

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

DATE: February 28, 1997
TIME: 9:00 A.M.
PLACE: Board Room
Kalanimoku Building, Room 132
1151 Punchbowl Street
Honolulu, Hawaii 96813

Chairperson Michael D. Wilson 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. William Kennison Mr. Colbert Matsumoto
 Ms. Lynn McCrory Mr. Michael Nekoba
 Mr. Christopher Yuen Mr. Michael D. Wilson

STAFF: Dean Uchida, Land Division Clifford Inn
 Michelle Bradley Cecil Santos
 Bill Devick Gary Moniz

OTHERS: Kali Watson and Clayton Goo (DHHL)
 Charlotte and William Fuller Liz & Andy Aragon
 Peter Garcia Christina Kemmer
 PeterSchall and Bruce Graham (Hilton Hawaiiin Village)
 Barry Kim (DOT)
 Brian Miyamoto and David Sur (GKK/Paradise Petals)
 Larry Roch and John Muse (Napuanani Farms)
 Dickson Lee, Esq. (SHDC No. 2, Inc.)
 Carol Hendricks (Waimea Outdoor Circle)

Business:

Approval of the December 13, 1996 Land Board meeting minutes.

The approval of the minutes of December 13, 1996 meeting was unanimously accepted as submitted. (Kennison/McCrory).

ITEM D-26: APPROVAL OF THE CONVEYANCE OF VILLAGE 3, "VILLAGES OF LA'OPUA" MASTER PLANNED COMMUNITY PROJECT TO THE DEPARTMENT OF HAWAIIAN HOME LANDS, BEING LOT 17, FILE PLAN 2128, PORTION OF THE GOVERNMENT LAND OF KEALAKEHE, NORTH KONA, HAWAII, TMK: 3RD-4-21: 09.

Dean Uchida briefed the Board. He said the purpose of the conveyance is to satisfy the legislation that was passed in 1996 approving a \$600 million settlement with DHHL. Since the Board's approval on September 27, 1996, DHHL and the HFDC agreed on a set of instructions and scope of work for the contract appraisers and finalized the fair market value for Village 3; and were able to agree on the language of the Transfer Agreement.

Uchida stated the staff's recommendation that the Board approve the conveyance in fee simple of Village 3, being Lot 17 as shown and described on File Plan 2128 entitled the "Villages of La'opua, Phase 1" to the Department of Hawaiian Home Lands by its Hawaiian Homes Commission under the terms and conditions which are incorporated herein and in addition: 1) Approved by the Governor, 2) That the Chairperson be authorized to execute the Transfer Agreement for Village 3, Villages of La'opua, 3) to the terms and conditions as set forth in Act 95, Session Laws of Hawaii 1996 and 4) Other terms and conditions as may be prescribed by the Chairperson.

Kali Watson introduced Clayton Goo as the Project Director. He said DHHL has issued a request for their proposal and hopes to begin construction in June, 1997. The idea is to build 250 units for Native Hawaiians in the Kona area as a "rent to own" approach.

Member Yuen inquired about the appraisal, whether the infrastructure was included, was it pro-rated or was it included in the actual use of the land. Clayton Goo said the infrastructure was included, based on market value and that \$65,000 was agreed upon. Goo felt that the "rent to own" approach is ideal because the subsidies can be used to reduce the cost of the house, i.e. to use the Section 8 money to pay part of the monthly along with the State subsidy program.

Unanimously approved as submitted. (Yuen/Kennison).

ITEM D-10: REQUEST BOARD APPROVAL TO REINSTATE REVOCABLE PERMIT NO. S-352, HILTON HAWAIIAN VILLAGE JOINT VENTURE, WAIKIKI, OAHU, TMK: 2-6-08: 29.

Uchida recalled for the Board that at the February, 1994 Land Board meeting, the Board authorized an easement to the Hilton Hawaiian Village for boat dock purposes. The Attorney General's office had concerns about what section of the law the easement should be issued, whether it should be an easement or lease document. While the disposition for the pier was being resolved, the reinstatement of the revocable permit was recommended in order to recognize the terms of the easement of the lease.

Staff's recommendation is that the Land Board reinstate Revocable Permit No. S-3528 effective December 1, 1996 with conditions: 1) Monthly rental shall be \$3,485.00, 2) All other terms and conditions of Revocable Permit No. S-3528 shall remain the same, 3) Other terms and conditions that may be prescribed by the Chairperson, 4) Authorize the Hilton Hawaiian Village to sub-rent the pier to Atlantis Submarine Hawaii L.P. for an interim period until a long-term tenure for the use of the pier with a disposition other than a month-to-month Revocable Permit is executed, and 5) The expiration date for this interim sub-use of the pier by Atlantis Submarine Hawaii L.P. shall be determined by the Chairperson.

There was a discussion about the improvements to the pier and the violations at the pier. Uchida said if it were not for the hotel improving the pier, the State would have had to pay for the violations.

Peter Schall read and submitted his testimony asking the Board to approve the reinstatement of the Permit.

There was a discussion about the hotel managing the pier and owning the two boats, and a subcontractor, Atlantis, facilitating the operation. Schall explained that the hotel once ran the operation but that there were personnel problems and they decided to subcontract it out. He also said it took a-half million dollars to restore the pier after Hurricane Iniki. A discussion about the rental fee and how it was determined took place. An independent appraiser hired by the State put the long term lease proposal together which was less than the \$3,485. Schall said Hilton then proposed to the State in a letter dated February 11 that the State use the higher of the two proposals of \$3,485 or 3.5% of the gross revenue. Member Nekoba asked whether DOT was contacted for their opinion on how the rent should be determined. Uchida stated that this is only an interim permit and that it will be brought back before the Board after a long term solution is determined. Member Matsumoto felt in view of the activity that is being conducted, the only beneficiary is the Atlantis company. His concern was that the State should receive its fair share of the value. Member Matsumoto asked Schall whether he was willing to accept the final rent to be determined as part of a long term solution and Schall replied yes.

David Dodge introduced himself as President of the Waikiki Improvement Association and spoke in support of Hilton's Revocable permit.

Motion to approve Item D-10 with amendment to accept the \$3,485.00 as a minimum monthly rent with final monthly rent to be determined at a future date to be retroactive to December 1, 1996. Authorize the Hilton Hawaiian Village to sub-rent the pier to Atlantis Submarine for an interim period until a long-term tenure for the use of the pier with a disposition other than a month-to-month Revocable Permit is executed. The expiration date for the interim sub-lease of the pier by Atlantis to be determined by the Chairperson. (Matsumoto/Nekoba).

Vote: All in favor.

ITEM D-24: REQUEST BOARD APPROVAL FOR CANCELLATION OF GENERAL LEASE NO. S-3763, WILLIAM K. FULLER, AND CHARLOTTE K. FULLER, WAIMANALO, OAHU, TMK: 4-1-1-: 48.

Uchida briefed the Board on the request for cancellation of a General Lease for use as a nursery type operation for the cultivation of cut flowers. In 1978, numerous complaints from the community about commercial luaus and parties were received by DLNR. There has been ongoing discussions with the lessees regarding the illegal use of the site ever since. In March, 1996, the staff inspected the site and found a chapel and gazebo installed and found cuttings thrown on adjacent state lands. A Notice of Default was sent to the Lessee with: 1) Illegal construction of church and gazebo, 2) No City and County Building permits for construction of the structures, 3) Improper and offensive use of the leasehold with plant and tree cuttings deposited on adjacent river bank and river concreted lined channel, and 4) Unauthorized use of leasehold for commercial filming and wedding operations. Uchida said the cure period was ninety days and none of the violations were cured.

Uchida said the staff recommends that the Board authorize the cancellation of General Lease No. S-3763, and noted that the lender, Federal Land Bank, has asked to retain the mortgage security interest in the General Lease to allow them to dispose of the interest. Uchida said the retention of the mortgage security interest will allow the Federal Land Bank to have the lessees upkeep the property and find another tenant to cover their mortgage.

William Fuller testified and said all of the violations have been cured. He referred to the chapel as a storage shed and said he did not realize that there was a certain type of building code that needed to be adhered to and said that the river bank has been cleaned. Fuller said the gazebo was built for his grandchildren for recreational use. He said the "so called" chapel and gazebo were built five years ago and that land agent Santos has never commented on it. Fuller said the gazebo does not require a building permit and brought that to Santos' attention.

Fuller explained about the "so called wedding activities". He said the weddings are advertised and he brings the people on to the property to sell them their products of leaves, flowers and bouquets. Fuller said people then began asking if they could be married on the property and felt as long as the people were buying their products, he did not see it as a violation of their lease

agreement. He said there is no clarity on what they are allowed to do on their property. Fuller was reminded by his wife, Charlotte Fuller about land agent Santos posting signs on the fence and the embarrassment it caused them.

There was a discussion about the use of the property for growing flowers and plants and not for commercial luau or weddings. Fuller said when they built the 40x60 foot pavilion, it was with the understanding and approval of the administration. He said the pavilion is used for their family luau on a regular basis. Member Nekoba asked whether Fuller was paid money for the use of the pavilion and Fuller said no, "but they may help pay for the water and electricity but no rental fees". Fuller said the so called Hawaiian chapel was a storage room and he has had several weddings there. They do not consider having weddings there as commercial use because they sold the flowers to the people.

There was also a discussion about serving refreshments. Fuller said catering of food is not allowed but if the people wanted to serve champagne or soft drinks, they were allowed that. Fuller said [Chuck] Machado asked to use the property and offered \$100 for the use about twice weekly and he did not consider it as a commercial activity.. Member Matsumoto said he could not understand how Fuller could say that Chuck Machado's luau was not a commercial activity. Fuller admitted that it is a commercial activity and apologized. He said they did not realize it was a commercial activity and did not realize that, "we couldn't do what we were doing". Member Matsumoto said the lease specifically says it's supposed to be used for intensive agricultural use. Fuller said the so called church is used for storage and was built with a cross on it and did not see any need to check with the Board or DLNR.

Board members gave their opinions on how this situation should be handled with possible fines for the violations, cleaning up the debris and a clear understanding that the Fullers comply with the lease agreement and that all commercial activities be ceased.. Member Matsumoto said cancellation of the lease would be harsh but under the circumstances when the lessee is not willing to comply with the recommendations of the staff to cure the default, that determination is the remedy that is called for under the lease. He addressed the staff and said the Board is not chastising them for making this kind of recommendation and knows that the staff never makes recommendations of cancellation until they have exhausted all of their efforts to work something out with the lessee. He asked the Fullers to show some good faith and cooperate with the staff to come into compliance, otherwise, the lease will be canceled. Member Yuen said it troubles him to think that even though Fuller has been repeatedly told by DLNR staff, he continued doing it. He agrees with the other Members that Fuller's lease should be spelled out, like, no weddings, period, except for family members. Member Yuen said no compensation for any event held on the property should be accepted by the Fullers, that if they do, it is a violation of the lease.

Member Yuen asked the Fullers if they were confused now about what is prohibited under their lease. Fuller said the only confusion he had is that they have been doing this activity for 30 years and now they are being asked to stop. He said, "It's impossible, we may need some winding down time". Member Yuen then asked if he wanted to continue having the weddings. Fuller said there are people that they are committed to. He said he knows that DLNR has told him for a number of years that he was not allowed to have these activities but said he was told, "It was okay and that

everything will be worked out". Fuller said the easiest thing he could have done was write a letter to say that all of the violations had been cured but said he needed to come before the Board to clarify the lease and ask for some winding down time. Member Yuen said he couldn't see how the Board could give him winding down time to finish off activities that are not permitted under his lease.

Fuller stated that the \$100,000 quote that was in the PBN is, "way out of line". Member Matsumoto said it didn't matter whether its \$1,000 or \$100,000, it shouldn't have been there. He said the point of concern is that Fuller is not showing any respect for the Board by asking to let this drag on.

There was a discussion about sending the right messages to the leaseholders in Waimanalo that people have to abide by the leases.

Motion for the lessees to: 1) Pay fine of \$2,000, 2) To clean up the debris and rubbish on the adjacent State land within 90 days, 3) Submit plans in compliance with City and County for building permit with prior approval by DLNR within six months, if not met that those structures (the church and gazebo) be removed, 4) There be no commercial activities (no commercial wedding and luau) on the property, and 5) If any of the conditions are not complied with in the specified time frames and the matter comes before the Board again, the lease will be automatically canceled. (Nekoba/Yuen).

Member Nekoba advised Fuller that if he had any clarification of use of the property in the future, he should go to the DLNR staff and not the Land Board.

Member Yuen said the only part of the motion that he could not support was the winding down period and didn't think the Board should allow that time to somebody who continues to do illegal activities when the person had fair warning that he is not supposed to be doing that. Member Nekoba amended the motion to remove the 30 days wind down period.

Vote: all in favor.

ITEM D-25: REQUEST FOR CONSENT TO THE ASSIGNMENT OF GENERAL LEASE NO. S-3780, WAIMANALO, KOOLAUPOKO, OAHU, TMK: 4-1-26: 19.

Uchida said the lessees are going through financial difficulties and request for consent of the General Lease No. S-3780 from GKK Specialties to Napuanani Farms, Inc. subject to conditions.

The staff's recommendation is that the Board consent to the assignment of General Lease No. S-3780 from GKK Specialties, Inc., a subsidiary of Petals of Paradise, Inc. as "Assignor" to Napuanani Farms as "Assignee" 1) To the provisions of Section 171-21, HRS relating to the rights of holders of security interests, 2) review and approval as to form by the Department of the Attorney General, and 3) other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Andy Agaron introduced himself and his wife Liz. The Agarons explained their relationship with GKK Specialties and how they were under the assumption that they could rent the property. They have lived on the property since February, 1994 and said they have made improvements on the property by clearing the land of trash, repairing the house and the pipes of the sewer line. They were notified by the land agent that the property was in default for non payment of rent. Ms. Agaron said she refused to pay rent since March, 1996 until the matter was resolved with GKK Specialties and she felt that they were being deceived by Miyamoto. She said they would like to take over the lease of the property.

David Sur introduced himself as one of the officers of Paradise/GKK and introduced Brian Miyamoto. GKK was owned by Miyamoto's father and eventually was bought out by Paradise/GKK which included assets and liabilities. Sur said they eventually had to close the business. When they were trying to rent out the property, they discovered that GKK's name was still on the property which they thought would be automatically transferred to Paradise/GKK. Sur said they were advised by their attorney to sell the lease and since the Agarons were already renting from them, ask them if they wanted to buy the lease. The SPA loan officers advised them [whom Paradise/GKK had a loan from] to have the Agarons sign a lease form, which they refused to do. Since the Agarons stopped paying rent, Paradise/GKK took them to court and because of court costs, Paradise/GKK have since lost everything. The Agarons were given the option to rent or buy the lease and they refused, as they chose to go the sovereignty route.

Member Matsumoto asked what the sale price to Napuanani was and Sur said they went according to what SPA required. Sur said his last call to the Agarons was a message saying if they wanted to make any arrangements with the lease or the purchase of the property, they could contact him. They eventually went to court and the judgment was to get the Agarons off the property and they refused to leave. Sur said they had to be physically removed but they came back again.

Larry Roch introduced himself and John Muse in behalf of Napuanani Farms. He said their involvement has been as a resource.

There was discussion about the condition of the property. Roch said the houses are in need of repairs and it will take a large amount of money and time to get it back into shape. He said he plans to live there. Roch said SPA agreed to lower the first year's payment to \$1100 a year and the last two years to be \$1700. They plan to revive the existing crops to use it as base for income and do research to come up with ideas for long term use.

Ms. Agaron responded to Miyamoto's and Sur's comment about not working with them and the signing of the lease which she said was signed and dropped off to Miyamoto. In reference to the condition of the house, Agaron said the condition of the house is what they moved into and they did not want to repair it as there was no guarantee that they were going to be there permanently. He asked the Board to deny the consent to the assignment of the lease.

There was a discussion about the SPA loan. Uchida said the SPA loan is not tied to this lease but that it will be used as part of the collateral. There was also a concern about the violation of the lease.

Motion to approve the assignment of General Lease No. S-3780 from GKK Specialties, Inc., as "Assignor" to Napuanani Farms as "Assignee" subject to the payment of a \$500 fine for illegal sub renting of the property. (Nekoba/Yuen).

Vote: all in favor.

ITEM D-12: DIRECT SALE OF NON-EXCLUSIVE EASEMENT TO WARREN K. ARAKAKI AND DEANE S. ARAKAKI OVER, UNDER AND ACROSS A PORTION OF LOT 2, BLOCK 55, MOKAULELE HEIGHTS HOUSE LOTS (MOHOULI STREET SECTION), WAIAKEA, SOUTH HILO, HAWAII, TMK: 3RD/2-4-28: 34 (PORTION).

Uchida briefed the Board of the direct sale of non-exclusive easement involving encroachment of a wall on State land. The staff's recommendation is that the Board 1) Impose a fine of \$500 for the encroachment onto state land in accordance with section 171-6(12), HRS, 2) Find that the area in question to be an economic unit in terms of the intended use, 3) Authorize the direct sale of the grant of easement to Warren and Deane Arakaki under the terms and conditions as specified, and 4) Until the issuance of the Grant of Easement, authorize the issuance of a right-of-entry to the ARAKAKI's for the purpose of using, maintaining, repairing and/or removing the rock wall within the subject easement area subject to terms and conditions.

Dickson Lee introduced himself as the attorney for SHDC No. 2. SHDC No. 2 is a non-profit corporation whose purpose is to develop a home to provide housing opportunities for people with chronic mental illnesses on the property. The land is owned by the State and the financing is provided by the United States Department of Health and Revenue and the State of Hawaii provides for additional funding for the project. SHDC No. 2 requests the Board to waive any fines to the Arakaki's for the encroachment of the stonewall.

Motion to accept staff recommendation with amendment to impose a \$1.00 fine. (Yuen/Kennison).

Chairman Wilson emphasized the importance that the property owner understands as a result of SHDC's recommendation that the Board has made a decision to establish that the walls are in violations but given the nature of the circumstances that it is mutually beneficial.

Vote: all in favor.

Uchida asked for clarification of the sale of the easement under section C of the staff recommendation. The Board's decision was to change the wording to read, "Authorize the direct [sale] award of the above-mentioned grant of easement..."

ITEM D-7: AMENDMENT TO PRIOR BOARD ACTION OF OCTOBER 28, 1994 (AGENDA ITEM F-2), WAIMEA OUTDOOR CIRCLE REQUESTS DIRECT LEASE FOR NATURE PARK AND ENVIRONMENTAL EDUCATIONAL CENTER, BEING PORTION OF THE GOVERNMENT LANDS AT WAIMEA, SOUTH KOHALA, ISLAND OF HAWAII - TMK: 3RD/6-6-03: 7 AND 6-6-08: ROAD RESERVE.

Uchida said in October of 1994 the Land Board approved the issuance of a direct lease to the Waimea Outdoor Circle which included a roadway parcel to provide access to the property. The lessee has found it difficult to obtain insurance because the roadway is being used by others. The County of Hawaii is willing to accept the ownership and maintenance responsibilities and the staff's proposal is to amend prior Board action by authorizing: 1) The deletion of the subject 0.383 acre road reserve from the subject direct lease to Waimea outdoor Circle and 2) Authorize a conveyance of the road reserve to the County of Hawaii, in fee simple at gratis, and 3) The cancellation of the perpetual, non-exclusive access/utility easement to Canada-France Hawaii Telescope Corporation under Land Office Deed No. S-27503; all other conditions remaining the same.

Carol Hendricks introduced herself from the Waimea Outdoor Circle. She referred to page 14 in the mutual termination section on page 14 as the wording appears to be for a month-to-month permit cancellation with 30 day notice. Uchida clarified that this is misworded and it refers to a revocable permit and that mutual cancellation [in a lease document] is when both parties agree.

It was unanimously approved to accept Item D-7 as submitted. (Yuen/McCrory).

ITEM B-1: REQUEST FOR APPROVAL TO CONTINUE FOUR AGREEMENTS WITH THE RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII.

Bill Devick requested Board approval to continue agreements with the Research Corporation of the University of Hawaii for: 1) Native Freshwater Species and Stream Ecosystem Studies (RCUH #4355), 2) Hawaiian Fisheries Development (RCUH #4356), 3) Main Hawaiian Islands/Marine Resources Investigation (MHI-MRI) - Project Coordination (RCUH #4362), and 4) Shoreline Fishing Surveys (RCUH (#4365). The staff's recommendation is the Board authorize the Chairperson to negotiate and, subject to necessary approvals, execute amendments to existing Agreements with the Research Corporation of the University of Hawaii for FY 1997-98.

Unanimously approved as submitted. (Yuen/Nekoba).

ITEM B-2: REQUEST FOR APPROVAL TO CONTINUE AN AGREEMENT WITH THE UNIVERSITY OF HAWAII (UH), PACIFIC BIOMEDICAL RESEARCH CENTER (PBRC).

Bill Devick requested approval to continue an agreement with University of Hawaii Pacific Biomedical Research Center for the development of bioassessment protocols and a long-term monitoring model for Hawaiian Streams through the Hawaii Stream Research. The staff's recommendation is that the Board authorize the Chairperson to negotiate and, subject to necessary approvals, execute an amendment to the existing Agreement with the University of Hawaii for FY 1997-98.

Unanimously approved as submitted. (Matsumoto/Nekoba).

Chairman Wilson recessed the meeting at 1:17 p.m. and the meeting was reconvened at 2:09 p.m. Member Nekoba was excused.

ITEM: D-1: STAFF REQUEST FOR LEASE-PUBLIC AUCTION, LOT 47, PUU KA PELE PARK LOTS, WAIMEA (KONA), KAUAI, TMK: 1-4-2:34.

Dean Uchida requested withdrawal of this item as the staff from the Kauai State Parks is interested in this lot.

Unanimously approved to withdraw Item D-1. (Kennison/Yuen).

ITEM D-2: REVOCATION OF REVOCABLE PERMIT NO. S-5894, ISSUED TO ANNA MARIE B. MARZOEKI, NOW KNOWN AS ANNA MARIE MCKUHEN, SITUATE AT FORMER KEOKEA SCHOOL LOT, TMK: 2-2-03: POR. 03, KEOKEA, KULA, MAKAWAO, MAUI.

ITEM D-3: REVOCATION OF REVOCABLE PERMIT NO. S-5889, ISSUED TO MRS. ANNA MARZOEKI (DIVORCEE), NOW KNOWN AS ANNA MARIE MCKUHEN, SITUATE AT FORMER KEOKEA SCHOOL LOT, TMK: 2-2-03: POR. 03, KEOKEA, KULA, MAKAWAO, MAUI.

Uchida briefed the Board and requested termination of the revocable permits No. S-5894 and S-5889 which were issued for residential and pasture purposes. The staff's recommendation: 1) To revoke the permits effective thirty days from the certified notice received based on the failure to comply; 2) Authorize the retention of all sums paid under the permit as liquidated damages, 3) Terminate all rights and obligations of the Permittee as of the effective date of revocation, 4) Authorize the Attorney General's Office and/or the Department's private collection agency to collect all monies due the State, 5) Authorize the Maui District Land Office to demolish existing dwelling subject to funds available, 6) Authorize the imposition of Condition (B) (2.) Assess the

Permittee the amount of \$13.70 for each day, or portion thereof, the Permittee remains on premises over the revocation date, and 7) Authorize the imposition of Condition (B) (4.) Assess the Permittee the cost of removing any improvements not removed prior to the termination of the Permit.

Unanimously approved as submitted. (Kennison/Yuen).

ITEM D-4: REQUEST FOR A DIRECT ISSUANCE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT FOR EXTENSION OF WATERLINE PURPOSES, AND AN IMMEDIATE RIGHT OF ENTRY FOR SITE CONTROL PURPOSES OVER, UNDER, ACROSS AND ON GOVERNMENT LANDS IDENTIFIED BY TMK: 2-4-32: POR. 98, SITUATE AT PAU HANA ESTATES, MAKAWAO, MAUI, HAWAII.

Uchida stated the staff's recommendation that the Board: 1) Authorize the direct issuance of a perpetual, non-exclusive easement to the County of Maui for construction and maintenance purposes under terms and conditions and 2) Approve the construction right-of-entry subject to terms and conditions.

Unanimously approved as submitted. (Kennison/Matsumoto).

ITEM D-5: AMENDMENT TO PRIOR BOARD ACTION OF JULY 12, 1996 (AGENDA ITEM D-5) REQUEST WAIVER OF FLUME RIGHTS-OF WAY RESERVATION CONTAINED INLAND PATENT NO. 7261, SITUATE AT KULAIMANO HOMESTEADS, SOUTH HILO, ISLAND OF HAWAII, TMK: 3RD/2-8-06: 7.

Uchida briefed the Board at the July, 1996 Board meeting, the Board approved the waiver of the flume rights-of-way over Land Patent Grant No. 7261. The staff's recommendation is that the Board: 1) Find the subject abandoned flume rights-of-way unsuitable for use as a separate unit and 2) Approve the direct sate of the subject abandoned flume rights-of-way under the terms and conditions.

Unanimously approved as submitted. (Yuen/Matsumoto).

ITEM D-6: EXTEND IMPROVEMENT DEADLINE AND CONSENT TO SUBLEASE THE PREMISES DEMISED UNDER GENERAL LEASE NO. S-5186, LOT 2, BLOCK 40, WAIAKEA, SOUTH HILO, HAWAII -TMK: 3RD/2-2-37: 96.

Uchida said the lease was issued in 1989 with a two year construction deadline. Staff did not notify or obtain Land Board approval to extend the improvement deadline as set forth in the lease, which would have been May, 1991. Recent site plans were returned to Mr. Umphrey in November, 1996 for submittal to the County of Hawaii, Planning Department. After approval from the County, the sublessee intends to operate a commercial service station and will construct

improvements that will include underground storage tanks, fuel pumps, canopies and paving. The staff's recommendation is that the Board consent to: 1) Extension of the improvement deadline to be set at two years from this Land Board approval date, 2) Amending improvement bond requirement to \$400,000, and 3) The sublease between Jack and John Umphrey and Hawaii Petroleum Distributors, Inc., adjusting the annual rental to \$22,800 subject to applicable conditions cited.

Unanimously approved as submitted. (Yuen/Matsumoto).

ITEM D-8: REQUEST FOR AUTHORIZATION TO APPRAISE 4.5 ACRES OF LAND SITUATE AT NAWILIWILI-NIUMALU, LIHUE, KAUAI, TMK: (4) 3-3-03: POR. 1, FOR POSSIBLE LAND ACQUISITION FOR KAUAI INTERMEDIATE SCHOOL.

The staff's recommendation that the Board approve and authorize the appraisal of the 4.5 acres of land as requested by DOE and DAGS with DOE paying for the appraisal fee.

Unanimously approved as submitted. (McCrary/Yuen).

ITEM D-9: SET ASIDE TO THE CITY AND COUNTY OF HONOLULU, DEPARTMENT OF TRANSPORTATION SERVICES, FOR BUS STOP SHELTER PURPOSES AT WAIMANO HOME ROAD, MAKAI BOUND, OPPOSITE HOOKIEKIE STREET, WAIMANO AND MANANA, EWA, OAHU, TMK: 1ST/9-7-25: 08 (PORTION).

Staff's recommendation is that the Board: 1) Recommend to the Governor the issuance of an Executive Order setting aside the subject land to the Department of Transportation Services, City and County of Honolulu under terms and conditions and 2) Authorize the issuance of an immediate construction right-of-entry to the Department of Transportation Services, City and County of Honolulu, to the subject area under conditions specified.

Unanimously approved as submitted. (Matsumoto/Kennison).

ITEM D-11: CANCELLATION OF LAND BOARD ACTION OF APRIL 13, 1995 (AGENDA ITEM F-1-G) AND ISSUANCE OF A REVOCABLE PERMIT TO BLAINE O. KAHALEWAI, SR. AND ORRIN M. KAHALEWAI FOR PASTURE PURPOSES AT WAIMANALO, KOOLAUPOKO, OAHU, TMK: 1ST/4-1-08: 46 (PORTION).

Uchida said the present permittee is unable to obtain the necessary tax clearance and the relatives are requesting that the Board authorize the issuance of the permit to Blaine and Orrin Kahalewai for pasture purposes. The staff's recommendation is that the Board rescind its action of April 13, 1995 and authorize the issuance of a revocable permit to the applicants covering the subject State-owned premises, subject to terms and conditions.

Unanimously approved as submitted. (Matsumoto/McCrary).

ITEM D-13: REQUEST FOR CONSENT TO ASSIGNMENT OF GRANT OF EASEMENT NO. S-5260, KANEOHE, KOOLAUPOKO, OAHU, TMK: 4-5-104: 26.

Uchida stated staff's recommendation that the Board consent to the Assignment of Grant of Easement No. S-5260 from Hawaiian Trust Company, Ltd., a Hawaii Corporation, as Trustee for the Anne M. Munroe Revocable Living Trust (110007804), as "Assignor", to Samuel Wright Nottage and Dana Rather Nottage, husband and wife and Elizabeth Dupuy Rather, unmarried, as joint tenants, as "Assignee", subject to terms and conditions.

Unanimously approved as submitted. (McCrorry/Matsumoto).

ITEM D-14: BHP HAWAII INC. REQUEST FOR A RIGHT OF ENTRY FOR TEMPORARY STORAGE AND LOADING FACILITY ON STATE-OWNED LANDS SITUATE WITHIN AREA SET ASIDE BY GOVERNOR'S EXECUTIVE ORDER NO. 2704, SAND ISLAND STATE RECREATIONAL, MOKAUEA AND KAHOLALOA, SAND ISLAND, HONOLULU, OAHU, TMK: 1-5-041: 3 & 2.

Uchida briefed the Board. This involves land set aside under the Governor's Executive Order to use approximately 40,000 sq. ft. for storage and loading from June 15, 1997 to September 15, 1997. State Parks Division has provided a conditional approval of the use of this area on the condition that no grading work is planned in this area at the commencement date of this right-of-entry. Staff's recommendation is that the Board grant BHP Hawaii, Inc. a right-of-entry to the state owned lands within the area set aside by the Governor's Executive Order No. 2704 for a temporary storage and loading facility for marine cargo hoses, subject to terms and conditions.

The Board wanted to make sure that the proposed site did not conflict with the site that may be used by DOCARE for the relocation of the Marine Patrol from Pier 18.

Unanimously approved as submitted. (Matsumoto/Kennison).

ITEM D-15: REQUEST FOR A CONSENT TO MAUI BLOCKS, INC. SUBLESSEE TO HAWAIIAN CEMENT UNDER GENERAL LEASE NO. S-5284-a, FOR INSTALLATION OF A PRIVATE WATER SYSTEM ON STATE LAND, TMK: 3-8-8: PORTION 01, PULEHUNUI, WAILUKU, MAUI.

Uchida said staff's recommendation is that the Board approve the consent to Maui Blocks, Inc. for the installation of a private water system within their sublease area covered under General Lease No. S-A, subject to terms and conditions.-

Unanimously approved as submitted. (Kennison/Matsumoto).

ITEM D-16: REQUEST FOR A CONSENT TO ASSIGN NON-EXCLUSIVE GRANT OF EASEMENT NO. S-5183 FROM NITTAKU INVESTMENT, INC. TO THE HARRY AND JEANETTE WEINBERG FOUNDATION FOR MAINTENANCE AND REPAIR OF A SEAWALL AND CONCRETE DECK ON STATE LANDS IDENTIFIED BY TMK: 4-5-01: PORTION 09,L LAHAINA, MAUI.

Staff's recommendation is that the Board consent to the assignment of the subject Grant of Non-Exclusive Easement from Nittaku Investment Inc. to the Harry and Jeanette WEINBERG Foundation subject to terms and conditions.

Unanimously approved as submitted. (Kennison/Matsumoto).

ITEM D-17: REQUEST BOARD APPROVAL FOR THE DIRECT ISSUANCE OF PERPETUAL NON-EXCLUSIVE EASEMENT TO THE CITY AND COUNTY OF HONOLULU, DEPARTMENT OF PUBLIC WORKS, FOR SEWER LINE PURPOSES IN CONJUNCTION WITH THE WAIMANO SEWERS IMPROVEMENT DISTRICT NO. 273 AT WAIMANO, EWA, OAHU, TMK: 1ST/9-7-19: 35 (PORTION).

Staff's recommendation is that the Board authorize the direct issuance of a perpetual, non-exclusive easement for Sewer Line purposes, to the City and County of Honolulu, Department of Public Works subject to terms and conditions and authorize the issuance of an immediate construction right-of-entry to the City and County of Honolulu, Department of Public Works subject to terms and conditions.

Unanimously approved as submitted. (Matsumoto/Kennison).

ITEM D-18: CONSENT TO THE ASSIGNMENT OF GENERAL LEASE #2-5414, KIKALA AND KEOKEA, PUNA, HAWAII, TMK: (3) 1-2-7 PORTION 2.

Staff's recommendation is that the Board consent to the assignment of General Lease #S between Thelma L. Hauanio, Assignor, and Mathew M. Hauanio, Sr., Assignee, subject to terms and conditions.

Unanimously approved as submitted. (Yuen/Kennison).

ITEM D 19: FORFEITURE OF GENERAL LEASE NO. S-5074.

Staff's recommendation to authorize the cancellation of General Lease No. S-5074 for failure to post required Liability Insurance policy, authorize the retention of all sums paid under General Lease as liquidated damages, terminate all rights and obligations of the lessee, and authorize the Attorney General's Office and/or the Department's private collection agency to collect all monies due the State of Hawaii. Cure period expired on January 21, 1997.

Unanimously approved as submitted. (McCrorry/Matsumoto).

ITEM D- 20: FORFEITURE OF GENERAL LEASE NO. S-4986.

Staff's recommendation to authorize the cancellation of General Lease No. S-4986 for failure to post required Liability Insurance policy, authorize the retention of all sums paid under General Lease as liquidated damages, terminate all rights and obligations of the lessee, and authorize the Attorney General's Office and/or the Department's private collection agency to collect all monies due the State of Hawaii. Cure period expired on January 21, 1997.

Unanimously approved as submitted. (McCrorry/Matsumoto).

ITEM D- 21: FORFEITURE OF GENERAL LEASE NO. S-5042.

Unanimously approved as submitted. (Yuen/Kennison).

ITEM D-22: FORFEITURE OF GENERAL LEASE NO. S-5028.

Unanimously approved as submitted. (Yuen/Kennison).

ITEM D-23: FORFEITURE OF GENERAL LEASE NO. S-4581.

Uchida withdrew Items D-21, 22, 23 based on information that the lessee's were currently in compliance providing their required Liability Insurance policies.

Unanimously approved to withdraw. (McCrorry/Kennison).

ITEM D-27: REQUEST FOR TIME EXTENSION OF NOTICE OF DEFAULT AFFECTING GENERAL LEASE N. S-5085, BRIAN AND SHERRICE SOUZA, LOT 60, PUU KA PELE PARK LOTS, WAIMEA (KONA), KAUAI, TMK: 1-4-2: 60.

Uchida explained that the lessee's are going through a potential Assignment of Lease. The miscommunication of technical matters has been resolved and a new contract between the two parties [Richard and Drucilla Louis and Brian and Sherrice Souza] has been executed. The staff's recommendation is that the Board: 1) Grant a sixty day time extension to obtain Liability Insurance, co-insuring the State of Hawaii, not to exceed April 3, 1997 and 2) Other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State of Hawaii.

Unanimously approved as submitted. (McCrorry/Kennison).

ITEM D-28: ASSIGNMENT OF LEASEHOLD INTEREST-GENERAL LEASE NO. S-5055, LOT 7, PUU KA PELE PARK LOTS, WAIMEA (KONA).

The staff's recommendation is that the Board review and approve the form and content of the assignment document by the State Attorney General, Provisions of Section 171-21, HRS as amended, relating to the rights of holder of security interest and other terms and conditions as may be prescribed by the Chairperson.

Unanimously approved as submitted. (McCrorry/Matsumoto)

ITEM D-29: LEASE-PUBLIC AUCTION, PORTION OF LOT 273, KAPAA HOMESTEADS, 3RD SERIES, KAPAA, KAWAIHAU (PUNA) KAUAI, HAWAII, TMK: 4-6-08: 1.

The staff's recommendation is that the Board: 1) Find the area to be an economic unit in terms of the intended use; 2) Find the area to be unsuitable for hunting for the duration of the lease term; 3) Authorize the public auction sale of a lease for intensive agricultural purposes under the terms and conditions.

Unanimously approved as submitted. (McCrorry/Matsumoto).

ITEM D-30: DIRECT ISSUANCE OF NON-EXCLUSIVE PERPETUAL EASEMENT AND ACCESS AND UTILITY PURCHASES, HAUULA, KOOLAULO, OAHU, TMK: 1ST/5-4-01.

Staff's recommendation is that the Board authorize the direct issuance of a perpetual, non-exclusive easement for access and utility purposes to the applicants, subject to the terms and conditions previously listed and currently added.

Unanimously approved as submitted. (Kennison/McCrorry).

ITEM K-1: LICENSE FOR THE USE OF REAL PROPERTY AND AMENDMENT NO. 1 TO MEMORANDUM OF AGREEMENT TO NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, MOLOKAI AIRPORT.

Peter Garcia of the Department of Transportation briefed the Board on the purpose of the request in which the Government plans to install their ASOS at each major airport. He said the Board approved of the granting of those installations in January, 1993. The License amends the Memorandum of Agreement to include an installation at Molokai Airport.

The staff's recommendation is that the Board approve the granting of use of land at Molokai Airport to the Government by way of the subject License and amendment to the Memorandum of Agreement.

Unanimously approved as submitted. (Kennison/McCrory).

ITEM K-2: APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS, NON-CONFORMING USE, KAHULUI AIRPORT, MAUI (DECOITE TRUCKING, INC., E & B PLUMBING INC., EARL ECKEL, JR. AND SHIMIZU AND SONS CONSTRUCTION, INC.).

The staff requests approval of four revocable permits for non-conforming use.

Unanimously approved as submitted. (Matsumoto/Yuen).

ITEM K-3: ISSUANCE OF REVOCABLE PERMIT, PIER 18, HONOLULU HARBOR, OAHU (DEPARTMENT OF LAND AND NATURAL RESOURCES, DIVISION OF CONSERVATION AND RESOURCE ENFORCEMENT) (RESUBMITTAL - DEFERRED ITEM.)

Garcia said this item was deferred at the last Land Board meeting due to a question regarding the ending date.

Chairman Wilson said he talked to Kazu Hayashida regarding the relocation, timing and the possibility of DLNR purchasing a trailer. Barry Kim said they rented a trailer to house the Harbor Police and the trailer is currently owned by DLNR Boating and Harbors Division. He offered to move the trailer to any specified location. Kim said the trailer rental ends in July and the Pier 18 shed ends in March. Currently the Marine Patrol is in the shed at Pier 18 and the Harbor Patrol is at Pier 19. There was a discussion about the number of people that the trailer could house and an alternative location for the trailer. Kim said the Marine Patrol uses a construction shack if the Boating Division is willing to give up part of the space. Moniz said Boating Division does not want the parking lot to be encroached upon.

Chairman Wilson suggested deferring the item until further discussions can take place.

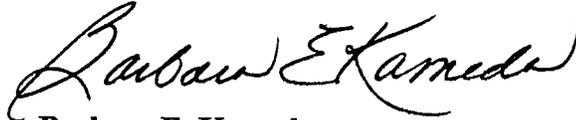
Kim said there is no room in the baseyard and what is needed is the berth for the boat. Gary Moniz said boats are on trailers and what is needed is space. He said spaces that are available are in the DOT baseyard and the other is to the south of Keehi Harbor but that it will cost a lot to put in the infrastructure. Kim felt that DOT could save some money by purchasing DLNR's half and return the rented trailer. There was a discussion about rental fees paid by DOT.

Unanimously approved to defer item. (McCrory/Kennison).

The Land Board meeting was adjourned.

Tapes of the meeting and 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 applicants or interested parties present.

Respectfully submitted,



Barbara E. Kameda

Approved for submittal:



MICHAEL D. WILSON

Chairperson

Board of Land and Natural Resources