

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

DATE: FRIDAY, JANUARY 9, 2015
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

Acting Chairperson Carty Chang called the meeting of the Board of Land and Natural Resources to order at 9:00 a.m. The following were in attendance:

MEMBERS

Carty S. Chang
Thomas Oi
Christopher Yuen

James Gomes
Vernon Char
Ulalia Woodside

STAFF

Sam Lemmo-OCCL
Kevin Moore-LAND
Dave Smith-DOFAW
Dan Quinn-PARKS

Russell Tsuji-LAND
Ed Underwood-DOBOR
Steve Burtfield-DOFAW

OTHER

Julie China/Deputy AG
Ross Smith/DOT-AIR
Brian Taylor/ M-1
Jeannie Johnson/ K-1
Patsy Vasquez/ K-1
Robert Littman/K-1
Elizabeth Reilly/ K-1
Derek Cabarloc/ D-1

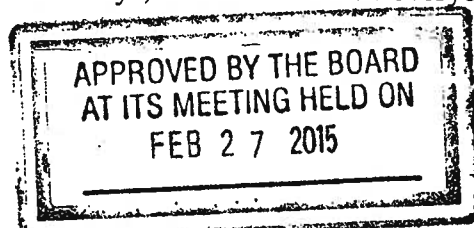
Calvert Chun/DOT-HAR
Dan Purcell/A-2, K-1, K-2
Ann Marie Kirk/ K-1
Lisa Munger/ K-1
Kelly Fey/K-1
Boisie Correa/K-1
Keith Okamoto/D-8
Cindi Punihale Kennedy/ J-1

Chair Chang introduced himself. He said he has been appointed acting Chairperson until the Governor appoints a new, permanent Chairperson.

Item A-2 Approval of September 26, 2014 Minutes

Member Yuen indicated that the name "James Film" under item M-5 should read "James Stone".

Dan Purcell welcomed Chair Chang and told him that he mentioned at the last meeting that minutes need to be made available to the public within 30 days. At the last meeting he requested a copy of the December 12, 2014 meeting minutes within 30 days, and he reminded everyone again that he was requesting them.



Unanimously approved as amended (Gomes, Oi)

Item A-3 Approval of October 10, 2014 Minutes

The Board had no changes.

Unanimously approved as submitted (Gomes, Oi)

Item M-1 Issuance of Direct Lease to University of Hawai‘i for Ocean Research and Education Purposes, and Termination of General Lease No. S-4488 issued to University of Hawai‘i for the Snug Harbor Facility, Kapālama Basin, Honolulu Harbor, Island of O‘ahu, Tax Map Key: (1) 1-5-34 , por 4, 8, 10, 13, 14, 16, 17, 19, 20, 22, 27, 28, and 32 and (1) 1-5-36, por 1, por 2 and por 10 and (1) 1-5-42, por 5, of Land Court Application 477 and Land Court Consolidation 82, as shown on the attached map labeled Exhibit A.

Calvert Chun from the Department of Transportation Harbors Division- DOT-HAR reviewed item M-1.

Brian Taylor, Vice Chancellor of Research at the University of Hawaii Manoa testified in support of this item.

Chun asked to make an amendment to the submittal. DOT-HAR sited the wrong Hawaii Revised Statute in the submittal. The submittal reads section 171-11, -35, -36, -59 (a), -96 (a). It should be amended to read section 171-11, -35, -36, 59 (b), 95 (a) (2).

Unanimously approved as amended (Gomes, Woodside)

Item M-2 Amendment No. 1 to State Lease No. DOT-A-07-0004 for the Purpose of Installing Photovoltaic Solar Panels, Schuman Aviation Company, Ltd., Honolulu International Airport, Tax Map Key: (1) 1-1-71: Portion of 33.

Item M-3 Issuance of a Revocable Permit to Pacific Air Charters, Inc., Office Space for Charter Operations, Honolulu International Airport, Tax Map Key: (1) 1-1-72: Portion of 69.

Item M-4 Issuance of a Revocable Permit for an Automated Fuel Facility and Fuel Facility site for Three (3) Above Ground Storage Tanks for Jet-A-Fuel, Airstart Aero Hawai‘i, LLC, Dillingham Airfield, Waiālua, Hawai‘i, Tax Map Key: (1) 6-08-14: Portion of 1.

Item M-5 Issuance of a Revocable Permit for Aircraft Parking, Hana Hou Air LLC, Dillingham Airfield, Waiālua, Hawai‘i, Tax Map Key: (1) 6-08-14: Portion of 16.

- Item M-6** Issuance of a Revocable Permit to Park Mobile Fuel Trucks and Ramp Equipment for Fueling Operations, Barbers Point Aviation Services, LLC, Kalaeloa Airport, Island of O‘ahu, State of Hawai‘i, Tax Map Key: (1) 9-1-13: Portion of 32.

- Item M-7** Consent to Assignment of State Lease No. DOT-A-08-0020 from Perry, Colin K. to Barbers Point Aviation Services, LLC., Kalaeloa Airport, Island of O‘ahu, State of Hawai‘i, Tax Map Key: (1) 9-1-13: Portion of 32.

- Item M-8** Approval in Concept for the Acquisition of Privately-Owned Lands for Airport Purposes, Situate at Kahului, Island and County of Maui, Tax Map Key: (2) 3-8-001: Portion of 002.

- Item M-9** Amendment No. 5 to Concession Agreement No. DOT-A-10-0008 to Add Storage Space to the Retail Concession, Tiare Enterprises Inc., Hilo International Airport and Kona International Airport at Keāhole, Tax Map Key: (3) 2-1-12 (Portion).

- Item M-10** Issuance of a Revocable Permit for a Lei Stand, Lana Haasenritter DBA Ah Lan’s Lei Stand, Hilo International Airport, Tax Map Key: (3) 2-1-12: Portion of 09.

Ross Smith representing the Department of Transportation Airports Division-DOT-AIR was present to answer any questions.

There were no questions.

Unanimously approved as submitted (Gomes, Char)

- Item K-1** Alleged Conservation District Use Violation (OA-15-09) by Mr. Garrett Saikley and Robert Carpenter for Alleged Unauthorized Land Uses in the Conservation District on State Submerged Land and the Paiko Lagoon Wildlife Sanctuary at Kuli‘ou‘ou 1st, Honolulu, Hawai‘i, Tax Map Key (1) 3-8-001:001 (Wildlife Sanctuary) and Submerged Land.

Written testimony was submitted by Lisa Woods Munger.

Sam Lemmo, Administrator for the Office of Conservation and Coastal Lands, presented item K-1. Lemmo stated that he had a letter of support from Mr. John Michael Wright for Mr. Saikely. Lemmo also noted that a filing was received from Mr. Saikely’s attorney, Lisa Munger with Goodsell Anderson Quinn & Stifel raising a number of questions and asking that the item be deferred and sent to a contested case hearing. Lemmo recommending deferring the mater, send it to a contested case and come back to get the Board’s authorization to appoint a hearings officer since the request has been submitted in writing.

Member Oi asked attorney general Julie China how the Board should act on this. AG China suggested deferring decision making pending the result of the contested case since this is a violation matter.

Chair Chang acknowledged that there were a number of people signed up to testify and wanted to give them the opportunity speak.

Ann Marie Kirk from the Hawaii Kai Hui explained that they were contacted by residents of Paiko Drive about the activity that has been occurring there. This falls in line with the kind of work that the Hui does. When the Hui went down there the placement of rocks along the causeway are from the sanctuary and should've never been moved. There were many illegal signs. There are multiple violations and things that should be fined. The neighborhood Board fully supports the DLNR and their investigation. Kirk thanked OCCL and DOFAW for putting together this report.

Jeannine Johnson a member of the Hawaii Kai Hui and former member of the neighborhood Board testified that for years they have been battling illegal vacation rentals and wedding establishments. The neighborhood has taken a stand against these illegal actions and supported what was said by Ann Marie Kirk. Johnson said she was present representing herself.

Lisa Munger representing the owners of lot 59 reiterated her request and orally requested that the mater be deferred and requested a contested case. Munger emphasized how important it was to recognize how the lagoon sanctuary was created. It was not always state land, the area was owned privately and at some point one lot was conveyed to the State. The owners home was already on a separate lot when this occurred. They have certain rights beyond a right of access; they have recorded easements within their title. She believed that if the violations cannot be resolved then they request a contested case. Munger asked the Board to grant the contested case.

Patsy Vasquez, resident on Paiko Drive, said she was against this being deferred. The things that have been going on have been going on for a long time and the law should be enforced. The large boulders that they put on the beach are discouraging beachgoers. They don't want people to be there and that's wrong. Vasquez said the law should be enforced as soon as possible.

Kelly Fey, a resident of Paiko Drive, testified that the activities of the property owner have escalated and they discourage people from using the area. They law should be up held because they have put these boulders on the sandy beach. Fey was against deferring this and said something needed to be done now.

Robert Littman, a neighbor of Paiko Drive, confirmed that he has met people that have been told that they cannot use that area because it's a turtle sanctuary hatchery. He was said Saikley is not a good neighbor. He's saying he's trying to preserve the area, but he's not.

Boisie Correa said he's the oldest resident on Paiko Drive, his family has been there for 4 generations. He explained how it's not easy living on the beach. Correa said that there have always been rocks in that area. He said there is an area that runs from Paiko drive to that causeway that is private property and has never had open access, and suggested the department

clarify that. Correa saw both sides. He suggested deferring this because things need to be resolved and the rocks need to be dealt with.

Dan Purcell had concerns about how this item is being heard, to suggest that it's going to be deferred before it's deferred. He encouraged the Board hear the item today and act on it today. Purcell said this Board has problems with contested cases and felt there should be an audit with the handling of contested cases. Purcell said he asked to be notified of contested case hearings, he was assured he would be and never was. He said the whole contested case hearing process is sloppy and he would be pursuing this.

Elizabeth Reilly president of Livable Hawaii Kai Hui testified that cultural and natural resources are important to them. She said she was doing her own research on this issue, and Paiko Lagoon is a community resource. Reilly said she supports the DLNR and the investigation.

Member Yuen 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.

9:51 AM EXECUTIVE SECESION
10:35 PM RECONVENE

Member Yuen made a motion to defer this item and refer to a contested case hearing. He also requested that the AGs office take a close look at the rules because this needs to be done consistently. Applicants need to be made aware prior to a decision to obtain a contested case hearing. Member Char seconded.

Unanimously moved to defer (Yuen, Char)

Item D-8 Issuance of Direct Lease to the Water Board of the County of Hawaii for Windfarm and Related Communication/Energy Facilities Purposes; Consent to Sublease Between the Water Board of the County of Hawaii, as Sublessor, and Lalamilo Wind Company, LLC, as Sublessee; Consent to Subleasehold Mortgage, Security Agreement and Financing Statement, Lalamilo Wind Company, LLC, as Mortgagor, to American Savings Bank, F.S.B., as Mortgagee; Issuance of Right-of-Entry to Water Board of the County of Hawaii for Survey and Maintenance Purposes, Lalamilo, South Kohala, Hawaii, Tax Map Keys: 3rd/ 6-6-01:02 por., 71 & 76.

Russell Tsuji Administrator for the Land Division-LAND conveyed item D-8. LAND was asking for a direct lease for the Windfarm project, for which the energy generated from the project will be used to pump the water up from these wells. The idea is that it will save the Department of Water Supply energy costs. An appraisal was done, and the department's appraisal came in higher than the opponent anticipated so there was further discussion with the County of Hawaii and a commitment was secured in the form of a letter indicating that the energy savings from this renewable energy project would be passed on to the user who pays for the water.

Keith Okamoto representing the department of water, County of Hawaii was present for questions.

Member Yuen commented that he felt this was a great project, but asked if the decommissioning of the project had been taken care of. Tsuji said this was a 20 year project and would be at the end of the term.

Member Yuen asked if there was some way to put power back. Keith Okamoto Deputy from the Department of Water Supply, County of Hawaii explained that there is no intention of selling excess power to HELCO. With HELCO you get placed on a list and any excess power produced by this windfarm would be at the bottom of the list. Also the intent is that the water supply will use all the power onsite and available.

Member Gomes asked if they would be charging more than they are paying the state for the lease. Okamoto said the intent is that the energy produced by this project is for savings to be passed on to customers, not to generate income.

Member Gomes questioned the unexploited ordinance and if that would be mitigated. Okamoto said this project is a reduced footprint of what was there previously.

Member Oi asked if the performance bond would be under \$7,000. Tsuji said they haven't started negotiating the wind term lease. There is a provision for a removal bond in addition to the performance bond. Right now the department is estimating \$100,000 for the removal. Okamoto said they would need to respond to their water Board as well, and understands that the department needs to protect their assets as well.

Member Yuen asked if a performance bond was required to cap a well. Tsuji said not typically. He said as long as the Department of Water Supply is responsible for removing the windmill then he didn't see a great issue.

Tsuji said he would make sure the performance bond would be about \$15,000 twice the annual rent, with the strong provision of the removal of the equipment at the end of the term of the lease. There is a rent requirement.

Member Gomes asked how many people would be serviced. Okamoto said about 48,000 accounts.

Member Yuen made a motion to approve with directions to the department to include adequate directions about the decommissioning of the facility, also giving the department the decision to waive the performance bond. Member Oi seconded.

The Land Board amended the staff recommendation by adding the following: (1) providing the Department with discretion to either require or waive the standard performance bond requirement in leases based upon on this lease being with another governmental entity, the County of Hawaii; and (2) requiring the lease document to contain a provision about the tenant's

obligation, upon lease expiration or other early lease termination, to decommission and remove all of the turbines and other improvements placed on the leased premises.

Unanimously approved as amended (Yuen, Oi)

Item D-1 Forfeiture of General Lease No. S-4665, DMS Diesel Repair, LLC, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-037:098. (HDLO) Gordon

Tsuji reviewed item D-1 and told the Board that during the break, Derek Cabarloc approached him and said that he sent in a \$20,000 check. Tsuji said as of this morning it had not been posted. Cabarloc wanted to speak with the Board to ask for a deferral, he has applied with a surety to obtain a performance bond.

Member Gomes asked if this has been the only time he has been delinquent. Tsuji said within the last 4 years the lessee has been issued notice of defaults. Before the last 4 years Tsuji wasn't sure.

Member Yuen expressed his concern about the management of this lease. The lessee is in default of the rent repeatedly over a 3 year period, but the department never got a performance bond. Tsuji wasn't sure why the performance bond took so long, according to the district land agent, the tenant said they would renew it and over time it was never brought before the Board. On the notice of defaults they are statutorily entitled to cure within a certain time frame and if they cure then those matters are not brought to the Board. The Board is prevented from terminating a lease prior to given the statutory right to cure. They are entitled to notice of default. Member Yuen said he was fine with that, his concern was with someone that is continuously late on rent and they don't have a performance bond. He said he was interested as to what the department's position is if the check bounces. Tsuji didn't have a preference one way or the other He suggested the lessee present his matter to the Board and he would check to see if the check was received.

Derrick Cabarloc the owner DMS Diesel Repair, LLC explained that in the past when he got a letter about the performance bond, he would hand it over to his insurance agent, left it at that and didn't follow up. He would pay the insurance, but not know what he was paying for. They have no investors; they are a mom and pop shop in Hilo. He said he sent a check out for \$20,000 in December that cleared his account. Cabarloc said he applied for a loan and he would take care of the other \$25,000. As far as the \$80,000 bond, the insurance company is just waiting on a letter from his bank, and then they will cover 50% of the bond. The bank covers 50% and the insurance company with cover 50%. In the past he said he wasn't too involved in the financing but now he will be move involved and know where the money is going and who needs to be paid. He said he just received a contract from Hawaiian Electric to repair their vehicles for the next 10 years, then from 2020 they have a contract to do repairs on the Westside.

Member Yuen asked Cabarloc if he know when the loan would be approved. Cabarloc said he would follow up Monday.

Member Yuen asked Cabarloc how much time he needed to cure this. Carbarloc said the submittal said February 2015, but he believed he cure everything before then. Member Oi asked Carbarloc to confirm that by February he would be able to clear all defaults, back rent and acquire an \$80,000 performance bond. Cabarloc confirmed.

Tsuji introduced Kevin Moore, his assistant administrator and told the Board that Moore checked the system and they system doesn't show having received the \$20,000 payment. Member Yuen asked how good the system was. Tsuji explained the process and said he would check with the department's fiscal office.

Member Oi asked Tsuji if the Board could give Cabarloc until the end of February to clear defaults, and if not then terminate the lease. Tsuji told Member Oi that by then the new fee would be posted.

Member Gomes asked if end of February is enough time to get this cured. Cabarloc said he would like to clear this up as soon as possible. To get the lease bond and get the back payment he would go for March, but will work to clear this up as soon as possible.

Member Yuen made a motion to give the lessee to the end of March to clear all outstanding defaults, if not then adopt the staff recommendation to cancel the lease without the necessity to bring this back to the board.

Carbarloc asked if this is cleared up by the end of March could he sublease to another company. Tsuji said it would have to come back to the Board.

Tsuji said a rent payment becomes due March 1, if he doesn't pay that does this need to come back to the Board. Member Yuen said no in his motion. Everything is due including the March payment on March 31.

Member Oi seconded the motion.

The Board amended the staff recommendation section by allowing the lessee additional time through March 31, 2015 to cure all outstanding defaults and to also pay the next rental payment coming due at the end of February 2015. If, on or before March 31, 2015 the tenant fails to cure any of the defaults (i.e., fails to pay the rent currently due in the amount of \$45,000 (together with any interest or late charges due) or fails to deliver the \$80,000 performance bond, or fails to pay the next rental payment coming due at the end of February 2015, then the lease shall automatically be terminated without further action from the Land Board

Unanimously approved as amended (Yuen, Oi)

Item J-1 Approval to Initiate Rule-Making Proceedings, Including Public Hearing to Amend Hawai'i Administrative Rules (HAR) § 13-256-152 Kahalu'u Bay in Order to Update Location Designations, and Revise Swim and Surf Zone Restrictions Within Kahalu'u Bay. Attached to this Agenda and

Incorporated Herein as Exhibit A are the Proposed Changes to HAR § 13-256-152.

Written testimony was submitted by Cindi Punihaole Kennedy, Ossian Farmer, and Clayton S. Honma.

Ed Underwood Administrator for the Division of Boating and Ocean Recreation- DOBOR explained that this rule is going to define the swim zones as well as where commercial surfing can occur. This is an attempt to get the overcrowding under control.

Cindi Punihaole Kennedy program director for the Kahalu'u Bay Education Center read her testimony in support of the approval. Kennedy believes serious injury could occur without this approval because of safety. This is a small bay with so many people.

Member Yuen commented that he was surprised at the surf instruction zone. Member Woodside asked if he thought the zone should be broken into a surf zone and a surf school zone. He said yes, zone A seems like a break. Kennedy pointed out where the schools would be with a limit of 8.

Member Woodside asked for clarification that these rules were to limit the number of surf schools and the number of students. Kennedy said yes, 4 students per instructor and 2 instructors per school.

Underwood said they came up with very prominent surf zones.

Member Yuen asked if there had never been any marine life conservation use district in this area. Kennedy said they have tried but it's very hard because of Hawaiian Rights. She believes there can be a balance so it can be a win-win for the community and visitors.

Member Yuen made a motion to approve, Member Gomes second.

Member Woodside disclosed that she informed the AG that Kamaemaeha Schools is the neighboring land owner and she was informed that she was okay to participate in this vote.

Unanimously approved as submitted (Yuen, Gomes)

Item C-1 Request Approval for Selection of Competitive Sealed Proposal Process and Authorize the Chairperson to Award and Execute a Contract for the Removal of Feral Cattle from Honua'ula Forest Reserve, North Kona District, Hawai'i County, Tax Map Keys: (3) 7-4-001:002, 007 and (3) 7-5-013:022.

Dave Smith Acting Administrator for the Division of Forestry and Wildlife-DOFAW presented item C-1.

Member Gomes asked if this was the first time for this. Steve Burfield district manager from Hawaii Island explained that DOFAW has not done any request for proposals, a lot of this has been based on what the Department of Hawaiian Homelands is doing on Mana Road. They are working closely with Mike Robinson.

Smith added add that they feel this is the safest way to do this because there are land owners that are adjacent.

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

Unanimously approved as submitted (Yuen, Gomes)

**Item C-2 Issuance of Special Use Permit No. FW-2015-H-01 to Palani Ranch Company, Inc., Kaila-Kona, North Kona, Hawai'i, Tax Map Keys (3) 7-4-002:Portion of 007
And
Request Approval of Declaration of Exemption from Chapter 343, Hawai'i Revised Statutes, Environmental Assessment Requirement for the Project.**

Smith explained that this was crucial because Palani Ranch controls access to the property so DOFAW wants to work with them to do restoration work.

Member Woodside asked how much of the area was fenced. Burtfield said the whole area was fenced and there was 447 acres were they would graze.

Unanimously approved as submitted (Yuen, Gomes)

Item C-3 Request Approval of the Wetland Restoration and Habitat Enhancement Plan, Kawainui Marsh; Acceptance of the Final Environmental Assessment for the Subject Plan; and Issuance of a Finding of No Significant Impact for the Proposed Project, Tax Map Keys (1) 4-2-013: Portions of 005 and 022, Kailua, O'ahu.

Written testimony was submitted by Kamana'opona Crabbe, Ph.D-OHA.

Smith conveyed item C-3. This was a housekeeping matter covering 80 acres of Kawainui Marsh, 60 acres of wetland and 20 acres of upland.

Member Char asked if this has been funded and what is the timing. Smith said there was some funding and they were ready to use a \$240,000 increment on the project and the crews are already out working on basic maintenance. They are looking on expanding 4 or 5 more acres.

Member Woodside asked if the plan includes mitigation of cultural sites or finds. Smith said they did archeological reconnaissance survey, and identified some potential areas but didn't find anything. The things that are most obvious on the landscape right now are 20th century roads and houses. There were about 12 lo'i areas but this area has been modified over the years. They found a grinding stone and rocks but just left them. If they do find anything they bring an

archeologist in and modify around it. They are also working with local Hawaiian groups and lineal descendent groups.

Unanimously approved as submitted (Char, Gomes)

- Item D-2 Approve a 10-Year Term Extension of General Lease No. S-3600, Hilo Mechanical, Inc., Lessee, Pursuant to Act 207, Session Laws of Hawaii 2011 and an Amendment of Terms and Conditions Regarding Allowed Use, Assignment and Sublease Provisions for General Lease No. S-3600; Lot 29, Kanoelehua Industrial Lots, Waiākea, South Hilo, Hawai‘i, Tax Map Key: (3) 2-2-050:097.**
- Item D-3 Issuance of Revocable Permit for Agriculture Purposes to Ermino Mazzarino, Kiolakaa, Ka‘u, Hawai‘i, Tax Map Key: (3) 9-4-003:014.**
- Item D-4 Issuance of Right-of-Entry Permit to Douglas Poseley for Clean-up and Maintenance Purposes of State Unencumbered Land within the Olowalu Beach Reserve at Olowalu, Lāhainā, Maui, Tax Map Key: (2) 4-8-003: Portions of 001 and 003.**
- Item D-5 After-the-Fact Issuance of Right-of-Entry Permit to Magic Island Productions, Inc. for Live Broadcast of Television program Purposes on December 26, 2014 to January 2, 2015, Waikīkī, Honolulu, O‘ahu, TMK: (1) 2-3-37:Portion of 21.**
- Item D-6 After-the-Fact Issuance of Right-of-Entry Permit to Hawai‘i Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach on January 5, 2015, Waikīkī, Honolulu, O‘ahu, TMK: (1) 2-3-037:021 (Portion).**
- Item D-7 Amend Prior Board Action of March 13, 2009, Item D-5; Approval in Principle to Set Aside to the Department of Land and Natural Resources, Division of Forestry and Wildlife for Waimānalo Forest Reserve Purposes; Rescind Prior Approval dated June 26, 1992, Item F-9; Authorize the Division of Forestry and Wildlife to Conduct an After-the-fact Public Hearing Relating to Waimānalo Forest Reserve; at Kailua, Kaneohe, and Waimānalo, Ko‘olaupoko, O‘ahu, Tax Map Key (1) 4-1-008:013, 4-1-010:074, 091 & 093, 4-2-005:001, and 4-2-010:portion of 001 And**
- The Amendment is Regarding the Acreages for TMK (1) 4-2-010:portion of 001 for the Set Aside.**

Tsuji had no changes to items D-2 through D-7. The Board had no questions.

Unanimously approved as submitted (Gomes, Oi)

Item E-1 Approval to Issue a Revocable Permit to Bottling Group, LLC. to Operate Up to Five (5) Beverage Vending Machines for Business and/or Commercial Purposes, Diamond Head State Monument, Waikiki, O'ahu, Tax Map Key: (1) 3-1-042:006 (por.).

Dan Quinn Administrator for the State Parks-PARKS reviewed item E-1. Bottling Group LLC was previously called Pepsi Bottling Group. PARKS intends to bid this out in the future.

Unanimously approved as submitted (Char, Gomes)

Item K-2 Appointment and Selection of a Hearing Officer to Conduct All Hearings for Contested Case (OA 15-2) Regarding Conservation District Enforcement File OA 15-3 for the Unauthorized Excavation and Installation of an Erosion Control Structure Located Upon Submerged Land at Hale'iwa, O'ahu, Makai of 59-165D Ke Nui Road, Tax Map Key: (1) 5-9-002:17.

Sam Lemmo presented item K-2.

Dan Purcell testified that he again requested to be notified of contested case hearings. He wanted to make sure there are contracts with the contested case hearings.

There was discussion between Member Yuen and AG China about the noticing. China explained that notices of public meetings are required by Sunshine law (chapter 92), but there is no public notice for contested case violation hearings; they are chapter 91. Member Yuen felt this was wrong that public is not notified or isn't required to be notified. He was extremely concerned.

Unanimously approved as submitted (Gomes, Oi)

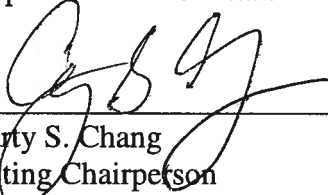
There being no further business, Acting Chairman Carty Chang adjourned the meeting at 12:03p.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Ku'ulei Moses
Land Board Secretary

Approved for submittal:



Carty S. Chang
Acting Chairperson
Department of Land and Natural Resources