

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

DATE: FRIDAY, SEPTEMBER 26, 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.  
Thomas Oi  
Christopher Yuen

James Gomes  
Stanley Roehrig  
Ulalia Woodside

**STAFF**

Ian Hirokawa-LAND  
Tiger Mills-OCCL  
Fraizer McGilverary-DAR  
Chris Takahashi-ENG

Russell Tsuji-LAND  
Russell Sparks-DAR  
Dan Quinn-PARKS

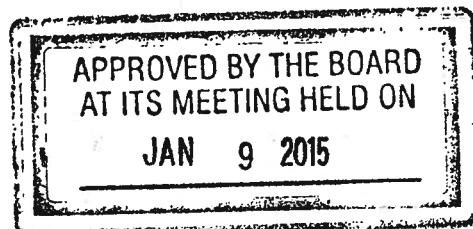
**OTHER**

Julie China/ Deputy AG  
James Stone/ M-5  
Tim Esaki/ D-7  
Gregg Kinect/ D-6  
Bob Hampton/ D-13  
Alton Miyasaka/ F-1  
Makani Christensen/ F-1  
Mike Sur/F-1  
Kanakoa Shoults/ F-1

Ross Smith/ DOT-AIR  
Patti Miyashiro/DOT-HAR  
Ian Horswill/ D-6  
Rory Frampton/ K-1  
Retired Coast Guard/ D-13  
Daryl Tanaka/F-1  
Patrick Bourge/ F-1  
Tate Marks/ F-1  
Girl Scouts/ E-1

**Item A-1 Approval of July 25, 2014 Minutes**

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



**Item D-14 Issuance of Revocable Permit for Recreational and Maintenance Purposes to Resorttrust Hawai'i, LLC; Issuance of Management Right-of-Entry, Wai'alae, Honolulu, 'Oahu, Tax Map Key: (1) 3-5-023:041.**

**Withdrawn**

**Item M-5 Amendment to Action Taken Under Item M-1 of the Land Board Agenda of April 11, 2014, Regarding Concession Agreement No. DOT-A-07-0001, In-Bond (Duty Free) Concession to Revise the Concession Fee, Provide for Further Extension of Term in the Event that Improvements Constructed on Behalf of the DOT by Concessionaire Exceed Cost Estimates, and Allow for Conversion of Duty Free Merchandise to Duty Paid Merchandise Under Certain Circumstances, DFS Group, L.P., Honolulu International Airport, Tax Map Key: (1) 1-1-003:001.**

Ross Smith representing the Department of Transportation- Airports Division/ DOT-AIR explained that each year was going to be reduced from 45 million each year to 40 million each year.

Member Yuen clarified that this was doing two things, reducing Duty Free's annual payments by 5 million dollars a year, and this gives Duty Free the ability to make fewer improvements that they have agreed to make with an open budget. Smith explained that they are still required to make the improvements, not fewer improvements. The concession fees are the grater of the minimum annual guarantee, or a percentage of gross. Should Duty Free have a substantially better year, then the percentage of gross could exceed, to the extent that it does, any increase there, would result in increased revenue to DOT.

Member Roehrig arrived at 9:12 am.

James Stone an attorney representing Duty Free, working with DOT testified that the 45 million was a step up; the current payments are about 38 million a year. Duty Free is going to be putting in about 30 million dollars in landlord improvements and 15 million dollars in tenant improvements over the next 10 years.

Member Yuen commented that what raised a red flag for him was 5.5 months ago, this proposal came to the Board, but now we are being asked to compromise and receive 10 million less over the next two years under this proposal. Stone explained that the University Hero economic report is projecting less Japanese buyers, who are the majority of the buyers out of the Duty Free concession.

There was more discussion on the numbers and the decrease.

Member Roehrig commented that it bothers him that there was nothing in writing, this is all just talk. He was concerned about the process. Smith commented that they have agreed, but there is nothing in writing. Stone explained that the amendment is being drafted, and they expect to sign it in the next 30 days. Smith noted that this was the process with concessioners that have been good partners for a very long time; this is the case with Duty Free that have been operating with DOT since 1962.

Member Woodside commented that she wanted to make sure there was a comprisable investment made back into the State and that it is articulated in the agreement.

Member Yuen explained that the wanted to see a formula

Member Yuen made a motion to defer with the request form DOT to bring this item back as soon as they are prepared with a clause that creates a framework with the extent for how much the lease can be extended beyond the 10 year extension relating to cost overruns or delays outside of the concessioners control. Also some further explanation of figures justifying the reduction of minimal guarantee from the proposal approved by the Board on April 11, 2014. Member Gomes seconded.

**Unanimously moved to defer (Yuen, Gomes)**

**Item M-6 Issuance of a Revocable Permit for Staging and Construction Field Office, JAS. W. Glover, Ltd., Runway Staging Areas, Honolulu International Airport, Tax Map Key: (1) 1-1-003:001.**

**Item M-7 Issuance of a Revocable Permit for Staging and Construction Field Office, Paul's Electrical Contracting LLC, Runway Staging Areas, Honolulu International Airport, Tax Map Key: (1) 1-1-003:001.**

**Item M-8 Issuance of a Revocable Permit for Company Truck and Container Parking, Royal Hawaiian Movers, Inc., 2865 and 2855 Ualena Street, Honolulu International Airport, Tax Map Key: (1) 1-1-04-006 and 1-1-04-007.**

**Item M-9 Issuance of a Revocable Permit for a Facility for Moving Operations, Royal Hawaiian Movers, Inc., 2989 Ualena Street, Honolulu International Airport, Tax Map Key: (1) 1-1-004-019.**

**Item M-10 Issuance of Two Direct Leases for Moving Operations and Company Truck and Container Parking, Royal Hawaiian Movers, Inc., Ualena Street,**

**Honolulu International Airport, Tax Map Key: (1) 1-1-004:019 and 1-1-004:006 & 007.**

**Item M-11 Issuance of a Revocable Permit for Aircraft Storage, McBride, Kirk W., Rewick, Kenneth E., and Scott Jr., Robert M., Honolulu International Airport, Tax Map Key: (1) 1-1-076:020.**

**Item M-12 Consent to Sublease, Restaurant and Lounge Concession Lease No. DOT-A-07-0012, Volume Services, Inc. DBA Centerplate to KBS “Kona’s Best Snacks” LLC, Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-043:001.**

**Item M-13 Issuance of a Heliport Lease, Safari Aviation, Inc., Līhu‘e Airport, Tax Map Key: (4) 3-5-001:008.**

Smith reviewed items M-6 through M-13.

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

**Item M-3 Clarification of Prior Board Action of May 23, 2014, Item M-14, Amending the Prior Board Action of March 8, 2013, Item M-3, Acquisition of Private Lands and Set Aside to the County of Hawai‘i for Roadway Purposes, Hilo, Island of Hawai‘i, Tax Map Key: (3) 2-1-007: 005 & 007.**

Patti Miyashiro representing the Department of Transportation-Harbors Division- DOT HAR presented item M-3.

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

**Item M-1 Issuance of Revocable Permit to Rebecca’s Fine Collections, Inc. DBA R.F.C. Group, Ke‘ehi Industrial Lots, Honolulu, ‘Oahu, Tax Map Key: (1) 1-2-023: 040, 072 & 090.**

**Item M-2 Issuance of Revocable Permit to Aloha Agricultural Consultants, Inc., Ke‘ehi Industrial Lots, Honolulu, ‘Oahu, Tax map Key: (1) 1-2-023: 049.**

**Item M-4 Withdrawal of Governor’s executive Order No. 1988 to Department of Transportation for Receiving or Discharging Passengers, and for Loading and Landing Merchandise, with Warehouse or Warehouse Space, Office or Office Space, Storage for Wares and Merchandise, Kawaihae 1<sup>st</sup>, South Kohala, Island of Hawai‘i, Tax Map Key: (3) 6-1-003:025.**

Miyashiro had no changes to items M-1, M-2 or M-4.

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

**Item D-7 Approval for Acquisition of Private Lands situate at Honokōhau and Honolulu, Lāhainā, Maui, identified as Tax Map Key No.: (2) 4-1-001:010.**

*Written testimony was submitted by John Child & Company Inc. and Senator Gilbert S. C. Keith-Agaran.*

Ian Hirokawa representing the Land Division- LAND conveyed item D-7, this acquisition has its origin in the 2013 legislative secession under act 241. Under that act the Department was required to engage to acquire the parcel of land from the owners Maui Land and Pine. The requirement was that the proceeds from the sale would've been used to resolve pension issues from Maui Land and Pine. On August 23, 2013 LAND came before the Board for approval in principle, it was granted so due diligence began. The legislature also procreated 20 million dollars for this acquisition. During the due diligence process major issues were addressed.

Chair Aila clarified that this is a default because there is no division that will be assigned to this, it stays with unencumbered. Hirokawa responded that it will be unencumbered, and are asking that the Chairperson have the authority to grant the rights of entry. Other divisions will have a management stake in this as well.

Member Gomes asked howcome others can't benefit from this and why the department is spending 20 million when it could be used somewhere else. He also asked why this was pushed so fast.

Member Roehrig asked if there was a title report; Hirokawa handed it out for Roehrig.

Chair Aila then responded to Member Gomes questions by explaining that the legislature declared that it was public policy to purchase this land and make the recommendation as to how the proceeds from the sale is applied. Hirokawa noted a copy of the purchase and sale agreement was included as Exhibit D in the staff submittal.

Member Gomes wasn't happy that this was being appraised for more then what it was paid for.

Member Roehrig asked if any heirs to this were notified. Hirokawa explained that the department is not acquiring ownership over these.

Member Woodside asked what the risks would be to the state of these un-located kuleana. Hirokawa explained that if someone were to come forward claiming to be an heir to this kuleana land, and its proven then whatever is there would need to be removed or relocated or the department would ask to buy them out. Their rights would need to be honored. He added that there is an impact, but it would not affect the purchase price.

Member Woodside asked what the potential development was for the mauka portion. Hirokawa echoed Chair Aila's comments, LAND is just proceeding with due diligence. This approval is

just the acquisition to acquire the future management, the community will be engaged and there will be a discussion with stakeholders.

Russell Tsuji, Administrator for LAND disclosed that he was involved on working this case with Hirokawa and suggested the Board consult with the appraisers so they can better explained the analysis, its significance and how they came out with an analysis.

Member Roehrig argued that his concern wasn't with the finances; it was with protecting kuleana land and people. Chair Aila responded that the current submittal does protect their interest going forward. Member Roehrig didn't agree.

Member Gomes communicated that he knew someone who was a steward of that area and that person knows these kuleana land owners.

Member Yuen announced that the legislature made this decision; it wasn't the Board's role to decide what to do with this 20 million dollars. The Board has to look has the due diligence, and look to see if there was something the legislature overlooked.

Member Woodside expressed her concerns about management; she asked if management plan would come back to the Board. Hirokawa said that would call come back to the Board. LAND will report back with what they found if the Board wants them to come back before then, they would.

Member Roehrig explained that there needs to be an effort made to find out if this is kuleana lands. These rights need to be protected; he asked that there be an AG to defend the rights of theses kuleana lands. Chair Aila still didn't see how the rights of these kuleana decedents are impacted by the rights of this sale if the department is going to protect their right to come forward. Member Roehrig said that if the Board votes to purchase this subject to the fact that if it is found that there are decedents, there interest will be protected, the he would agree. Chair Aila expressed that that was the intent; and suggested Member Roehrig amending the motion to include that.

Tim Esaki, Chief financial officer with Maui Land and Pineapple testified that there were no development plans on the lands mauka that were being referred to earlier. Esaki agreed with Chair Aila in regards to the kuleana lands, that it's in the State's best interest to purchase this land. They have no current plans to sell the mauka lands, and added that they were just as interested in the preservation of the bay as the department.

Esaki explained that these last kuleana lands have not been identified, there are no land marks and they have been trying for the last 30 years trying to identify these. It's unlikely that they will be identified, and if they are they won't be in this parcel, because there is no fresh water out on the point.

Member Oi suggested add in the description noting theses kuleana properties. Deputy Attorney general Julie China pointed out that exhibit C does note these kulanans, it has been amended.

Ross Tsukenjo with the Office of the Lt. Governor stated that he stood by his written testimony.

Member Roehrig made a motion to approve with the amendment that the DLNR due diligence by trying to find the descendants of these kuleana lands, with it being the intent of the BLNR to protect the property rights pursuant to article 12 section 7. Member Gomes seconded.

Hirokawa asked to include Maui Land and Pine to be involved as well, since they have a lot of the information. The rep. for Maui Land and Pine was willing to work with the department. Member Roehrig asked that Member Gomes work with them as well.

Member Roehrig clarified that his intent is to close subject to this, if there are kuleana decedents within the property then LAND needs to figure out how to protect their rights. Chair Aila said he would prefer to make the attempt to notify them, but move forward with the sale.

Member Woodside suggested putting a 90 day time frame on the due diligence, post-closing.

Attorney China suggested this be added as a post-closing agreement, rather than an item to impair the value of the property. Member Roehrig didn't agree, 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 Oi seconded.

11:25AM EXECUTIVE SECESSION  
11:51AM RECONVENE

Member Yuen clarified that the due diligence clause will be in the purchase and sale agreement, and that the deed contain equivalent protections for the kuleana rights as contained in the draft that has been submitted. Member Roehrig confirmed that was an amendment to the motion. Member Gomes seconded the amendment.

**The Board added a provision in the Purchase and Sale Agreement that requires the Department, in cooperation with Maui Land & Pineapple Company, Inc. and in consultation with the Maui Land Board Member, to conduct additional due diligence for a period of ninety (90) days, for the purpose of identifying, either in person or through publication, the owners of the un-located kuleana awards identified in Item 9, Schedule B of the Title Report. The provision shall survive closing and will not be extinguished or merged by the Warranty Deed. In addition, the Warranty Deed shall be consistent with the unknown kuleana language in the proposed deed attached to the submittal.**

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

**Item D-9 Issuance of a Right-of-Entry Permit to the 'Oahu Hawaiian Canoe Racing Association for the 2014 Molokai Hoe, Kaiwi Channel Canoe Race Event Operations and Staging Purposes; Tax Map Key: (2) 5-1-002: 012, Hale-o-Lono, Kaluako'i, Moloka'i.**

Hirokawa briefed the Board on item D-9. Member Roehrig said he would make the same motion as two weeks ago, unless Luana Foriseth found there is something that could be made better. Foriseth was okay with the staff submittal as is.

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

**Item D-6 Cancellation of Revocable Permit No. S-7618 to Stable Road Beach Restoration Foundation, Inc., Grant of Four Term, Non-Exclusive Easements to: (1) the Association of Apartment Owners of 'Ainalani Lot 6, and (2) David B. Lim and Jan D. Lim, Trustees of The D & J Family Trust Dated August 30, 2006, (3) Cortland K. Larned III, Elizabeth M. Larned, and Ian Horswill, and (4) James C. Riley, Trustee under Declaration of Revocable Trust of James C. Riley dated November 21, 1989, Jeanne A. Riley, Trustee under Declaration of Revocable Trust of Jeanne A. Riley dated November 21, 1989, and Peter Klint Martin, Trustee of the Peter Klint Martin Revocable Trust dated April 11, 1995, as amended, for Rock Groins Purposes; Issuance of Immediate Construction Right-of-Entry to Stable Road Beach Restoration Foundation, Inc. for Rock Groins Purposes, Sprecklesville, Wailuku, Maui, Seward of Tax Map Keys: (2) 3-8-002:071, 074, 077, 078 & 094.**

Hirokawa reviewed item D-6.

Member Oi asked if other properties would be affected by this. Ian Horswill with the Stable Road Beach Restoration Foundation responded by explaining that the groins have been monitored and there has been no adverse effects. Hirokawa added that the CDUP addresses that. Horswill assured that everything would be the same as what is being removed; they are just being replaced with boulders. There is no reef, and nothing will be effected. Pending approval

Horswill passed out a handout that included the cost estimate of the approval of the groins.

Horswill asked that the Board consider the 1.8 million dollars that they spent to date, because the money is being put towards beach restoration. They would like also ask that the Board encourage these private/public partnerships by lowering their bond level.

Hirokawa hoped that the Board approve to LAND division's recommendation, the standard practice is that they always to double estimate to cover any unforeseen cost. There is community benefit, as well as protection for private property.

Horswill commented that this was a serious cost, but they would pledge to remove the groins so the cost would be the costs. They feel 50 thousand dollars would be more than cost efficient.

Gregg Kinect with the foundation explained that they are reaching a financial fatigue factor. These are residential homeowners who have owned their homes for quite a period of time.



Member Gomes asked about public access. Horswill said there is access for the public, the benefit for having this beach widened is that people can now walk and run along the coastline.

There was discussion about property lines and if lot #3 was an encroachment.

Hirokawa was concerned that if the applicant couldn't pay the 100 grand for the bond, would they be able to pay for the easement. Horswill said they can pay, and will pay.

Dan Purcell testified that the public provides an important mechanism because they can follow these items. Purcell addressed the presentation from the applicant, that documents were handed out that were not available for the public. He suggested the department invest in some sort of projector.

Member Gomes made a motion to accept staff recommendation, lowering the bond amount to \$50,000.

**The Board amended staff recommendation number 5, lowering the bond amount from \$100,000.00 to \$50,000.00.**

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

**Item K-1 Conservation District Use Application (CDUA) MA-3710 for Landscaping by Douglas Poseley Located at Olowalu, Lāhainā, Mau‘i, Tax Map Keys: (2) 4-8-003:047; 084; and 001.**

Tiger Millis, Planner with the Office of Conservation and Coastal Lands- OCCL communicated that the applicant was proposing to landscaping within an area of about 25,000 ft. across three noted properties. Work will be initiated within the Government Beach Reserve and consist of removing exotic and invasive species and debris. The pathway will run parallel with the shoreline and approximately 20 ft. inland. No paving or harden surface is propose. Trees will be flush cut to minimize disruption to existing soils. Upon completion of the work within the beach reserve, alien and noxious plants and trees are proposed to be removed and native Hawaiian or Polynesian introduces plants are proses to be planned within easement "G". Landscaping plants will serve to provide a visual demarcation between private and public lands along white appropriate signage to identify the Government Beach Reserve boundary. Staff believes the proposed land uses are consistent with the conservation criteria and will benefit the land and the general public. Staff is concerned that cultural resource has not been managed will in this area. The site is near burials, the documented olowalu massive occurs in the vicinity. It is recommended that the Board approve this CDUA for landscaping subject to 29 conditions with noted conditions #3 for a land disposition for the Gov. Beach Reserve; #5 for an approved archeological monitoring pan prior to conduction work ; #8 all proposed landscaping shall be appropriate to the site and preference to plant materials that are endemic or indigenous to Hawaii, invasive species are prohibited; and #22 appropriate safety and notification to the public shall be implied to insure the public safety.

Rory Frampton planning consultant for the applicant and D. Posely was present to answer questions. They were fine with staff recommendations.

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

**Item D-13 Issuance of Right-of-Entry Permit to Waikiki Beach Activities, Ltd. for Site Assessment for Future Zip-Line Operation Purposes from October 20 to 22, 2014, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037: Portion of 021.**

Hirokawa reviewed item D-13 detailing that this was a test to see if a zip line would be feasible in this area. The line would extent from the Hilton property out across the makai end of the lagoon to a truck. LAND is recommending an amendment that during this testing phase, no one will go down this line, it would just be put up for assessment purposes.

Member Woodside asked if the vehicle at the end would just be considered an anchor point since on one would be going down it.

Bob Hampton, Chairman of Waikiki Beach Activities confirmed that this would be a temporary vehicle use for anchoring the line. The line is not capable of carrying any kind of weight, they were just going to use a 20lb sandbag to test and get a dip in the line. In addition to feasibility, they want to make sure the site isn't visually impacted. After the feasibility test they would then know what the impact would be. After this, then they would assess the line and the type of vehicle. Hampton pointed out that during the feasibility study surveys would be taken, they will meet with surrounding hotels and neighbors. The zip line would be run by Waikiki Beach Activities.

Member Gomes asked about how fast the line would be going. Hampton stated that it would be more of a tour than a zip line. He also noted that the photos shown in the media that morning were not their photos. There will only be one line, not 5. Chair Aila asked Hampton to please be sure to consult with neighbors. Hampton assured that this was just a study; this is not a zip line request.

A retired coast guard asked if these riders would be wearing life preserves since they would be crossing over the lagoon. Hampton explained that they don't see a situation where a person would leave the zip line before they would get to the landing zone. This is part of the feasibility, and this will be considered.

Member Oi made a motion to approve. Member Yuen seconded.

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

12:49PM RECESS  
1:27PM RECONVENE

**Item D-4 Enforcement Action Regarding Violations on Unencumbered Public Lands, Unauthorized Land Clearing, Construction of Housing Structures and Removal of Ohia Timber by The Village Green Society/Hawai'i's Volcano Circus, Kehena, Puna, Hawai'i; TMK (3) 1-2-009:015 portion.**

Member Roehrig 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 Gomes seconded.

Member Yuen recused himself from this item.

1:28PM EXECUTIVE SECESSION  
1:43PM RECONVENE

Member Woodside asked if the fine included a restitution for the Ohia Timper. Gordon Height, Hawaii Island district land agent-LAND said not at this time.

Chair Aila asked if there was anyone present representing The Village Green Society/ Hawaii's Volcano Circus. No one responded.

Member Roehrig asked that this item be deferred and give Village Green adequate time to prepare for this. Member Roehrig also noted that this docit is to put up structures on state lands. Member Gomes seconded.

Chair Aila reminded Board members that this was the second time this has been before the Board. The entity was notified and told that this item would be heard at this time.

Member Roehrig added to the motion this would be the postponement. The first time was for the first entity this time for the other. For the record, Height stated that this was the second time both entities were notified. Member Gomes rescinded his second.

Member Roehrig made am motion to accept staff recommendation with the condition that the State does not waive any claims. Member Gomes seconded.

**The approval was amended to include the Board's acknowledgement that the present enforcement action addresses the violation and fines relating solely to the presence of unauthorized structures on State unencumbered lands, and does not preclude nor waive any future possible claims or violations against any parties that may be subject to enforcement.**

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

**Item F-1 Request for Final Approval 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.**

The Rules can be reviewed online at <http://dlnr.hawaii.gov/dar/rules-and-public-notices/> or can be reviewed in person at the Division of Aquatic Resources (DAR) offices on Oahu at 1151 Punchbowl St. Room 330 Honolulu, Hawaii 96809 and/or the Maui office at 130 Mahalani St. Wailuku,

**Hawaii 96793 from 8:00 am to 3:30 pm, Monday through Friday, except Holidays.**

*Written testimony was submitted by Ke'eaumoku Kapu, Felimon Sadang, Kim S. Hum- TNC, Alton Miyaska, Jay Carpio and Mac Poepoe.*

Russell Sparks aquatic resource biologist with the Division of Aquatic Resources, Maui- DAR- MAUI reviewed item F-1. DAR originally proposed regulations on 11 fish groups on Maui and the island of Lanai. On July 12<sup>th</sup>, the BLNR approved this for public hearing. Public hearings were held on Lanai, in Hana, Maui and Kahului Maui. Results from the hearings were included in exhibit one of the submittal. As a result, DAR has decided to move forward with two groups; the uhu or parrot fish and the goat fish as proposed. Nine other groups were removed from the proposal. Sparks briefed the Board of the proposal. The majority of the species would be regulated at 10 in. minimum size and the two larger fish of 14 in. minimum size. There is also a proposed 2 fish bag limit of all parrot fish and prohibition on the take of the terminal phase males for the two large species. They are also looking at a split system for the goat fish, as well as a proposal for the goat fish. Sparks reiterated that this has been a long process that began in 2009.

Member Oi asked if there was data on what the invasive species (roy) are doing to the population of keki fish. Sparks explained that studies are being done, as well as studies as to how to remove these invasive species.

Member Woodside had a follow up question, by asking Sparks to summarize the data that helps lead to where the process is now. Sparks explained that they look at the size and mass of the fish and look at trends and populations.

Member Roehrig questioned what was being done about people raiding fish. Sparks felt like the new bag limit would help. He assured monitoring would be continued.

Member Oi asked what it was that majority of people were opposing. Sparks explained that most of the complaints were against the smaller schooling fish like the mempachi, moi, etc. There was also a concern from ulua fisherman about the bag limit when they go out fishing for days at a time. There are still concerns but DAR is hoping to address them through a community based approach.

Fraizer McGilveray, Administrator for the Division of Aquatic resources- DAR added that DAR wants to hear from the communities and listen to the communities, and they have. There was 14xs more support of this package then the last one.

Member Woodside asked what the definition was of someone with a commercial marine license or someone with a special marine license. Sparks said that exception is not prohibiting the sale, this allows them to have more than the bag limits providing they have receipts.

Alton Miyasaka disclosed that he was an employee for the DLNR-DAR, however he was present to give his testimony on his own behalf. Miyasaka submitted written testimony, but addressed specific points. He said the best available science was not used, because the regulations affect

fisherman however the data used was independent of the fisheries data. In order to understand the impact of the fisheries of the populations, you have to look at the fisheries dependent data in order to understand what impact fishing is having on the resource. Over fishing has not been determined. Secondly, the commercial bag limits have a detrimental impact on the fishing industry. He argued that there was no science that said based on the level of fishing currently occurring, you need a one or two bag limit. There is no calculation that says, the number of fish is this, the number of fisherman is this, so your daily bag limit is this. Miyasaka said there are alternatives out there and can be done, if the department is willing to work with the fisherman.

Daryl Tanaka a fisherman from Maui testified that he has been fighting for this since 2008 and has seen the decrease of Maui's fish over the past 20 years. He found it odd that other people are commenting on a Maui rule package.

Chair Aila asked Tanaka to describe his view of the decline. Tanaka said the more accessible areas, such as the leeward side, there is decline. The fish that were selected to have limits are the ones that aren't plentiful anymore. He plead that they have been working on this package a long time and would appreciate the approval of this package. Tanaka noted that the bag limits address all methods of fishing.

Makani Christensen, a fisherman born on Maui, raised on Hawaii Island testified in opposition of the rule package. He felt that if the people are not being fed, and the resources are not being managed, then people won't eat. Christensen suggested seasonal closures.

Chair Aila asked Christensen the same question, what was his visual memory of uhus. Christensen said it depends on where you dive. Last year in the reefs he's seen lots of babies, on every island.

Patrick Bourge from Maui agreed with Christensen that there are other ways to limit control. There are a lot of uhu on Maui, you just have to know where to go fish. Bourge suggested controlling night fishing.

Mike Sur a commercial fisherman testified that today he was catching more fish than he was in 1980. He said, that you have to control where you're fishing, to let the stock replenish itself. To him, these rules don't make sense. Fish are being wasted. He asked that the biologist work with the fishermen and go back to the drawing board. Sur noted that most of the customers are over 60+ years old and are unable to go out and catch their own fish. Commercial fisherman should not be classified in the same category as recreational fisherman. He also asked that gear types be looked at as well.

Tate Marks a commercial fisherman believed that the biggest issue was being avoided completely. The issue is finding the reason for this depletion. Has asked the Board to look at the real cause and not just point fingers at a certain group of people. He said he was at all the meetings and there was no one that agreed with this plan.

Kanako Shoults with the Nature Conservancy testified in support. He also had letters from Jay Carpio and Mac Poepoe in support.

Sur suggested rules be made across the state to make it work.

Chair Aila commented that it is the legislature that created the community based substance fishing plan, they expressed that it's the public policy that if communities wanted to go forward and make requests then they can. The Board, didn't make that determination, the legislature did.

Sparks concluded that these rules came from the community that attended these meetings.

Member Woodside suggested including acknowledging small meetings with other fisherman and families, not just the community meetings.

Member Roehrig suggested banding night time fishing, he feels the night time fisherman are the ones getting the most fish, the easiest.

Member Gomes asked if there were more people in support or against. Sparks explained in Hana there was more support.

Member Roehrig again suggested amending the item to band night fishing by adding a paragraph. AG China indicated that was a significant change and it couldn't be done. David Sakoda, legal fellow with DAR explained that since the public had no opportunity to testify on a night spearing band, the rules would have to be re-drafted, come back to the Board to go to public hearing, get the governor's approval, then go back to public hearing and come back to the Board with the recommendation. This process would take about a year. All the rules that are being proposed today went to public hearing, a portion was removed today, that proposal didn't go back to public hearing because it was available for public comment, and the public was on notice.

Christensen commented that it needs to go back to public hearing again. Chair Aila told him that it meets sunshine. AG China confirmed that no substantive changes can be made, but non substantive changes will be a problem.

Member Gomes made a motion to approve item F-1 per staff recommendation. Member Yuen seconded.

Member Oi said he would support this action, he feels the process was flawed. Member Roehrig said if nighttime fishing was outlawed then he would be okay with the motion, but since it's not, he's against it.

Member Gomes said he saw both sides, but change needs to start somewhere. Member Woodside thanked everyone; this has been a long process and appreciated everyone that was very specific.

4:2 vote, Oi and Roehrig against.

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

**Item E-1 Approval to Enter Into a Grant-In-Aid Agreement with the Girl Scouts of Hawai‘i, to Fund Certain Infrastructure and Facility Improvements on Private Lands at Girl Scouts Camps Located at Camp Paumalū, Ko‘olauloa, ‘Oahu, Tax Map Key: (1) 5-9-006:012, Camp Pi‘iholo, Makawao, Maui, Tax Map Key: (2) 2-4-013:074 and Camp Kilohana, South Kohala, Hawai‘i, Tax Map Key: (3) 4-4-015:005.**

Dan Quinn, Administrator for State Parks-PARKS presented item E-1, detailing that these plans would be used to plan, design and construct systems to address large capacity cist pools in Girl Scout Camps. The Girl Scouts would be responsible for all the permitting, under the condition that they secure all the funds to build the improvements prior to the release of the construction.

A representative from the Girl Scouts was present to answer questions and was okay with staff recommendations.

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

**Item D-1 Issuance of Revocable Permit to Charmaine Manuel, por. Kekaha House Lots & Kekaha Residence Lots, for Pasture Purposes, Kekaha, Waimea, Kaua‘i, Hawai‘i, Tax Map Key: (4) 1-3-002:030.**

**Item D-2 Amend Prior Board Action “Issuance of a Right-of-Entry Permit to the Department of Accounting and General Services on State Encumbered Lands, Dams and Reservoirs on Kaua‘i; Dam Maintenance and Remediation Improvements for A‘ahoaka, Hanamāulu Field 21, Wailua, Upper Kapahi and Lower Kapahi Dams and Reservoirs, in Wailua, Kapaia, and Kapahi, Kaua‘i; Tax Map Keys: (4) 3-9-002:001, 020; 4-2-001:004, 005, 008; 4-6-007:011; 4-4-004:004; 4-6-006:007; 4-6-032:022”, approved as amended on September 22, 2010, under Agenda Item D-1, to revise the Declaration for Exemption from the Preparation of an Environmental Assessment for the Upper Kapahi Reservoir, located on Tax Map Key: (4) 4-6-007:011.**

**Item D-3 Amend Prior Board Action of July 25, 2014, Item D-1, Approve Negotiated Development Agreement, and Proposed Plans and Specifications for Improvements for General Lease No. S-3832, and General Lease No. S-5578, Pixar Development, LLC, Lessee; Authorize the Extension, Amendment and Restatement of General Lease No. S-3832, and General Lease No. S-5578, Pixar Development, LLC, Lessee, for an Aggregate Term of 55 Years, Kapa‘a Town Lots, Kapa‘a, Kawaihau, Kaua‘i, Tax Map Keys: (4) 4-5-011:046 and (4) 4-5-012:005. The purpose of the amendment is to clarify that the Board’s approval of the lease extensions is in concept only at this time.**

**Item D-5 Consent to Lease Term Extension Pursuant to Act 207, Session Laws of Hawai‘i 2011, General Lease No. S-3598, Mauna Kea Infrared, LLC, Lessee; Amendment of Terms and Conditions Regarding Allowed Use, Assignment and Sublease Provisions for General Lease No. S-3598; Lot 17, Kanoiehua**

**Industrial Lots, Waiākea, South Hilo, Hawai‘i, Tax Map Key: (3) 2-2-050:085. Issuance of Right of Entry Permit to TEAM Unlimited, LLC. for the XTERRA Off – Road Triathlon World Championship, Honolulu, Lāhainā, Maui, Tax Map Key: (2) 4-002-004: Seaward of 014, 015 and 016.**

- Item D-8 Issuance of Right of Entry Permit to TEAM Unlimited, LLC. for the XTERRA Off – Road Triathlon World Championship, Honolulu, Lāhainā, Maui, Tax Map Key: (2) 4-002-004: Seaward of 014, 015 and 016.**
- Item D-10 Grant of Perpetual, Non-Exclusive Easement for Communication Cable Purposes to Hawaiian Electric Company, Inc.; Issuance of Management Right of Entry Permit; Moanalua, Honolulu, ‘Oahu, Tax Map Key (1) 1-1-013:portions of 001.**
- Item D-11 Withdrawal from Governor’s Executive Order No. 4170 to Department of Transportation for Maritime Purposes; Sand Island, Honolulu, ‘Oahu, Tax Map Key: (1) 1-5-041:Portions of 006, 022, 130, and 334.**
- Item D12 Issuance of Right-of-Entry Permit to Waikīkī Beach Activities, Ltd. for Beach Event Purposes from September 28 to October 3, 2014, Waikīkī, Honolulu, ‘Oahu, Tax Map Key: (1) 2-3-037:Portion of 021.**

Hirokawa had no changes to items D-1, D-2, D-3, D-5, D-8, D-10, D-11 or D-12.

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

- Item L-1 Request Acceptance of the Final Environmental Assessment and Approval for the Issuance of a Finding of No Significant Impact (FONSI) for Keāhua Stream Bridge, Līhu‘e, Island of Kaua‘i.**
- Item L-2 Authorize the Approval and Issuance of Dam Safety Construction/Alteration Permit No. 69 – Dam Removal of The Happy Valley Flood Prevention Dam (MA-0125) from The Board of Land and Natural Resources’ Jurisdiction, Wailuku, Maui, Hawai‘i**
- Item L-3 Authorize The Approval To Revise Department of Land and Natural Resources Dam Safety Construction/Alteration Permit. Permit No. 44 – To Remove Upper Kapahi Reservoir (KASpecial Meeting Briefing -0013), Kapa‘a, Kaua‘i, Hawai‘i.**

Chris Takahashi, Branch Chief for the Engineering Division-ENG had no changes to items L-1, L-2 and L-3.

Member Gomes asked if Item L-3 page 3 2104 was a typo. Takahashi confirmed.



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


There being no further business, Chairman William Aila adjourned the meeting at 3:47 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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Carty S. Chang  
Interim Chairperson  
Department of Land and Natural Resources