

**State of Hawai'i
Department of Land and Natural Resources
Division of State Parks
Honolulu, Hawai'i**

December 11, 2009

Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

Subject: Request Approval to Renew and Issue New Revocable Permits for Use of State Parks Lands on the Islands of Kaua'i, O'ahu, Maui, and Hawai'i.

Statute: Sections 171-13 and -55, HRS, as amended.

Background:

The Division of State Parks (State Parks) annually requests Board approval to renew its existing month-to-month revocable permits in December in anticipation of the renewed permits taking effect on January 1 of the following year. Pursuant to §171-55, HRS, the Board may allow revocable permits to continue on a month-to-month basis for additional one-year periods.

With this submittal, State Parks is requesting the annual renewal of 16 revocable permits approved by the Board at its December 12, 2008 meeting and, in addition, is seeking approval to enter into 14 new revocable permits. These new permits would be issued for authorized commercial uses that are already occurring on State Parks lands and are covered by use agreements that need to be revisited or revised. In 13 cases, existing permits need to be brought into conformance with current practices and, in one case, State Parks is seeking Board authorization to raise the percentage rent of a previously renewed revocable permit. Most of the 20 revocable permits are intended to be transitional in that they will eventually be replaced by new special use permits that would be allowed under proposed administrative rule amendments, concession leases, or other long-term leases.

All revocable permits under consideration by this submittal are listed in Exhibits "A" through "C".

Discussion:

Annual Renewal Request for 16 Revocable Permits:

The 16 revocable permits requiring renewal include six boat landing permits for commercial guided tours at Nu'alolo Kai and Miloli'i, Nāpali Coast State Wilderness Park;

three food, beverage and gift concessions at Wailua River Marina (two) and Hāpuna Beach (one); five permits for the nonprofit use of recreation-residence and camp facilities at Kōke'e and Waimea Canyon State Parks; and one pasture permit at Kawainui Marsh State Park Reserve (Exhibit "A").

The six boat landing permits, three for kayak tours and three for Zodiac tours, were first executed in 2005 and have been renewed annually. As part of the Department's broader efforts to assess existing and potential revenue sources, State Parks is proposing to raise the base and percentage rent of these commercial tours. State Parks will be consulting with the permittees on these increases and will return to the Board for approval of any new rent once this process is completed. We also anticipate replacing these revocable permits with special use permits issued for commercial activities if State Parks proposed administrative rule amendments are adopted. The amended rule will authorize State Parks to streamline the commercial permitting process.

The food, beverage, and gift concessions at Wailua River Marina and Hāpuna Beach were previously operated under concession leases that expired. Subsequently, the operations continued under revocable permits executed in 2005 and renewed annually. State Parks intends to pursue long term concession leases for these properties through a public, competitive bid process.

After the expiration of their long-term leases, five nonprofit organizations were issued revocable permits in 2007 for the use of recreation-residence and camp facilities in the Kōke'e and Pu'u ka Pele Camp Lots. These permits have been renewed annually. State Parks placed priority on finalizing lease negotiations with the existing recreation-residence lessees in these camp lots and, now, on the up-coming auction of vacant recreation-residences. Both actions are critical for generating revenue to maintain and staff the parks. Once the auction is completed, State Parks will turn its attention to finalizing twenty-year leases for the five nonprofit organizations.

The use of 17 acres at Kawainui Marsh State Park Reserve for pasture purposes has been allowed continuously under a revocable permit first executed in 1993 and renewed annually by the Land Division and then by State Parks. An Executive Order transferring management and control of this 17 acre parcel to State Parks was issued in 2005. When time and funds allow, the current and potential use of this property should be evaluated in terms of its compatibility with the mission of State Parks and the existing Master Plan for Kawainui Marsh.

Approval to Issue 13 New Revocable Permits:

Pursuant to §13-146-66, HAR, State Parks has been issuing annual permits called an "Agreement for Commercial Use" to commercial kayak operators leading guided tours at specified locations in the Wailua River State Park (Exhibit "B"). To conduct these tours, the 13 permittees must also obtain commercial use permits and vessel register decals from the Division of Boating and Ocean Recreation (DOBOR) to use facilities and waters under DOBOR jurisdiction. State Parks is requesting Board approval to issue new revocable

permits to replace the “Agreement for Commercial Use” to bring the permits into conformity and because they are due to expire. Conditions and requirements in the current “Agreement” are very similar to those found in revocable permit documents.

As with the boat landing permits issued for the Nāpali Coast, State Parks will be recommending increases in the base and percentage rental rates for the Wailua River permits pending consultation with the current permittees and will return for Board approval. Eventually these revocable permits will be replaced with special use permits for commercial activities once the State Parks proposed administrative rule amendments are adopted.

Approval to Issue New Revocable Permit with Rental Increase:

At its March 27, 2009, the Board approved issuance of an “after-the-fact” revocable permit to The Lodge at Kokee, LLC to operate Kōke‘e Lodge restaurant and gift shop and to manage the short-term rental of 12 cabins (Exhibit “C”). The agreement includes the use of the former Kanaloahuluhulu Ranger Station by the Lodge manger. It was an “after-the-fact” permit because the previous revocable permit had expired on December 31, 2008. The permittee had been awarded a concession lease for these purposes, which was in effect from July 1, 2004 to December 31, 2006. The Board approved two six-month holdover leases after the concession lease expired in 2006 and, after these expired, approved the issuance of a revocable permit that expired in December 2008. The Board approved the revocable permit and its renewal with the expectation that State Parks would be seeking a long-term concession lease for these properties through the public bid process. This is still the intention of State Parks, but our efforts have been hampered by delays in finalizing the Kōke‘e and Waimea Canyon State Parks Master Plan and EIS that will address the issue of park concessions and related improvements. As mandated by the 2008 Legislature, we are currently working with the Kōke‘e State Parks Advisory Council to finalize the Master Plan.

Instead of renewing the current revocable permit, staff is requesting Board approval to issue a new revocable permit to The Lodge at Kokee, LLC that will increase the percentage rental from 3% to 4% of gross profits (gross sales less cost of goods sold). Based on last fiscal year’s revenues, the proposed increase could generate an addition \$5,000 for the State Parks special fund. The proposed increase has been discussed with the permittee and they do not object. This modest increase will strike a balance between State Parks’ critical need for revenues and the hardships many businesses face in the current economy and with declines in visitor arrivals.

Recommendations: That the Board:

1. Authorize State Parks to renew the 16 revocable permits listed in Exhibit “A” on a month-to-month basis for a one-year period.
2. Authorize State Parks to enter into 13 new revocable permits for the commercial kayak operations listed in Exhibit “B” to conduct tours at Wailua River State Park.

3. Authorize State Parks to enter into a new revocable permit with the Lodge at Kokee LLC to manage and operate the properties listed in Exhibit "C," Kōke'e State Park, and to increase the percentage rental to 4% of gross (gross sales less cost of goods sold).
4. Approve such other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.

Respectfully submitted,



DANIEL S. QUINN
State Parks Administrator

APPROVED FOR SUBMITTAL:



LAURA H. THIELEN, Chairperson

EXHIBIT "A"
DIVISION OF STATE PARKS REVOCABLE PERMITS

Revocable Permits Approved by the Land Board in December 2008 and Subject to Renewal

Kaua'i, O'ahu, Maui, and Hawai'i Islands

RP #	Name of Permittees	Park	TMK	Character of Use	Leases Area (acres)	Current Rent (base or percentage)	Trust Land \$5(b)
SP-0044	Na Pali Kayak, Inc	Nāpali (Miloli'i), Kaua'i	(4) 1-4-001:07	Kayak Tours	N/A	\$5 per person, 5% of gross, which ever higher	Yes
SP-0045	Kayak Kauai	Nāpali (Nu'alolo Kai), Kaua'i	(4) 1-4-001:07	Kayak Tours	N/A	\$5 per person, 5% of gross, which ever higher	Yes
SP-0046	Outfitters Kauai	Nāpali (Miloli'i), Kaua'i	(4) 1-4-001:07	Kayak Tours	N/A	\$5 per person, 5% of gross, which ever higher	Yes
SP-0004	Na Pali Zodiac Productions	Nāpali Coast SWP (Nu'alolo Kai), Kaua'i	(4) 1-4-001:07	Zodiac Tours	N/A	\$5 per person, 5% of gross, which ever higher	Yes
SP-0005	Na Pali Sea Tours	Nāpali Coast SWP (Nu'alolo Kai), Kaua'i	(4) 1-4-001:07	Zodiac Tours	N/A	\$5 per person, 5% of gross, which ever higher	Yes
SP-8701	Lady Ann Cruises	Nāpali Coast SWP (Nu'alolo Kai, Milolii), Kaua'i	(4) 1-4-001:07	Zodiac Tours	N/A	\$5 per person, 5% of gross, which ever higher	Yes
SP-0001	Wailua Marina Restaurant	Wailua River SP (Marina), Kaua'i	(4) 3-9-04:9	Food, Beverage, Gift Concession	1058 sq ft	\$200 per month, 10% of gross, which ever is higher	Yes
SP-0003	Big Save, Inc.	Wailua River SP (Marina), Kaua'i	(4) 3-9-04:10	Concession (Food)	7832 sq ft	\$200 per month, 10% of gross, which ever is higher	Yes
SP-0189	Ka Imi Naauao o Hawaii Nei	Waimea Canyon SP, Kaua'i	(4) 1-4-002:020	Nonprofit Camp	1.0 ac.	\$2,520.00 annually	Yes
SP-0190	Hawaii Assn. 7 th Day Adventists	Waimea Canyon SP, Kaua'i	(4) 1-4-002:055	Nonprofit Camp	4.06 ac.	\$132.00 annually	Yes
SP-0191	Hawaii Conference Church	Kōke'e SP, Kaua'i	(4) 1-4-004:027 a,b	Nonprofit Camp	.50 ac.	\$132.00 annually	Yes
SP-0192	Hawaii United Methodist	Waimea Canyon SP, Kaua'i	(4) 1-4-002:024	Nonprofit Camp	3.05 ac	\$132.00 annually	Yes
SP-0193	Kauai Christian Fellowship	Waimea Canyon SP, Kaua'i	(4) 1-4-002:041	Nonprofit Camp	.99 ac	\$2,520.00 annually	Yes
SP-6843	Wesley & Joan Cash	Kawainui Marsh SPR, Oahu	(1) 4-2-013:10	Pasture	17 ac	\$858.00 annually	No
SP-56	SMCA, Inc.	Hāpuna Beach SRA	(3) 6-6-002:35	Food and Beverage Concession	375 sq ft (building) 15,000 sq ft (land area)	\$1200 per month or 8% of gross, whichever is higher	Yes

EXHIBIT "B"
DIVISION OF STATE PARKS REVOCABLE PERMITS
WAILUA RIVER STATE PARK

Commercial Activity Permits to be Replaced by New Revocable Permits

Kaua'i

RP #	Name of Permittees	Park	TMK	Character of Use	Leases Area (acres)	Current Rent (base or percentage)	Trust Land §5(b)
SP-0024	Wailua Kayak and Canoe, Inc.	Wailua River SP,	(4) 3-9-003:33	Kayak Tours	N/A	\$75 per month or 2% gross, which ever higher	Yes
SP-0025	Outfitters Kauai	Wailua River SP	(4) 3-9-003:33	Kayak Tours	N/A	\$75 per month or 2% gross, which ever higher	Yes
SP-0026	Kayak Wailua LLC	Wailua River SP	(4) 3-9-003:33	Kayak Tours	N/A	\$75 per month or 2% gross, which ever higher	Yes
SP-0027	Wailua Kayak Adventures	Wailua River SP	(4) 3-9-003:33	Kayak Tours	N/A	\$75 per month or 2% gross, which ever higher	Yes
SP-0028	Kayak Kauai	Wailua River SP	(4) 3-9-003:33	Kayak Tours	N/A	\$75 per month or 2% gross, which ever higher	Yes
SP-0029	Kauai Kayak Co.	Wailua River SP	(4) 3-9-003:33	Kayak Tours	N/A	\$75 per month or 2% gross, which ever higher	Yes
SP-0030	Kayak Adventurers Inc.	Wailua River SP	(4) 3-9-003:33	Kayak Tours	N/A	\$75 per month or 2% gross, which ever higher	Yes
SP-0031	Jusdoit, Inc	Wailua River SP	(4) 3-9-003:33	Kayak Tours	N/A	\$75 per month or 2% gross, which ever higher	Yes
SP-0036	Promotional Concepts of Hawaii	Wailua River SP	(4) 3-9-003:33	Kayak Tours	N/A	\$75 per month or 2% gross, which ever higher	Yes
SP-0037	Ali'i Kayak	Wailua River SP	(4) 3-9-003:33	Kayak Tours	N/A	\$75 per month or 2% gross, which ever higher	Yes
SP-0038	Ali'i Kayak II	Wailua River SP	(4) 3-9-003:33	Kayak Tours	N/A	\$75 per month or 2% gross, which ever higher	Yes
SP-0065	Kayak Partners LLC	Wailua River SP	(4) 3-9-003:33	Kayak Tours	N/A	\$75 per month or 2% gross, which ever higher	Yes
SP-0066	Wailua River Guides, LLC	Wailua River SP,	(4) 3-9-003:33	Kayak Tours	N/A	\$75 per month or 2% gross, which ever higher	Yes

EXHIBIT "C"
DIVISION OF STATE PARKS REVOCABLE PERMITS
KŌKE'E STATE PARK

RP#: SP-0039
Name of Permittee: The Lodge at Kokee LLC
Character of Use: Concession for Food, Lodging, and Gifts
Total Lease Area: 2.786 ac.
Current Rent: 3% of gross profits (gross sales less cost of goods sold)
Proposed Rent: 4% of gross profits (gross sales less cost of goods sold)
Trust Land §5(b): Yes

Property Details:

Name of Improvements Subject to Revocable Permit	Character of Use	TMK	Lot	Facility	Land Area
Kōke'e Inn (The Lodge at Kōke'e)	Concession (Food, Gift Shop, Camping and Fishing Equipment Rentals)	(4) 1-4-004: 73	A	4,028 sq ft	0.131 ac.
Kanaloahuluhulu Ranger Station and Access Easement A	Residence for Concession and Cabin Rental Manager	(4) 1-4-001: 13 (por.)	D	1,810 sq ft	0.045 ac
Kauila Cabin	Cabin Rentals	(4) 1-4-004: 74	C	625 sq ft	
Lehua Cabin	Cabin Rentals	(4) 1-4-004: 74	C	618 sq ft	
Maile Cabin	Cabin Rentals	(4) 1-4-004: 74	C	331 sq ft	
'Iliahi Cabin	Cabin Rentals	(4) 1-4-004: 74	C	676 sq ft	
Lot C Total					1.254 ac
Olopuu/Hala Duplex Cabin	Cabin Rentals	(4) 1-4-004: 76	E	1,110 sq ft	
Kuku 'i/Koa Duplex Cabin	Cabin Rentals	(4) 1-4-004: 76	E	1,110 sq ft	
Lot E Total					0.714 ac
Kōlea Cabin	Cabin Rentals	(4) 1-4-004: 76	F	624 sq ft	
Naio Cabin	Cabin Rentals	(4) 1-4-004: 76	F	624 sq ft	
'Ohe'ohē Cabin	Cabin Rentals	(4) 1-4-004: 76	F	568 sq ft	
'Ōlapa Cabin	Cabin Rentals	(4) 1-4-004: 76	F	568 sq ft	
Lot F Total					0.642 ac