

MINUTES OF THE
MEETING OF THE
BOARD OF LAND AND NATURAL RESOURCES

DATE: October 7, 1983

TIME: 9:00 A. M.

PLACE: Kona Surf Hotel

Kohala Conference Room

Keauhou, Hawaii

Roll
Call

Chairperson Susumu Ono called the meeting of the Board of Land and Natural Resources to order at 9:00 A. M., with the following in attendance:

Members Mr. Takeo Yamamoto
 Mr. Roland Higashi
 Mr. Thomas S. Yagi
 Mr. J. Douglas Ing
 Mr. Moses W. Kealoha
 Mr. Susumu Ono

Staff Mr. Mike Shimabukuro
 Mr. Dean Uchida
 Mr. Henry Sakuda
 Mr. Charles Wakida
 Mrs. Joan K. Moriyama

Others Deputy A. G. Johnson Wong
 Mr. James H. Lawhn (Item F-1-a)
 Mr. Richard Cox, Mr. Phil Scott and
 Mr. Randy Hee (Item H-7)
 Mr. B. Martin Luna (Item F-7)
 Mr. Aaron Israel (Item H-1)

Minutes

The minutes of September 9, 1983 were unanimously approved as distributed. (Ing/Kealoha)

Added
Items

The board, on Mr. Ing's motion and seconded by Mr. Kealoha, unanimously approved to add the following items to the agenda:

Division of Forestry and Wildlife

Item C-4 -- Request for approval to contract a planning consultant for the Oahu DLNR baseyard

Division of Land Management

Item F-1-m -- Cormax Corporation request for consent to first mortgage, G. L. No. S-4644, Kalauoa, Ewa, Oahu

Other State Departments

Item J-1 -- Application for issuance of Revocable Permit No. 3804, Kahului Airport, Maui (Pacific Auto Rental Corp., dba Dollar Rent-A-Car System)

The board deviated from the printed agenda and took up the items in the following order in order to accommodate the people in the audience:

Item F-1-a M & ASSOCIATES, INC. REQUEST FOR CONSENT TO ASSIGN G. L. NO. S-3269, LOT 10, OCEAN VIEW LOTS, WAIAKEA, SOUTH HILO, HAWAII

Mr. Shimabukuro asked that the assignee's name be changed by deleting "Richard M. Jitchaku, whose wife is Ethel Jitchaku," and in its place insert therein "Bayshore Realty Investment, Inc., a Hawaii Corporation." He recommended approval of the request as amended.

ACTION Unanimously approved as amended. (Yagi/Yamamoto)

Item F-1-m Added CORMAX CORPORATION REQUEST FOR CONSENT TO FIRST MORTGAGE, G. L. NO. S-4644, KALAUOA, EWA, OAHU

ACTION Unanimously approved as submitted. (Kealoha/Yagi)

ITEM F-7 RESUBMITTAL - STAFF RECOMMENDATION FOR WAIVER OF REPURCHASE OPTION, LOT 42, WAHIKULI HOUSE LOTS, 4TH SERIES, WAHIKULI, LAHAINA, MAUI

This was a resubmittal. This matter was deferred at the last board meeting for more information.

Mr. Shimabukuro said staff was able to get a copy of Jacqueline Ruth Helgelien's will dated April 28, 1981, and a copy of the \$850,000 mortgage dated March 1979. Mr. and Mrs. Clare Helgelien, parents of the deceased Jacqueline, are the mortgagees.

Mr. B. Martin Luna, the attorney for Mr. and Mrs. Helgelien, was present at the meeting to answer any question the board may have.

Staff's recommendation remained the same, that the state waive the repurchase option.

Mr. Shimabukuro said according to the will the residue of whatever property she owns goes to her 6-year old daughter after expenses are paid. Karen Sean Benson, a friend of the deceased, was named as the guardian. The parents were nominated as personal representatives of the guardian to do whatever to close the estate.

Mr. Luna said the property was acquired by Jacqueline and she was working as a waitress at that time. She was eligible to purchase the lot, but she may not have been able to get the type of financing for the type of house she wanted to build, so she asked her parents for the loan.

Mr. Kealoha asked whether under this unusual circumstances that the state is entitled to a premium for the waiver of this repurchase option. He said there is a different premium on the land. It would be better to pass on the premium to the so-called present owners. It appeared to him that the state should buy back only the land, and they keep the house.

The board in the past has been repurchasing the land, Mr. Kealoha said. So if you have a house valued at over half a million dollars it increases the price of the land and it would be difficult for the state to buy it back.

ACTION

Mr. Yagi moved to approve staff's recommendation in view of the fact that this is a very complicated case, even though the board has its policy concerning repurchase. He said there was one case in this same subdivision where the board waived its repurchase option after the policy has been established.

Mr. Higashi seconded the motion.

Mr. Kealoha said this situation is little different because the board did not consent to the mortgage and the property was sold without the board's consent.

On the call of the question, Mr. Ing, Mr. Kealoha and Mr. Ono voted no so the motion did not carry.

Mr. Kealoha said the parents would be ineligible at this time to get this land.

Mr. Ing asked whether we have the option to take the lot alone and not the improvements.

Mr. Shimabukuro said no. He said the way the law reads, the lot is to be repurchased at the fair market value, or the original sales price, whichever is lower, plus the fair market value of the improvements at the time of the sale.

Mr. Ing asked whether the improvements are to be valued at the time the original transfer took place in May 1981, or is it to be valued at today's price.

Mr. Shimabukuro said the quitclaim deed was executed in 1981 but it was recorded after the Land Patent Grant was issued in July 1981, and the deed was recorded in 1982. So if we were to repurchase it, the instruction to the appraiser would be to appraise it at the 1982 value, the time the deed was recorded.

Mr. Ono asked Mr. Shimabukuro to check how much money there is in the account should the state decide to repurchase the property.

Mr. Higashi said he would like to know what the actual value of the improvements are rather than the tax assessor's valuation.

Mr. Ono asked the staff to proceed along the lines discussed above.

CDUA FOR NONCONFORMING SINGLE-FAMILY RESIDENTIAL USE WITH A GARAGE/SHOP/STORAGE STRUCTURE AND GARDEN AT KAPOHO, PUNA, HAWAII

ITEM H-1

Mr. Uchida said although the proposed use cannot be considered to be consistent with the objectives of the limited subzone, the applicant has requested the use to be considered as a nonconforming use and has fulfilled the stated conditions. Therefore, Mr. Uchida said, staff has no other recourse but to recommend approval of a single-family dwelling in an area which is subject to volcanic eruptions.

Mr. Uchida said based upon the applicant's statement and the field inspection report, staff found that the violations listed in the submittal have occurred prior to the board approval of the subject CDUA.

Staff recommended that the board assess a fine of \$500 per violation, the total of five separate violations being equal to a sum of \$2,500, to be paid within sixty days of the date of this meeting of the board. Should the applicant fail to pay the fines within the specified time period of sixty days, the board shall require the staff to issue a cease and desist order to the applicant, whereupon the applicant shall be required to remove all improvements made to the subject property.

Staff further recommended approval of the request with standard conditions and also Conditions 8 and 9 which were added for this specific application.

Mr. Aaron Israel, the applicant, was present and said that he was unaware that he was going to be fined for this. He realized that he did go ahead and improved the lot. He passed around photos of the area to the board members.

ACTION Mr. Higashi asked for deferral. He wants to visit the site. The board had no objection to deferring this matter.

ITEM H-7 RESUBMITTAL - CDUA FOR CONSTRUCTION AND USE OF A SECOND HYDRO-ELECTRIC PLAN ON THE WAINIHA RIVER, WAINIHA VALLEY, HANAIEI, KAUAI (SUBMITTAL WAS DISTRIBUTED AT THE BOARD MEETING)

This matter was deferred at the September 23, 1983 Land Board meeting for the following reasons:

1. The unsettled question of water rights.
2. McBryde's third proposal to increase the continuous stream flow to 3 cfs and allowing up to 8 to 12 cfs to be released during off peak hours must be evaluated.
3. A proposal and other suggestions dated September 20, 1983 was submitted by the U. S. Fish and Wildlife Service.
4. The board requested the Division of Aquatic Resources to submit evidence to support their theory of stream flow maintenance.
5. One of the board members was concerned about the use of the explosives during construction.

Mr. Uchida said the question on water rights has been referred to the Department of Attorney General and will be presented by the Deputy Attorney General.

The present revised proposal still falls short of meeting the purpose and intent of conservation district to protect and preserve our natural resources.

Mr. Uchida said the recommendation is basically the same that was presented before the board at its previous meeting, except for changes to Conditions No. 6 and No. 7 where "shall" was used instead of the word "should." Also, "including fish screens at the intake of the existing plant" was added to Condition No. 7. Conditions 21 and 22 were also added.

Mr. Uchida also read into the record four additional conditions that they have obtained from the Attorney General's Office, as follows:

23. That the applicant obtain water license from this department.

24. That this application is conditioned so that no other riparian rights will be presently affected by the diminishing streamflow, and any subsequent subdivision of the land on both sides of the stream over two miles, beyond between the power plant and the diversion weir, would require that riparian rights remain with the land.
25. That if the state needs to use its surplus water above the diversion weir at some future date, McBryde's use of that surplus flow may be subject to withdrawal, depending upon the terms of the water license.
26. That Conditions 23, 24 and 25 be subject to review by the Department of the Attorney General's Office.

Mr. Ono asked whether staff discussed these conditions with the applicant.

Mr. Uchida said no, that he had only received them from the Attorney General's Office yesterday.

Mr. Kealoha suggested that we defer this matter to give the deputy attorney general and the applicant time to review the above four additional conditions.

The board had no objection to deferring this item to give the applicant and the deputy attorney general a chance to review and discuss the four conditions. (See page 11 for further action.)

The board continued with the rest of the agenda.

ITEM C-1 DISTRICT FIRE WARDEN, ISLAND OF HAWAII

ACTION The board, on Mr. Ing's motion and seconded by Mr. Kealoha, unanimously approved the appointment of John A. Poppe as District Fire Warden.

ITEM C-2 HAWAII DISTRICT FIRE WARDEN

Item C-2 was for information only. No action was required.

ITEM C-3 REQUEST FOR APPROVAL OF COOPERATIVE AGREEMENT BETWEEN THE U. S. FISH AND WILDLIFE SERVICES AND THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO ESTABLISH STATE ELIGIBILITY FOR ENDANGERED SPECIES FUNDING PURSUANT TO SECTION 6(C) OF THE ENDANGERED SPECIES ACT OF 1973

ACTION Mr. Ono said Mr. Landgraf has asked for deferral of this item since the document pertinent to this submittal was not attached for the board's information. The board had no objection to the deferral.

ITEM C-4 ADDED REQUEST FOR APPROVAL TO CONTRACT A PLANNING CONSULTANT FOR THE OAHU DLNR BASEYARD

ACTION Unanimously approved as submitted. (Ing/Kealoha)

ITEM E-1 OUT-OF-STATE TRAVEL REQUEST TO THE PACIFIC AREA TRAVEL ASSOCIATION'S TOURISM AND HERITAGE CONSERVATION CONFERENCE

ACTION Unanimously approved as submitted. (Ing/Kealoha)

ITEM F-1 DOCUMENTS FOR BOARD CONSIDERATION

(See page 2 for Item F-1-a.)

MAUI

Item F-1-b REVOCABLE PERMITS

LEDWITH K. NAKOA - Portion of government land situate at Kahakuloa Valley, Wailuku - for agriculture purpose - \$10 per month

Item F-1-c EDWIN KEKAHUNA - Portion of government land situate at Kahakuloa Valley - for agriculture purpose - \$15.00 per month

HAWAII

Item F-1-d REVOCABLE PERMIT

CHARLES G. PACLEB - Lot 88, Kaapahu Homesteads, Mauka Section, Kaapahu, Hamakua - for pasture purpose - \$68.00 per month

OAHU

Item F-1-e REVOCABLE PERMIT

DA CHENG LUO - TMK 4-1-10, portion of 79, Waimanalo - for bee keeping at \$10.00 per month

KAUAI

Item F-1-f REVOCABLE PERMIT

BILL MATTSON - A portion of the former Amfac Aquatech Prawn Hatchery at Hanapepe and related pipeline and access easements - for business purpose (fruit dehydration facility) - monthly rental to be determined by staff appraisal, same subject to review and acceptance by the chairman.

Mr. Shimabukuro said the submittal reads that the commencement date is "to be determined by appraisal." This was an error and should be amended to read, "To be determined by the chairperson."

Mr. Higashi asked whether the applicant plans to put in substantial improvements to the property.

Mr. Shimabukuro said there are improvements on the property right now. He said he didn't read the applicant's proposal, but according to the write-up, the initial start-up budget is for \$40,000 for the first two years.

MOLOKAI

Item F-1-g REVOCABLE PERMIT

ALAMO RENT-A-CAR, INC. - Government land, Tract D-2, Palaaau and Hoolehua - for baseyard for U-Drive and Ground Transportation - \$235.50 per month

Staff recommended the termination of Revocable Permit No. S-5937 issued to Royal Rainbow, Inc., dba Rainbow Rent-A-Car, effective as of September 30, 1983 first and then the issuance of the revocable permit as recommended above.

MAUI

Item F-1-h REVOCABLE PERMIT

MAUI C & A, INC., a Hawaii Corporation - portion of Olowalu Cinder Pit, Olowalu, Lahaina - for the purpose of erecting, operating and maintaining crushing plant for purpose of processing and crushing cinder - \$199.00

OAHU

Item F-1-i REVOCABLE PERMIT
D & B AUTO SERVICE - Lot 110, Sand Island, Honolulu, for automobile repair (dismantling of automobiles and salvage of automobile parts is prohibited) - \$600 per month

HAWAII

Item F-1-j MORTGAGE
JAMES E. MILES CONSTRUCTION, INC., a Hawaii Corporation, as Mortgagor, and the Department of Planning and Economic Development, State of Hawaii, as Mortgagee - Lot 4, Block 40, Waiakea Industrial Lots, Waiakea, South Hilo - GL No. S-4664

KAUAI

Item F-1-k SALE OF LEASEHOLD BY AGREEMENT OF SALE
T. T. KURAMOTO & COMPANY, LTD., Assignor, to FILOMENA HASHITATE, unmarried, Assignee - Lot 5, Kekaha Town Lots, Kekaha, Waimea - GL No. S-4254

Mr. Shimabukuro said the word Assignor should be changed to "sellor" and Assignee changed to "buyer."

HAWAII

Item F-1-l LAND LICENSE
ALLIED AGGREGATES CORP. - Portion of state land at Kaohe 3, Hamakua - for the removal of sand deposits for commercial use by quarrying and mining, the quantity of which shall be estimated by field check by the Hawaii District Land Agent

Mr. Shimabukuro asked to make an amendment to the submittal by adding Recommendation D, "Authorize the withdrawal of approximately 27 acres from the operation of General Lease No. S-4471, with appropriate reduction in rental." Mr. Shimabukuro explained that the 27 acres is located where the sand deposit is located and it covers the area from the Saddle Road to the boundary of the Waikoloa boundary.

(See page 2 for Added Item F-1-m.)

ACTION The board, on Mr. Yagi's motion and seconded by Mr. Higashi, unanimously approved Item F-1 as amended.

HAWAII ELECTRIC LIGHT CO., INC. APPLICATION FOR SALE OF ELECTRICAL DISTRIBUTION LINE EASEMENTS AT HALE OHIA TRACT, KEAAU, PUNA,
HAWAII

ITEM F-2

ACTION Unanimously approved as submitted. (Higashi/Yamamoto)

ITEM F-3 DOT REQUEST FOR E. O. SETTING ASIDE LAND FOR ADDITION TO HONOLULU INTERNATIONAL AIRPORT, HONOLULU, OAHU

ACTION Unanimously approved as submitted. (Ing/Higashi)

ITEM F-4 SOLOMON H. HOLI, ET AL, REQUEST FOR EXTENSION OF TIME WITHIN WHICH TO SATISFY BUILDING REQUIREMENT, LOT 2-A, PARTS 1 & 2, HANAPEPE TOWN LOTS, 1ST SERIES, HANAPEPE, KAUAI

SHIZUE SAKAHASHI REQUEST FOR EXTENSION OF TIME WITHIN WHICH
TO SATISFY BUILDING REQUIREMENT, LOT 8, BRODIE LOTS, HANAPEPE,
KAUAI

ITEM F-5

ACTION Items F-4 and F-5 were unanimously approved as submitted. (Yamamoto/Yagi)

ACCEPTANCE OF LAND TRANSFER FROM GROVE FARM LAND CORP. FOR
HIGHWAY WIDENING, LIHUE, KAUAI

ITEM F-6

ACTION Unanimously approved as submitted. (Yamamoto/Yagi)

(See pages 2 and 3 for Item F-7.)

AMEND PRIOR BOARD ACTION RELATING TO USE OF OLD HONOLULU
DISTRICT COURT PROPERTY BY MARCH OF DIMES, HONOLULU, OAHU

ITEM F-8

ACTION Unanimously approved as submitted. (Yagi/Yamamoto)

RIGHT OF ENTRY REQUEST FOR SITE SURVEY, SOIL TEST AND OTHER
RELATED WORK IN CONNECTION WITH THE KAHUKU AGRICULTURAL PARK
PROJECT, KAHUKU, OAHU (SUBMITTAL WAS DISTRIBUTED AT THE BOARD
MEETING)

ITEM F-9

ACTION Unanimously approved as submitted. (Ing/Kealoha)

(See pages 3 and 4 for Item H-1.)

CDUA FOR AFTER-THE-FACT RECONSTRUCTION AND EXPANSION OF AN
EXISTING RECREATIONAL USE AT KOKEE, KAUAI

ITEM H-2

Mr. Uchida said there are approximately 121 residential leases within the Kokee Lots. The applicant's lot (Lot 90) and the surrounding areas were drastically changed during Hurricane Iwa. The applicant is requesting permission to complete a 322 square-foot addition to his cabin at Kokee. The extension consists of an area of approximately 4- $\frac{1}{2}$ feet to the height of the original structure, so it's going to go up from 14 feet to 18- $\frac{1}{2}$ feet.

Although most of the agencies contacted had no specific objections to the proposed use, staff was concerned over the methods used by the applicant to obtain permission to reconstruct the cabin. The applicant, by letter dated January 27, 1983, requested permission to reconstruct the cabin with only slight modifications from what existed earlier. Based on the representation made by the applicant, the department, by letter dated February 7, 1983, granted emergency authorization to reconstruct the hurricane-damaged structure. The applicant then proceeded to build the structure significantly different from that which was originally proposed. Although the length and width dimensions of the structure were the same as originally proposed, the height of the structure was increased to allow for second floor, plus changing the cabin from one story to a two-story structure. As a result of the applicant's unauthorized work, a notice and order to cease and desist from any activity was issued by the department to the applicant.

Staff recommended:

A. That the board find:

1. That the applicant had full knowledge of the process involved in obtaining permission to reconstruct the cabin at Kokee following Hurricane Iwa;
 2. That the applicant requested and received permission from this department to reconstruct the cabin to its original condition, prior to the hurricane, with slight modifications; and
 3. That the second-story addition has been constructed on the property without the required departmental approval.
- B. That the board impose the following sanction:
1. That a fine of \$500.00 be assessed for the construction violation; and
 2. That administrative fees in the amount of \$50.00 be assessed to offset department costs incurred by the Divisions of Conservation and Resources Enforcement and Land Management, and Planning Office.
- C. That the board deny this request for the expansion of the existing recreational use based on the following:
1. The precedence which may be incurred by approving this type of after-the-fact request.
- D. That the board reaffirm the department's emergency authorization for reconstruction of the Kokee Cabin on TMK 1-4-4: 47 at Kokee, Kauai, by limiting the construction to that which was approved in the department's February 7, 1983 letter and requiring the applicant to conform with its substance.
- E. That upon completion of Section D, the applicant submit written notice to this department such that a follow-up inspection can be conducted.
- F. That failure on the part of the landowner/applicant to comply with Section B within sixty days after receipt of notice, the matter be turned over to the Department Attorney General for disposition to include all administrative costs.

Mr. Ono asked whether the county issued the necessary permits.

It was Mr. Uchida's understanding that because it was a hurricane-related damage, the County of Kauai worked out some kind of a system. He didn't know the details, neither did he know whether the county had issued any kind of a building permit.

Mr. Ing asked what is the difference between other after-the-fact CDUA's and this.

Mr. Uchida said in this case the applicant came in and represented to us that he was just going to reconstruct the damage that occurred to his cabin. As a matter of convenience, he added an additional two feet because of the size of the plywood. Then after we approved that concept, he went out and did something that was entirely different, adding the height and a second floor to the structure.

With regard to the height and the second floor, Mr. Ing asked whether there are any 2-story cabins at Kokee.

Mr. Uchida didn't know.

ACTION Mr. Yamamoto moved to approve Item H-2 as recommended by the staff.

Mr. Ono asked how much time are we giving the applicant. He asked what would be a reasonable time for him to conform to the original approval.

Mr. Uchida said there was no specific timeframe to complete the work. He said we can go back and reaffirm what was previously granted under the emergency authorization.

Mr. Ono asked about the unfinished second story. Can he leave what he has there now?

Mr. Uchida said he has to take it down to meet the requirements under Section D of the recommendation.

Mr. Higashi said the starting point should be immediately and take no longer than sixty days.

Mr. Yamamoto so amended his motion, Mr. Yagi seconded and the amended motion was unanimously carried.

ITEM H-3 CDUA FOR A PRIVATE BOAT MOORING USE IN KANEOHE BAY, OAHU

ACTION Unanimously approved as submitted. (Ing/Kealoha)

ITEM H-4 REQUEST FOR REVISION OF A PREVIOUSLY APPROVED CDUA FOR INSTALLATION OF A DEEP WELL PUMP AND CONSTRUCTION CONTROL BUILDING AT HAIKU, KOOLAUPOKO, OAHU

ACTION Unanimously approved as submitted. (Ing/Kealoha)

ITEM H-5 REQUEST FOR PUBLIC HEARING FOR USE OF LAND WITHIN CONSERVATION DISTRICT FOR COMMERCIAL USE

Mr. Uchida said he would like to add Hawaiian Electric's application, HA-487A, to the list. Hawaiian Electric wants to put in two additional diesel generators in Kona. Initially, when the CDUA was approved for the one generator to be put in, there was some concern from the Kona Palisades residents. Staff felt that the residents should be given an opportunity to hear what Hawaiian Electric has to say.

ACTION Unanimously approved as amended above. (Ing/Kealoha)

ITEM H-6 REQUEST FOR A SABBATICAL LEAVE

ACTION Mr. Ono asked for deferral of this item since Mr. Evans was not present at the meeting. The board had no objection to the deferral.

ADDED ITEM J-1 APPLICATION FOR ISSUANCE OF REVOCABLE PERMIT, AIRPORTS DIVISION

ACTION Unanimously approved as submitted. (Kealoha/Yagi)

ITEM H-7 Continued from Page 5

After meeting with the applicant and the staff, Deputy Attorney General Johnson Wong said they couldn't agree to the precise language so they asked that those additional conditions be deferred. This can be covered later on under Condition 3 (Other terms and conditions approved by the chairman.) .

Mr. Yamamoto suggested an amendment to Condition 19, "That a continuous maintenance stream flow of 3 cfs shall be maintained at all times, and 6 cfs during the slack period."

Mr. Ing wanted to know the quality of the stream between the existing weir and the existing power house.

Mr. Sakuda said it is good freshwater resources habitat, mainly because there is a watering of the area naturally. There is a certain distance immediately before the weir that dries up occasionally but water is contributed to the stream further on down. So it's really not that critical. The critical thing in that area, he said, is the weir itself--the pipe and the lack of mechanism for the aquatic resources to climb over the weir.

He further stated that from the information that have been presented to them in the EIS, it will be approximately 180 to 200 cfs at the most favorable time. At the point of release of water from the proposed system, we should have about 180, he said, but as we go above that it should be diminished quite significantly.

Mr. Ing said there is a weir in place there already. He asked whether they know what the flow is downstream of that.

Mr. Sakuda said the flow is essentially the same except when they have a dry period. There is water in the stream most of the time up to the weir.

Mr. Sakuda said what they are particularly concerned about is not only the proposed weir and the system that we are discusssing, but the existing weir and that system as well. They like the design of the proposed weir where it would be curbed downstream. The fish screens also are a definite necessity, he said.

Mr. Sakuda further stated that the area that they are very concerned about is the area around the gauging station. That area is really good oopu ground. He said the oopu distribution does appear to diminish as we go up towards the proposed weir because of temperature and elevation.

ACTION Mr. Yamamoto said he would like to amend his earlier suggestion on Condition 19 and moved to go only with, "continuous maintenance stream flow of 3 cfs shall be maintained at all times primarily by the proposed weir," and delete the second portion of the suggested amendment (6 cfs during the slack period) .

He further moved that Condition 23 be added, "That McBryde Sugar shall put in \$5,000 per year for five years for the study of propagation of oopu."

Mr. Yagi seconded the motion.

Mr. Ing asked what has been McBryde's position with regard to the existing weir. He said one of the ways to improve the overall habitat would be to have some type of minimum flow. He asked whether they have looked into that possibility.

Mr. Phil Scott thought that it is being accomplished now. He said there is a good habitat above the existing weir, and the oopus are able to get over the existing weir.

Mr. Ing said assuming approval is given and study is conducted, and the study begins to show that the habitat is being affected in the negative sense, he asked whether McBryde Sugar is willing to make additional improvements, within reason, to both weirs. One of his concerns was that we are trying to guess what's going to happen. One of the unknown is what's going to happen with both systems in there.

Mr. Scott said as far as the quantity of water that goes over the weir, they can't build something with an open end on it and not know what power that will generate. He said they could not get that over to their board of directors if they have to spend all that money to construct this and at some later date additional water has to go over.

Mr. Ing asked whether McBryde is open to discussion with regard to setting a percentage of funds that could be used for studies to make improvements.

Mr. Scott said they are trying to do this by going along with this five-year study.

In terms of benefits to the people of Kauai, Mr. Hee said they were informed by Kauai Electric that the rates negotiated with McBryde for the purchase of energy from McBryde is less than their avoided cost. As such, their customers will derive an immediate economic benefit through operation of their energy rate adjustment clause.

Mr. Yagi asked whether there is any guarantee that Kauai Electric Company would reduce the rates to the customers. He said the people on Kauai is in favor of this project because they are anticipating a reduction in the electric rates.

Mr. Yagi said Senator Lehua Fernandes Salling informed the board members that "The majority of the people are very much in favor of the project as the long-term benefits are all too evident--reduction of the staggering cost of electricity on Kauai."

Mr. Hee said past history shows that these hydroplants, in good waters, have cut down electrical cost on Kauai, in terms of the energy adjustment cost.

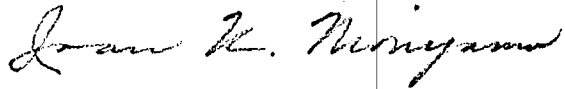
Mr. Ono said there is one more condition that was proposed. This was in reference to the selling price from McBryde Sugar to Kauai Electric to be lower than the avoided cost, without specifying the figure, and making it subject to review by this board within three years. The implication is that after three years the board may come back with more specific figure on the selling price.

Mr. Ono said there was one other area that Mr. Uchida discussed earlier on the disposition of water rights. He said the details on that could be added later after legal review.

On the call of the question, the motion incorporating all the conditions discussed above was unanimously carried.

ADJOURNMENT: There was no further business and the meeting was adjourned at 11:55 A. M.

Respectfully submitted,



JOAN K. MORIYAMA
Secretary

APPROVED



SUSUMU ONO
Chairperson

jkm