

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

DATE: March 10, 1995  
TIME: 9 o'clock a.m.  
PLACE: State Office Building  
Conference Rooms A, B & C  
75 Aupuni Street  
Hilo, Hawaii

**ROLL  
CALL**

Chairperson Michael D. Wilson called the meeting of the Board of Land and Resources to order at 9:00 o'clock a.m. The following were in attendance:

MEMBERS Mr. Herbert Apaka  
Mr. Christopher Yuen  
Mr. Michael Nekoba (excused at 12:10 p.m.)  
Mr. William Kennison  
Mr. Colbert Matsumoto  
Mr. Michael D. Wilson

STAFF Mr. Charles Supe  
Mr. Mason Young  
Mr. Roger Evans  
Ms. Geraldine M. Besse

OTHERS Mr. Edwin Watson, Dept. of Atty Gen.  
Mr. Peter Garcia, Dept. of Transportation  
Ms. Pat Tummons (Item Nos. E-1 and H-2)  
Mr. Pono Von Holt (Item No. F-1-a)  
Mr. Kent Kaneko (Item No. F-2)  
Mr. Bruce Robinson (Item No. F-4)  
Dr. Don Hall, Mr. Robert MacClaren, Mr. Nelson  
Ho, Mr. Paul Neves, Mr. Pat Wright, and Ms. Pat  
Tummons (Item No. H-2)

All written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review.

Certain items on the agenda were taken out of sequence to accommodate those applicants and interested parties present.

**ITEM F-4 DIRECT SALE OF NON-EXCLUSIVE TERM EASEMENT FOR ACCESS AND UTILITY PURPOSES AT KEHENA, PUNA, HAWAII, TAX MAP KEY 1-2-09:POR 21**

Mr. Young asked that the submittal include an annual rental to be determined by independent appraisal, subject to the review and approval of the Chairperson. Mr. Bruce Robinson, representing the applicants, was present.

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

**ITEM H-2 REVISED MANAGEMENT PLAN FOR UH MANAGEMENT AREAS ON MAUNA KEA TO INCLUDE A COMMERCIAL ACTIVITIES ELEMENT; TAX MAP KEYS 4-4-15:09 AND 4-4-15:12; APPLICANTS: UNIVERSITY OF HAWAII INSTITUTE FOR ASTRONOMY AND DEPARTMENT OF LAND AND NATURAL RESOURCES**

Mr. Evans stated that on February 24, 1985, the Board approved the plan; however, several issues required further consideration, one being the commercial use element. Mr. Evans explained the background of the plan and summarized the current proposal and comments received at public hearings and informational meetings, as well as comments from the Board. The following conditions were recommended:

1. That until the Historic Preservation Plan is completed and implemented by UHIFA, permits for commercial use shall undergo case-by-case review by the Historic Preservation Division in consultation with the Division of Land Management, Department of Land and Natural Resources;
2. That the Revised Management Plan replace the 1985 Management Plan; and
3. That upon approval of the Revised Management Plan, CDUA's currently outstanding for commercial use on the mountain shall be null and void and folded into the revised plan.

Mr. Evans stated that if the plan is passed there would be no change to operations on a day-to-day basis; however, the carrying capacity would be established. Mr. Yuen stated that the figure of 176 was removed because such an occurrence would only occur on a couple of heavy snow days each year. It was replaced with a limit of 18 commercial vehicles, 12 passenger van limit.

Dr. Hall stated that the University fully supports the plan and would be able to work out practical arrangements with DLNR. Mr. Bob MacClaren, also from the University, commented on the issue of fees--that all of the administrative and enforcement aspects of it are under the Department of Land and Natural Resources; therefore, any fees are the business of DLNR and there is no suggestion in the plan of any fees that would accrue to the University.

Dr. Hall stated that the University would monitor activities, and infractions would be reported to DOCARE or the Hawaii Police Department for enforcement. Dr. Hall claimed that it was a matter of resources to be able to have on-the-spot enforcement. He said they have not seen substantial problems, although he noted some problems with the commercial permittees, which included trashing and speeding.

Mr. Evans stated that OCEA did not intend to go to the Legislature for a DOCARE on-site position; that essentially Mauna Kea was another UH campus. Dr. Hall stated his position is that it would take three positions to provide enforcement during day light hours. Mr. Yuen commented that the University retains the responsibility of being the "eyes and ears of DLNR on the mountain" because University personnel are there on a day-to-day basis. Dr. Hall further stated he was uncomfortable with having his people attend DOCARE training and detaining people, as had been suggested. It would require specific personnel equivalent to police on campuses; that it was not in their job descriptions and would probably create bargaining unit problems in some cases.

Mr. MacClaren added that the regulation requirement involves more than just the University area but also NARS. He stated that strong public sentiment was expressed concerning the proper role of UH in astronomy and that enforcement should be through the groups already trained and authorized. Enforcement should include the entire mountain, he stated.

Deputy Attorney General Ed Watson commented that enforcement appears to be a bigger problem now that there are more observatories. He stated that the University as the user has to address enforcement.

Dr. Hall stated approximately 20,000 signatures per year are logged at the visitor information station, which is only open on Friday afternoon, Saturday and Sunday. He guessed that between 500-1000 people were going up the mountain each week. Dr. Hall suggested revisiting the enforcement aspect of the plan. Mr. Evans suggested that essentially Mauna Kea was another UH campus. DOCARE, he stated, was willing to assist. The difficulty is it takes 1-1/2 hours to get up the mountain. Mr. Nekoba stated that a creative solution was required to fund the enforcement positions. The Chairperson suggested further discussion on enforcement.

Mr. Evans suggested that Land Management be the division to issue the commercial permits.

Mr. Nelson Ho, Chapter Chair of the Sierra Club, presented written and oral testimony, on different aspects of the management plan, including the University's interest in expansion, protection of the mountain's natural and cultural features, the access issue and the wekiu. Mr. Ho stated that the Sierra Club is continuing the evaluation of the proposed plan and the 1985 Management Plan and looked forward to working with the Board, as well as Native Hawaiians, to right the current situation.

Mr. Ho also stated that education is the key component and suggested it be accomplished through the visitor education center being open on a full-time basis. Mr. Yuen agreed that it would probably be the most effective method.

Mr. Paul Neves, Lt. Governor of Ka Lahui, delivered oral and written testimony on behalf of Mililani B. Trask and Ka Lahui. Ka Lahui commented that the plan was deficient and suggested the Board consider formation of a Native Hawaiian Advisory Committee to work with DLNR and the scientific team to preserve culturally important areas and sites. Given the fiscal crisis of the State, Ka Lahui also suggested charging commercial operators user fees, which could be used for enforcement costs and oversight expenses.

Mr. Neves pointed out that Historic Preservation identified 42 shrines on the sloping plateau below the summit cone, which were determined eligible for listing on the National and Hawaii Register of Historic Places and that known burials occur on some cinder cones on the mountain's upper slopes.

Mr. Pat Wright, one of the commercial operators, stated he has been conducting tours at Mauna Kea for 12 years and supports the plan. He noted that the permits were issued where some permittees paid fees and others did not. He would like to see the fees used for support services--road maintenance, restrooms, enforcement, etc. He also stated that the permittees should be in compliance with PUC regulations. He indicated that the vans carry 14 passengers and not 12. Mr. Wright said that he has only seen two cases of vandalism in 12 years and one or two incidents of off-road driving. He suggested that maybe off-duty police officers could be hired during heavy-traffic snow days, approximately six days per year. He agreed that education was an important aspect of the plan, including more interpretive displays and additional signage.

Ms. Pat Tummons commented: that she believed the road to the summit falls under the definition of a "public highway" and asked how Land Management would be given the authority to issue permits for traffic over a public highway? She said she believed the authority falls under the PUC. She further asked--how would the Division of Land Management establish fees? Will those permits be approved by the Board? Ms. Tummons also said that she believed that money generated by user fees would go into the general fund; a special fund would have to be established by the Legislature. Vesting of the permits should be avoided at all costs. Another large problem, she said, was the ahu building and agreed that signage was important.

Mr. Yuen moved for approval with the following amendments to the plan:

(1) commercial permits should be for a set term, subject to renewal; term to be set by the Division of Land Management;

(2) commercial permits have a consistent fee basis, whether percentage or a set amount per head, that it would be the same for everyone;

(3) regarding cultural use being a permitted use, he suggested that a statement be put into the plan that cultural uses if they do not involve physical impacts, are a permitted use.

(4) the following are in the plan but he asked that it state specifically: the Mauna Kea support services personnel should be instructed in what the prohibitions are on the mountain and that they are specifically instructed to make reports to the appropriate enforcement agencies. that it should be stated specifically that this is part of their responsibility; re the protection of cultural sites, a statement should be inserted that tampering with all historical and cultural sites, archaeological sites, are totally prohibited; the only exception would be in the case where there is a development of the site and in the course of the permit for that development that any alteration of the site would be prohibited; a statement that whenever there is a permit for a skiing or snow play event that the staging areas be identified and that it not be permitted in the areas to be identified and in areas of known archaeological sites. Land Management would be sending proposed permits to Historic Preservation for review until the surveying is completed. Once the surveying is completed, Land Management will have a copy of the mapping and would be able to determine the areas. DLNR should check with the PUC as part of granting permits as to whether the applicant is in compliance. The reference to 12-passenger vans should be amended to 14-passenger vehicles. Present permits should remain in effect until the DLNR permit is issued. When the biological and archeological surveys are completed staff should report back to the Board as to whether any modification of the plan is warranted by information learned in the surveys. Some of the items are subject to funding but signs should be erected about the protection of the historical sites and discouraging people from erecting ahu; signs about drinking to also be included. A statement should be inserted in the plan that as an objective the visitor center should be manned seven days a week, subject to funding.

Mr. Apaka seconded the motion.

Mr. Yuen added that fees remaining unpaid should be resolved before issuance of the Land Management permit.

Mr. Yuen stated that the capacity is 18 vehicles at any one time on the mountain and suggested it remain in the plan.

**ACTION** Mr. Yuen moved to amend his motion to add another condition: that the University and DLNR will meet to see whether there is a way where the University of Hawaii can contribute to the funding of one DOCARE position intended primarily for Mauna Kea, but not necessarily exclusive to Mauna Kea. Seconded by Mr. Kennison. Mr. Yuen's motion was unanimously approved as amended. Mr. Evans stated he would return to the Board in six months on the enforcement issue.

**ITEM K-4 CONSTRUCTION RIGHT-OF-ENTRY, VARIOUS PORTIONS OF THE NEW KAHULUI AIRPORT ACCESS ROAD PROPERTY, MAUI (A&B PROPERTIES, INC.)**

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

**ITEM F-1a RESUBMITTAL--ISSUANCE OF REVOCABLE PERMIT TO PONOHOLO RANCH, LTD., PAHINAHINA-KIIOKALANI GOVERNMENT TRACT, SECTION I, NO. KOHALA, HAWAII, TAX MAP KEYS: 5-9-01:4; 5-9-03:2; 5-9-04:1 & 8**

Mr. Young stated that discussions were held with Mr. Pono Von Holt, who was present, and based on the carrying capacity average for the past three or five years, Mr. Young recommended the following amendments to the submittal:

Monthly Rental: \$1,737.00  
Collateral Security Deposit: \$3,474.00  
Liquidated Damages: \$347.00 per day

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

Mr. Nekoba was excused at 12:10 p.m.

**ITEM F-2 LEASE-PUBLIC AUCTION, LOT 12, KANOELEHUA INDUSTRIAL LOTS, WAIAKEA, SO, HILO, HAWAII, TAX MAP KEY 2-2-50:80**

Mr. Kent Kaneko stated he was against the public auction. The Chairperson commented that the public auction was being conducted according to statute; Mr. Young stated, however, that Mr. Kaneko could bid at the auction.

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

**ITEM E-1 APPROVAL OF FRIENDS OF IOLANI PALACE REQUEST FOR AN ADMISSION FEE INCREASE, HONOLULU, OAHU**

The Deputy Attorney General suggested April 1, 1995, as the effective date in order that public notice can be given.

Ms. Pat Tummons asked for the justification of the increase. Mr. Supe replied that the costs have been rising and cited present admission prices at various museums.

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

**ITEM F DOCUMENTS FOR BOARD CONSIDERATION**

**ITEM F-1a** See above.

**ITEM F-1b** ASSIGNMENT OF GENERAL LEASE NO. S-5324, PARCELS A AND B, WAIAKEA PASTURE LAND AND LOTS 7-A AND 7-B, WAIAKEA HOMESTEADS, 3RD SERIES, SECTION B, WAIAKEA (KONA), KAUAI, TAX MAP KEY 1-4-02:25

**ITEM F-1c** ASSIGNMENT BY AGREEMENT OF SALE OF GENERAL LEASE NO. S-5062, LOT 18, PUU KA PELE PARK LOTS, WAIMEA (KONA), KAUAI, TAX MAP KEY 1-4-02:25

**ITEM F-1d** ISSUANCE OF LAND PATENT IN CONFIRMATION OF LAND COMMISSION AWARD NO. 6271 TO KAHALAI, WAIMEA (KONA), KAUAI, TAX MAP KEY 1-6-01:14

**ITEM F-1e** ISSUANCE OF REVOCABLE PERMIT TO ROBERTA AND LESLIE M. CANSIBOG, MAILILI CHANNEL GOVERNMENT REMNANT, MAILI, WAIANAE, OAHU TAX MAP KEY 8-7-01:23

**ITEM F-1f** ASSIGNMENT OF GRANT OF EASEMENT LAND OFFICE DEED NO. S-2822 FOR INGRESS AND EGRESS PURPOSES, WAHIWA, OAHU, TAX MAP KEY 7-4-22:50

**ITEM F-1g** ASSIGNMENT OF GENERAL LEASE NO. S-4300, LOT 1-A, HILO INDUSTRIAL DEVELOPMENT, POHAKU STREET SECTION, WAIAKEA, SO. HILO, HAWAII, TAX MAP KEY 2-2-58:35 & 40

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

**ITEM F-2** See page 6.

**ITEM F-3** RECISION OF PRIOR BOARD ACTION OF NOVEMBER 22, 1991 (AGENDA ITEM F-2), HUEHUE RANCH ASSOCIATES, L.P. (HRA) REQUESTS APPROVAL IN PRINCIPLE OF PROPOSED SETTLEMENT OF LAND DISPUTE COVERING LANDS AT KIKAUA POINT, KUKIO 1ST, NO. KONA, HAWAII TAX MAP KEY 7-2-04:POR. 5

**ACTION** Withdrawn (Yuen/Kennison).

**ITEM F-4** See page 2.

**ITEM F-5** COUNTY OF MAUI, DEPARTMENT OF WATER SUPPLY REQUESTS FOR CONSTRUCTION RIGHT-OF-ENTRY FOR THE LAHAINA WATER TREATMENT PLANT 1.0 MG FINISH WATER RESERVOIR, SITUATED AT LAHAINALUNA HIGH SCHOOL SITE, LAHAINA, MAUI, TAX MAP KEY 4-6-18:POR 12

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

**ITEM F-6 DIRECT AWARD OF PERPETUAL, NON-EXCLUSIVE EASEMENT FOR WATER CONDUIT AND RELATED PURPOSES, OVER, UNDER AND ACROSS PORTION OF HALEAKALA HIGHWAY, PUKALANI AND KAILUA, MAKAWAO, MAUI, TAX MAP KEY 2-3-09:8 AND POR. 7**

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

**ITEM F-7 AMENDMENT TO PRIOR BOARD ACTION OF MAY 13, 1994 (AGENDA ITEM F-11), ISSUANCE OF REVOCABLE PERMIT TO HAWAII STEVEDORES FOR STATE LAND AT SAND ISLAND, HONOLULU, OAHU, TAX MAP KEY 1-5-41:130**

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

**ITEM F-8 STAFF REQUESTS CANCELLATION OF GRANT OF EASEMENT (LAND OFFICE DEED NOS. S-27897 AND S-27574) AND DIRECT AWARD OF PERPETUAL, NON-EXCLUSIVE EASEMENT FOR ACCESS AND UTILITY PURPOSES, WAIMANALO, KOOLAUPOKO, OAHU, TAX MAP KEY 4-1-10:62**

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

**ITEM F-9 REQUEST FOR CONSENT TO ASSIGNMENT OF LEASE, EXTENSION OF LEASE TERM AND CONSENT TO MORTGAGE, GENERAL LEASE NO. S-3860, LOT 31, WAIMANALO FARM LOTS, KOOLAUPOKO, OAHU, TAX MAP KEY 4-1-24:62 & 63**

**ACTION** Withdrawn (Kennison/Apaka).

**ITEM F-10 AMENDMENT TO PRIOR BOARD ACTION OF JANUARY 24, 1986 (AGENDA ITEM F-7), LEASE-PUBLIC AUCTION FOR GENERAL AGRICULTURAL PURPOSES, PARCELS 2 AND 3, PART 1, WAILUA, KAWAIHAU (PUNA), KAUAI, TAX MAP KEY 4-1-09:5 AND 6**

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

**ITEM F-11 AMENDMENT TO PRIOR BOARD ACTION OF JULY 24, 1992 (AGENDA ITEM F-9), HALE OPIO KAUAI, INC., LOT 240, WAILUA HOUSE LOTS, 4TH SERIES, WAILUA, KAWAIHAU (PUNA), KAUAI, TAX MAP KEY 4-1-11:18**

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

**ITEM H-1 CONSERVATION DISTRICT USE APPLICATION OF THE LOWER NUUANU AERATOR FACILITY, HONOLULU, HAWAII; TAX MAP KEY 1-9-7:2**



**ACTION** Withdrawn at request of the Board of Water Supply because of revisions to the plan before construction bidding (Kennison/Apaka).

**ITEM H-2** See page 5.

**ITEM K-1** **AUTOMOBILE PARKING FACILITIES CONTRACT, KEAHOLE-KONA INTERNATIONAL AIRPORT, HAWAII, SPACE NO. 004-103**

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

**ITEM K-2** **DIRECT SALE OF LEASE OF OFFICE SPACE AT KEWALO BASIN, OAHU, HARBORS DIVISION, ROOM 101, CHARTER BOAT BUILDING (NAUTILUS SUBSEA ADVENTURES, INC.)**

Mr. Garcia stated that DOT had no other use for the space and is authorized by statute to issue a direct lease. When renovations were made, he said, it did go out for public auction but not all spaces were sold. Mr. Garcia stated that no one has asked for space, which can only be used for maritime purposes. Mr. Wilson stated he spoke with Mr. Steve Thompson, who mentioned that a number of Keehi tour operators are frustrated and wish to move closer to Waikiki. Mr. Garcia stated that the item could be deferred until he discussed the matter with Mr. Thompson.

**ACTION** Deferred (Matsumoto/Yuen).

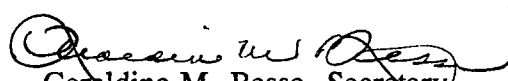
**ITEM K-3** **RIGHT-OF-ENTRY AGREEMENT FOR PRELIMINARY ENGINEERING PURPOSES, PIER 33-38 AND SAND ISLAND, OAHU (WILSON OKAMOTO & ASSOCIATES, INC.)**

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

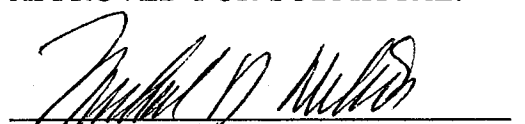
**ITEM K-4** See page 6.

**ADJOURN-  
MENT** The Chairperson adjourned the meeting at 12:50 p.m.

Respectfully submitted,

  
Geraldine M. Besse, Secretary

APPROVED FOR SUBMITTAL:

  
MICHAEL D. WILSON, Chairperson

