeister Family Trust (KA-14-41), and Wyle Family Trust (KA-14-42), Located at Hā'ena/Wainiha, Island of Kaua'i, Makai of Tax Map Keys: (4) 5-8-008: 035; (4) 5-9-002: 033; (4) 5-8-010: 016; (4) 5-8-008: 034; and (4) 5-8-008: 048, Respectfully.**

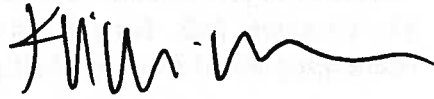
Lemmo asked to remove the Wyle Family Trust from this, they were mistakenly added to the list, but shouldn't have. The Wyle Family has no encroachment; OCCL has contacted the family and apologized for the mistake.

Dan Purcell commented that he would like to be notified of the contested case. Lemmo acknowledged his request.

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


There being no further business, Chairman William Aila adjourned the meeting at 2:35 pm. 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:



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