

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

DATE: July 24, 1987  
TIME: 9:00 A.M.  
PLACE: Maui Community College  
Community Services Building  
310 Kaahumanu Avenue  
Kahului, Maui, Hawaii

ROLL  
CALL

Chairperson William W. Paty called the meeting of the Board of Land and Natural Resources to order at 9:00 A.M. The following were in attendance.

MEMBERS: Mr. J. Douglas Ing  
Mr. Moses W. Kealoha  
Mr. Leonard Zalopany  
Mr. John Arisumi  
Mr. Herbert Arata  
Mr. William W. Paty

STAFF: Mr. Ronald Walker  
Mr. Michael Shimabukuro  
Mr. Dean Uchida  
Mr. Eddie Ansai  
Mr. Alan Tokunaga  
Mr. Skippy Hau  
Mrs. Geraldine M. Besse

OTHERS: Mr. Ronald Hirano, D.O.T.  
Mr. Lawrence Swensen (Item H-3)

MINUTES: Mr. Ing moved to approve the May 22, 1987, minutes as circulated. Seconded by Mr. Kealoha, and the motion was carried unanimously.

ADDED  
ITEMS Upon motion by Mr. Ing and a second by Mr. Kealoha, the Board voted unanimously to add the following items to the agenda:

ITEM B-1 -- Request to Fill Clerk-Typist II Position No. 11459 in the Division of Aquatic Resources (Oahu).

ITEM D-2 -- Approval to Attend NFIP Community Assistance Program State Coordinator's Meeting in San Francisco, California.

ADDED  
ITEM B-1 REQUEST TO FILL CLERK-TYPIST POSITION NO. 11459 IN DIVISION OF AQUATIC RESOURCES (OAHU)

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Mr. Arata moved to appoint Caroline C. Matsumoto to Position 11459, Clerk-Typist II. Seconded by Mr. Arisumi and unanimously approved.

ITEM C-1 FILLING OF WILDLIFE MANAGEMENT ASSISTANT III, POSITION NO. 10944, ISLAND OF MAUI

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Mr. Arisumi moved to approve the appointment of Roger Bush to fill Position No. 10944. Seconded by Mr. Kealoha and unanimously carried.

ITEM C-2 FILLING OF GENERAL LABORER I, POSITION NO. 13360, TEMPORARY, KAMUELA STATE TREE NURSERY, ISLAND OF HAWAII

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Mr. Arata moved to approve the appointment of Theodore K. Lindsey to fill Position No. 13360. Motion was seconded by Mr. Kealoha and unanimously carried.

- ITEM D-1 FILLING OF ENGINEER (CIVIL) III, POSITION NO. 32433, DIVISION OF WATER AND LAND DEVELOPMENT, OAHU
- ACTION Mr. Ing moved to approve the appointment of Denise Hill to Position No. 32433. Motion was seconded by Mr. Kealoha and unanimously carried.
- ITEM D-2 ADDED APPROVAL TO ATTEND NFIP COMMUNITY ASSISTANCE PROGRAM STATE COORDINATOR'S MEETING IN SAN FRANCISCO, CALIFORNIA
- ACTION Unanimously approved (Zalopany/Kealoha).
- ITEM E-1 FILLING OF POSITION NO. 22336, PARK CARETAKER II, EAST UNIT, KAUAI PARKS SECTION
- ACTION Mr. Zalopany moved to approve the appointment of Matthew Reis to Position No. 22336. Seconded by Mr. Kealoha and unanimously carried.
- ITEM F-1 DOCUMENTS FOR CONSIDERATION
- ITEM F-1-a REQ. OF JAMES AZEKA FOR REVOCABLE PERMIT, LOT 3, BRODIE LOTS, HANAPEPE, KAUAI, TMK 1-8-08:50
- ITEM F-1-b REQ. OF MICHAEL W. APPLEBY FOR REVOCABLE PERMIT FOR ACCESS AND UTILITY PURPOSES, TMK 2-9-03:PORS. 16, 17, 20 & 39, HAMAKUALOA, MAKAWAO, MAUI
- ITEM F-1-c REQ. OF FRED LETIZIA FOR REVOCABLE PERMIT FOR ACCESS AND UTILITY PURPOSES, TMK 2-9-03:PORS. 16, 17, 20 & 39, HAMAKUALOA, MAKAWAO, MAUI
- ITEM F-1-d REQ. OF NANCY CHASTANG AND SETH ASHBY FOR REVOCABLE PERMIT FOR PASTURE USE, TMK 2-9-01:08 AND POR. 11, HAMAKUALOA, MAKAWAO, MAUI
- ITEM F-1-e REQ. OF NANCY CHASTANG AND SETH ASHBY FOR REVOCABLE PERMIT FOR ACCESS AND UTILITY PURPOSES, TMKS 2-9-01:POR 18; 2-9-03:PORS. 16, 17, 20 & 39, HAMAKUALOA, MAKAWAO, MAUI
- ITEM F-1-f CONSENT TO ASSIGNMENT OF GENERAL LEASE NO. S-5087 (KNAPP), LOT 62, PUU KA PELE PARK LOTS, WAIMEA, KAUAI
- ITEM F-1-g CONSENT TO ASSIGNMENT OF GENERAL LEASE NO. S-5053, LOT 5, PUU KA PELE PARK LOTS, WAIMEA, KAUAI
- ITEM F-1-h CONSENT TO ASSIGNMENT OF GENERAL LEASE NO. S-4266 (MOKULEIA HOMESTEADS), WAIALUA, OAHU
- ITEM F-1-i REQ. OF DIVISION OF STATE PARKS, OUTDOOR RECREATION AND HISTORIC SITES, DEPARTMENT OF LAND AND NATURAL RESOURCES FOR REVOCABLE PERMIT, LOT 531-A, SAND ISLAND, HONOLULU, OAHU
- Mr. Ing questioned the issuance of a revocable permit to the Department of Land and Natural Resources. Mr. Wong suggested that the Chairperson could make the decision administratively by way of a memorandum. The Chairperson so ordered.
- ACTION Mr. Shimabukuro, therefore, asked to withdraw Item F-1-i.
- ITEM F-1-j REQ. OF ALFRED HUDCOVIC FOR REVOCABLE PERMIT, NAHIKU HOMESTEADS, NAHIKU, KOOLAU, MAUI, TMK 1-2-02:27
- ITEM F-1-k CONSENT TO ASSIGNMENT OF SUBLEASE AFFECTING GENERAL LEASE NO. S-4316 TO ALFRO RONCO DEVELOPMENT, INC., WAIAKEA, SO. HILO, HAWAII
- Mr. Shimabukuro asked to amend the date of "June 22, 1985" in paragraph B to "June 22, 2025."

- ACTION Mr. Kealoha moved to approve Items F-1-a, -b, -c, -d, -e, -f, -g, -h, -j and -k as amended. Seconded by Mr. Zalopany and unanimously carried.
- ITEM F-2 REQ. FOR WATERLINE AND APPURTENANT FIRE HYDRANT EASEMENT OVER AND ACROSS KIHEI ELEMENTARY AND INTERMEDIATE SCHOOL SITE, WAIOHULI-KEOKEA, MAKAWAO (KULA), MAUI, TMK 2-2-02:43
- ACTION Unanimously approved (Arisumi/Arata).
- ITEM F-3 COUNTY OF MAUI REQUEST TO PURCHASE PORTIONS OF STATE LAND AT LOWER HONOKAWAI, LAHAINA, MAUI, TMK 4-4-01:PORS. 19 AND 21
- ACTION Unanimously approved (Arisumi/Arata).
- ITEM F-4 COUNTY OF MAUI REQUEST TO SET ASIDE STATE LAND FOR HONOLUA WATERSHED PROJECT, HONOKAWAI PHASE, HONOKAWAI, LAHAINA, MAUI, TMK 4-4-01:PORS. 15, 16, 18 AND 19
- ACTION Unanimously approved (Arisumi/Arata).
- ITEM F-5 NOTIFICATION OF LEGAL SUCCESSORS TO HOMESTEAD LEASE NOS. 55 AND 59, UALAPUE, MOLOKAI
- Mr. Shimabukuro stated that the request is to legalize the successors to the homestead leases. Mr. Kealoha asked that this item be deferred until further research could determine the ownership of the lot. His understanding, he said, is that Isabel Kaauwai purchased the property in fee and that there is only one surviving son.
- ACTION Item deferred upon motion by Mr. Kealoha and second by Mr. Ing; said motion was unanimously carried.
- ITEM F-6 STAFF RECOMMENDATION TO DELETE UNCOLLECTIBLE ACCOUNTS FROM THE ACCOUNTS RECEIVABLE RECORDS, CANCELLED GENERAL LEASE NOS. S-3884 AND S-3942 TO KAUAI KAI, INC.
- Mr. Zalopany moved for approval. Mr. Wong questioned the authority of the Chairperson to approve the deletion of accounts receivable. Mr. Wong stated that the approval rests with the Attorney General under section 40-82 of the Hawaii Revised Statutes.
- Mr. Shimabukuro stated that the Attorney General approved the staff's recommendation and the department now seeks authorization to have the Fiscal Office delete the uncollectible sums from accounts receivable and place such accounts in a special record. Mr. Wong suggested that this matter could be handled on an administrative basis.
- Mr. Zalopany withdrew his motion.
- Mr. Shimabukuro asked to amend his submittal to request that the Board instruct the Fiscal Office to delete the accounts, pursuant to the approval of the Attorney General.
- ACTION Mr. Zalopany moved to approve with the amendment. Seconded by Mr. Kealoha and unanimously carried.
- ITEM F-7 COUNTY OF KAUAI REQUEST FOR WATERLINE EASEMENT, WAIOLI, HANAIEI, KAUAI
- ACTION Unanimously approved (Zalopany/Arata).
- ITEM F-8 LEASE OF OFFICE SPACE FOR THE DEPARTMENT OF SOCIAL SERVICES AND HOUSING (NKA DEPT. OF HUMAN SERVICES), PUBLIC WELFARE DIVISION, KAPAA, KAUAI
- ACTION Unanimously approved (Zalopany/Kealoha).

ITEM F-9 LEASE OF OFFICE SPACE FOR THE DEPARTMENT OF SOCIAL SERVICES AND HOUSING (NKA DEPT. OF HUMAN SERVICES), PUBLIC WELFARE DIVISION, HONOLULU, OAHU

ACTION Unanimously approved (Ing/Kealoha).

ITEM F-10 LEASE OF OFFICE SPACE FOR THE DEPARTMENT OF HEALTH, FAMILY HEALTH SERVICES DIVISION, OAHU

ACTION Unanimously approved (Ing/Kealoha).

ITEM F-11 ACQUISITION OF LAND FOR THE ADDITION TO THE MAKENA STATE PARK SITUATE AT MAKENA, MAUI

ACTION Unanimously approved (Arisumi/Ing).

ITEM F-12 ACQUISITION OF LAND FOR THE PROPOSED WAIANAEE III ELEMENTARY SCHOOL SITE SITUATE AT WAIANAEE, OAHU, DAGS JOB NO. 12-16-0926

ACTION Unanimously approved (Ing/Kealoha).

The following item was considered in order to accommodate the applicant present at the meeting:

ITEM H-3 CDUA TO INSTALL TWO (2) MOORINGS OFFSHORE TMK:5-7-07: 5 AT PUKOO, MOLOKAI - FILED BY MR. LAWRENCE SWENSON

Mr. Uchida stated that analysis indicated the use appears to conflict with Board policy in approving the statewide mooring areas. However, Molokai personnel from the Department of Transportation indicated that although a site near Kaunakakai was approved as a statewide mooring area, regulations or procedures haven't been adopted to allow the dropping of moorings there. Therefore, Mr. Uchida, stated, approval is recommended with a condition that should the State implement rules and regulations for a statewide mooring area on Molokai the applicant shall remove and relocate his moorings.

Mr. Arisumi asked Mr. Swensen whether he agreed with Condition 5. He answered in the affirmative. Mr. Swensen said his boat was anchored in the mooring area in the harbor for five years but one night his boat mysteriously ended up five miles away. In the meantime, he has anchored his boat in another area and made his request for mooring after the November incident. He says he lives approximately 100-200 yards from the mooring, which is the closest area to his residence and also where the water is deep enough. The proposed mooring area is visible from his residence.

Mr. Arisumi asked whether applicant could abide with the conditions, and he answered in the affirmative.

Mr. Ing noted that the submittal did not specify the type of mooring authorized. Normally a diagram is submitted which has been approved by the DOT or the Corps of Engineers. Mr. Swensen stated that he did submit a diagram to the Corps of Engineers. It was suggested that the Board approve the request subject to the condition that applicant submit a drawing or diagram to indicate the type of mooring system he will use. Mr. Swensen indicated that he will use two hand set anchors only.

Mr. Kealoha asked whether there would be a disposition request later. Mr. Uchida said that such request would be made through the Division of Land Management. Mr. Uchida said that a right of entry could be included in this request to allow Mr. Swensen to proceed, with disposition at a later date.

Mr. Ing informed applicant that the State is required to charge rent for use of the submerged land.

ACTION Mr. Arisumi moved for approval as amended; seconded by Mr. Arata and unanimously carried.

ITEM G-1 PERMISSION FOR FIRST AMENDMENT TO STATE OF HAWAII CONTRACT NO. 21292 WITH THE LANDGE GROUP FOR ELECTRONIC DATA PROCESSING CONSULTANT SERVICES

ACTION Unanimously approved as submitted (Kealoha/Zalopany).

ITEM G-2 PERMISSION FOR OUT-OF-STATE TRAVEL FOR CHARLES F. NEUMANN III

ACTION Unanimously approved as submitted (Ing/Kealoha).

ITEM H-1 REQUEST FOR APPROVAL TO CONTRACT WITH THE RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII (RCUH) TO CONDUCT RESEARCH FOR HANDS-ON EDUCATION AND PRACTICAL EXAMINATION OF THE FEASIBILITY OF FEE FISHING VENTURES

ACTION Unanimously approved as submitted (Ing/Kealoha).

ITEM H-2 Approved. See page 8.

ITEM H-3 Approved. See above.

ITEM H-4 REQUEST FOR TIME EXTENSION ON CDUA FOR REHABILITATION AND UPGRADING OF THE EXISTING HYDROELECTRIC SYSTEM FOR LIHUE PLANTATION COMPANY, LTD. AT LIHUE-KOLOA FOREST RESERVE, KAUAI - FILED BY AMFAC ENERGY, INC.

Mr. Ing asked to be excused from voting on this item.

ACTION Unanimously approved (Zalopany/Kealoha).

ITEM H-5 AMENDMENT TO A CDUA FOR CONDUCTING COMMERCIAL FILMING ACTIVITIES AT VARIOUS LOCATIONS WITHIN THE STATE OF HAWAII - FILED BY DPED

Mr. Uchida stated that the request for amendment is to allow greater flexibility in issuance of the permits and also to grant helicopter landing permits by having the various divisions deal with the permits for the landings on State and conservation zoned lands. In the past it has been done on a case-by-case basis and has been time-consuming. It is now proposed that Neighbor Island personnel, upon approval of the permit, work with the applicant and issue the landing permits for their respective areas.

Mr. Ing asked that standard conditions be developed similar to what has been done in the past, with the ability to add or subtract from those conditions. When approval is given, he stated, then the field people can approve subject to the given conditions.

In response to a question from Mr. Wong, Mr. Uchida said that this would help centralize the process. The film permit would be forwarded to DLNR and under the proposed amendment DLNR would apply certain specific guidelines. If the application meets the guidelines, the filming permit with the helicopter landing would be approved subject to a condition that the applicant obtain a specific landing permit from the district staff who would be more aware of local activities and could determine a suitable site for the landing.

In answer to a question from Mr. Kealoha, Mr. Uchida stated that OCEA is not setting up landing sites but are relying on the judgment of the line people to determine the appropriate site, subject to guidelines established by the Board.

Mr. Zalopany asked that Kokee State Park be exempted as a landing site because 200-300 people are in the park each day. Mr. Paty stated that matters such as these may be set up in the guidelines. Mr. Ing stated that conditions such as hold harmless and indemnity provisions are standard in the film permit and would be included.

Mr. Paty stated that as far as the landing permit, it is difficult for the Office of Conservation and Environmental Affairs to determine whether users would be affected; therefore, the amendment would expedite the process and afford closer controls. Mr. Uchida stated that the DLNR will approve the film permit use subject to a condition that the applicant obtain the appropriate landing permit. A copy of the application is then sent to the line person. The applicant then meets with the particular staff individual and works out the details for landings.

Mr. Uchida said OCEA would come before the Board with the required guidelines. Mr. Paty asked that this be expedited. If it would take some time, he suggested permits be handled on a temporary administrative basis. Mr. Ing stated that CDUAs have allowed helicopter landings in the past and suggested that the provisions may be helpful in drafting the guidelines. Mr. Uchida stated that he could probably have proposed guidelines before the next meeting.

ACTION Mr. Ing moved for approval with the following amendment: that the CEA office prepare a set of standard guidelines and conditions for the Board's review at its next regularly scheduled Board meeting for approval. The motion was seconded by Mr. Kealoha and unanimously carried.

ITEM H-6 CDUA FOR AMENDMENT TO APPROVED CDUA HA-6/23/83-1554 FOR KAUMANA-KEAMOKU 138 KV TRANSMISSION LINE - FILED BY HAWAII ELECTRIC LIGHT CO.

ACTION Unanimously approved as submitted (Arata/Arisumi).

ITEM H-7 AUTHORIZATION TO APPOINT A HEARING MASTER

ACTION Unanimously approved (Arata/Zalopany).

ITEM J-1 LEASE, BUILDING 344, HONOLULU INTERNATIONAL AIRPORT, OAHU (UNITED STATES OF AMERICA, U.S. ARMY ENGINEER DIVISION, PACIFIC OCEAN)

ACTION Unanimously approved (Ing/Kealoha).

ITEM J-2 APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 4368 AND 4371, AIRPORTS DIVISION

ACTION Unanimously approved (Zalopany/Kealoha).

ITEM J-3 RENEWAL OF REVOCABLE PERMITS 2869, ETC., CONFORMING USE, AIRPORTS DIVISION

Mr. Hirano stated that they will stipulate that R.P. 3925 on Sheet 2, the department will require David Bettencourt to settle his outstanding State debts. Mr. Ing suggested that Mr. Hirano check with Deputy Attorney General Johnson Wong regarding his debt on Maui as it might relate to a business bankruptcy. Mr. Ing pointed out that this was the same issue before the Board approximately one year ago when the revocable permit was issued, and it is his understanding that Mr. Bettencourt's obligation was a corporate one and that Mr. Wong looked into the situation.

ACTION Mr. Ing moved for approval; seconded by Mr. Zalopany and unanimously approved.

- ITEM J-4 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, NAWILIWILI HARBOR, KAUAI (COMPOSIT TECHNOLOGIES, INC.)
- ACTION Unanimously approved (Zalopany/Kealoha).
- ITEM J-5 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, SAND ISLAND, OAHU (MANUEL PRISCILLAS AND BRYAN REDOBLE)
- ACTION Unanimously approved (Ing/Kealoha).
- ITEM J-6 CONTINUANCE OF REVOCABLE PERMITS H-82-994, ETC., HARBORS DIVISION
- Mr. Hirano asked that H-84-1192, Kaukini Distributors, on page 1 be deleted because of nonpayment.
- Mr. Ing asked to be excused from voting on this item.
- ACTION Mr. Zalopany moved for approval as amended; seconded by Mr. Kealoha and unanimously carried.
- RECESS The Chairperson called a recess from 10:10 A.M. to 10:16 A.M.
- ITEM H-2 FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND ORDER FOR THE ERADICATION OF MARIJUANA ON STATE-OWNED AND MANAGED CONSERVATION DISTRICT LANDS ON THE ISLANDS OF HAWAII, MAUI, AND MOLOKAI - FILED BY THE DIVISION OF FORESTRY AND WILDLIFE (SUBMITTAL TO BE DISTRIBUTED)
- Mr. Uchida presented proposed Findings of Fact, Conclusions of Law, Decision and Order with the following amendments:
- Page 9, No. 14: delete the first sentence. Add to the second sentence, following the word "boom," "in prior operations in Kauai and Hawaii counties."
- Page 17, No. 6b: delete the word "department" and substitute "Board of Land and Natural Resources."
- Page 18, No. 9: delete the word "not" and the prefix "in" of the word "inconsistent."
- Page 18, No. 10: delete the words "The Board finds that" and begin the sentence with "There."
- Page 19, No. 19: delete the words "The Board finds that" and begin the sentence with "There."
- Page 20, No. D.1.a: following the word "areas" add ", such as certain domestic watersheds,"
- Page 21, No. 7: add to the end of the paragraph, "and shall be submitted to the BLNR for administrative approval."
- Page 21, No. 7a: delete "Special attention shall be paid to the following" and replace with "The monitoring plan shall address the following."
- Page 22, No. E: add the words "on each respective island."
- Mr. Arisumi inquired about item 39 on page 13, asking whether tests had been conducted four to six weeks following the spraying. Mr. Uchida stated that such information was unavailable at the present time. Mr. Paty stated that such information would be available from the Kauai test. Samples were taken at two feet. Preliminary indications are that the weed oil is hardly detectable.

Mr. Arisumi recommended acceptance of the Findings but wants the Chairperson or Board to review the effects or the remains of the Kauai tests. Mr. Wong suggested the addition of a proviso that the Board may revise the findings pending the outcome of the Kauai studies. Mr. Ing suggested it be incorporated into the monitoring plan. It was agreed that the words "including those from the previous spraying on Kauai" be added to 7d on page 22.

Mr. Ing asked for discussion of paragraph 53 on page 16 and the deletion of the words "irrelevant or immaterial, taken out of context," and substitution of the words "not supported by the reliable and probative evidence." Mr. Ing asked whether the phrase "are repetitions or similar to the Board's own findings" are grounds for rejecting a finding and that he would like the Attorney General to review the question.

Mr. Arisumi moved for approval of H-2 as amended; seconded by Mr. Arata (for the record, Mr. Arisumi subsequently withdrew his motion).

Mr. Paty stated that this item came before the Board as a result of a contested case hearing, Division of Forestry and Wildlife file CDUA, SH 9/2/86-1952 for eradication of marijuana on state-owned and managed conservation district lands in the islands of Hawaii, Maui and Molokai. The EIS was accepted. Public hearings were held. A hearing on a petition for a contested case hearing was held on May 4, 1987, Wailuku. The Board has developed Findings of Fact, Conclusions of Law, Decision and Order for consideration and was so considered.

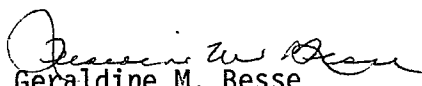
**ACTION**

Mr. Ing moved for acceptance of the Findings of Fact, Conclusions of Law, Decision and Order of SH-1952 as amended; motion seconded by Mr. Arisumi; and unanimously approved. The Chairperson noted that the results were affirmative and are so ordered. Three sets of the findings will be signed: one for the applicant, one for the contestant and one for the Board files.

**ADJOURNMENT**

There being no further business, the meeting was adjourned at 10:40 a.m.

Respectfully submitted,

  
Geraldine M. Besse  
Secretary

APPROVED:



WILLIAM W. PATY, Chairperson