

3. DIVISION OF FORESTRY AND WILDLIFE

- i. Approve update fees for camping, cabin, and other recreational uses in forest reserves.
- j. Conduct public hearings to repeal hawaii administrative rules chapter 13, § 13-125, “rules regulating wildlife sanctuaries”, and adopt chapter 13, § 13-126, “rules regulating wildlife sanctuaries”.
- k. Set aside to department of land and natural resources, division of forestry and wildlife for wildlife sanctuary purposes and issuance of a management right-of-entry, eighteen wildlife sanctuaries previously designated by the board and identified in chapter 13-125, hawaii administrative rules.
- l. Set aside to department of land and natural resources, division of forestry and wildlife for wildlife sanctuary purposes and issuance of a management right-of-entry, pala‘au, moloka‘i, tax map keys: (2)5-1-1:2, 4 and (2) 5-2-11:4.
- m. Authorize the chairperson of the department of land and natural resources to develop and operate public shooting ranges via cooperative agreement, concession, or lease .
- n. Conduct public hearings to amend chapter 13, § 13-121, “rules regulating the hunting of wildlife on public lands and other lands” to establish rules regulating the use of public shooting ranges.
- o. Set aside to department of land and natural resources, division of forestry and wildlife for na ala hele trail and off highway vehicle park purposes and issuance of a management right-of-entry, wahikuli, maui, tax map key: (2) 4-5-21:4.

INFORMATION

The Division of Forestry and Wildlife, as part of the Recreational Renaissance, is requesting seven distinctly different but related actions by the Board to allow for improved service to the public and increase revenue generation for improved management capacity for the Division of Forestry and Wildlife.

i. Update fees for camping, cabin, and other recreational uses in forest reserves

BACKGROUND:

Pursuant to HRS Chapter 183 and HAR Chapter 104, the Board of Land and Natural Resources is authorized to set and charge fees for issuance of Forest Reserve system permits to the public. Pursuant to HRS Chapter 198D and HAR Chapter 13-130-42, the Board is authorized to set charge fees for the use of Na Ala Hele Trails system. The

Division of Forestry and Wildlife currently issues Camping Permits for use of cabins and campground facilities that it manages. Recently, the Department's Division of State Parks conducted an analysis of, and provided the Board with recommendations for, increases in fees for cabin and campground use in State Parks. In order to bring permit fees that DOFAW charges for similar uses up to date, and to provide consistency across the Department, the Division recommends that the Board approve an increase in Forest Reserve and Na Ala Hele Trail system camping permit fees that emulates the fees proposed by State Parks as detailed in Attachment C. 1. 1. The fees collected will be deposited into the Forest Stewardship and Na Ala Hele special funds, respectively, and used for future maintenance and operation of the recreational facilities.

Pursuant to HRS Chapter 183 and HAR Chapter 104, the Board of Land and Natural Resources is authorized to set and charge fees for issuance of Forest Reserve System permits to the public. DOFAW currently issues Forest Reserve System Commercial Harvest Permits for commercial harvest of both timber and non-timber forest products. However, other recreational commercial activities are occurring within the Forest Reserve System that do not have existing fee guidelines set by the Board, nor fall under the commercial activity permit system provided under the Na Ala Hele Program's (NAH) HAR 13-130. The NAH Program does charge fees for commercial tour activities based in part on the number of people involved and the relative impact of use. In order to establish permit fees that DOFAW charges for other commercial activities in the Forest Reserve System and to provide consistency across the Department, the Division recommends that the Board approve an increase in Forest Reserve System Recreational Commercial Permit fees that emulates the fees currently employed by the NAH Program as detailed in Attachment C. 1. 2. The fees collected will be deposited into the Forest Stewardship special fund and used for future maintenance and operation of the recreational facilities.

i. RECOMMENDATION:

Pursuant to the authority granted to the Board by HRS Chapter 183 and HAR Chapter 104, and HRS Chapter 198D and HAR Chapter 13-130-42, approve updated fees for Forest Reserve and Na Ala Hele system camping permits, with fees to be deposited into the respective program special funds.

Pursuant to the authority granted to the Board by HRS Chapter 183 and HAR Chapter 104, approve updated fees for Forest Reserve system commercial permits as discussed above and detailed in Attachment C. 1. 2., with the fees collected to be deposited into the Forest Stewardship special fund and used for future maintenance and operation of the recreational facilities.

- j. Conduct Public Hearings to repeal Hawaii Administrative Rules Chapter 13, § 13-125, “Rules Regulating Wildlife Sanctuaries”, and adopt Chapter 13, §13-126, “Rules Regulation Wildlife Sanctuaries”**

BACKGROUND:

The Hawaii State Wildlife Sanctuary system supports many of the state's most important and sensitive habitats for native flora and fauna, and includes offshore islets, coastal wetlands, and montane forests. Many wildlife sanctuaries provide opportunities for education and recreation in the form of wildlife viewing and nature activities, and some are heavily used. With increasing pressure from human use, wildlife sanctuaries across the state are in need of enhanced measures to protect their native resources.

Statutory recognition of the importance of many of these habitats dates at least to the turn of the last century when President Theodore Roosevelt signed Executive Order #1019 in 1909 establishing Kure Atoll as a seabird preserve. In the years that followed prior to statehood, a series of state laws and executive orders were enacted for the protection of several offshore islets that supported significant seabird breeding areas. The protections were codified as regulations under the then Division of Fish and Game, and in 1981, replaced with Title 13, Chapter 125, Rules Regulating Wildlife Sanctuaries (HAR 13-125), which established the wildlife sanctuary system under the Division of Forestry and Wildlife consisting of 42 offshore islets, two coastal wetland sites, and one montane forest site. While those rules afford significant protection for some sanctuaries, they have never been revised or updated and are now in need of revision. Because the proposed revision is extensive, the Division proposes to repeal HAR 13-125 and adopt a new rule, HAR 13-126, detailed in Attachment C. 2. 1.

The regulatory approach in HAR 13-125 is to provide general rules regulating human activities in most sanctuaries, and prohibit all entry to five select sanctuaries, all of which are offshore islets. The revisions proposed here address a number of issues with the current rules, which are now nearly 30 years old. These are:

- Wildlife sanctuaries are characterized by some of the most sensitive habitats where human access can have devastating effects. However, some sanctuaries can support certain levels of public access and recreational use in some areas without risk to the natural resources. The current rules do not recognize this, designating five particular sanctuaries as closed in all areas, and all others as open in all areas. The Division proposes a new approach to the rules that will allow for restricted access to some sanctuaries when conditions can be specified that will allow access without risk to the native resources. Examples include some offshore islets in which activities on the beach or below the waterline will not impact native resources, seasonal restrictions to protect nesting birds during the breeding season, and restrictions on the number of visitors at any given time. Attachment C. 2. B. lists the 48 wildlife sanctuaries and identifies those for which closure or restrictions are proposed. Attachment C. 2. C. shows the locations of the sanctuaries corresponding to Attachment C. 2. B. The specific access provisions and restrictions identified in the rule for select sanctuaries are under development. The Division is consulting with communities to incorporate additional information pertinent to public access to be included in the final draft rule, which will be released for public review and comment, subject to chapter 91, Hawaii Revised Statutes (HRS).

•The revision will add new sanctuaries to the system. Five new wildlife sanctuaries have been added to the system by executive order since 1981. Under chapter 183D-3, subject to chapter 91, Hawaii Revised Statutes, the department shall adopt, amend, and repeal rules for the protection of wildlife sanctuaries. The additions are Pauwalu Point, Maui (EO# 3307, 1985), Hamakua Marsh, Oahu (EO# 3712, 1997), Puu Waawaa Forest Bird Sanctuary, Hawaii (EO# 3937, 2002), Pouhala Marsh, Oahu (EO# 4146, 2006), and Kawainui Marsh, Oahu (EO# 4201, 2007). In addition, the Division intends to propose the addition of Kapapa Island, Oahu and thirteen additional offshore islets that have significant biological resources to the inventory.

•The revision adds new protections for natural resources by recognizing that the purpose of the rules is to protect wildlife *and their habitats*. The revision provides explicit protection for all flora, fauna, geological, and cultural resources.

•The revision incorporates a number of new rules modeled after other department rules, including provision for native Hawaiian practice, access permits, regulation and fees for commercial activities, and additional measures to protect resources and public safety by allowing for the establishment of visiting hours and for temporary closure of up to two years, subject to approval by the board. Also added are regulations for a number of common activities that have potentially negative effects in wildlife sanctuaries, such as boating and vehicle use, litter, explosives, and use of motors and modelcraft.

•The revision identifies fees for commercial recreational activities consistent with those of the Forest Reserves and Na Ala Hele trails, with revenues to be deposited into the Endangered Species Trust Fund pursuant to HRS 195D-31.

j. RECOMMENDATION:

1. Approve that the Division of Forestry and Wildlife proceed with revisions to the wildlife sanctuary rules and consult with affected communities on access issues in the development of the draft rule.
2. Approve that the Division of Forestry and Wildlife conduct public hearings to repeal chapter 13-125 and adopt chapter 13-126, Hawaii Administrative Rules, subject to review and approval by the Chairperson and the Office of the Attorney General.
3. Authorize the Chairperson to set dates and times for public hearings, and appoint corresponding hearings officers.
4. Authorize any fees collected pursuant to the permitting of commercial activities in wildlife sanctuaries be deposited in the Endangered Species Trust Fund, pursuant to chapter 195D-31.

k. Set Aside to Department of Land and Natural Resources, Division of Forestry and Wildlife for Wildlife Sanctuary Purposes and Issuance of a Management Right-of-Entry, Eighteen Wildlife Sanctuaries Previously Designated by the Board and Identified in Chapter 13-125, Hawaii Administrative Rules.

APPLICANT: Department of Land and Natural Resources, Division of Forestry and Wildlife

LEGAL REFERENCE: Section 171-11 and 55, Hawai'i Revised Statutes (HRS), as amended.

LOCATION: Portions of Government lands comprising eighteen offshore islets of the islands of Hawaii, Maui, Molokai, Lanai, and Kauai.

Name	County	Island	District	Area (acres)	TMK
Keaoi	Hawaii	Hawaii	Kau	4	(3) 9-8-001:007
Mokupuku	Hawaii	Hawaii	North Kohala	1.5	(3) 5-1-001:015
Paokalani Island	Hawaii	Hawaii	North Kohala	2.4	(3) 5-1-001:013
Mokuaeae	Kauai	Kauai	Hanalei	3	(4) 5-2-004:018
Moku Naio	Maui	Lanai	Lahaina	0.08	N/A
Nanahoa Islets	Maui	Lanai	Lahaina	1.6	(2) 4-9-003:004
Poopoo	Maui	Lanai	Lahaina	0.5	N/A
Puupehe	Maui	Lanai	Lahaina	1.1	(2) 4-9-003:003
Alau Island	Maui	Maui	Hana	4.5	(2) 1-4-002:001
Keopuka Rock	Maui	Maui	Hana	1.7	(2) 1-1-001:049
Mokeehia Island	Maui	Maui	Wailuku	4.5	(2) 3-1-001:011
Moku Hala	Maui	Maui	Hana	0.18	N/A
Moku Mana	Maui	Maui	Hana	0.7	N/A
Papanui O Kane	Maui	Maui	Makawao	3.13	(2) 2-8-003:026
Huelo	Maui	Molokai	Kalawao	3.1	(2) 6-1-001
Mokapu Island	Maui	Molokai	Molokai	2.6	(2) 6-1-001
Mokumanu	Maui	Molokai	Molokai	2.87	N/A
Okala Island	Maui	Molokai	Kalawao	2.15	(2) 6-1-001

AREA: 39.6 acres, more or less.

ZONING: State Land Use District: Conservation; County CZO: None

TRUST LAND STATUS:

1. Section 5(b) lands of the Hawai'i Admission Act
2. DHHL 30% entitlement lands pursuant to the Hawai'i State Constitution: YES
____ NO X

CURRENT USE STATUS: Vacant and unencumbered.

PURPOSE: Wildlife Sanctuary purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action before the Board is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements. Inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

APPLICANT REQUIREMENTS: Applicant shall be required to provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

Title 13, Chapter 125, Rules Regulating Wildlife Sanctuaries (HAR 13-125) which established the wildlife sanctuary system under the Division of Forestry and Wildlife in 1981 identifies 42 offshore islets, two coastal wetland sites, and one montane forest as wildlife sanctuaries. However, eighteen of the 42 sanctuaries designated by rule in 1981 were never set aside to the Division of Forestry and Wildlife by executive order, and remain, therefore, technically unencumbered. This request allows the Division to proceed with the actions needed for the executive orders to set aside the sanctuaries to the Division of Forestry and Wildlife.

k. RECOMMENDATION:

That the Board, subject to Applicant fulfilling the Applicant Requirements above in sub-item k:

1. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to Department of Land and Natural Resources,

Division of Forestry and Wildlife under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:

- A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Authorize the issuance of a management right-of-entry to Division of Forestry and Wildlife covering the subject area, which are by this reference incorporated herein and further subject to the following:
- A. The standard terms and conditions of the most current right-of-entry document form, as may be amended from time to time; and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- l. Set Aside to Department of Land and Natural Resources, Division of Forestry and Wildlife for Wildlife Sanctuary Purposes and Issuance of a Management Right-of-Entry, Pala'au, Moloka'i, Tax Map Keys: (2) 5-1-1:2, 4 and (2) 5-2-11:4.**

APPLICANT: Department of Land and Natural Resources, Division of Forestry and Wildlife

LEGAL REFERENCE: Section 171-11 and 55, Hawai'i Revised Statutes (HRS), as amended.

LOCATION: Portion of Government lands of Ho'olehua situated at Pālā'au, Moloka'i, Moloka'i, identified by Tax Map Keys: (2)5-1-1:2, 4, 5, and the unencumbered parcels seaward of (2)5-1-1:2, 4, and (2) 5-2-11:4, as shown on the attached map labeled Attachment C.4.1.

AREA: 314.5 acres, more or less.

ZONING: State Land Use District: Agriculture; County of Maui CZO: None

TRUST LAND STATUS:

1. Section 5(b) lands of the Hawai'i Admission Act
2. DHHL 30% entitlement lands pursuant to the Hawai'i State Constitution:
YES _____ NO X

CURRENT USE STATUS: Vacant and unencumbered.

PURPOSE: Wildlife Sanctuary purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action before the Board is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements. Inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

APPLICANT REQUIREMENTS: Applicant shall be required to provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

The Hoolehua wetlands located at Palaau, Molokai currently comprises a degraded coastal wetland on unencumbered state land on the southern shore of Molokai. The site formerly provided habitat for native species, including native plants, migratory birds, and four endangered waterbird species. The wetlands have been degraded through extensive sediment accumulation from past upslope agricultural practices and by encroachment of aggressive non-native weedy vegetation. The level of sediment build-up at the site has compromised ecosystem function and allows run-off to damage marine habitats and coral reefs in the area. The goal of this requested action is to establish a wildlife sanctuary and begin responsible management to reclaim and restore functioning of degraded Molokai coastal wetlands. Management is expected to benefit the community, provide habitat for native wildlife, protect coastal areas and coral reefs, enhance cultural opportunities, and provide appropriate public access and educational advancement.

During public hearings conducted on Molokai in March, 2009, in which the Department accepted comments on a proposal to establish a wildlife sanctuary at this site, the Department received comments indicating that portions of these lands were formerly used for cultural practice as fishponds. The department intends to continue to work with the community to establish compatible use of the lands so that the community may restore and use the former fish ponds while enhancing the ecosystem integrity, wetland function, and wildlife habitat of those lands.

I. RECOMMENDATION:

That the Board, subject to Applicant fulfilling the Applicant Requirements above in sub-item l:

1. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to Department of Land and Natural Resources, Division of Forestry and Wildlife under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
 2. Authorize the issuance of a management right-of-entry to Division of Forestry and Wildlife covering the subject area, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry document form, as may be amended from time to time; and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- m. Authorize the Chairperson of the Department of Land and Natural Resources to Develop and Operate Public Shooting Ranges via Cooperative Agreement, Concession, or Lease.**

BACKGROUND:

In February of 2007, the Board approved in concept the creation of a public shooting range in the makai area of the Puu Anahulu Game Management Area of Hawaii Island, North Kona District, and authorized continued work to plan and develop the facility. Similar developments are now in progress to establish a public shooting range at Hanahanapuni Crater, within an area previously set aside by the board on February 23, 2001 for use as a public shooting range in the Lihue-Koloa Forest Reserve of Wailua, Kauai, Hawaii.

In order to ensure adequate and safe management of the facilities, the department is requesting authorization to establish a management agreement with a private or partner

entity, and to promulgate administrative rules to regulate the safe use of the facilities. Chapter 183D-28(e), Hawaii Revised Statutes, authorizes the department to “construct, operate, and maintain public outdoor and indoor target ranges for the program”. Chapter 171-56 authorizes the department to enter into contracts or issue licenses for concessions, subject to Chapter 102, such as would be negotiated and established for the operation and management of the Puuanahulu and Hanahanapuni public shooting ranges pursuant to this request.

m. RECOMMENDATION:

1. Authorize the Chairperson to proceed with development of public shooting ranges as described above and to negotiate and enter into cooperative agreements, concessions, or leases pursuant to Chapters 171-56 and/or Chapter 102, Hawaii Revised Statutes, for the operation and management of public shooting ranges, subject to review and approval by the Office of the Attorney General.

n. Conduct Public Hearings to Amend Chapter 13, § 13-121, “Rules Regulating the Hunting of Wildlife on Public Lands and Other Lands” to Establish Rules Regulating the Use of Public Shooting Ranges.

BACKGROUND:

An essential tool for the management of public shooting ranges is the establishment of rules regulating the use of public shooting ranges to provide for appropriate public use of the facilities and to ensure public safety. Draft rules are proposed as amendments to the Rules Regulating The Hunting of Wildlife on Public Lands and Other Lands, Chapter 13-121, Hawaii Administrative Rules. The draft rules authorize the establishment of agreements or concessions to operate public shooting ranges, establishing restrictions on firearms that can be used, and authorize the use of a broad range of hunting equipment for hunter education and public recreation. The proposed amendment is attached as Attachment C. 6. 1.

n. RECOMMENDATION:

1. Authorize the Division of Forestry and Wildlife to conduct public hearings to amend Hawaii Administrative Rules Chapter 13-121 to establish rules regulating the use of public shooting ranges, subject to review and approval by the Office of the Attorney General.
 2. Authorize the Chairperson to set dates and times for public hearings, and appoint corresponding hearings officers.
- o. Set Aside to Department of Land and Natural Resources, Division of Forestry and Wildlife for Na Ala Hele Trail and Off Highway Vehicle Park Purposes and Issuance of a Management Right-of-Entry, Wahikuli, Maui, Tax Map Key: (2) 4-5-21:4.**

APPLICANT: Department of Land and Natural Resources, Division of Forestry and Wildlife

LEGAL REFERENCE: Section 171-11 and 55, Hawai'i Revised Statutes (HRS), as amended.

LOCATION: Portion of Government lands of Wahikuli, Maui, identified by Tax Map Key: (2)4-5-21:4, as shown on the attached map labeled Attachment C. 7. 1.

AREA: 665.5 acres, more or less.

ZONING: State Land Use District: Agriculture; County of Maui CZO: None

TRUST LAND STATUS:

1. Section 5(b) lands of the Hawai'i Admission Act
2. DHHL 30% entitlement lands pursuant to the Hawai'i State Constitution:
YES X NO

CURRENT USE STATUS: Vacant and unencumbered.

PURPOSE: Na Ala Hele Trail and Off-Highway Vehicle Park.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action before the Board is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements. Inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

APPLICANT REQUIREMENTS: Applicant shall be required to provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

Use of off-highway vehicles (OHVs) has increased dramatically in recent years, providing recreational opportunities for a broad spectrum of the community. In many areas, the rapid increase in use of OHVs has not been accompanied by development of appropriate venues for their use. Population growth, accompanied by urban sprawl and environmental concerns, has produced a shortage of appropriate and legal areas to ride and drive off-highway recreational vehicles. Trespass and use of OHVs in environmentally sensitive areas is taking a toll of native resources across the state and there is now a pressing need to

develop pro-active management solutions to the problem. OHV parks provide managed recreational and educational facilities that allow for a variety of riding experiences for off-highway motorcycles and all –terrain vehicles.

Unauthorized and uncontrolled OHV use of natural areas often occurs when no designated local OHV sites are approved. Properly designated and managed OHV recreation sites and programs can help protect natural and historic resources by directing OHV use to the most appropriate sites that have been developed with environmentally sensitive design. The goal of this project is to develop an OHV site that incorporates an interpretive program focusing on natural, historic and cultural values. The park will feature managed environmental activities and volunteer programs that offer positive means to promote responsible land use that benefits the parks, local communities, and other outdoor recreation venues. Development of this project will protect open space, enhance local neighborhoods through partnerships with local schools, and provide opportunities for projects to make the park an integral part of the community.

The state Na Ala Hele Maui Advisory Council has been studying this issue since 2002 and much work has already gone into the search for a suitable location for an OHV park. In 2005, NAH brought the National Off-Highway Vehicle Conservation Council to Maui and facilitated the creation of the Maui Off-Highway Vehicle Association (MOHVA). Through a joint effort with MOHVA, the Division conducted a survey of approximately 400-500 OHV enthusiasts which demonstrated strong support to identify a site and develop an OHV park. In 2007, the Wahikuli parcel became available, and the Division has determined that this parcel provides a suitable location for the development of the park. Continuing discussions have included the State DLNR – Land Division, County of Maui – Planning Department, The Nature Conservancy, the Hawaii Housing Finance and Development Corporation (HHFDC), and several environmental organizations.

HHFDC is developing a residential subdivision nearby and has expressed several concerns about the OHV park as it relates to their proposed housing development. A small portion (the “toe”) of the parcel requested for set aside to DOFAW falls within the HHFDC’s master plan for the housing development, as do some wells that are needed for the housing development, as shown on the attached map labeled Attachment C. 7. 2. The Division has given careful consideration to the concerns expressed by HHFDC and is confident that mutually satisfactory arrangements can be made. Concerns expressed by HHFDC are that the OHV park be developed and operated on lands north of Hanakea Gulch, that HHFDC have access to the wells, and that approval for subdivision be obtained. The Division is receptive to these concerns and will continue to work with HHFDC to achieve a mutually acceptable arrangement.

o. RECOMMENDATION:

That the Board, subject to Applicant fulfilling the Applicant Requirements above in sub-item o:

1. Approve of and recommend to the Governor the issuance of an executive order

setting aside the subject lands to Department of Land and Natural Resources, Division of Forestry and Wildlife under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:

- A. Reservation for future withdrawal of lands covering tmk: 4-5-21:portion 4 (toe), south of Hanakea Gulch along the boundary of the Land Use Commission Urban Classification boundary or other boundary acceptable to the Hawaii Housing Finance and Development Corporation (HHFDC) and DLNR for the Villages of Leiali'i project;
 - B. Reservation for designation of easements for potable water wells 5 and 6 located on tmk: 4-5-21:4, transmission lines, facilities and improvements and access thereto for the Villages of Leiali'i project;
 - C. Access to the subject property, TMK 4-5-21: 4, over TMK 4-5-21: 3 and 22 shall be by temporary rights-of-entry and ultimately a permanent access easement in forms and content acceptable to HHFDC and the Department of Land and Natural Resources, respectively.
 - D. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - E. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - F. Review and approval by the Department of the Attorney General; and
 - G. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Authorize the issuance of a management right-of-entry to Housing Finance and Development Corporation for tmk: 4-5-21:22 and portion of 4 (toe), and Division of Forestry and Wildlife for tmk: 4-5-21:portion of 4, which are by this reference incorporated herein and further subject to the following:
- A. The standard terms and conditions of the most current right-of-entry document form, as may be amended from time to time; and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.