

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

DATE: July 13, 1984  
TIME: 9:00 A. M.  
PLACE: Kalanimoku Building  
Room 132, Board Room  
1151 Punchbowl Street  
Honolulu, Hawaii

ROLL  
CALL

Chairperson Susumu Ono called the meeting of the Board of Land and Natural Resources to order at 9:10 A.M. The following were in attendance:

MEMBERS

Mr. Roland Higashi  
Mr. J. Douglas Ing  
Mr. Moses W. Kealoha  
Mr. Thomas Yagi  
Mr. Leonard Zalopany  
Mr. Susumu Ono

STAFF

Mr. Robert Chuck  
Mr. Ralston Nagata  
Mr. James Detor  
Mr. Gordon Soh  
Mrs. Anne Furuuchi  
Mr. Maurice Matsuzaki  
Mr. Edgar A. Hamasu  
Mrs. LaVerne Tirrell

OTHERS

Mr. Edwin Watson, Deputy Atty. Gen.  
Mr. Peter Garcia, DOT  
Mr. Larry Jeff and Ms. Noelani Joy (Item F-9)  
Messrs. Kaiwi, Matsubara, Azeka & a representative  
of A&B (Items F-1-E, F & G)  
Mr. Toshio Sugita (Item F-1-h)  
Mr. Bill Brilhante (Item F-4)  
Messrs. Van Pernis, Smith & London (Item H-1)

On behalf of the board, Mr. Ono welcomed Mr. Zalopany, our newest member from the island of Kauai, to his first meeting and also conveyed his appreciation of Mr. Zalopany's willingness to serve on this board.

ADDED  
ITEMS

The board, upon motion by Mr. Ing and a second by Mr. Yagi, voted unanimously to add the following items to the Agenda:

Division of State Parks

Item E-5 -- Filling of Temporary Position, General Laborer I, Position No. 12200, Washington Place, Oahu Park Section.

Division of Land Management

Item F-1-j -- Solomon Holi, et al Request for Consent to Collateral Agreement, SSA No. S-5555, Lot 2-A, Parts 1 & 2, Hanapepe Town Lots, 1st Series, Hanapepe, Waimea, Kauai.

Administration

Item H-3 -- Approval to Proceed with a Financial and Compliance Audit of the Department's Federal Aid Program.

Item H-4 -- Election of Vice-Chairman, Board of Land and Natural Resources.

MINUTES

Mr. Ing moved for approval of the April 13, 1984 minutes as circulated. Mr. Higashi seconded and motion carried unanimously.

To accommodate those applicants present at the meeting, items on the Agenda were considered in the following order:

ITEM F-1-E

ALEXANDER & BALDWIN, INC. APPLICATION FOR REVOCABLE PERMIT COVERING THE TAKING OF WATER FROM THE KOOLAU FOREST RESERVE (HUELO LICENSE AREA), MAUI.

ITEM F-1-F

EAST MAUI IRRIGATION CO., LTD. APPLICATION FOR R.P. COVERING THE TAKING OF WATER FROM THE KOOLAU FOREST RESERVE (HUELO LICENSE AREA), MAUI.

ITEM F-1-G

EAST MAUI IRRIGATION CO., LTD. APPLICATION FOR R.P. COVERING THE TAKING OF WATER FROM THE KOOLAU FOREST RESERVE (KEANAE LICENSE AREA), MAUI.

Mr. Detor asked that the above three items be considered together inasmuch as they are related. They are applications for water revocable permits to cover the taking of water from the East Maui Range.

Pointing out the areas affected from a map, Mr. Detor went on to explain that there is a water conveyance system which has been operated for years by the East Maui Irrigation Co. which runs all the way from the Hana area to the irrigation cane fields in the Kahului area.

Mr. Detor said that the ownership of the land is mixed. Besides a number of smaller private owners, you have the State as the major landowner and you have A&B as the other one. The ownership of the waters that rise in the Koolau Forest Reserve is mixed -- part State, part EMI.

Many years ago there was an agreement on the division of the waters that rise here, between the State and A&B. There are four license areas -- Nahiku, Keanae, Honomanu and Huelo. Each one has a different formula. For example, Nahiku may have 60% State and 40% EMI. In the next area a different division.

What is being proposed is the sale of those waters that belong to the State. Originally there were four long term license agreements. All of them have expired except Honomanu. Honomanu expires in 1986. These were let at five year intervals. So Nahiku, Huelo and Keanae is what we are talking about today. These three have expired and have been on a month-to-month permit. Staff is proposing a renewal of those permits. The reason for coming to the board is because State revocable permits need to be renewed each year under the law. Secondly, water permits can only be for a period of one year at a stretch so that when you have A&B and then you go to EMI and vice versa. This is why the applicants on the agenda are listed in some cases as EMI and other cases as A&B.

As far as the conveyance system is concerned, Mr. Detor said that both the State and EMI hold perpetual easements covering the conveyance system on each others lands so that the State has a perpetual easement covering that portion of the conveyance that runs through EMI lands and EMI has a perpetual easement covering that portion of the conveyance system that runs through State lands -- so again we are talking about the sale of those waters.

Mr. Detor said that there has been a request for a contested case hearing from people in the area. They have not filed the formal papers as yet but he wanted the board to know that there is a possibility that there may be a contested case hearing. For that reason, staff is recommending that these permits be on a month-to-month basis but with a six-month cutoff. Staff feels that during that six-month period the business of the contested case hearing could be settled one way or the other.

Mr. Ono asked whether the people who had expressed interest in filing for a contested case hearing had been notified.

Mr. Detor said yes. He had spoken to one of their attorneys, Allan Murakami, who had filed the request. Staff also sent him a letter and the forms that need to be completed.

Mr. Ing asked whether the request was with respect to all of the licenses or just one or two.

Mr. Detor said that he wasn't sure. He thought that they were talking basically about Nahiku but he was not positive. However, Mr. Detor said that this is all inter-related because the waters are mixed and it flows all the way through so even if no permits were issued the water still flows. So to physically cut off that portion that belongs to the State would be kind of hard.

Mr. Ing said that it would depend on where his clients reside.

Although this was not a public hearing, Mr. Ono allowed Mr. Ed Kaiwi to convey his position to the board.

Mr. Kaiwi represented the Hana Community Association, Pohaku and the Uluinu heirs of Nahiku. Calling the board's attention to a map of the area, Mr. Kaiwi explained that the three licensed areas are crown lands or ceded land licenses. He pointed out the area belonging to the State and that which belonged to the other 20 konohikis. He explained that there is a discrepancy between EMI claiming that they are company and the State the Territory so they made an indenture in 1940 where they changed company to Territory so now they are in charge of the license. Mr. Kaiwi said that he was at today's meeting to ask that the State decide on this whole thing. He said that you couldn't do anything unless the license is revoked. At that time the State could take the responsibility of the stewardship of all the water. This is what they are looking for in the affidavit that they are filing.

In answer to Mr. Ono's question, Mr. Kaiwi said that this position would be included in their request for a contested case.

ACTION

Mr. Yagi moved to approve Items No. F-1-e, F-1-f and F-1-g for a six-month period. Mr. Higashi seconded and motion carried unanimously.

Mr. Ono asked whether the EMI representatives had been informed.

Mr. Detor said yes.

Mr. Matsubara, with Bob Azeka of EMI and a representative of A&B who were at the meeting, said that they had no objections.

Mr. Ono explained that this morning's action would be just to get the continuity and the legal side worked out within the six month period.

ITEM F-1-H

SERVCO PACIFIC, INC. REQUEST FOR CONSENT TO ASSIGN G. L. NO. S-3764, LOT 16, WAIMANALO AGRICULTURAL SUBDIVISION, WAIMANALO, OAHU.

Mr. Detor asked that the request be amended. Rather than an assignment, that it be subleases. In other words, SERVCO would be subleasing to Mr. Toshio Sugita rather than assigning the lease to him. If this is approved, then it would be subject to review by the staff of the sublease rental rate, bearing in mind that the lease does have a provision in it that the board may increase the basic rental based upon the rental charged to the sublessee.

ACTION

Mr. Yagi moved to approve SERVCO Pacific, Inc.'s request to sublease G. L. No. S-3764 to Toshio Sugita. Motion carried with a second by Mr. Higashi. Mr. Kealoha was disqualified from voting on this item.

ITEM F-4

BRILHANTE-HAWAII, INC. APPLICATION FOR WATERLINE EASEMENT, PONAHAHAWAII, SO. HILO, HAWAII.

Mr. Detor said that this is a waterline easement. The company is developing a 103-lot subdivision on private property and need to bring water into the subdivision. The proposed waterline would cross state property. If the easement is granted, the company would install the waterline and after that it would be assigned to the Department of Water Supply. Rather than going directly to the County water system the developer would install it, purchase the easement from the State and then turn it over to the Water Department.

Mr. Brilhante explained that the County does not want a top entry. They feel that this is dangerous. However, the problem they are faced with now is getting enough pressure and in order to do this they have to tap into the line at a higher point. This is the reason for this second request.

Mr. Higashi said that the applicant should be made aware of the relocation clause which the Department of Water Supply also has to accept.

Mr. Watson said he wondered about that particular provision because the Department of Water Supply does not accept easements with relocation clauses.

Mr. Higashi asked, in light of the question of the relocation clause, if Mr. Brilhante would prefer deferring this matter until he could get clarification from the Water Department.

Mr. Ono said that Mr. Higashi was suggesting that Mr. Brilhante get together with the Water Department to see what they would or wouldn't accept.

Mr. Brilhante asked if there was some way that this easement could go directly to the Water Department.

Mr. Detor said that he was not totally convinced that they wouldn't accept the easement. He would have to check this out.

ACTION

Deferred. Mr. Brilhante to clarify this matter with the Hawaii County Department of Water Supply.

ITEM H-1

RESUBMITTAL - CDUA FOR CONSOLIDATION AND RESUBDIVISION USE AT KUA BAY, NORTH KONA, HAWAII (MR. MARK VAN PERNIS, ESQ.).

Mr. Soh said that staff had recommended approval of this submittal with certain conditions.

One of the conditions under considerable discussion at the last meeting was that these four parcels no longer be considered nonconforming use. This matter was deferred at the request of Mr. Van Pernis who wanted to present his view as to why the parcels should continue to be conforming.

As recalled at the last meeting, Mr. Ono said that one of the things that needed to be checked out was the Attorney General's opinion which Mr. Van Pernis did not have an opportunity to review prior to the last meeting. Subsequently, he did get to see the opinion and this resulted in his June 27, 1984 response.

Mr. Higashi said that the issue here is to reconsolidate and resubdivide.

Mr. Van Pernis said that the issue is to reconfigure the parcels.

Mr. Higashi felt that Condition No. 11 which says that these four parcels can no longer be considered for nonconforming use status need not be applicable at this time. He felt that it is a legal question which will be considered when he reapplies. Regardless of what the board decides it will need to be addressed again.

Mr. Ing stated that as he understood Mr. Higashi it should be left silent. Whether it is listed as a condition or not it will not ultimately make a difference.

Mr. Higashi said that he would like to see this condition deleted. Mr. Van Pernis would still have to reapply for some kind of use at a later date.

Mr. Van Pernis said that his only authority at this point inasmuch as there are four individual lot owners is to proceed with this particular proceedings. Each individual lot owner will proceed at their own pace. Whether they decide to build sooner or later is their decision. He agreed that Condition No. 11 should be deleted.

Mr. Watson felt that the problem might be compounded if Condition 11 was deleted. The attorney general's opinion as well as the department's position is that this so-called consolidation and resubdivision would constitute a loss with respect to the nonconforming use and it is provided in the submittal as a condition because by accepting the land board's approval of the proposed consolidation and resubdivision the landowners are agreeing that the application has lost nonconforming use. What the applicant has done has challenged the department's position that it constitutes a law so if the applicant insists upon it the issue would have to be resolved one way or another now. Mr. Watson said that Deputy Atty. General Wong reviewed the applicant's letter which was recently submitted and his position is that the opinion still stands.

Mr. Higashi said that the only reason the nonconforming use came up is because he raised the question at the original hearing -- whether the nonconforming use is reserved or not, and the applicant took a defensive position.

In deleting condition 11, Mr. Ono asked whether the board's intent could be spelled out that they fully recognize the existence of the Attorney General's opinion. But as to applicability, this may never come up.

Mr. Van Pernis said that, as an attorney, he disagrees with the AG's opinion. He felt that this is an issue which need not be raised or decided at this time. The intended use of this application is not anything to rely upon the nonconforming use. The reconfiguration in essence does not rely upon the nonconforming use therefore he felt that Condition No. 11 should be deleted.

Assuming that the ownership of the property turns over several times, Mr. Ono asked who would be obligated to keep the landowners informed.

Mr. Van Pernis said that he would have no problem to having this recorded in the Bureau of Conveyances.

Mr. Higashi asked that a condition be included in the submittal requiring recording of these conditions so that future buyers will be aware of the restrictions on the property.

- ACTION Mr. Higashi moved to approve this application for consolidation and resubdivision use of TMK's 7-2-04:8, 9, 10 and 12 at Kua Bay, North Kona, Hawaii, subject to the those conditions listed in th submittal. Condition No. 11 however to be deleted and a new condition to be added requiring recordation of these conditions. Mr. Kealoha seconded and motion carried unanimously.
- Mr. Ono said that he also wanted it shown for the record that the State is not giving up its position. The Attorney General's opinion still stands as a part of the record.
- ITEM D-1 APPROVAL FOR AWARD OF CONTRACT - JOB NO. 35-MW-39, DRILLING HAMOA (HANA) EXPLORATORY WELL (43-02), HANA, MAUI.
- ACTION Mr. Yagi moved to award the contract for the above project to Roscoe Moss Company for their low bid of \$268,700.00 subject to the Governor's approval. Mr. Higashi seconded and motion carried unanimously.
- ITEM D-2 APPROVAL FOR AWARD OF CONTRACT FOR CONSTRUCTION AND PERMISSION TO ENTER INTO A CONTRACT FOR SURVEYING SERVICES - JOB NO 4-OW-26, DRILLING WAIPIO-MAUKA MONITOR WELL (2659-02), WAIPIO, OAHU.
- ACTION Mr. Ing moved to award the contract for the subject project to Water Resources International, Inc. for their low bid of \$470,980.90 subject to release of funds by the Governor. Further, that the members of the Board authorize the Chairperson to negotiate and enter into a contract with a consultant for construction surveying services. Mr. Yagi seconded and motion carried unanimously.
- ITEM D-3 APPROVAL FOR AWARD OF CONTRACT - JOB NO. 22-HW-34, DRILLING PAAUILO EXPLORATORY WELL (6223-01), PAAUILO, HAWAII.
- ACTION Mr. Higashi moved to award the contract for this project to Water Resources International, Inc. for their low bid of \$625,330.00 subject to approval of award by the Governor. Mr. Yagi seconded and motion carried unanimously.
- ITEM D-4 APPROVAL FOR AWARD OF CONTRACT - JOB NO. 3-9W-48, IMPROVEMENTS TO KUALAPUU RESERVOIR, PHASE III, MOLOKAI IRRIGATION PROJECT, MOLOKAI.
- ACTION Mr. Yagi moved to award the contract for the subject project to Molokai Construction, Inc. for their low bid of \$199,040.00 for Basic Bid plus Additive Alternates I, II, and III. Motion carried unanimously with a second by Mr. Higashi.
- ITEM D-5 APPROVAL FOR AWARD OF CONTRACT - JOB NO. 2-HW-21, RENOVATION OF UPPER HAMAKUA DITCH AND CONSTRUCTION OF ACCESS ROAD WAIMEA IRRIGATION SYSTEM, SOUTH KOHALA, HAWAII.
- ACTION Mr. Higashi moved to award the contract for the subject project to Isemoto Contracting Co., Ltd. for their total low bid of \$184,050.00 for the basic bid and additive alternate subject to release of funds by the Governor. Mr. Yagi seconded and motion carried unanimously.
- ITEM D-6 APPROVAL FOR AWARD OF CONTRACT FOR CONSTRUCTION AND PERMISSION TO ENTER INTO CONTRACT FOR SURVEYING SERVICES - JOB NO. 4-OW-30, PUMP AND CONTROLS FOR WAIALAE NUI WELL (1747-03), HONOLULU, OAHU.
- ACTION Mr. Ing moved to award the contract for the subject project to Ralph S. Inouye Co., Ltd. for their low bid of \$408,039.75 subject to release of funds by the Governor. Further, that the members of the Board authorize the Chairperson to negotiate and enter into a contract with a consultant for construction surveying services. Mr. Yagi seconded and motion carried unanimously.

APPLICATION FOR STREAM CHANNEL ALTERATION PERMITS FOR MAINTENANCE CLEARING AND CLEANING OF WAIMANALO, KAHAWAI, AND INOAOLE STREAMS AT WAIMANALO, OAHU, TMK: 4-1-13, 4-1-15, and 4-1-09.

ITEM D-7

ACTION

Upon motion by Mr. Ing and a second by Mr. Yagi, the board voted unanimously to approve the stream channel alteration permit for clearing of vegetation and debris from Waimanalo Stream, Kahawai Stream and Inoaole Stream subject to the following conditions:

1. That the applicant comply with all applicable statutes, ordinances, rules and regulations of the Federal, State, and City and County governments.
2. That the applicant notify the Division of Aquatic Resources of the actual dates of project initiation and project completion.

ADOPTION OF CHAPTER 184 OF TITLE 13, ADMINISTRATIVE RULES, "DESIGNATION AND REGULATION OF GEOTHERMAL RESOURCE SUBZONES".

ITEM D-8

ACTION

Mr. Yagi moved to adopt the final draft of Chapter 184 of Title 13, Administrative Rules,, "Designation and Regulation of Geothermal Resource Subzones", attached to the submittal, and authorize the Chairperson to process the proposed rules for approval by the Governor. Mr. Higashi seconded and motion carried unanimously.

AUTHORIZATION TO ASSESS WATER CHARGES FOR DOMESTIC USES, MOLOKAI WATER SYSTEM.

ITEM D-9

A Mrs. Noelani Joy had called from Molokai saying that she was leaving for Honolulu to attend the meeting and requested that discussion on this item be delayed as long as possible in order to give her the extra time needed to get to the meeting.

(See Page 17 for Action)

AWARD OF CONTRACT, JOB NO. 54-KP-14, FURNISHING PRE-FABRICATED SANITARY FACILITIES, KALALAU VALLEY, NA PALI COAST STATE PARK, HAENA, KAUAI.

ITEM E-1

ACTION

Mr. Zalopany moved to award the contract for Job No. 54-KP-14, Furnishing Pre-fabricated Sanitary Facilities, Kalalau Valley, Na Pali Coast State Park, to Arthur W. McCarter for a bid of \$40,734. Mr. Kealoha seconded and motion carried unanimously.

AWARD OF CONSTRUCTION CONTRACT, JOB NO. 46-OP-22, SEWAGE SYSTEM IMPROVEMENTS, SAND ISLAND STATE PARK, HONOLULU, OAHU.

ITEM E-2

ACTION

Mr. Ing moved to award the construction contract for Job No. 46-OP-22, Sewage System Improvements, Sand Island State Park, to Royal Contracting Company, Ltd. with a low bid of \$332,200.00. Mr. Yagi seconded and motion carried unanimously.

AWARD OF CONSTRUCTION CONTRACT, JOB NO. 57-HP-18, RECONSTRUCTION OF PARK FACILITIES, WAILOA RIVER STATE PARK, HILO, HAWAII.

ITEM E-3

ACTION

Mr. Higashi moved to award the construction contract for Job No. 57-HP-18, Reconstruction of Park Facilities, Wailoa River State Recreation Area, to Hilo Construction, Inc. for a low bid of \$110,000.00. Mr. Yagi seconded and motion carried unanimously.

- ITEM E-4            AWARD OF CONSTRUCTION CONTRACT, JOB NO. 49-MP-9, PARK IMPROVEMENTS, IAO VALLEY STATE PARK, WAILUKU, MAUI.
- ACTION            Mr. Yagi moved to award the construction contract for Job No. 49-MP-9, Park Improvements, Iao Valley State Park to Arisumi Brothers, Inc. for an amended Basi Bid of \$85,875.00 Mr. Higashi seconded and motion carried unanimously.
- ADDED  
ITEM E-5            FILLING OF TEMPORARY POSITION, GENERAL LABORER, POSITION NO. 12200, WASHINGTON PLACE, OAHU PARK SECTION.
- ACTION            Mr. Ing moved to approve the limited term appointment of Mr. Anthony Lee, to fill the temporary, General Laborer I position No. 12200, Washington Place, Oahu Park Section. Mr. Yagi seconded and motion carried unanimously.
- ITEM F-1            DOCUMENTS FOR CONSIDERATION.
- ITEM F-1-A            ASSIGNMENT OF LEASE. Candice A. Johnson Penovaroff request to Assign lease to Alexander Penovaroff, Jr. and Candice A. Penovaroff, G. L. No. S-4548, Lot 3, Lalamilo Farm Lots, Lalamilo, Waimea, So. Kohala, Hawaii.
- ITEM F-1-B            REVOCABLE PERMIT. Joseph Brun & Joseph Rita application for R.P. covering Section of the Hanapepe Govt. Land, Hanapepe, Waimea, Kauai, being TMK: 1-8-06:03 for pasture use. Rental: \$156.00 per mo.
- ITEM F-1-C            ASSIGNMENT OF LEASE. Curtis T. Nishioka request to Assign to Big Island Growers, Ltd., G. L. No. S-4802 covering Lot 11, Pahoia Ag Park, Keonepoko Iki, Puna, Hawaii.
- ITEM F-1-D            LAND LICENSE. Rego Trucking, Ltd. request for Land License to remove rock from State land, Kekaha, Kauai, being TMK 1-2-02:por. 1.
- ITEM F-1-E            Alexander & Baldwin, Inc. application for revocable permit covering the taking of water from the Koolau Forest Reserve (Nahiku License Area), Maui.
- ITEM F-1-F            East Maui Irrigation Co., Ltd. application for revocable permit covering the taking of water from the Koolau Forest Reserve (Huelo License Area), Maui.
- ITEM F-1-G            East Maui Irrigation Co., Ltd. application for revocable permit covering the taking of water from the Koolau Forest Reserve (Keanae License Area), Maui.
- (See Page 3 for Action on Items F-1-E, F-1-F and F-1-G.)
- ITEM F-1-H            Servco Pacific, Inc. request for consent to assign G. L. No. S-3764, Lot 16, Waimanalo Agricultural Subdivision, Waimanalo, Oahu.
- (See Page 4 for Action)
- ITEM F-1-I            MORTGAGE. Oceanfront Associates request to mortgage to Church of Scientology, Flag Service Org., Inc., grant of easement, L.O.D. S-27321, Waiohuli, Wailuku, Maui.
- ADDED  
ITEM F-1-J            COLLATERAL AGREEMENT by and between the State of Hawaii, Solomon Hanohano Holi, Olga Pualani Kali Holi, Wilma Healani Holi, Honolulu Mortgage Co., Inc. and T. R. Construction covering Lots 2-A, Parts 1 and 2, Hanapepe Town Lots, First Series, Hanapepe, Kauai containing 10,177 sq. ft. more or less. Special Sale Agreement No. S-5555.
- ACTION            Mr. Yagi moved to approve Items F-1-A, B, C, D, I and J as submitted. Motion carried unanimously with a second by Mr. Higashi.



ITEM F-2

COUNTY OF HAWAII, DEPARTMENT OF WATER SUPPLY, REQUEST FOR EXECUTIVE ORDER SETTING ASIDE RESERVOIR SITE AT LALAMILO, SO. KOHALA, HAWAII.

ACTION

Upon motion by Mr. Higashi and a second by Mr. Yagi, the board voted unanimously to:

- A. Authorize the applicant, on behalf of the State of Hawaii, to subdivide Parcel 5 of TMK 6-6-01 to create the requested reservoir site.
- B. Approve and recommend to the Governor this issuance of an executive order setting aside subject reservoir site to the County of Hawaii, Department of Water Supply.
- C. Grant an immediate right-of-entry to the Department of Water Supply or its assigns for surveying and construction purposes subject to the standard indemnity and hold-harmless clause and such other terms and conditions as may be prescribed by the Chairperson.
- D. Authorize the cancellation of Revocable Permit No. S-5028 as of August 31, 1984 and the issuance of a new permit to Mr. Roy Mattos effective September 1, 1984, subject to the monthly rental remaining the same as the previous rental and waiver of the document fee.

ITEM F-3

HUBERT SPIVEY, ET AL, APPLICATION FOR EASEMENTS AT WAIAKEA, SO. HILO, HAWAII.

ACTION

Upon motion by Mr. Higashi and a second by Mr. Yagi, the board unanimously voted to:

- A. Rescind its actions of December 28, 1979 (F-4) and October 8, 1982 (F-6).
- B. Authorize the direct sale of the above-described easements to the applicants under the terms and conditions listed in the submittal.
- C. Authorize immediate rights-of-entry to the areas in question subject to the standard indemnity and hold-harmless clause.

ITEM F-4

BRILHANTE-HAWAII, INC. APPLICATION FOR WATERLINE EASEMENT, PONAHAHAWAII, SO. HILO, HAWAII.

(See Page 4 for Action)

ITEM F-5

RESUBMITTAL - RICHARD LEVIN APPLICATION FOR EASEMENT AT KAWAIPAPA, HANA, MAUI.

ACTION

Finding the area in question to be an economic unit in terms of the intended use, the board, upon motion by Mr. Yagi and a second by Mr. Higashi, voted unanimously to authorize the direct sale of the subject easement to the applicants covering the subject area under the terms and conditions listed in the submittal.

ITEM F-6

RESUBMITTAL - FRANK HATA APPLICATION TO PURCHASE ABANDONED PORTION OF CALIFORNIA AVENUE, WAHIAWA, OAHU.

Mr. Detor said that this item was deferred at an earlier meeting because there was a question as to when the County would widen the road. The date had not been determined so staff was to check with the County. Staff did check and they still have no money so do not know when this road would be widened. Staff is therefore recommending that the department go ahead with the sale but put a provision in the conveyance that if within a period of ten (10) years the county decides to widen the road then they can buy that portion that they need back from Mr. Hata at the price that Mr. Hata paid. If there is an escalation in value they will not have to pay this price -- only what Mr. Hata paid the State.

- ACTION Upon motion by Mr. Ing and a second by Mr. Yagi, the board voted unanimously to:
- A. Authorize transmittal of a request to the Governor for the cancellation of a portion of Executive Order No. 2266 as noted above.
  - B. Find the desired area covered by Governor's Executive Order No. 2266 and the abandoned portion of California Avenue as unsuitable for development as a separate unit because of size, shape, and location and is a remnant by definition.
  - C. Approve cancelling Revocable Permit No. S-4248 to Marian T. Harada, Ltd.
  - D. Approve the direct sale of the desired area under Executive Order No. 2266 and the abandoned portion of California Avenue under the terms and conditions listed in the submittal.
- ITEM F-7 HILTON HAWAIIAN VILLAGE REQUEST FOR RIGHT OF ENTRY TO FORT DERUSSY BEACH, HONOLULU, OAHU.
- ACTION Mr. Ing moved to approve Hilton Hawaiian Village's request for right-of-entry to portions of Ft. DeRussy Beach for purposes of arranging volleyball playing in connection with the National Retail Hardware Association's 1984 convention on July 25, 1984, between the hours of 11:00 a.m. - 3:00 p.m., subject to the terms and conditions listed in the submittal. Mr. Higashi seconded and motion carried unanimously.
- ITEM F-8 RYOICHI & ESTELLE FUKUSHIMA REQUEST FOR WAIVER OF REPURCHASE OPTION, LOT 87, KEKAHA GARDENS SUBDIVISION, KEKAHA, KAUAI.
- ACTION Mr. Zalopany moved to authorize waiver of the repurchase option applicable to Lot 87 of the Kekaha Gardens Subdivision for the purpose of facilitating financing only. Mr. Kealoha seconded and motion carried unanimously.
- ITEM F-9 GARDEN ISLAND CANOE RACING ASSOCIATION REQUEST FOR RIGHT OF ENTRY TO USE PORTIONS OF HANAIEI BEACH, HANAIEI, KAUAI.
- ACTION Mr. Zalopany moved to authorize a right of entry to the Garden Island Canoe Racing Association to use portions of Hanalei Beach between the Hanalei River mouth and Anae Road from 12:00 noon, Friday, August 3, 1984, through 7:00 p.m., Saturday, August 4, 1984, for the 1984 H.C.R.A. Canoe Racing Championships, subject to the terms and conditions listed in the submittal. Mr. Kealoha seconded and motion carried unanimously.
- ITEM F-10 DEPARTMENT OF SOCIAL SERVICES REQUEST FOR APPROVAL OF RENEWAL OF LEASE COVERING SUITE 106 OF THE WAILUKU BUSINESS PLAZA, WAILUKU.
- ACTION Mr. Yagi moved to approve the Department's request to lease subject to the review and approval of the lease agreement by the Office of the Attorney General. Mr. Higashi seconded and motion carried unanimously.
- ITEM F-11 STAFF RECOMMENDATION FOR AMENDMENT OF PREVIOUS BOARD ACTION (10/21/83, AGENDA ITEM F-3) AUTHORIZING SALE OF AN EASEMENT TO KAMAKANI IKAIKA, INC. PAKINI NUI, KAU, HAWAII.
- ACTION Upon motion by Mr. Higashi and a second by Mr. Yagi, the board unanimously voted to amend its action of October 21, 1984, agenda Item F-3, by adding the following:
- B. Authorize immediate right of entry to Kamakani Ikaika, Inc., for the purposes of constructing private, transmission facilities and ground survey for easement maps subject to the terms and conditions listed in the submittal.

- ITEM H-1            RESUBMITTAL - CDUA FOR CONSOLIDATION AND RESUBDIVISION USE AT KUA BAY, NORTH KONA, HAWAII (MARK VAN PERNIS, ESQ.).
- (See Page 6 for Action)
- ITEM H-2            APPOINTMENT TO PLANNER POSITION.
- ACTION            Mr. Kealoha moved to approve the appointment of Mr. Dean Uchida to the Planner III Position No. 26433, effective July 16, 1984. Mr. Higashi seconded and motion carried unanimously.
- ADDED  
ITEM H-3            APPROVAL TO PROCEED WITH A FINANCIAL AND COMPLIANCE AUDIT OF THE DEPARTMENT'S FEDERAL AID PROGRAMS.
- ACTION            Mr. Kealoha moved to authorize the Chairperson to obtain approval from the State Comptroller to allow the Department of Land and Natural Resources to proceed with the financial audit of our Federally assisted programs for the fiscal year ended June 30, 1984. Motion carried unanimously with a second by Mr. Zalopany.
- ADDED  
ITEM H-4            ELECTION FOR VICE-CHAIRMAN FOR THE BOARD OF LAND AND NATURAL RESOURCES.
- ACTION            Mr. Zalopany moved to elect Mr. J. Douglas Ing as Vice-Chairman for the Board of Land and Natural Resources. Mr. Higashi seconded and motion carried unanimously.
- ITEM J-1            LEASE - CONCESSION, COIN-OPERATED TV CHAIRS, TERMINAL BUILDING, LIHUE AIRPORT, KAUAI (STEPHEN OTSUKI, DBA S. O. ENTERPRISES).
- Mr. Garcia asked that the Island shown on the top of the submittal be changed from OAHU to KAUAI.
- ACTION            Unanimously approved as amended. (Zalopany/Kealoha)
- ITEM J-2            APPLICATION FOR ISSUANCE OF REVOCABLE PERMIT NO. 3897, TICKET COUNTER, WAIMEA-KOHALA AIRPORT, HAWAII (PRINCEVILLE AIRWAYS, INC.).
- ACTION            Unanimously approved as submitted. (Higashi/Yagi)
- ITEM J-3            APPLICATION FOR ISSUANCE OF REVOCABLE PERMIT NOS. 3880, ETC., AIRPORTS DIVISION.
- ACTION            Unanimously approved as submitted. (Yagi/Higashi)
- ITEM J-4            RENEWAL OF REVOCABLE PERMIT NOS. 2367, ETC., CONFORMING USE, AIRPORTS DIVISION.
- ACTION            Unanimously approved as submitted. (Ing/Yagi)
- ITEM J-5            ISSUANCE OF A DIRECT LEASE, HARBORS DIVISION, MAALAEA BOAT HARBOR, WAIKAPU, WAILUKU, MAUI (U. S. COAST GUARD).
- ACTION            Unanimously approved as submitted. (Yagi/Kealoha)
- ITEM J-6            ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KEEHI LAGOON COMMERCIAL SUBDIVISION, HONOLULU, OAHU (PARADISE TRUCKING SERVICE).
- ACTION            Unanimously approved as submitted. (Ing/Yagi)
- ITEM J-7            ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PORT ALLEN SHED, KAUAI (SEAFOODS OF THE PACIFIC, INC.).
- ACTION            Unanimously approved as submitted. (Zalopany/Kealoha)

- ITEM J-8      ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, NAWILIWILI HARBOR, KAUAI (THE LIHUE PLANTATION CO., LTD.).
- Mr. Garcia said that the applicant wanted to discuss his rental further and therefore asked that this item be withdrawn.
- ACTION      Withdrawn.
- ITEM J-9      ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, MAALAEA SMALL BOAT HARBOR, MAUI (HARLOW R. TODARO).
- ACTION      Unanimously approved as submitted. (Yagi/Kealoha)
- ITEM J-10      APPROVAL OF CONSENT TO MORTGAGE, HARBORS DIVISION, KEWALO BASIN, HONOLULU, OAHU (LEASE NO. H-75-7, MARKERT PLACE, LTD., DBA M. OTANI CO.).
- ACTION      Unanimously approved as submitted.
- ITEM J-11      ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, NAWILIWILI SMALL BOAT HARBOR, KAUAI (PIER 12 OCEAN CENTER, INC.).
- ACTION      Unanimously approved as submitted.
- ITEM J-12      ISSUANCE OF REVOCABLE PERMIT HARBORS DIVISION, PIER 12, HONOLULU HARBOR OAHU (PIER 12 OCEAN CENTER, INC.).
- Mr. Garcia said that this particular revocable permit was approved by the board at its meeting of April 27, 1984 but the name that was listed was Hawaiian Cruises, Ltd., which was not actually a corporation. Pier 12 Ocean Center, Inc. is a corporation and the same principles are involved so DOT is bringing this back to the board because of this discrepancy.
- ACTION      Unanimously approved as submitted. (Ing/Yagi)
- ITEM J-13      ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KEWALO BASIN, HONOLULU, OAHU (UNITED CAR RENTAL SYSTEMS, INC.).
- ACTION      Unanimously approved as submitted. (Ing/Yagi)
- ITEM J-14      ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 39 BACKUP AREA, HONOLULU HARBOR, OAHU (B AND E, INC., DBA POLYGLYCOAT A-1 APPLICATORS).
- ACTION      Unanimously approved as submitted. (Ing/Yagi)
- ITEM J-15      USE OF HARBORS DIVISION FACILITIES, PIER 9, PASSENGER TERMINAL, HONOLULU, OAHU (HAWAII RUGBY FOOTBALL UNION).
- ACTION      Unanimously approved as submitted. (Ing/Higashi)
- ITEM D-9      AUTHORIZATION TO ASSESS WATER CHARGES FOR DOMESTIC USES, MOLOKAI WATER SYSTEM.
- The Maui County Department of Water Supply has been allowed to connect and withdraw water from the State's Molokai Water System for emergency supplemental source for the Kaunakakai Water System. As an emergency connection, no charges were assessed by the State.
- Mr. Chuck said that they would now like to charge the Department of Water Supply for water that they are now taking from DLNR's water system and using in Kaunakakai.

Mr. Chuck stated that DLNR runs, basically, an agricultural water system. Many years ago an emergency tap was made of our system down to Kaunakakai. Since that time no charges have ever been made. It is the department's desire to use our system for agriculture water. We do not fully utilize our system which is capable of about 7.5 mgd and the average used today is about half of that amount. In the meantime, since this has been going on for a long time there has been definite motions to get this charge going if they are going to take it from this interim basis. Mr. Chuck said that if we do this then we have a loan from the Bureau of Reclamation, Department of Interior, that is affected. Staff has written to the Department of Interior to notify them that we desire to work with the Bureau of Reclamation to see what would happen if we go and sell domestic water since the purpose of the loan was for agriculture water which carries a certain interest rate. Domestic water carries a higher rate of interest so chances are that DLNR will be charged more on the annual repayment cost if there is some domestic provision in our system.

Because of the fact that throughout the whole state there is a dry period going on, we are getting ready to ask the users of DLNR's system to cooperate on a voluntary basis to use water wisely. For now, however, Mr. Chuck said they would like to charge the Maui County Department of Water Supply the prevailing water use charges for water used from the Molokai Water System with the note that most likely in the near future this rate will be increased if we work it out with the Bureau of Reclamation as to what the provisions are of the modified contract.

In answer to Mr. Yagi's question, Mr. Chuck that the Maui County has been withdrawing from the State's Molokai Water System, without charge, for at least seven years and as of today the amount they use is about 400,000 gallons per day.

Mr. Ono asked what Mr. Chuck's opinion was regarding Maui County's efforts to set up their own water system to buy domestic water for the people in the Kaunakakai area.

Mr. Chuck said that he has been working closely with the staff of the Maui County Department of Water Supply for many years urging them to get their own system so that we would not have to have this connection continue. Mr. Chuck said that he has not seen any concrete efforts of actually getting construction and design going for facilities such as wells, etc. but he knew that studies were made to see where the other sources could come from.

Mr. Ono wondered if the Maui Water Department would continue to take their present position if they were forced to more seriously look at developing their own system.

Mr. Chuck answered yes.

What would happen should this emergency situation continue, asked Mr. Yagi?

Mr. Chuck said that a lot of people in Kaunakakai would be out of water if the State were to cut off their source. Kaunakakai gets a large percentage of their water from the State system.

Mr. Kealoha asked whether this system serviced Hoolehua as well as Kaunakakai.

Mr. Jeff explained that the Hoolehua system has its sources and it is currently being developed by Hawaiian Homes. They will have excess supply when they complete their systems but they are currently only in the first part of the third phase and could not at this time supply Kaunakakai.

Mr. Kealoha asked how much DLNR was paying to the Bureau of Reclamation.

Mr. Chuck said approximately \$250,000 to \$300,000 per year. He did not have the exact figures. DLNR borrowed \$4.5 million to build the system and we have a forty-year repay.

Now that there is no pineapple on Molokai, Mr. Kealoha asked whether our obligation to the people remained the same.

Mr. Chuck said that there are still 3,000 acres of pineapple on Molokai Ranch land and they buy their water from the state.

Ms. Noelani Joy, a Homestead farmer from Hoolehua, stated that she was opposed to the sale of water from the Molokai Irrigation System to Maui County. She said that the original intent of the system was for agriculture use and not domestic. Selling water for domestic use sets a precedence that may lead to competition of the water. There is a possibility of a water shortage now because of a drought and problems with Kaluakoi's pump. Two-thirds of the water must be held in reserve for the homesteaders. The remaining one-third is just about accounted for and rationing may go into effect. Agriculture production by Hawaiian Homesteaders and others have risen in the past year. It would be a shame if the farmers on Molokai were faced with a lack of water now that it is geared up for farming and depending on the irrigation system that was installed for agriculture use.

Ms. Joy said that at the last meeting Mr. Manabu Tagamori had indicated that there was so much land there and that it was not being used. She said that they are under the ruling of Hawaiian Homes and all of their funding also comes from Hawaiian Homes so they cannot develop at their own pace so progress in the Hoolehua area is slow but it is coming along. They have grown about one-third each year and it would be a shame to have them gear up for farming and then have the water taken away from them and be used for domestic use.

Mr. Larry Jeff, President of the Farm Bureau on Molokai and also a member of the Governor's Task Force Ag Sub Committee on Molokai, asked that any action to sell domestic water from the MIS be delayed or deferred. Maui County is currently obtaining two-thirds of their needs through the MIS and are at a point that they currently exceed the recommended supply capability of the pipe that comes from MIS to the town. On Molokai, there is the two-thirds/one-third rule. The two-thirds is for Hawaiian Homes lands, which includes homesteaders and individuals who lease from general revenue areas. That use recently has been multiplying so that their calculations are that the Hawaiian Homes portion is at an all-time high. This is vegetable production -- alfalfa, watermelons, etc. The majority of the state's supply of beans, watermelons, sweet potatoes, and peppers come from Molokai.

The one-third is the area in which they are very concerned. They have users on Molokai that are conditionally connected for agricultural use that could face discontinued or rationing of their available waters if the taking of domestic water is made legal. Not only is the Department of Water Supply obtaining their water for domestic uses, but the village of Kualapuu for many months of the year depends on this for the majority of their water. Maunaloa, through the Kaluakoi connection, occasionally receive domestic water.

The Belt Collins study recommends that the County of Maui pursue to purchase the MIS water. They further recommend that the Kaluakoi option may be to purchase MIS water. Mr. Jeff said that they are not fearful of the current practical connection for emergency supply but they are very fearful that their supply will be depleted. The current Task Force recommendation on Molokai was that the single most serious impediment to development of diversified ag

is the limit of the water supply and the Task Force recommends that they increase their supply of Phase II of the supply program. Mr. Jeff asked that the Board reconsider any initial foot in the door for domestic use of this water.

Mr. Yagi said that as he understood the recommendation, it is to charge the County for the water which they are presently getting for free. He didn't see how charging them for water they are presently using as starting a precedence. You just can't cut out the domestic water for the people of Kaunakakai so since they are getting the water anyway in fairness they should pay for this water.

Mr. Jeff said that he felt that it does set a precedence in that it changes the classification with the Bureau of Land Reclamation on the use of the irrigation system and that in itself is a major concern.

Mr. Ono asked what would happen if the Water Department people were charged this rate with the statement in there that this does not in any way indicate that in the future they have access to this particular source.

Mr. Jeff said that the alternative suggested by the Belt Collins Study indicate that 80¢ per thousand pumping cost would be necessary if a well were drilled. Any price that you might charge them out of MIS would be a bargain.

Mr. Ono said that right now they are getting the water for free.

Mr. Yagi felt that we could not continue to give them the water for free and by the same token we also could not cut out the water supply from the Kaunakakai people so the only other alternative is demand that the Maui County Water Department develop their own water source for the Kaunakakai area.

Mr. Ono said that we could say that we will cut off this source for domestic use in x-number of years so that the full resource would go back to agriculture use.

Ms. Joy said that they are afraid that it will start a precedence if people are allowed to buy MIS water for domestic use.

Mr. Kealoha said that there will be a precedence if we don't charge Maui County inasmuch as everybody else has to pay.

Ms. Joy said that the Hawaiian Homes irrigation system should be coming into the Kalamaula area by 1985 and they are estimating an excess. She understood that they are willing to negotiate with Maui County to use that excess water -- maybe an exchange of services for the use of water. Ms. Joy said that this is expected in the near future and they really feel that selling of the water should be delayed until Hawaiian Homes and Maui County can get together.

Mr. Ono asked if they were suggesting that the water be shut off instead of letting them have it for free.

Mr. Jeff said that for thirteen years we have been giving them water. What he wondered is how DLNR could give direction to the County that this is not going to expand and it appears to change the status of the loan to MIS use and to sell this at what may well be a bargain price may give the wrong signals to the county. In this particular study the alternatives for Maui County is to bring water either from the east end or drilling new wells.

Mr. Ono asked if they were saying that we should continue the present arrangement.

Mr. Jeff said yes, but give Maui County some notice that supply must be developed by a certain number of years.

Mr. Chuck informed the board that as this report was being formulated, DOWALD was brought in on many meetings and each time that it was questioned about buying water from the MIS, DOWALD's answer was always that the charge for MIS is for agricultural water and unless board action or laws change, we will continue to only say that it is for agriculture. Others reading the report may think that there are some acquiescence to the recommendations of the report which is, of all the studies made, the cheapest way to get water for these other needs is to buy it from the State.

Mr. Ono asked what would happen if the board took the formal position that they are not going to sell water.

Mr. Chuck said that it would clarify the position of the MIS run by the State's DLNR.

Mr. Higashi asked if there was a possibility of charging Maui County for hooking up into our system instead of for the water. This way the rates would not have to go through the public hearing process.

Mr. Ono said that since we have to hold hearings on the other rates this could also be joined together with that.

Mr. Watson said that although the primary use was for agriculture the loan repayments and the Bureau of Reclamation contract did allow for emergencies. In the event the water is applied under an emergency basis, the rate for this water will be other than agriculture.

In other words, said Mr. Chuck, as we go to our hearings in the near future, a hook-up charge could possibly be put forth to them and as suggested just now emergency rate charge be established.

Mr. Ono still wanted the board to take a position on how to use the water and then let the county know. He asked what kind of deadline should be given to the County.

Mr. Yagi felt that five years was reasonable.

Mr. Ono suggested deferring this item and then have Mr. Chuck put together all those points brought out at this morning's meeting and prepare same in the form of a recommendation and have the draft reviewed by Mr. Jeff and Ms. Joy and then bring it back to the board. In effect, said Mr. Ono, the board will hold off from any implementation of charging or selling water for domestic purposes. Also in that package, Mr. Ono said that he would like to see a reaffirmation statement on the part of the board as to what its position is on the water and only under what conditions the board should deviate.

Mr. Yagi asked if this meant that we could charge the County for Water.

Mr. Ono said no. It may be that in the course of charging the County we may be incurring a larger cost with the Federal people and the cost may affect the community to the extent that the cost will be passed on by the Maui Water Department.



ACTION

Deferred. Staff to develop a recommended position to the board as to what its position should be on the entire source in the system -- some kind of deadline to be given to the county to get off the State system and the pros and cons of charging under the existing conditions and some proposed language change to the existing rules that would go to public hearing.

Mr. Ono said that should the Federal government ask us to recover the total cost and pass it on and the consumer is going to pay for the total cost, the Kaunakakai domestic water rate may shoot way up. They are already paying high electric rates. This was his concern.

ADJOURNMENT: The meeting adjourned at 11:20 A.M.

Respectfully submitted,



Mrs. LaVerne Tirrell  
Secretary

APPROVED:



SUSUMU ONO  
Chairperson

It