

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

**DATE:** October 8, 1993  
**TIME:** 8:30 a.m.  
**PLACE:** HGEA Building, Conference Room  
3213 Akahi Street  
Lihue, Hawaii 96766

**ROLL  
CALL**

The Chairperson called the meeting of the Board of Land and Natural Resources to order at 8:40 a.m. The following were in attendance:

**MEMBERS:** Mr. Herbert Apaka  
Ms. Sharon Himeno  
Mr. Christopher Yuen  
Mr. William Kennison  
Mr. Michael Nekoba  
Mr. Keith W. Ahue

**STAFF:** Mr. Michael Buck  
Mr. Ed Petteys  
Mr. Manabu Tagomori  
Ms. Janet Swift  
Mr. Ralston Nagata  
Mr. Mason Young  
Mr. Samuel Lee  
Mr. Michael Laureta  
Mr. Roger Evans  
Ms. Geraldine M. Besse

**OTHERS:** Mr. Johnson Wong (Dept. of the Attorney General)  
Mr. Peter Garcia (Dept. of Transportation)  
Mr. Steve Morris (Item No. D-3)  
Mr. Jim Anthony, Ms. Malama Vierra, and Ms. Gladys Pualoa (Item No. E-1)  
Mr. Dave Arakawa and Ms. Lynn MacIntosh (Item No. F-3)  
Mr. Ed Johnston, Mr. Glenn Hara, Ms. Sandy Schutte (Item No. H-2)  
Mr. Ron Funakoshi (Item No. H-3)

**ADDED  
ITEM**

Upon motion by Mr. Apaka and a second by Ms. Himeno, the following item was added to the agenda:

ITEM NO. D-3 -- CLARIFICATION OF BOARD ACTION ON VALUATION METHOD TO CALCULATE ROYALTY FOR GEOTHERMAL MINING LEASE R-2 WITH PUNA GEOTHERMAL VENTURE

Items were heard in the following order to accommodate those applicants and interested parties present at the meeting:

**ITEM C-1 APPROVAL OF ADMINISTRATIVE RULES FOR CHAPTER 186 RELATING TO TREE FARMS**

Mr. Buck asked to amend the definition of "monoculture" to include non-native forest trees that are of the same species.

Mr. Apaka asked to amend page two, item (16) to include in the definition of "tree farm" any public land or privately-owned forest lands.

**ACTION** Unanimously approved as amended (Yuen/Himeno).

**ADDED ITEM D-3 CLARIFICATION OF BOARD ACTION ON VALUATION METHOD TO CALCULATE ROYALTY FOR GEOTHERMAL MINING LEASE R-2 WITH PUNA GEOTHERMAL VENTURE**

Ms. Himeno asked to be recused from participating on this item as she was not present at the September 24, 1993, meeting.

**ACTION** Mr. Yuen moved to approve the staff's netback method as the method to be used to calculate geothermal royalties; the motion was seconded by Mr. Apaka and unanimously approved.

Mr. Steve Morris of Puna Geothermal Venture indicated that neither method was acceptable to PGV and presented a written request to the Board for a contested case hearing, indicating a petition would be filed shortly.

**ITEM H-2 TIME EXTENSION REQUEST FOR CDUA FOR AFTER-THE-FACT AND PROPOSED IMPROVEMENTS TO THE HAWAII TROPICAL BOTANICAL GARDEN AT SOUTH HILO, HAWAII, TAX MAP KEY 2-7-09:02; APPLICANT: D.J. LUTKENHOUSE, HTBG; AGENT: SANDRA PECHTER SCHUTTE**

**EXECUTIVE SESSION** The Board was in executive session from 9:05 to 9:15 a.m. to consult with the deputy attorney general concerning its review of the petition for contested case (Yuen/Himeno).

Mr. Edward P. Johnston, Petitioner, addressed the Board:

"As I understand the DLNR's report and recommendation to the Board on this matter, the state recognizes the issue of a 'State-owned Old Government Road that traverses the [subject] property.' The state is currently conducting a survey which it wishes to complete before this Board proceeds to determine my standing in this Contested Case Hearing request.

"I am grateful to the state for undertaking this survey, and I welcome the results, which will certainly help address some of the concerns raised in my petition.

"While I do not object to extending the time that the Board will take to determine my standing, I wish to make it clear that the survey results should not be used to determine whether or not I have standing to pursue a contested case hearing. Whether or not there proves to be a continuous government road through Onomea Valley, access to the beach at Alakahi Stream should never be impeded, and I would still pursue a contested case hearing on that and the other issues raised in my petition.

"My long history with Onomea shows that I have a 'substantial interest' in the matter clearly distinguishable from that of the general public. I can also substantially assist the BLNR in their decision-making process by providing relevant facts they are not now aware of.

"If it is appropriate at this time, I would like to ask the Board if it would like any further information from me to assist them in their decision on my standing.

"In conclusion, I do not object to the time extension, but wish to emphasize to the board that the survey results will not dispose of the issues raised in my petition."

**ACTION** Unanimously approved as submitted (Yuen/Nekoba).

**BOARD PRESENTATION** The Chairperson presented Mr. Edwin Petteys, Kauai District Forester, with the Manager of the Year award, recognizing his outstanding Iniki efforts.

**ITEM E-1 REQUEST FROM THE WILLIAM VIERRA HOUSEHOLD AND STEWART VIERRA HOUSEHOLD TO REMAIN IN THEIR EXISTING HOUSELOT LOCATION BY HUILUA FISHPOND AND/OR BE REASSIGNED LOTS ON TROUT FARM ROAD, KAHANA VALLEY STATE PARK, OAHU**

Mr. Anthony stated, "The submission made to the Board dated September 23, 1993, with respect to the above-mentioned matter is incorporated herein by reference and made a part hereof. Please consider this document previously tendered as part of the record as being hereby resubmitted. The following argument made by Mr. Nagata in his submission dated October 8, 1993, which he just read, that the request made by the Vierra family should be denied are rebutted for the reasons that are below:

"Their existing residential area is in the tsunami area in the flood zone--my comment so are hundreds of homes from Heeia all the way to Sunset Beach and beyond to Mokuleia--all homes in Kahala are in the tsunami area also. This is a fruitless, in my view, misused argument, completely without any merit.

"B--the household is five feet above sea level--comment: it is the same area as listed in A above, there are hundreds of homes no more than five feet above sea level. This is, in my view, another straw argument.

"It is our understanding that current Department of Health regulatory requirements cannot be met in this situation--comment: our understanding based on what? . . . Where is the proof that the Health Department expressed such an opinion? This is another straw argument--unsubstantiated and designed to prejudice the case made by the Vierra's. . . .

"We believe the house lots are also located in a prime area for public park development--we believe that this is so on what basis?" Mr. Anthony commented that plans have not been submitted for a public park development.

He further stated that the existing structures would be appropriate contrary to the staff submittal stating that a modern home would not be in keeping with the area's historic values. He said increased public visitation should be kept to a strict minimum by appropriate landscaping. Dr. Anthony urged the Board to reject the staff recommendation and to allow the Vierra's to remain at their present site.

Ms. Gladys Pualoa, former chairperson of the Kahana Advisory Council, asked that the Vierra's be allowed to remain at the fishpond as the caretakers.

Ms. Malama Vierra asked that she and her family be allowed to remain at the fishpond.

The Chairperson commented that the overriding concern at the present time was the execution and recording of the leases by the end of the year.

Mr. Nagata stated his belief that there are some regulatory, as well as tsunami concerns. He indicated that the Board suggested interim leases for the five families with a follow-up to the Board.

**ACTION** Mr. Nekoba moved to allow the Vierra's to remain at their present lot until the progress report is submitted on December 17, 1993, and to adopt staff recommendations nos. 2 and 3. Seconded by Ms. Himeno, and unanimously approved as amended.

**ITEM H-3** **REQUEST FOR A CONTESTED CASE HEARING ON CDUA (OA-2604) FOR THE EXPANSION OF OLOMANA GOLF COURSE AT WAIMANALO, OAHU, TAX MAP KEY 4-1-13:PORTION OF 11; APPLICANT: OLOMANA GOLF LINKS, INC.; AGENT: WILSON OKAMOTO & ASSOCIATES, INC.**

Mr. Ron Funakoshi, project manager for Olomana Golf Course, urged disapproval of the request for contested case hearing.

**ACTION** Mr. Yuen moved to defer the item, stating a major policy question was being raised; that is, if OHA has standing to request a contested case whenever State ceded lands and a CDUA are involved. The question was also raised with respect to Mr. Medeiros' standing. Seconded by Mr. Nekoba, and the motion to defer was unanimously approved pending further review.

**ITEM F-3** **KEOPUOLANI ASSOCIATES, A GENERAL PARTNERSHIP REQUEST FOR RIGHT-OF-ENTRY TO A PORTION OF THE GOVERNMENT LANDS AT HIENALOLI 1ST, NO. KONA, HAWAII, TAX MAP KEY 7-5-13:13 & 22**

Mr. Dave Arakawa and Lynn MacIntosh, project manager, were present.

**ACTION** Unanimously approved as submitted (Nekoba/Yuen).

**ITEM F-2** **USCOC OF HAWAII 3, INC., DBA UNITED STATES CELLULAR REQUEST FOR RIGHT-OF-ENTRY TO A PORTION OF THE GOVERNMENT LANDS AT PUU ANAHULU, NO. KONA, HAWAII, TAX MAP KEY 7-1-03:POR. 1**

**ACTION** Unanimously approved as submitted (Yuen/Himeno).

**ITEM C-1** See page 2.

**ITEM D-1** **AUTHORIZATION TO ENTER INTO A FEASIBILITY PHASE AGREEMENT WITH THE U.S. ARMY CORPS OF ENGINEERS FOR THE WAILUPE FLOOD CONTROL PROJECT, OAHU**

**ACTION** Ms. Himeno recused. Approved as submitted (Nekoba/Apaka).

**ITEM D-2** **CERTIFICATION OF ELECTION AND APPOINTMENT OF SOIL AND WATER CONSERVATION DISTRICT DIRECTORS**

**ACTION** Unanimously approved as submitted (Himeno/Apaka).

**ITEM E-1** See page 4.

**ITEM F** **DOCUMENTS FOR BOARD CONSIDERATION:**

**Item F-1a** **SUBLEASE EXTENSION AND AMENDMENT AGREEMENT BETWEEN WILLIAM T. WHITE, III, SUBLESSOR, AND OCA-COLA BOTTLING COMPANY OF LOS ANGELES, GENERAL LEASE NO. S-3601, LOT 33, KANOELEHUA INDUSTRIAL LOTS, WAIAKEA, SO. HILO, HAWAII, TAX MAP KEY 2-2-49:7**

Item F-1b ASSIGNMENT OF GENERAL LEASE NO. S-4245 BETWEEN FILOMINA HASHITATE, ASSIGNOR, AND MARINE CONSULTING & ENGINEERING CORP., ASSIGNEE, LOT 5, KEKAHA TOWN LOTS, KEKAHA, WAIMEA (KONA), KAUAI, TAX MAP KEY 1-3-03:40

Item F-1c ASSIGNMENT OF GENERAL LEASE NO. S-4967 FROM EUGENE HOLUALOA CHANG, DECEASED, ASSIGNOR, TO CLEMENT CHANG, SR., AKA CLEMENT CHANG, WHOSE WIFE IS JEAN P. CHANG, ASSIGNEE, LOT 16, MILOLII-HOOPULOA, SO. KONA, HAWAII, TAX MAP KEY 8-9-04:16

ACTION Unanimously approved as submitted (Yuen/Himeno).

ITEM F-2 See page 5.

ITEM F-3 See page 5.

ITEM F-4 AMENDMENT TO PRIOR BOARD ACTION OF AUGUST 27, 1993 (AGENDA ITEM F-1-b), ISSUANCE OF REVOCABLE PERMIT TO HAWAII STEEL BOAT BUILDING, INC., KALIHI-KAI, HONOLULU, OAHU, TAX MAP KEY 1-2-23:59

ACTION Unanimously approved as submitted (Himeno/Nekoba).

ITEM F-5 MICHAEL W. AND LINDA WARRINER REQUEST FOR EXTENSION OF LEASE TERM ON GENERAL LEASE NO. S-4648, KAPAA, KAWAIIHAU (PUNAHOU), KAUAI, TAX MAP KEY 4-5-12-5

ACTION Unanimously approved as submitted (Apaka/Nekoba).

ITEM F-6 CANCELLATION OF REVOCABLE PERMIT NOS. S-4816 AND S-5723 TO MAURO MADRID (DECEASED) AND FRANCIS MADRID AND ISSUANCE OF NEW REVOCABLE PERMITS TO FRANCIS C. MADRID AND SAMMIE L. WUNSCHER, LOTS 1 & 2, BLK R, KAPAA TOWN LOTS, KAPAA, KAUAI, TAX MAP KEY 4-5-08:12 AND 13

Mr. Apaka raised the question of fire insurance on State leases. Mr. Young commented that the past Legislature asked the State to waive the fire insurance requirement, and in particular, the Kokee area, because of the distance to the nearest fire station and absence of a fire hydrant in the area. Mr. Young noted that it would be difficult for an insurance company to insure the property. He also noted the high insurance costs. Mr. Yuen stated that they have a similar problem on the Big Island, particularly with liability insurance on ag lands. Mr. Apaka asked for staff review and recommendations.

ACTION Unanimously approved as submitted (Nekoba/Apaka).

**ITEM F-7** AMENDMENT TO PRIOR BOARD ACTION OF SEPTEMBER 14, 1984 (AGENDA ITEM F-10) LOT 60, KALAHEO HOMESTEADS, 1ST SERIES, KOLOA, KAUAI, TAX MAP KEY 2-4-02:4

**ACTION** Unanimously approved as submitted (Apaka/Nekoba).

**ITEM F-8** AMENDMENT TO PRIOR BOARD ACTIONS OF AUGUST 9, 1985 AND FEBRUARY 8, 1991 (AGENDA ITEMS F-9 AND F-5, RESPECTIVELY) LEASE AT PUBLIC AUCTION, WAILUA AND KAPAA, TAX MAP KEYS 3-9-02:8 AND 4-3-04:12

**ACTION** Unanimously approved as submitted (Apaka/Kennison).

**ITEM H-3** REQUEST FOR A CONTESTED CASE HEARING ON CDUA (OA-2604) FOR THE EXPANSION OF OLOMANA GOLF COURSE AT WAIMANALO, OAHU, TAX MAP KEY 4-1-13:PORTION OF 11; APPLICANT: OLOMANA GOLF LINKS, INC.; AGENT: WILSON OKAMOTO & ASSOCIATES, INC.

Mr. Evans asked for reconsideration of Item No. H-3. He indicated that he conferred with the applicant because the 180-day period would expire on November 2, 1993. He asked that the Board: (1) grant the 90-day extension, and (2) defer the question of standing.

**ACTION** Mr. Yuen agreed to amend his motion; seconded by Mr. Apaka, and unanimously approved as amended.

**ITEM H-1** CONSERVATION DISTRICT USE APPLICATION (CDUA) TO INSTALL A WATER WELL PUMP AND PAD, WIDEN AND PAVE AN EXISTING ACCESS ROAD, INSTALL A PIPELINE ALONG THE ACCESS ROAD, AND BUILD A PUMP CONTROL STATION AT HAULA, OAHU, TAX MAP KEY 5-5-5:01; APPLICANT: CITY AND COUNTY OF HONOLULU, BOARD OF WATER SUPPLY

**ACTION** Unanimously approved as submitted (Nekoba/Kennison).

**ITEM H-2** See page 3.

**ITEM H-3** See page 5.

**ITEM H-4** RULE AMENDMENT, TITLE 13, CHAPTER 2, HAWAII ADMINISTRATIVE RULES (HAR) - ADOPTION OF INIKI RULES TO FACILITATE THE REPAIR AND RECONSTRUCTION OF STRUCTURES DAMAGED OR DESTROYED AS A RESULT OF HURRICANE INIKI IN THE COUNTY OF KAUAI

**ACTION** Unanimously approved as submitted (Apaka/Kennison).

ITEM K-1 UNITED STATES GOVERNMENT LEASE FOR REAL PROPERTY, KAHULU  
AIRPORT, MAUI (UNITED STATES OF AMERICA, DEPARTMENT OF  
TREASURY, U.S. CUSTOMS SERVICE)

ACTION Unanimously approved as submitted (Kennison/Apaka).


ITEM K-2 ISSUANCE OF LEASE BY DIRECT NEGOTIATIONS, HILO HARBOR,  
HARBORS DIVISION (HT&T CO., INC.)

ACTION Unanimously approved as submitted (Yuen/Nekoba).

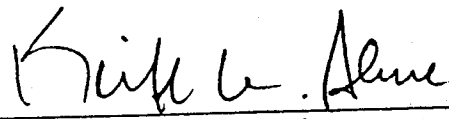
**RESOLUTIONS** The Board unanimously adopted the following resolutions: (1) extending congratulations to Sojin Serikaku, Land Management Agent, Oahu, upon his retirement on October 29, 1993, after many years of service; and (2) extending congratulations to Ms. Mabel N. Jernstorm, Clerk IV with the Division of State Parks, Maui, upon her retirement on October 29, 1993.

**ADJOURN- MENT** There being no further business the meeting of the Board was adjourned by the  
Chairperson at 10:40 a.m.

Respectfully submitted,

  
Geraldine M. Besse

APPROVED:

  
\_\_\_\_\_  
KEITH W. AHUE, Chairperson