

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

DATE: August 11, 1989  
TIME: 8:30 A.M.  
PLACE: State Office Building  
Conference Rooms A, B, and C  
3060 Eiwa Street  
Lihue, Kauai

ROLL  
CALL

Chairperson William W. Paty called the meeting of the Board of Land and Natural Resources to order at 8:32 A.M. The following were in attendance:

MEMBERS: Mr. Moses W. Kealoha  
Mr. John Arisumi  
Mr. Herbert Arata  
Mr. Herbert Apaka, Jr.  
Mr. William W. Paty (excused at 9:20 A.M.)

STAFF: Mr. Manabu Tagomori  
Mr. Michael Buck  
Ms. Janet Swift  
Mr. Ralston Nagata  
Mr. Mike Shimabukuro  
Mr. Roger Evans  
Mr. Samuel Lee  
Mrs. Geraldine Besse

OTHERS: Johnson H. Wong, Esq., Deputy Atty. Gen.  
Mr. Russell Sugano (Item F-1-a)  
Mr. John Harder (Item F-1-a)  
Ms. Georgette Deemer (Item F-1-d)  
Mr. Ray Duarte (Item F-5)  
Dr. Carl R. Honig (Item H-2)  
Mr. Mike Markrich (Item H-5)  
Mr. Bruce Miller (Item H-5)  
Mr. Benjamin Matsubara (Item H-6)  
Mr. Peter Garcia, Dept. of Transportation

MINUTES: The minutes of April 28, 1989, and July 28, 1989, were unanimously approved. (Kealoha/Arisumi)

ADDED  
ITEMS: Upon motion by Mr. Arisumi and a second by Mr. Kealoha, the following items were added to the agenda:

- Item B-1 -- Filling of Temporary Fishery Aide Position No. 32693 in the Division of Aquatic Resources, Oahu
- Item E-3 -- Special Use Permit to Kahuku High School to Conduct Alternative Learning Center Activities at Malaekahana State Recreation Area, Oahu
- Item F-7 -- Staff Recommendation for Final Extension of Demolition Deadline: General Lease No. S-5118 to Masao Takatsuki, Wailua, Kauai
- Item H-7 -- Filling of Position No. 02731, Clerk Stenographer II, SR-09, Office of the Chairperson, Oahu

Items on the agenda were considered in the following order to accommodate applicants present at the meeting.

ITEM H-6:

VIOLATION OF CONSERVATION DISTRICT LAND USE AND PERMIT BY TRUE/MID-PACIFIC GEOTHERMAL VENTURE, PUNA, HAWAII

Mr. Evans presented a brief history of the case, along with a corrected copy of the submittal, which basically corrected typographical changes of the wording in the "compliance" section.

He noted that he received a number of telephone calls from individuals on the Big Island asking that this item be deferred to the next Board meeting on the Big Island. As there was no motion to defer, the Chairperson asked Mr. Evans to continue with this presentation.

Mr. Evans presented photographs, including aerial photographs, of the site involved showing the clearing and grubbing of the area. The photographs were taken on June 30, 1989, as part of staff's inspection duties. Staff analysis and the land survey indicated that the applicant exceeded the approved metes and bounds. The first public complaint was made on July 5.

Mr. Apaka questioned Mr. Evans regarding the fine, indicating that it seemed that a great number of trees were cleared and that in the Chamberlain case the applicant was fined "per tree." Mr. Evans answered that the focus in this case was a plan "per acreage," as opposed to the Chamberlain case where they looked at total acreage and focused on the trees cut to enhance a view.

Mr. Arisumi stated that the damage has been done and to such an extent he felt it would be impossible to restore the area to its previous condition.

Mr. Arata expressed his displeasure; he felt that the recommended fine was not consistent with the violation.

Mr. Benjamin Matsubara representing True/Mid-Pacific stated that his client agrees with staff's recommendation, apologized for the violation, and assured the Board that steps have been taken to ensure that such an occurrence does not happen again.

He further stated that there was a discrepancy in the narrative portion of the operation plan; it stated that the drilling site consisted of five acres. The metes and bounds map attached as an exhibit showed a three-acre site. Mr. Matsubara stated that the surveyor used the metes and bounds map; however, the operator used the narrative.

In response to a question from Mr. Arata, Mr. Matsubara stated that they have discussed this matter with Campbell Estate. He stated that all permits will be reviewed as a package to ensure no further discrepancies; organizational meetings will be held to assign specific duties and responsibilities to the various project leaders and consultants; and the attorney will be included as a regular part of this review process to ensure that the Board's requirement under the decision and order and the plan of operation are legally in compliance. It is an attempt to consolidate a legal and technical engineering review. There will be initial organizational meetings whenever new consultants are brought in with a large organizational meeting at the beginning to stress and review the decision and order and plan of operation. Each party must comply strictly with the conditions and requirements. There will also be weekly meetings, he said, to coordinate activities of the various groups, including the landowner, to keep everyone apprised.

Mr. Paty stated that the fine recommendation provided an opportunity to advance, promote and enhance forestry work under the provisions of Chapter 171-19. He stated the Board is seriously concerned. The violation, he stated, came at a very inappropriate time in that "Save our Rain Forests" were on the spot at the time and Hawaii will receive national coverage on it. He further stated that it would look like the State did not have a high regard for the conservation effort, and the efforts to move ahead with the geothermal program were not enhanced by this situation. He stated that the Board has to be assured that this project will be very carefully managed and scrutinized. The people of the Big Island have major concerns about the geothermal program; and if the problem reoccurs, he said, it would be very difficult to continue the mediation efforts with the various groups.

Mr. Kealoha stated he differed from the staff's recommendation on the fine. Mr. Kealoha asked the Chairperson to convene an executive session to confer with legal counsel concerning the fine.

RECESS

The Chairperson called a recess to go into executive session from 9:15 A.M. to 9:18 A.M.

ACTION

Mr. Arata asked to set the record straight--that the Board is not attempting to set an "example" in this case; however, the Board is quite clear about the seriousness of the violation and future occurrences. He moved that the Board approve the recommendations of staff with the amendment of the fine to \$3,000 per acre for a total sum of \$15,000, the method of payment to be determined by the Chairperson. The motion was seconded by Mr. Kealoha and unanimously carried as amended.

The Chairperson announced that he had to leave to attend the Congressional oversight hearing in Hilo; Mr. Kealoha took over as Acting Chairperson.

ITEM D-1:

RESUBMITTAL - ADOPTION OF PROPOSED ADMINISTRATIVE RULES ON GEOTHERMAL/CABLE SYSTEM PERMITTING

Mr. Tagomori noted that the adoption of the proposed rules have been deferred from the meetings of July 14 and July 28. Subsequent to the July 28 meeting, 200 copies of the proposed rules were mailed out. He stated that one response was from the Cynthia Thielen representing the Puna Community Council. Her concerns involved three areas:

(1) page 2, definition of conflict, add "which does not affect or invalidate the jurisdiction or authority of any agency under existing law."

(2) page 6, line 19, under "Transfer of Functions," change the word "or" to "and."

(3) page 18, section (a), add the following: ". . . provided that the conflict resolution process shall not affect or invalidate the jurisdiction or authority of any agency under existing law."

Mr. Tagomori stated that Ms. Thielen requested action on the rules be deferred until the meeting on the Big Island; however, he noted that lengthy hearings have been held and felt the parties were in agreement and, therefore, recommended that the Board take action at this meeting.

ACTION

Unanimously approved as amended (Arata/Apaka).

ITEM D-2: PROPOSED GEOTHERMAL RESOURCE SUBZONE DESIGNATION OF FORTY ACRES, TMK: 1-4-90-15, POHOIKE, PUNA, HAWAII

Unanimously approved as submitted (Arata/Apaka).

ITEM H-5: REQUEST FOR TEMPORARY VARIANCE TO ESTABLISH A PILOT EDUCATIONAL TOUR PROJECT, HANAUMA BAY, OAHU (APPLICANT: UNIVERSITY OF HAWAII, SEA GRANT EXTENSION)

Mr. Evans stated that the concerns raised regarding the donation are reflected in condition nos. 4 and 5.

In response to Mr. Arata, Mr. Evans stated that staff would add a condition that there will be no advertising. Mr. Evans indicated that the University is also asking that the variance commence December 1, 1989.

Mr. Kealoha asked that the commencement date of the variance be inserted, as well as a non-renewable clause as part of condition no. 12.

Mr. Arata moved for approval and asked that condition no. 5 be reworded to reflect that the proposed wording on the sign at the kiosk indicating that the tour is a public service and that the University is conducting the tour as an educational tour be submitted to the Department for approval. The sign will make no mention of money. The motion was seconded by Mr. Arisumi and unanimously carried as amended.

ITEM F-5: AUTHORIZATION FOR DIRECT AWARD OF LEASE TO KAPAA CONGREGATION OF JEHOVAH'S WITNESS FOR CHURCH PURPOSES, TAX MAP KEY 4-6-14: PORTION OF 26, KAPAA, KAUAI

Mr. Shimabukuro stated that the church is asking for 1-1/4 acres of the 21 approximate acres.

Mr. Ray Duarte, an elder from the church, appeared before the Board and stated that the 1-1/4 acres is all they need.

ACTION Unanimously approved as submitted (Apaka/Arata).

ITEM F-1-a: ISSUANCE OF REVOCABLE PERMIT TO COUNTY OF KAUAI, DEPARTMENT OF PUBLIC WORKS, FOR TEMPORARY STORAGE OF DERELICT VEHICLES, TAX MAP KEY 4-5-15:03, KAPAA, KAUAI

Mr. Shimabukuro asked that the following amendments be made: (a) that specific use on page 1 be amended by deleting the "." after the word "vehicles" and adding "only and not to include processing, shredding, or compacting of such vehicles." (b) on page 1, rental to be gratis; and (c) on page 2, delete recommendation no. 1.

Mr. Russell Sugano, Chief of Operations, Road Maintenance, Public Works, County of Kauai, stated that derelict vehicles are becoming a problem. The County will store up to 75 cars at a time on the site, will have it dismantled and shipped off the island by a contractor. He stated that the contractor will bring a portable crusher onto the site and will leave the cars on site until he is ready to ship.

Mr. Shimabukuro stated that he understood that the revocable permit was strictly for the temporary storage of vehicles. If a portable crusher is brought onto the site, it would be a different situation.

Mr. Arisumi expressed concern about the gratis fee because the contractor would be making money from the operation, and the State shouldn't be providing him use of State land. Mr. Shimabukuro stated that Mr. Arisumi was correct but at the time of the submittal the understanding was contrary to Mr. Sugano's statement.

The Acting Chairperson stated because of the misunderstanding the item should be deferred or withdrawn and resubmitted to the Board, being "unequivocally clear" on the specific use. On the question of rent, if the staff feels the land should be set aside for gratis the request should be justified.

ACTION Deferred to the next meeting of the Board.

ITEM H-2: AMENDMENT TO CDUA FOR ADDITIONS TO A SINGLE FAMILY RESIDENCE (APPLICANT: DR. CARL R. HONIG)

ACTION Unanimously approved as submitted (Arisumi/Arata).

ITEM F-1(d): CONSENT TO ISSUANCE OF TWO REVOCABLE PERMITS BY THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT, FILM INDUSTRY BRANCH, FOR USE OF DIAMOND HEAD FILM FACILITIES, TAX MAP KEY 3-1-42:PORTION 09

ACTION Unanimously approved as submitted (Apaka/Arata)

RECESS The Acting Chairperson called a recess from 10:45 A.M. to 10:55 A.M.

ITEM B-1: FILLING OF TEMPORARY FISHERY AIDE POSITION NO. 32693 IN THE DIVISION OF AQUATIC RESOURCES, OAHU

ACTION Unanimously approved the appointment of Kevin Imai as a Temporary Fishery Aide, Position No. 32693, Division of Aquatic Resources, Oahu (Arisumi/Arata).

ITEM C-1: MASTER'S REPORT ON PUBLIC HEARING FOR ADDITION OF STATE LAND TO HALELEA AND MOLOAA FOREST RESERVES, HANAIEI DISTRICT, ISLAND OF KAUAI

ACTION Unanimously approved as submitted (Apaka/Arisumi).

ITEM D-1: See page 3.

ITEM D-2: See page 4.

ITEM D-3: PERMISSION TO HIRE CONSULTANT FOR KEAHUA FOREST ARBORETUM PARKING LOT, KAUAI

ACTION Deferred at the request of the Acting Chairperson.

ITEM D-4: PERMISSION TO HIRE ENGINEERING/ARCHITECTURAL CONSULTANTS TO PREPARE CONSTRUCTION PLANS AND SPECIFICATIONS

ACTION Unanimously approved as submitted (Apaka/Arisumi).

ITEM E-1: APPROVAL FOR RELEASE OF HAWAIIAN FISHPOND STUDY

ACTION Unanimously approved as submitted (Arata/Arisumi).

ITEM E-2: PERMISSION TO NEGOTIATE WITH THE FRIENDS OF IOLANI PALACE, INC., AND EXECUTE DOCUMENT FOR A MANAGEMENT CONTRACT FOR IOLANI PALACE, BARRACKS, CORONATION PAVILION AND OLD ARCHIVES (KANAINA) BUILDING, HONOLULU, OAHU

Mr. Nagata asked to amend his recommendation by deleting "appropriation of funds" as funds have already been appropriated.

ACTION Unanimously approved as amended (Arata/Arisumi)

- ITEM E-3: SPECIAL USE PERMIT TO KAHUKU HIGH SCHOOL TO CONDUCT ALTERNATIVE LEARNING CENTER ACTIVITIES AT MALAEKAHANA STATE RECREATION AREA, OAHU
- ACTION Unanimously approved as submitted (Apaka/Arisumi).
- ITEM F-1-a: See page 5.
- ITEM F-1-b: CONSENT TO ASSIGNMENT OF GENERAL LEASE NO. S-5021 COVERING LOT 47, KOKEE CAMP SITE LOTS, WILLIAM S. DUNFORD, ASSIGNOR TO WILLIAM S. DUNFORD AND ELIZABETH DUNFORD, ASSIGNEES, TAX MAP KEY 1-4-04:03, WAIMEA, KAUAI
- Mr. Shimabukuro asked to amend recommendation no. 1 to read \$22.50.
- ITEM F-1-c: ISSUANCE OF REVOCABLE PERMIT TO ERINEO BALANAY AND VICTOR K. OMALZA, JR., TAX MAP KEY 6-2-12:06, KAWAILOA, WAIALUA, OAHU
- ITEM F-1-d: See page 5.
- ITEM F-1-e: ASSIGNMENT OF GENERAL LEASE NO. S-5141, SAM ANTONE CRIVELLO TO MAY K. CRIVELLO, LOT 14, MILOLII-HOOPULOA LOTS, HOOPULOA, SO. KONA, HAWAII
- ITEM F-1-f: ASSIGNMENT OF GENERAL LEASE NO. 3908, PACIFIC RESORT MANAGEMENT, INC., TO SEIYUKAI KABUSHIKI GAISHA, LOT 13, OCEAN VIEW LOTS, WAIAKEA, SO. HILO, HAWAII
- ITEM F-1-g: YOUTH WITH A MISSION, INC., INTERNATIONAL CHRISTIAN SCHOOLS, HAWAII, REQ. TO SUBLEASE GENERAL LEASE NO. S-4566, FORMER HONOKOHAU SCHOOL LOT, NO. KONA, HAWAII
- ACTION Unanimously approved Items F-1-b, as amended, -c, -e, -f, and -g (Apaka/Arisumi).
- ITEM F-2: ISSUANCE OF EXECUTIVE ORDER TO COUNTY OF MAUI FOR FIRE STATION AND RELATED PURPOSES AT PAIA, MAKAWAO, MAUI, TAX MAP KEY 2-6-04:03
- ACTION Unanimously approved as submitted (Arisumi/Arata).
- ITEM F-3: AMENDMENT TO PRIOR BOARD ACTION AUTHORIZING ACQUISITION OF LAND AS AN ADDITION TO SACRED FALLS STATE PARK SITUATE AT HAUULA, OAHU (RE ITEM F-8 OF NOVEMBER 8, 1985)
- ACTION Unanimously approved as submitted (Arisumi/Arata).
- ITEM F-4: AUTHORIZATION FOR PUBLIC AUCTION SALE OF TWO HOUSELOTS ON THE ISLAND OF KAUAI
- Mr. Shimabukuro asked to amend the submittal by deleting the second lot, 4-5-08:04. Hale Opio indicated an interest in this lot.
- ACTION Unanimously approved as amended (Apaka/Arisumi).
- ITEM F-5: See page 4.
- ITEM F-6: DIRECT AWARD OF PERPETUAL NON-EXCLUSIVE EASEMENT FOR OVERHEAD ELECTRIC POWER TRANSMISSION LINES AND ANCHORS, KAPAA TO PRINCEVILLE, KAUAI
- Mr. Shimabukuro presented an amended Exhibit A, which includes a correction of 4-5-14:37 to read 4-5-15:37 and the additional parcel, 4-6-14:36.
- ACTION Unanimously approved as amended (Apaka/Arata).

- ITEM F-7: STAFF RECOMMENDATION FOR FINAL EXTENSION OF DEMOLITION DEADLINE: GENERAL LEASE NO. S-5118 TO MASAO TAKATSUKI, WAILUA, KAUAI
- Mr. Kealoha asked that the staff look into assisting the Takatsuki's as they are getting along in years and may find it difficult in moving things out.
- ACTION Unanimously approved as submitted (Apaka/Arata).
- ITEM G-1: FILLING OF LAND DOCUMENT RECEIVING CLERK II, POSITION NO. 152, OAHU
- ACTION Unanimously approved the appointment of Shizue Yamaguchi as Land Document Receiving Clerk II, Position No. 152, Oahu (Arata/Arisumi).
- ITEM G-2: PERMISSION FOR THIRD AMENDMENT TO STATE OF HAWAII CONTRACT NO. 21292 WITH THE LANGE GROUP FOR ELECTRONIC DATA PROCESSING CONSULTANT SERVICES
- ACTION Unanimously approved as submitted (Arata/Arisumi).
- ITEM H-1: CDUA FOR A SINGLE FAMILY RESIDENCE, KAUPU, MAUI (APPLICANT: KENT SIMON)
- Mr. Evans pointed out that there is more than one signature to the application and that the applicant as yet does not have clear title. The second area of concern is that the property consists of 5.5 acres, 4.7, being in the ag zone and 0.8 acres in the conservation district. The applicant requests that the house be built in the conservation district. Mr. Evans asked to amend the submittal (1) to one house on one lot in the conservation district; (2) should the Board approve the application that no other housing be approved on the property unless this house is removed; and (3) that all existing landowners having an undivided interest agree to these conditions before staff approves the construction plans.
- Mr. Evans stated that the conservation zone is located closest to the ocean but if the residence is moved into the ag zone applicant could also have a good view. The concern is that if there are three owners they could build one house in conservation and two houses in ag with a total of three houses on the property.
- Mr. Wong pointed out that ag land shouldn't be DLNR's concern. In that case, Mr. Evans he would recommend denial and recalled the Hawaiian Riviera resort case.
- ACTION Mr. Arisumi asked to defer action to take a closer look at the application.
- ITEM H-2: See page 5.
- ITEM H-3: CDUA FOR A 16 INCH WATER MAIN, INSTRUMENT HOUSE, AND A 1 MILLION GALLON (MG) RESERVOIR (APPLICANT: CITY AND COUNTY OF HONOLULU, BOARD OF WATER SUPPLY)
- ACTION Unanimously approved as submitted (Arata/Arisumi).
- ITEM H-4: CDUA FOR PLACEMENT OF SAND ON BEACH AT KUALOA REGIONAL PARK, OAHU (APPLICANT: CITY AND COUNTY OF HONOLULU, DEPARTMENT OF PARKS AND RECREATION)
- Mr. Evans pointed out that Board still retained authority on government use, and this was not delegated to the Chairperson.
- ACTION Unanimously approved as submitted (Arata/Arisumi).
- ITEM H-5: See page 4.
- ITEM H-6: See page 3.

- ITEM H-7: FILLING OF POSITION NO. 02731, CLERK-STENOGRAPHER II, SR-09, OFFICE OF THE CHAIRPERSON, OAHU
- ACTION Unanimously approved the appointment of Elaine Keb to Position No. 02731, Clerk-Stenographer II, Office of the Chairperson, Oahu.
- ITEM J-1: GRANT OF EASEMENT, HARBORS DIVISION, FORT ARMSTRONG, OAHU (U.S. IMMIGRATION & NATURALIZATION SERVICE FOR THE ALOHA LIBERTY FOUNDATION)
- ACTION Unanimously approved as submitted (Arata/Arisumi).
- ITEM J-2: FIRST AMENDMENT TO PERMIT NO. H-86-10, HARBORS DIVISION, VICINITY OF PIER 1, HILO HARBOR, HILO, HAWAII (MATSON TERMINALS, INC.)
- and
- ITEM J-3: FIRST AMENDMENT TO HARBOR LEASE NO. H-88-35, PIER 2, NAWILIWILI HARBOR, KAUAI (MATSON TERMINALS, INC.)
- and
- ITEM J-4: FIRST AMENDMENT TO HARBOR LEASE NO. H-88-34, HARBORS DIVISION, MAUI (MATSON TERMINALS, INC.)
- ACTION Unanimously approved as submitted (Arata/Arisumi).
- ITEM J-5: ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KEWALO BASIN, HONOLULU, OAHU (GOLDEN EAGLE MARINE CHARTER SERVICES CORP.)
- ACTION Unanimously approved as submitted (Arisumi/Arata).
- ITEM J-6: ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, WAIANAE BOAT HARBOR, OAHU (MALCOLM K. AHLO AND VICTOR J. RAPOZA)
- ACTION Unanimously approved as submitted (Arata/Arisumi).
- ITEM J-7: ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIERS 13/14, HONOLULU, OAHU (AMERICAN DIVERS, INC.)
- ACTION Unanimously approved as submitted (Arata/Arisumi).
- ITEM J-8: ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 42, HONOLULU HARBOR, OAHU (MR. ANTHONY LAWRENCE DBA LAWRENCE'S WELDING & REPAIRS)
- ACTION Unanimously approved as submitted (Arata/Arisumi).
- ITEM J-9: CONTINUANCE OF REVOCABLE PERMITS H-87-1426, ETC., HARBORS DIVISION
- Mr. Kealoha questioned the permit for Lady Ann Charters, H-84-1210. A previous Board concern was the Executive Order and use of the restrooms. Mr. Garcia stated that DOT has the Order but they are still awaiting an answer on the use of the restrooms.
- ACTION Unanimously approved as submitted, except for permit H-84-1210 (Arata/Arisumi).
- ITEM J-10: APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 4564, ETC., AIRPORTS DIVISION
- ACTION Unanimously approved as submitted (Apaka/Arisumi).

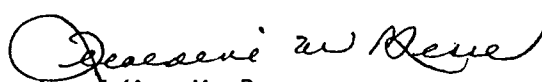


ITEM J-11: MANAGEMENT OPERATION OF AUTOMOBILE PARKING FACILITIES AT KAHULUI AIRPORT, MAUI

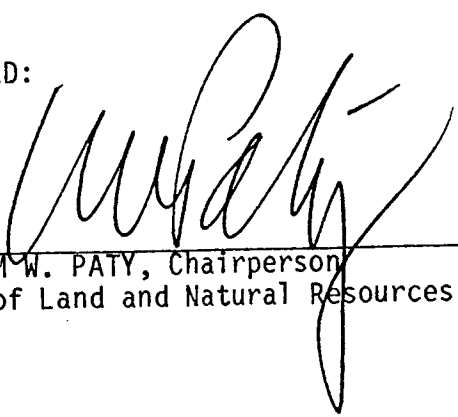
ACTION Unanimously approved as submitted (Arisumi/Apaka).

ADJOURNMENT There being no further business, the meeting was adjourned at 11:40 a.m.

Respectfully submitted,

  
Geraldine M. Besse  
Secretary

APPROVED:

  
WILLIAM W. PATY, Chairperson  
Board of Land and Natural Resources