

**AGENDA
FOR THE MEETING OF THE
BOARD OF LAND AND NATURAL RESOURCES**

DATE: FRIDAY, AUGUST 12, 2011
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

A. MINUTES – To be distributed.

1. June 9, 2011
2. June 23, 2011
3. July 8, 2011
4. July 22, 2011

B. CONSERVATION AND RESOURCES ENFORCEMENT

1. Request for Authorization to Enter into a Production Agreement with PSG Motion Pictures, LLC to Allow PSG Motion Pictures, LLC to Ride Along With and Film Division of Conservation and Resources Enforcement (DOCARE) Officers and Allow the Footage to be Used in a Documentary-Style Series
2. Request Approval to Seek the Governor's Approval to Indemnify the City and County of Honolulu Department of Parks and Recreation for the Use of the Koko Head Shooting Complex on September 17 & 18, 2011 for the National Hunting and Fishing Day Celebration

C. FORESTRY AND WILDLIFE

1. Request Approval for Selection of the Competitive Sealed Proposal Process and Authorize the Chairperson to Award, Execute, and Extend Contract(s) to Install Ungulate-Proof Panel Fencing within the Kuia Natural Area Reserve, Kauai
2. Request Approval for Selection of the Competitive Sealed Proposal Process and Authorize the Chairperson to Award, Execute, and Extend Contracts for the Waianae Kai Forest Reserve Fence Repair Project
and
Request Approval of Declaration of Exemption to Chapter 343, HRS Environmental Compliance Requirements for the Waianae Kai Forest Reserve Fence Repair Project

3. Withdrawal of Geothermal Resource Subzone Designation Pursuant to Hawaii Revised Statutes (HRS) §205.5.1, 5.2 and Hawaii Administrative Rules (HAR) § 13-184-10 from Wao Kele O Puna Forest Reserve (TMK (3) 1-2-010:002 & 003) at Waiakahiula and Ka'ohe, Puna, Hawaii
4. Termination of Timber Land License No. H101 Commencement Date August 29, 2001 held by Tradewinds Forest Products, LLC.

D. LAND DIVISION

1. Cancellation of Revocable Permit No. S-7241 to Ernest R. Mendes, Jr. and Jeanie L. Mendes, and Request for Waiver of Level One (I) Hazardous Waste Evaluation Requirement, Kahakuloa, Wailuku, Maui, Tax Map Key:(2) 3-1-001:023.
2. Grant of Term, Non-Exclusive Easement to Association of Unit Owners (AOUO) of Hale Kai Condominium for a Term, Non-Exclusive Easement for Seawall / Revetment Purposes, Honokowai, Lahaina, Maui, Tax Map Key: (2) 4-4-001: Seaward of 042.
3. Amend Prior Board Action of October 14, 2010, Item D-16, Cancellation of Revocable Permit No.S-5117 and Issuance of a Grant of a Term Non Exclusive Easement to the Association of Apartment Owners of Lokelani (AOAO Lokelani) for Rubble Rock Revetment Purposes, Lahaina, Maui, Hawaii, Tax Map Key: (2) 4-3-006:065 (seaward).
4. Consent to Lease of Lands under Governor's Executive Order No. 4345 to Hawaii Housing Finance and Development Corporation, Kakaako, Honolulu, Oahu, Tax Map Key: (1) 2-1-051:042 & 043.
5. Issuance of Revocable Permit to Hawaii Explosives and Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach on September 3, 2011, Waikiki, Honolulu, Oahu, Tax Map Key:(1) 2-3-037:021 portion.
6. Issuance of Revocable Permit to Hilton Hawaiian Village LLC for Beach Activities Purposes to be held from September 2 to 3, 2011 at Duke Kahanamoku Beach, Honolulu, Oahu, Tax Map Key: (1) 2-3-037:portion of 021.
7. Issuance of Revocable Permit to Waikiki Roughwater Swim Committee, Inc. for a Swim Race Event to be held on September 5, 2011, at Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-37:por. 21.
8. Request to Extinguish an Existing Ditch Easement, Waimanalo, Koolaupoko, Oahu, Tax Map Key: (1) 4-1-025:010 portion.

9. Authorization of Bill of Sale to the City and County of Honolulu for Sand Island Wastewater Training Facility, Sand Island, Honolulu, Oahu TMK (1) 1-5-41: por.05.
10. Grant of Perpetual, Non-Exclusive Easement to Hawaiian Telcom, Inc. for Utility Lines Purposes, Kapolei, Ewa, Oahu, Tax Map Key: (1) 9-1-017:portion of 110.

E. STATE PARKS

1. Request for Approval to Issue a single Revocable Permit to Pepsi Bottling Group, LLC to Operate up to Two (2) Vending Machines for Business and/or Commercial Purposes, Wailua River State Park, Wailua, Kauai, Tax Map Key: (4) 3-9-004:010

F. AQUATIC RESOURCES

1. Request for Authorization and Approval to Issue a Papahanaumokuakea Marine National Monument Native Hawaiian Practices Permit to Dr. Pualani Kanaka'ole Kanahale, University of Hawaii at Hilo, Kipuka Native Hawaiian Student Center for Access to State Waters to Conduct Autumnal Equinox Cultural Research Activities
2. Request for Authorization and Approval to Issue a Papahanaumokuakea Marine National Monument Research Permit to Dr. Randall Kosaki, National Oceanic and Atmospheric Administration, Papahanaumokuakea Marine National Monument, for Access to State Waters to Conduct Surveys of Deep Coral Reefs
3. Request for Authorization and Approval to Issue a Papahanaumokuakea Marine National Monument Education Permit to Dr. Andrew Rossiter, University of Hawaii, Waikiki Aquarium, for Access to State Waters to Conduct Coral and Fish Collection Activities
4. Request for Authorization and Approval to Issue a Papahanaumokuakea Marine National Monument Special Ocean Use Permit to Kyle Nakamoto, Red Sea Ocean Adventures, for Access to State Waters to Document Fieldwork and Conduct Filming Activities
5. Request for Authorization and Approval to Issue a Papahanaumokuakea Marine National Monument Research Permit to Dr. Robert Toonen, University of Hawaii, Hawaii Institute of Marine Biology, for Access to State Waters to Conduct Intertidal Biodiversity Survey Activities
6. Request for Authorization and Approval to Issue a Papahanaumokuakea Marine National Monument Native Hawaiian Practices Permit to Shauna Kehaunani Tom, Friends of Papahanaumokuakea, for Access to State Waters to use Traditional Ecological Knowledge to Examine Intertidal Ecosystems

7. Request for Approval of Special Activity Permit 2011-33 for Dr. Sam Kahng, Hawaii Pacific University, to Conduct Research on State Regulated Live Rocks on Oahu & Statewide
8. Request for Board Approval to Allow DLNR to Enter into a Four-Year United States Army Corps of Engineers (USACE) Cost Share Agreement (\$2,727,270 Federal/\$909,090 State for a Total Study Cost of \$3,636,360) to Conduct the USACE Section 729 WRDA 1986 West Maui Watershed Plan – (From Signature Date through September 30, 2015)
and
Request Delegation of Authority to the Chairperson to Execute the Cost Share Agreement, Approve the Watershed Assessment Management Plan and Self-Certify a Non-Federal Sponsor's Financial Capability for Agreements

H. ADMINISTRATION

1. Non-Action Item Open Discussion by Board Members about Issues, Policies, etc. affecting the Department of Land and Natural Resources (DLNR) or Board of Land and Natural Resources (BLNR)

I. HISTORIC PRESERVATION

1. Request Approval for Selection of Competitive Sealed Proposal and Authorized the Chairperson to Award and Execute a Contract to Develop, Coordinate and Implement the Process for a New Draft of the State Plan for Submission and Acceptance by the National Park Service.

J. BOATING AND OCEAN RECREATION

1. Delegation of Authority to the Chairperson of the Board of Land and Natural Resources (Board) to Solicit and Award Service Contracts for Janitorial, Electrical, Plumbing, Refuse and Buoy Maintenance at Statewide Small Boat Harbor Facilities
2. Recommend The Board Of Land And Natural Resources (Board) Approve The Issuance Of Commercial Use Permits For Commercial Catamaran Activities Taking Place On Waikiki Beach And Near Shore Waters To The Operators Listed In Exhibit A
3. Administrative Enforcement Action For Citation No. 1 AI-OA-ETV041 Issued To Heather Klotz On July 2, 2011 For The Emergency Rule Prohibition Under HAR Section 13-256-73.13, "Ahu O Laka Safety Zone"
4. Administrative Enforcement Action For Citation No. 1 AI-OA-PJR031 Issued To Lee William On July 4, 2011 For The Emergency Rule Prohibition Under HAR Section 13-256-73.13, "Ahu O Laka Safety Zone"

5. Administrative Enforcement Action For Citation No. 1 AI-OA-ETV042 Issued To Patrick Miller On July 2, 2011 For The Emergency Rule Prohibition Under HAR Section 13-256-73.13, "Ahu O Laka Safety Zone"
6. Request Approval to Adopt Amendments to Title 13, Subtitle 11, Ocean Recreation and Coastal Areas, Part III, Hawaii Administrative Rules as follows: 256-39, which pertain to vessel operations in Hanalei Bay and river; 256-71, 256-72, 256-73 and 256-77, which implement the Kaneohe Bay Master Plan according to HRS §200-39; and subsections added: Chapter 13-256-72.1, 256-73.1, 256-73.2, 256-73.3, 256-73.4, 256-73.5, 256-73.6, 256-73.7, 256-73.8, 256-73.9, 256-73.10, 256-73.11 and 256-73.12, which implement the Kaneohe Bay Master Plan according to HRS §200-39.
7. Request for Authorization to Enter into a Memorandum of Agreement with the Department of Transportation Regarding the Maintenance, Planning, Installation, and Monitoring of Ten Day Use Moorings in Hilo Bay as well as Another One Hundred Day Use Moorings Statewide

K. CONSERVATION AND COASTAL LANDS

1. Adoption of Amendments to Chapter 13-5, Hawaii Administrative Rules (HAR), "Conservation District" by the Office of Conservation and Coastal Lands including minor punctuation, language consistency & clarity, reorganization, technical changes and as noted in Attachment A which is incorporated in this agenda
2. Conservation District Use Application KA-3588 for the Kuhio Highway Stabilization Project by the State Department of Transportation, Highways Division, in Hanalei, Kauai, TMK (4) 5-4-004:032

L. ENGINEERING

1. Approval to Execute Supplemental Agreement to Contract for Professional Services, Contract No. 58307, for Job No. D00AO76A, Kawai Nui Marsh Levee Project, Oahu, Hawaii
2. Authorization to Enter Into a Memorandum of Agreement between the State of Hawaii, Department of Land and Natural Resources, and the State of Hawaii, Department of Transportation to Supplement the Memorandum of Understanding for the Ferry Pier and Landside Improvements at Kaunakakai Harbor/Small Boat Harbor Executed on May 17, 2004
3. Application for a DLNR Dam Safety Construction/Alteration Permit, Permit No. 49 - Kolea Reservoir (MA-0097), Dam Alteration and Removal, Hana, Maui, Hawaii
4. Application for a DLNR Dam Safety Construction/Alteration Permit, Permit No. 58 - Napili 4-5 Desilting Basin (MA-0127), Dam Outlet Modification, Napili, Maui, Hawaii

5. Request Authorization to Select Consultants and Authorize the Chairperson to Negotiate and Execute Agreements with Consultants and/or Government Agencies as Necessary to Administer HRS Chapter 179D, Entitled the Dam and Reservoir Safety Act of 2007

The Board may go into Executive Session pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, in order to consult with its attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities.

IF YOU WANT TO BE PLACED ON THE MOVE UP AGENDA, PLEASE SIGN IN BY 8:50 A.M. THE DAY OF THE MEETING.

ALL MATERIALS LISTED ON THIS AGENDA ARE AVAILABLE FOR REVIEW IN THE DLNR CHAIRPERSON'S OFFICE OR ON THE DEPARTMENT WEBSITE THE WEEK OF THE MEETING AT: <http://hawaii.gov/dlnr/chair/meeting/index.html>

INDIVIDUALS REQUIRING SPECIAL ASSISTANCE OR ACCOMMODATIONS (at the BLNR meeting) ARE ASKED TO CONTACT THE CHAIRPERSON'S OFFICE AT (808) 587-0400 AT LEAST THREE DAYS IN ADVANCE OF THE MEETING.

K-1 Adoption of Amendments to Chapter 13-5, Hawaii Administrative Rules (HAR), "Conservation District" by the Office of Conservation and Coastal Lands including minor punctuation, language consistency & clarity, reorganization, technical changes and as follows:

- §13-5-2 Definitions**-Added Average annual coastal erosion rate; Cabin; Clearing; Coastal erosion study; Coastal high hazard area; Added comprehensive management plan (CMP); Added Invasive species; Imminently threatened; Emergency; Flood zone; Grading; Grubbing; Minor alteration; Minor repair; Moderate alteration; Major alteration; Presiding officer; Public purpose use; Repair, maintenance, operation; Shelter; Shoreline; & Transient rental.
Amended Accessory use; Commercial purpose; Historic property; Land use; Management plan; Natural resource; Nonconforming use; State marine waters Submerged lands; Subzone; Topographical features; & Water system.
Repeal Natural area reserve; Plant sanctuary; & Wildlife sanctuary.
- §13-5-3 Appeals**- Clarified final orders by the Dept. or Board may be appealed.
- §13-5-6 Penalty**-Added new subsections: to clarify that authorization is required prior to performing land uses; that violations shall be recorded with the property deed and referenced the Civil Resource Violation System.
- §13-5-7 Nonconforming uses & structures**-Formerly §13-5-37; clarified language.
- §13-5-16 Designation of Subzones**-Increased fee to \$500 plus publication costs for public hearing.
- §13-5-17 Boundary determinations; criteria**-Increased fee to \$100; Clarified that subzone boundary could be defined by the metes and bounds of the property.
- §13-5-22 Identified land uses in the protective subzone-**
P-1 DATA COLLECTION-Amended language describing the criteria for authorization under A-1, B-1, C-1 & D-1;
P-2 FISHPONDS-Identified land use redefined as reconstruction or a new fishpond with a management plan;
P-4 REMOVAL OF INVASIVE SPECIES-Amended language describing the criteria for authorization; The Dept. reserves the right to require a higher level of authorization;
P-6 PUBLIC PURPOSE USE-Redescribed public purpose as a not for profit land use with the exception that an independent non-government regulated public utility may be considered to be engaged in a public purpose use;
SANCTUARIES-Removed as an identified land use;
P-8 STRUCTURES AND LAND USES, EXISTING-Clarified the criteria for authorizations; Defines that fishpond repair and maintenance shall be in accordance w/§183-44,HRS; Allows existing nonconforming residences of like characteristics to be replaced or reconstructed subject to existing development standards;
P-9 STRUCTURES, ACCESSORY-Refined and clarified;
P-12 POWER GENERATION FROM RENEWABLE RESOURCES-New identified land use. Provides opportunities to develop alternatives sources of energy to coal and oil on conservation lands including, but not limited to, wind, hydro, geothermal and biomass;
P-13 LAND AND RESOURCE MANAGEMENT-New identified land use. To allow landowners to take care, maintain their land with less government burden. More substantive actions may be required as determined;

P-14 TELECOMMUNICATIONS-New identified land use. To specify minor and major permits for a variety of situations;

P-15 SHORELINE EROSION CONTROL-Relocated from the Resource subzone. Clarifies requirements for applicability; requires a shoreline certification;

P-16 BEACH RESTORATION-New identified land use. Provides for major and minor permits.

§13-5-23 Identified land uses in the limited subzone

L-1 AGRICULTURE-Clarifies a management plan is required; Amended to include water systems;

BOTANICAL GARDENS & PRIVATE PARKS -*Relocated*. Identified in the Resource subzone;

EROSION CONTROL-*Relocated*. Shoreline erosion control identified under the Protective subzone;

SEAWALLS & SHORELINE PROTECTION-*Relocated*. Shoreline erosion control identified under the Protective subzone;

STRUCTURES, ACCESSORY-*Relocated*. Identified under the Protective subzone;

L-2 LANDCAPING-Revised language to qualify that if chemicals are used, it must be in accordance with state and federal laws; the introduction of invasive species is prohibited; and authorization criteria;

L-3 SINGLE FAMILY RESIDENCE-Clarified residence must be within the boundaries of a FIRM maps;

L-4 WILDERNESS CAMP-New identified land use. A management plan is required.

§13-5-24 Identified land uses in the resource subzone

R-1 AQUACULTURE-Clarifies a management plan is required;

R-3 ASTRONOMY FACILITIES-Clarifies a management plan is required;

R-4 COMMERCIAL FORESTRY-Clarifies that this use must be sustainable and requires a management plan;

LANDSCAPING-*Relocated*. Identified under the Limited subzone;

R-5 MARINE CONSTRUCTION-Clarifies maintenance of previously dredged areas are allowed. Refined land use;

R-6 MINING AND EXTRACTION-Clarifies a management plan is required;

R-8 BOTANICAL GARDENS, PRIVATE PARKS, AND NATURE CENTERS-*Relocated* from the Limited subzone. Siting requirements and hours of operations defined. Clarifies a management plan is required.

§13-5-30 Permits, generally-Added additional language for CMPs and that if applicant's are unsure of authorization, written inquiry should be made; Removed subsection (d) that exempted certain land uses on submerged land from the requirements of a CDUA.

§13-5-31 Permit applications-Clarified environmental documents are required unless exempted; applications require a shoreline certification unless waived by the Dept.; a 60-day internal review for State-owned land; and applications will not be processed until violations are resolved.

§13-5-32 Fees- Added application fee for state projects to be waived.

- §13-5-33 **Departmental permits**-Application fee increased to \$250. Public hearing fees to include publication costs. Clarifies who may appeal a decision on Departmental permits.
- §13-5-34 **Board permits**-Application fee shall be equal to 2.5% of the total project cost, at a minimum of \$250 to a maximum of \$2500. Public hearing fees to include publication costs.
- §13-5-35 **Emergency permits**-Clarifies that the Chairperson or the Deputy Director in the absence of the Chairperson may issue an emergency authorization to alleviate a threat to public health, safety and welfare, in isolated situations; amended language relating to natural disasters; Stipulate that public utility or agency of government agencies must provide a post-disaster repair report describing the work that was conducted within 30 days of the date of the repair or reconstruction.
- §13-5-36 **Temporary variance**-Clarifies variances will not be more than one year; Application fee increase to \$250; Public hearing fees to include publication costs.
- §13-5-37 **Nonconforming uses**-*Relocated* to §13-5-7.
- §13-5-38 **Site plan approvals (SPA)**-Fire protection added.
- §13-5-39 **Management plan approvals**-Amended to include that the Department or Board may require a CMP. Clarifies that a management plan must be approved simultaneously with the permit.
- §13-5-40 **Hearings**-Clarifies hearings are not required for SPAs; Amended for consistency with Chapter 183C, HRS for amendments.
- §13-5-41 **Single family residences**- Amended language for minor deviations from SFR standards, limits the deviation to 15 percent; Prohibits the construction of an SFR in the Conservation District where the same lot provides for residential development under a different land use district.
- §13-5-41.1 **Fire buffer zone**-New section. Provide for fire protection zones in new Exhibit 5.
- §13-5-42 **Standard conditions**- Language refined regarding prohibition of transient rentals and landscaping; Added 5 new conditions regarding obtaining county permits, landscaping containment along the shoreline, artificial lighting; beach, dune protection and native Hawaiian practices. Clarified permit may be void as determined by the Chairperson or Board.
- §13-5-43 **Time extensions**-Revised that a time extension should be requested prior to expiration deadline; after the expiration deadline, request shall be forwarded to the Board.
- EXHIBIT 1 Subzone Designations** -Designation of subzones for 12 Quad maps.
- EXHIBIT 3 Management Plan Requirements**-Language amended to provide status-updates & reporting frequencies as determined on a case-by-case basis.
- EXHIBIT 4 Single Family Residential Standards**-Amended development standards (i.e. establishes shoreline setback).
- EXHIBIT 5 Fire Buffer Zone Standards**-New exhibit with guidelines for fire buffers.