

MINUTES

FOR THE MEETING OF THE BOARD OF LAND AND NATURAL RESOURCES

DATE: FRIDAY, MAY 9, 1997
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
BOARD ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII

Present:

Members:

Michael Wilson
Chris Yuen
Colbert Matsumoto
Willie Kennison
Michael Nekoba
Lynn McCrory

Staff:

Dean Uchida	Dave Parsons
Michael Buck	Cliff Inn
Cecil Santos	Mason Young
Michelle Bradley	Dede Mamiya

Guests:

Linnel Nishioka	Peter Garcia
Juliet Begley	Ed Watson
Peter Schall	Dr. Seiji Naya
Edward Booth	Brad Mossman
News media crew	Robert Martin
Bruce Graham	

All written testimony and tapes of 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 persons present. A copy of the agenda is attached for reference.

Chair Michael Wilson commenced the meeting of the Board of Land and Natural Resources at 9:13 A.M.

ITEM C-1: REQUEST FOR RECOGNITION OF USE BY THE DIVISION OF FORESTRY & WILDLIFE - KAUAI BRANCH FIELD STATION AND MID-ELEVATION NURSERY

Michael Buck, Administrator of the Division of Forestry and Wildlife (DOFAW), briefed the members of the Board. He said the site is to support normal field activities and crew work in the Kokee area, a nursery facility in habitat similar to that where many of these plants are found to be reared for out planting and a site to house, train and equip volunteers when working in the

Kokee area. Buck said it is felt that DOFAW's occupancy and use of the site will have benefits to both DOFAW and the Division of State Parks. He said an environmental assessment was prepared in February, 1996. This site has been under consideration for 1-1/2 to 2 years.

Unanimously approved as submitted. (McCrorry/Nekoba).

Unanimously approved to add Item E-1. (Kennison/Nekoba).

Member Chris Yuen arrived at 9:22 A.M.

ITEM D-44: REQUEST LAND BOARD APPROVAL TO RESCIND PRIOR BOARD ACTION OF FEBRUARY 11, 1994 (ITEM F-12) AND AUTHORIZE DISPOSITION OF A LEASE FOR COMMERCIAL PIER PURPOSES, AT WAIKIKI, OAHU, TMK: 2-6-08: 29

Dean Uchida, Acting Administrator of the Land Division briefed the Board. Hilton Hawaiian Village (Hilton) obtained a revocable permit in 1964 and has been operating under this permit through 1994 until it was discovered that the lease arrangement between Atlantis Submarine and Hilton was in violation of the terms of the lease. In February 1994, the Board authorized the issuance of a direct easement to Hilton and an inquiry was sent to the Department of the Attorney General questioning the provisions of the easement. In October 1994, the interim permit was cancelled and a new account was set up with a general lease for the easement although no easement or document had been executed. In December 1994, Hilton began paying the new lease rent and in March 1995, the lease document was completed and approved by the Department of the Attorney General. In May 1995, Hilton requested changes to the terms and conditions to the easement documents and DLNR responded in October 1995, refusing to make any changes. In January 1996, Hilton requested changes to the terms and conditions. In response, the Department of the Attorney General raised questions about the appropriateness of the section of the statute dealing with the disposition of the easement. In October 1996, DLNR received an oral opinion from the Deputy of the Department of the Attorney General that Section 171-53, Hawaii Revised Statutes (HRS), did not apply.

Uchida said in order for the Land Division to issue a lease to the submerged land, the Division will need Governor's and Legislative approval, and that this would probably take about a year. He amended the recommendation to allow for further research on the legal issues and to bring it back to the Board after the logistics have been determined. Uchida also asked to add a condition that Hilton be allowed to continue to use the Pier on interim basis pending the final disposition. He said the Division received a letter from Rainbow Management Group which operates off the Pier indicating that they have some vested rights to use the Pier and would like to be recognized. Since

the letter was received yesterday the Land Division staff has not had the chance to do research on it.

There was discussion about the objective of trying to maximize the use of the Pier to generate revenue. Uchida said there are lease requirements that the operator allow for three historical uses of the Pier: submarine tours, dinner cruises and catamaran cruises, and that parameters will be set. He said there are some concerns about safety and some logistics of conducting operations in the area, as well as traffic control.

A discussion about section 171-59, HRS took place and Uchida said this section was provided for the container operation to prevent an operator from monopolizing the market. Member Michael Nekoba explained how the Department of Transportation (DOT) uses section 171-59, HRS to enter into direct negotiations with another company to provide any other ship service. Peter Garcia, DOT said DOT does not lease the pier, they retain control of the Pier. The land area behind the Pier is leased. He said their revenue comes from dockage, where the ship parks next to the dock and are charged for that and wharfage, where the cargo is moved from the ship over DOT's facility. Garcia said the Pier is retained, maintained and operated by DOT. He clarified that the fishing boats utilizing the area are given permits which are covered under the tariff. There was a brief discussion about the tariff.

Member Colbert Matsumoto asked about the ownership status of the Pier. Uchida said when the unauthorized use in 1994 was being resolved, there was a fine imposed based on what Hilton received from the subleases. When the calculations were done, Hilton allowed a deduction for the replacement, renovation and repair of the Pier, if not for that deduction, the State would have received the money from Hurricane Iniki damage. Uchida felt based on the deduction, the State owns the Pier.

There was a discussion about the Revocable Permit. When the Department received an inquiry concerning the Agreement, it was determined by the Department of the Attorney General that the Board's action did not comply with the applicable law. The Permit was cancelled. Hilton has been paying the new easement rent since 1994 but there was no signed easement document. Uchida said in order to cover the State's liability, the Board in February 1997, approved a temporary reinstatement of the Revocable Permit. It was clarified that the old permit gave Hilton the bottom of the ocean in front of the Pier.

Peter Schall, Managing Director for Hilton, talked about some of the issues. He explained that when Hilton operated under the Revocable Permit and DLNR had determined that their subleases was not permissible under the Revocable Permit, the Hilton did not contest it because he said, the Board ruled for a 25 year lease

agreement. Schall explained some of the income, expenses and losses for the periods in question including the repair of the Pier.

Schall said Hilton is the rightful owner to the Pier, that Hilton's history has "consistently demonstrated that it has the means and willingness to perform its obligations and undertakings in a timely manner", that Hilton's control of the Pier enhances maritime competition, that Hilton is, "virtually infeasible that any other operator other than the Hotel can support the Pier", and that the Hilton is willing to pay a fair price for use of the Pier.

Bruce Graham, attorney for Hilton, said this arrangement is in the best interest of the public and the State from which it derives revenue. The Pier is a minuscule part of the operation but it provides the public with security, safety, and CPR which would not exist unless it were located on the Pier or on the public beach. Graham said the only commercial activity is the loading and unloading of passengers and the taking of passenger photos but that the State derives revenue from the entire package including property it does not own and cannot lease.

Member Matsumoto asked about the difference that was stated in the newspaper article versus what Schall had discussed in his testimony regarding income. Schall explained that the increased revenue was due to their photo concession on the property.

There was discussion about whether Hilton felt that the submittal was unfair or a disadvantage to Hilton compared to other bidders. Schall talked about the access to the Pier, parking, the responsibility, the maintenance of the Pier and the overuse of the Pier. Graham stated that the Hotel owns the Pier and if it is turned over to someone else, Hilton will lose substantial assets. He said Hilton has invested in vessels which are unique to the Pier. Graham talked about Hilton's ambiance and atmosphere and their ability to maintain the property and the view plane to be acceptable. He said Hilton is willing to pay the State a fair market return because of their vested interest.

A discussion about how the lease rent was determined took place. Schall said the rent was based on the gross revenue that the Hilton generated at 3%. Member Matsumoto asked when the issue of the sublease was raised and the lease was offered as an alternative to the Revocable Permit arrangement, who proposed the lease arrangement? Schall explained that when the Revocable Permit issue of not allowing subleasing came up, the Department recommended to the Board, based on performance of Atlantis, that it should consider a 25 year lease. It was approved by the Board but that the documents were never signed. Hilton continued to pay under the Revocable Permit until the new agreement would have been finalized by the State. Two invoices were received, one

under the Revocable Permit and the other under the new agreement which has not been signed. Hilton was advised to pay under the new ruling and therefore, cancelled the Revocable Permit. Graham explained because Hilton did not have clear authority with regards to the subleasing, they have declined to enter into any contract since the subleasing with Atlantis had been deemed unlawful and did not want to compound it by adding more.

Member Matsumoto asked Graham to clarify the ownership of the Pier. Graham said the Hotel built the Pier and that the Revocable Permit is a permit to occupy and maintain the structure. He didn't think that the deduction transfers title to those improvements. The Revocable Permit specifically recognizes that the improvements belongs to the Hotel and may be removed by the Hotel at determination of permit or if the Hotel chooses not to remove the improvements it still must be removed if the State so requires. The Department took the position that when the Revocable Permit was cancelled by the Department billing staff and the Hotel accounts payable employee that at this point cancellation of the Permit occurred. He said the Permit has been reinstated and the reinstated Permit recognizes that the Hotel has the right to remove the Pier at termination.

Member Nekoba asked how it can be determined what the fair market value of the Pier is. He felt the Pier is so unique that it cannot be determined what the fair market value is. Graham felt it can be appraised and that the appraisers have standards. There was a discussion on the percentage of revenue to determine the fair market value.

Another discussion about the photo concession took place. Schall said the photo concessions have the right to use the premises which houses their photo lab and equipment on the Hotel premises. That revenue is reported to the State as part of the gross income and the State derives a percentage of that. Graham clarified that there is a photo concession and that the concession has the right to enter the Pier and board the sub boat. The revenues derived from that concession is what is included in the report, they are not included in any separate lease from the Hotel.

Chair Wilson questioned about the credit given to Hilton due to the Hurricane damage. Hilton agrees that there was significant credit due. Schall said between 1992 and 1993, the Hotel lost a value in the amount of \$300,000. Chair Wilson asked, if Hilton is the owner of the Pier and had damages to its Pier, and Hilton owes the State \$300,000, why would the State agree to a credit. Why would the State allow Hilton to use the \$300,000 to repair Hilton's pier? Schall said their understanding was at the time because of the so called "illegal operation", that all profits had to be turned over to the State. He said a profit means, from the gross revenue, deduct all expenses and the bottom line is the profit. Chair Wilson clarified that Hilton's concept was that

Hilton did not have to pay the \$300,000, Hilton had only to pay the net profit of \$10,000. Hilton was not aware of the credit because in their view, it was going to be deducted as an expense. Schall concurred.

Member Nekoba asked whether the Pier was insured and felt that if Hilton is self-insured, then it should not be counted as an expense and that it is not a normal operating expense. Graham said the Revocable Permit the State deemed as being in violation would be recommended for cancellation and a new lease will be recommended for issuance. He said the staff recommended that all profits derived by Hilton should be paid to the State.

Edward Booth, Sr. Vice President and General Manager of Voyager Submarine said the Voyager Submarine was and has been prepared and has continued to make an offer to lease the Pier which he feels the value is between five-hundred thousand to one million dollars. He supports staff's recommendation to lease or concession out the Pier and feels that a master lease is the proper method. Booth believes that the State has received a significant shortfall of revenue since 1994 and that Hilton in a public auction would have a significant advantage. He said if the Voyager was to receive a master lease, they would do everything in their power to make Hilton an involved party to their mutual interest.

There was discussion about the value and the revenues generated by the Atlantis Submarine at the Village and the Voyager Submarine at Kewalo Basin. The formula for payment at different locations is determined by the Department and is uniformly applied to all operators based on gross sales.

Robert Martin introduced himself as President of Rainbow Management Group. He clarified that Rainbow Management went through the permit process with the State and Hilton and that they are legal. He did not want to be characterized with the Atlantis issue that occurred in 1994. Martin believes that Rainbow Management still holds a valid permit to operate for 15 years. He said another harbor operator would need to consider the safety issues and liability concerns. Martin said being a management company, they manage and operate Hilton's vessel and that their revenue is provided from the services provided. There was discussion about the access use of the road by buses and foot traffic to get to the Pier. If this road could not be used, the passengers would have to be dropped off on Kalia Road.

The safety concerns were discussed. Member Matsumoto said one of the issues that needs to be addressed is to what extent should the State be in a position of managing activities off the Pier and deriving revenues as opposed to having someone else be in the position of the master lease of all these activities off the Pier.

Unanimously approved to move into executive session to consult with Legal Consul Deputy Attorney General. (Yuen/Matsumoto).

Meeting reconvened by Acting Chair Member Yuen.

Unanimously approved to defer Item D-44 in order to resolve some unresolved legal issues. (Matsumoto/Nekoba).

Deputy Attorney General Ed Watson took over for Deputy Attorney General Linnel Nishioka.

ITEM D-16: REQUEST TO AMEND THE BOARD'S AUGUST 23, 1996 AGENDA ITEM D-19 APPROVAL REGARDING THE EXTENSION OF GENERAL LEASE NO. S-4016 AND WAIVER OF THE PERFORMANCE BOND PROVISION FOR PROPERTY IDENTIFIED AS TMK: 1-3-04: 06 AND 20, SITUATE AT WAKUI AND KAWAIPAPA, HANA, MAUI

No public testimony.

Unanimously approved as submitted. (Kennison/Nekoba).

ITEM D-31: DIRECT ISSUANCE OF LEASE TO THE HAWAII COUNTY ECONOMIC OPPORTUNITY COUNCIL (HCEOC) AT WAIAKEA, SOUTH HILO, HAWAII, TMK: (3) 2-4-8-PORION 22

Uchida requested to amend Condition 9 to: Amend CDUA HA-1736 to change from original project description of "animal feed grass" to agricultural products with processing plant and marketing of agricultural products and to clarify the annual lease rent to 20% of fair market value. This will be effective December 14, 1984, at the time of the Board's original action.

There was discussion about the back rent. Member Yuen suggested that the back rent be based on what area was utilized which is approximately 150 acres. Member Yuen suggested an amendment that the lease area be reduced from 400 acres to 150 acres.

Unanimously approved as amended. (Matsumoto/Nekoba).

ITEM D-30: RE-SUBMITTAL OF PRIOR BOARD PRESENTATION HELD ON DECEMBER 13, 1996 (AGENDA ITEM D-15), REQUEST FOR CANCELLATION OF REVOCABLE PERMIT NO. S-6392 HELD BY THE HONOLULU POLO CLUB, WAIMANALO, OAHU, TMK: 4-1-09: 262

Uchida gave a brief review of the resubmittal. The staff's recommendation is that the Board require the Revocable Permit be amended to include a condition requiring the Permittee to post a performance bond with the Department for the required performance and implementation of all maintenance work to be done under terms and conditions. The amendment includes the maintenance and if

necessary the dredging of the Inoaole Stream if the Permittee does not implement this requirement after 30 days notice.

Allen Hoe, Director of the Honolulu Polo Club, said there is a substantial difference between "clean and maintain" as opposed to "stream dredging". He said the proposed costs of dredging versus stream cleaning will have a "devastating impact on our ability to continue to operate". Hoe said the general cost of stream cleaning is between \$2,000 to \$3,000 versus \$80,000 for the dredging of the Stream.

Hoe said the Hawaii Housing Authority (HHA) development which borders Inoaole Stream, has not been maintaining their side of the Stream from vegetation overgrowth and debris. In order to pass inspection, the Honolulu Polo Club has cleared their [HHA] area for the past ten years. He also talked about both Hawaiian Telephone and Hawaiian Electric illegally or improperly installing conduits within the culvert which acts as a dam. Hoe said in 1991, they were instructed to remove the conduits but to date, have not done so.

Uchida said there has been a history of stream cleaning problems along the Inoaole Stream including with the former Waimanalo Dairy. There was discussion about the inadequate size of the culvert and how the utility conduits under the culvert creates the problem of flooding by trapping debris. Member Nekoba suggested that the Land Division request DOT to remove the utility conduits under the bridge.

Ed Watson, Deputy Attorney General clarified the October date, that the Permittee is responsible not only for once a year maintenance of the Stream but that he has the duty throughout the year to maintain the Stream. He is still obligated to do routine maintenance whenever there is a need to do it. The requirement of the maintenance of the Stream on a year round basis was discussed and it was concurred that the Board was satisfied with the maintenance program by the Polo Club.

Unanimously approved to withdraw Item D-30. (Matsumoto/Nekoba).

ITEM D-2: REQUEST ISSUANCE OF A REVOCABLE PERMIT TO DIA PACIFIC DEVELOPMENT CORPORATION, FOR PARKING AND SECURITY PURPOSES ON GOVERNMENT LANDS, IDENTIFIED BY TMK: 4-4-01: POR. 106, SITUATE AT LOWER HONOKOWAI, LAHAINA, MAUI

Uchida said the staff's recommendation is that the Board authorize the issuance of a revocable permit under terms and conditions.

Unanimously approved as submitted. (Kennison/Nekoba).

ITEM D-11: LEASE - PUBLIC AUCTION, PORTION OF KALAHEO
HOMESTEADS, 1ST SERIES, KOLOA, KAUAI, TMKS: 2-4-1:
5 AND 2-4-2: 1

Uchida said staff's recommendation is that the Board authorize the sale of a lease at public auction for pasture purposes under terms and conditions. There is an existing permittee and another interested party.

Pam McCoy introduced herself and testified that she has made considerable improvements to the fencing on the property. She maintains the property and feels she is qualified to lease this property. Member Lynn McCrory informed her that there is a screening committee to pre-qualify prospective bidders before the auction. If the existing permittee is the only qualified bidder, they would be able to secure a long-term interest in the property as opposed to month-to-month.

Laverne Bishop said she is the adjacent landowner and is interested in leasing the property on long-term basis.

There was discussion about the ownership of the improvements. It was concurred that the existing permittee has the right to remove all of her improvements before the permit expires and that she will not be compensated by the State or the successful bidder for any of the improvements left on the property.

Unanimously approved as submitted. (McCrory/Kennison).

ITEM D-14: RAYMOND HOE FOR ROBERT L. STEVENS, ET AL, REQUEST TO
REINSTATE CANCELLED GENERAL LEASE NO. S-5074, LOT
43, PUU KA PELE PARK LOTS, WAIMEA, KAUAI

Uchida said the staff's recommendation is that the Board rescind its prior action of February 28, 1997 and authorize the reinstatement of General Lease.

There was discussion about imposing administrative costs for reinstatement of cancelled leases. Raymond Hoe spoke in behalf of Robert Stevens explaining the oversight by the lessee to file acceptable Liability Insurance coverage and agreed to the condition of the fine.

Motion for the Board to amend staff's recommendation to rescind its action of February 28, 1997 subject to review and approval by the Department of Attorney General and that the Lessee has thirty (30) days to submit an assignment of the lease and pay a \$2,000 fine. (McCrory/Kennison).

Vote: All in favor.

ITEM D-5: REQUEST RENEWAL OF LAND LICENSE NO. 323 TO SANIFILL OF HAWAII, INC. AS AN AGENT FOR THE COUNTY OF KAUAI TO OPERATE THE KEKAHA LANDFILL, PORTION OF GOVERNMENT LAND AT KEKAHA, WAIMEA (KONA), KAUAI, TMK: 1-2-2: POR. 1

Uchida briefed the Board. Staff's recommendation is that the Board find that the soil removal is exempt from obtaining a negative declaration and approve the renewal of a Land License to Sanifill of Hawaii, Inc. for the removal of soil from the Kekaha Sugar Co. settling ponds subject to terms and conditions. Uchida requested an amendment to include recalculation of the royalty rates annually.

Watson suggested using the term issuance instead of reinstate or reissuance. He explained that some of these license or leases were issued in the 50's and 60's and by reinstating or reissuing, the same terms and conditions that were imposed then by the State may not apply under current law. He preferred to see the Board issuing a license so that the State could impose whatever the requirement of the laws are today.

Motion to amend recommendation that the royalty rates be appraised annually as a part of the new land license and approve the issuance of a land lease. (McCrory/Nekoba).

Vote: All in favor.

ITEM K-1: CONSENT TO ASSIGNMENT OF LEASES AT PIER 38, HONOLULU HARBOR, OAHU, NAWILIWILI HARBOR, KAUAI, KAHULUI HARBOR, MAUI AND HILO HARBOR, ISLAND OF HAWAII {GASCO, INC. (ASSIGNOR)/CITIZENS UTILITIES COMPANY (ASSIGNEE)}

ITEM K-2: ISSUANCE OF REVOCABLE PERMIT, PIER 38, HONOLULU HARBOR, OAHU (CITIZENS UTILITIES COMPANY)

Peter Garcia requested both Items K-1 and K-2 be considered together. He said the staff's recommendation is that the Board authorize the Consent to the Assignment of all lease and easements to Item K-1 and the issuance of a revocable permit to Item K-2 under terms and conditions.

Unanimously approved as submitted. (Matsumoto/Kennison).

ITEM K-6: RIGHT-OF-ENTRY, SOUTH RAMP, HONOLULU INTERNATIONAL AIRPORT, (CONTINENTAL AIRLINES, INC.)

Unanimously approved as submitted. (Matsumoto/Nekoba).

ITEM D-35: SET ASIDE TO THE DEPARTMENT OF AGRICULTURE (DOA), THE STATE'S INTEREST IN LAND OWNED BY THE ESTATE OF BERNICE PAUHI BISHOP (ESTATE) AND ENCUMBERED UNDER A LEASE AGREEMENT BETWEEN THE ESTATE, AS LESSOR, AND THE STATE OF HAWAII, THROUGH ITS BOARD OF LAND AND NATURAL RESOURCES, AS LESSEE, FOR A DEMONSTRATION PAPAYA QUARANTINE PROGRAM, KAHUWAI, PUNA, HAWAII, TMKS: 1-4-3: 11, 12, 25, 26, 28, 30, 31, 32, 33, 34, 35 AND 36

Unanimously approved as submitted. (Matsumoto/Nekoba).

ITEM D-41: ISSUANCE OF TERM, NON-EXCLUSIVE EASEMENT FOR LANDSCAPING, SIGNAGE AND BEAUTIFICATION PURPOSES, NAWILIWILI HARBOR LOTS, LIHUE, KAUAI, TMK: 3-2-4: POR. 47

Unanimously approved as submitted. (McCrorry/Nekoba).

After a short break, the meeting was reconvened.

Member Matsumoto was excused.

ITEM K-3: ISSUANCE OF REVOCABLE PERMIT, KAWAIHAE, HARBOR, ISLAND OF HAWAII (AKANA PETROLEUM, INC.)

Unanimously approved as submitted. (Matsumoto/Kennison).

ITEM K-4: ISSUANCE OF REVOCABLE PERMIT, PIER 24, HONOLULU HARBOR, OAHU (CTC ENTERPRISES, A HAWAII GENERAL PARTNERSHIP)

Unanimously approved as submitted. (Nekoba/McCrory).

ITEM K-5: AUTHORIZING THE DEPARTMENT OF TRANSPORTATION TO DISPOSE OF HIGHWAY REMNANT, ALII DRIVE WIDENING, NORTH KONA, ISLAND OF HAWAII (COUNTY OF HAWAII)

Unanimously approved as submitted. (Kennison/Nekoba).

ITEM D-34: CDUA (OA-2839) FOR THE CONSTRUCTION OF A 2.0 MILLION GALLON STORAGE RESERVOIR, MAKAHA, OAHU, TMK: 8-4-02: 11, POR. 14

Unanimously approved as submitted. (Nekoba/McCrory).

ITEM E-1: CONSENT TO THE ASSIGNMENT OF GENERAL LEASE NO. S-5289, LOT B-7, PHASE II SUBDIVISION, KAHANA VALLEY STATE PARK, KAHANA, KOOLAULOA, OAHU

Unanimously approved as submitted. (Nekoba/Kennison).

ITEM D-1: FORFEITURE OF GENERAL LEASE NO. S-5066

Unanimously approved withdrawal of item. (McCrorry/Nekoba).

ITEM D-3: DEPARTMENT OF HEALTH REQUESTS AUTHORIZATION TO ISSUE REVOCABLE PERMIT TO DR. MARGARET JOHNSTON-KITAZAWA AND ASSOCIATES, KAU HOSPITAL, PAHALA, HAWAII, TMK: (3) 9-6-2-36

Uchida amended TMK from 9-6-2:36 to 9-6-23:43.

Unanimously approved as submitted. (Nekoba/Kennison).

ITEM D-4: TERMINATION OF A REVOCABLE PERMIT #S-4350 TO HOKU LOA HISTORICAL FOUNDATION, INCLUSION OF STATE UNENCUMBERED LANDS AND ISSUANCE OF A NEW PERMIT TO HAWAII CONFERENCE FOUNDATION, TRUSTEE FOR HOKU LOA UNITED CHURCH OF CHRIST, SUCCESSOR OF THE HOKU LOA CHURCH HISTORICAL FOUNDATION, LALAMILO, WAIMEA, HAWAII, TMKs: (3)6-9-2-9 AND -10

Unanimously approved for withdrawal. (Nekoba/Kennison).

ITEM D-6: RESCIND PRIOR BOARD ACTION FOR CONSENT TO ASSIGNMENT OF GENERAL LEASE #S-5226, MILOLII, SOUTH KONA, HAWAII

Unanimously approved as submitted. (Nekoba/McCrory).

ITEM D-7: ISSUANCE OF A REVOCABLE PERMIT TO BIG ISLAND AGRICULTURAL PRODUCERS, INC., WAIAKEA, HAWAII

Unanimously approved for withdrawal. (Nekoba/McCrory).

Member Matsumoto returned.

ITEM D-8: AMEND PRIOR BOARD ACTION FOR SUBLEASE AND CHANGE OF CHARACTER OF USE APPROVAL OF GENERAL LEASE #S-3593, WAIAKEA, HAWAII

Unanimously approved as submitted. (Nekoba/McCrory).

Member Yuen requested moving Item D-9 to end of agenda.

ITEM D-10: FORFEITURE OF GENERAL LEASE NO. S-4308, HILO SHEETMETAL, INC., LOT 4, HILO INDUSTRIAL DEVELOPMENT, POHAKU STREET SECTION, WAIAKEA, SOUTH HILO, HAWAII - TMK: 3RD/2-2-58: 02

Unanimously approved for withdrawal. (Nekoba/Kennison).

ITEM D-12: ASSIGNMENT OF GENERAL LEASE NO. S-5028, LOT 58,
KOKEE CAMP SITE LOTS, WAIMEA (KONA), KAUAI, TMK:
1-4-4: 24

Unanimously approved as submitted. (McCrorry/Nekoba).

ITEM D-13: CANCELLATION OF GENERAL LEASE NO. S-5078, LOT 48,
PUUKA PELE PARKS LOTS, WAIMEA, KAUAI

Request to amend staff recommendation Condition 8 to read, "That the lessee has thirty (30) days from the date of this action to assign the lease and address the existing deficiencies in the lease. Failure to meet this thirty (30) day deadline will result in the cancellation of the general lease as authorized in this action".

Unanimously approved as amended. (McCrorry/Kennison).

ITEM D-15: SET ASIDE OF STATE LAND TO THE DEPARTMENT OF
TRANSPORTATION, HIGHWAYS DIVISION FOR HIGHWAY
PURPOSES, TOGETHER WITH GRANTS OF EASEMENTS, AND SET
ASIDE TO THE COUNTY OF KAUAI AS AN ADDITION TO
NAWILIWILI PARK, NAWILIWILI, LIHUE, KAUAI, TMK:
3-2-04: 9, 10, 14 AND 15

Unanimously approved as submitted. (Nekoba/Kennison).

ITEM D-17: REQUEST TO AMEND PRIOR BOARD ACTION OF APRIL 28,
1995 (AGENDA ITEM F-36) RELATIVE TO ISSUANCE OF A
PERPETUAL, NON-EXCLUSIVE UTILITY EASEMENT OVER,
UNDER AND ACROSS STATE LANDS SITUATE AT WAHIKULI,
LAHAINA, MAUI, TMK: 2ND/4-5-30: PORTION 138

Unanimously approved as submitted. (Kennison/Matsumoto).

ITEM D-18: REQUEST LAND BOARD APPROVAL FOR CONSTRUCTION
RIGHT-OF-ENTRY TO THE DEPARTMENT OF TRANSPORTATION,
STATE OF HAWAII, FOR SIDEWALK INSTALLATION, AT ALA
MOANA BOULEVARD AND ATKINSON DRIVE, IN CONJUNCTION
WITH THE ALA MOANABOULEVARD INTERSECTION
IMPROVEMENTS PROJECT NO. 92A-01-97 AT ALA MOANA
PARK, KALIA, HONOLULU, OAHU, TMK: 1ST/2-3-37: 01
(PORTION)

Unanimously approved as submitted. (Nekoba/McCrorry).

ITEM D-19: DIRECT ISSUANCE OF A PERPETUAL NON-EXCLUSIVE
EASEMENT TO THE BOARD OF WATER SUPPLY, CITY AND
COUNTY OF HONOLULU, FOR FIRE HYDRANT AND WATER METER
PURPOSES AT WAHIAWA, OAHU, TMK: 1ST/7-4-22: 50
(PORTION)

Unanimously approved as submitted. (Nekoba/Matsumoto).

ITEM D-20: RESTRUCTURE RENTAL PAYMENT OF GENERAL LEASE #S-4665,
WAIAKEA, HAWAII

Unanimously approved as submitted. (Kennison/Nekoba).

ITEM D-21: REQUEST CANCELLATION OF LAND BOARD ACTION OF JULY
14, 1995 AND APPROVAL FOR THE DIRECT ISSUANCE OF AN
AFTER-THE-FACT PERPETUAL NON-EXCLUSIVE EASEMENT TO
HAWAIIAN ELECTRIC COMPANY, INC. FOR GUY WIRE AND
ANCHOR PURPOSES, LIKELIKE SCHOOL, KAPALAMA,
HONOLULU, TMK: 1ST/1-6-08: 21 (PORTION)

Unanimously approved as submitted. (Nekoba/McCrory).

ITEM D-22: CONSENT TO REVOCABLE PERMIT BETWEEN THE DEPARTMENT
OF HEALTH, STATE OF HAWAII AND SUPPORTED LIVING,
INC., A HAWAII NON-PROFIT CORPORATION AT THE WAIMANO
TRAINING SCHOOL AND HOSPITAL

Unanimously approved as submitted. (Nekoba/Kennison).

ITEM D-23: AUTHORIZATION TO AMEND REVOCABLE PERMIT NO. S-6929
TO HAWAIIAN DREDGING CONSTRUCTION CO., FOR USE OF
STATE LAND LOCATED AT IWILEI, HONOLULU, OAHU, TMK:
1-5-07: 14 (PORTION)

Unanimously approved as submitted. (Nekoba/Matsumoto).

ITEM D-24: REQUEST BOARD APPROVAL FOR THE DIRECT ISSUANCE OF A
AFTER-THE-FACT PERPETUAL NON-EXCLUSIVE EASEMENT TO
THE BOARD OF WATER SUPPLY, CITY AND COUNTY OF
HONOLULU, FOR WATER METER PURPOSES IN CONJUNCTION
WITH THE DEPARTMENT OF ACCOUNTING AND GENERAL
SERVICES (DAGS) JOB NO. 12-16-5673 AT THE WAIANAE
HIGH SCHOOL, AT WAIANAE-KAI, WAIANAE, OAHU, TMK:
1ST/8-5-02: 18

Unanimously approved as submitted. (Matsumoto/Nekoba).

ITEM D-25: REQUEST AN ISSUANCE OF A REVOCABLE PERMIT TO
HONOLULU COMMUNITY ACTION PROGRAM INC., FOR
COMMUNITY SERVICE PURPOSES ON GOVERNMENT (CROWN)
LAND SITUATE AT WAIMANALO, KOOLAUPOKO, OAHU, TMK:
4-1-013: 23 (PORTION)

Unanimously approved as submitted. (Nekoba/Matsumoto).

ITEM D-26: WITHDRAWAL OF LAND FROM GENERAL LEASE NO. S-5376 AND
CONVEYANCE TO THE DEPARTMENT OF HAWAIIAN HOME LANDS
AT WAIMANALO, KOOLAUPOKO, OAHU, TMK: 1ST/4-1-08: 79

(PORTION)

Unanimously approved as submitted. (Nekoba/Matsumoto).

ITEM D-27: WITHDRAWAL OF PARCEL ONE FROM GENERAL LEASE NO.S-3808 AND SET ASIDE TO THE DIVISION OF FORESTRY AND WILDLIFE, STATE OF HAWAII, FOR A WILDLIFE PRESERVE, WAIKELE, EWA, OAHU, TMK: 1ST/9-3-01: 04

Uchida requested amendment to Condition B-2 to correct Department of Transportation to Division of Forestry and Wildlife.

Unanimously approve as submitted with amendment. (Matsumoto/Nekoba).

ITEM D-28: REQUEST BOARD APPROVAL FOR THE DIRECT ISSUANCE OF A PERPETUAL NON-EXCLUSIVE EASEMENT TO HAWAIIAN ELECTRIC COMPANY FOR A TRANSFORMER VAULT SITE AND SWITCH VAULT SITE PURPOSES AT MAKALAPA ELEMENTARY SCHOOL, HALAWA, EWA, OAHU, TMK: 1ST/9-9-75: 28

Unanimously approved as submitted. (Nekoba/Kennison).

ITEM D-29: AMENDMENT OF PRIOR LAND BOARD ACTION DATED FEBRUARY 28, 1997 (AGENDA ITEM D-14) RIGHT OF ENTRY, BPH HAWAII, INC. SAND ISLAND, HONOLULU, OAHU, TMK: 1-5-041: 02, 03

Unanimously approved as submitted. (Nekoba/Kennison).

ITEM D-32: AMEND PRIOR BOARD ACTION FOR ISSUANCE OF A REVOCABLE PERMIT TO HAMAKUA/NORTH HILO AGRICULTURAL COOPERATIVE, PAAUHAU, HAMAKUA, HAWAII

Unanimously approved as submitted. (McCrorry/Kennison).

ITEM D-33: CONSENT TO ASSIGNMENT OF GENERAL LEASE #S-4323, WAIAKEA, SOUTH HILO, HAWAII, TMK: (3) 2-1-10-33

Unanimously approved as submitted. (Kennison/McCrory).

ITEM D-36: SET ASIDE TO THE CITY AND COUNTY OF HONOLULU, DEPARTMENT OF PARKS AND RECREATION, FOR PARK PURPOSES, RECLAIMED GOVERNMENT LANDS SITUATE HAUULA, KOOLAULO, OAHU, MAKAI OF TMK: 5-4-001: 36 AND 64

Unanimously approved as submitted. (Nekoba/McCrory).

ITEM D-37: SPECIAL PERMIT OF GENERAL LEASE #S-5018, WAIAKEA, HAWAII

Uchida requested amendments to Condition A-1 to renegotiate the lease reopening for the next fifteen (15) years to facilitate mortgage refinancing and Condition B-1 to read, "Lessee to pay all advertising and administrative costs for the public hearing notice and processing of this change of use request".

Unanimously approved as amended. (Kennison/McCrory).

ITEM D-38: CONSENT TO LICENSE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA, DEPARTMENT OF THE NAVY, LICENSOR, AND THE STATE OF HAWAII BY ITS BOARD OF LAND AND NATURAL RESOURCES ON BEHALF OF THE DEPARTMENT OF EDUCATION, LICENSE NO. N6274296RP00111, AT WAIPIO, EWA, OAHU, TMK: 1ST/9-4-08: 24

Unanimously approved as submitted. (Kennison/McCrory).

ITEM D-39: REQUEST CANCELLATION OF LAND BOARD ACTION OF JANUARY 13, 1995 AND APPROVAL FOR THE DIRECT OF ISSUANCE OF A TERM NON-EXCLUSIVE EASEMENT FOR ACCESS AND UTILITY PURPOSES ON GOVERNMENT LAND AT HAUULA HOMESTEADS, KOOLAULOA, OAHU, TMK:1ST/5-4-08: 31 (PORTION)

Unanimously approved as submitted. (Nekoba/McCrory).

ITEM D-40: REQUEST AUTHORIZATION TO WITHDRAW LANDS FROM GOVERNOR'S EXECUTIVE ORDER NO.3450 AND GENERAL LEASE NO. 4435 AND CONVEYANCE IN FEE WITH INCLUSION OF UNENCUMBERED LANDS TO THE CITY AND COUNTY OF HONOLULU, DEPARTMENT OF PUBLIC WORKS, FOUR PARCELS ALONG KILAUEA AND 18TH AVENUES AT FORT RUGER, DIAMOND HEAD, OAHU, TMK: 1ST/3-1-42: 09 AND 20 (PORTIONS)

Unanimously approved as submitted. (Nekoba/Matsumoto).

ITEM D-42: REQUEST PUBLIC AUCTION SALE OF BUSINESS LEASE COVERING LOT 6, KEKAHA TOWN LOTS, KEKAHA, WAIMEA (KONA), KAUAI, TMK: 1-3-8: 5

Unanimously approved as submitted. (McCrory/Nekoba).

ITEM D-43: AMENDMENT TO PRIOR BOARD ACTION OF SEPTEMBER 27, 1996 (AGENDA ITEM D-12) TO AUTHORIZE IMPLEMENTATION OF AN APPLICATION AND QUALIFICATION QUESTIONNAIRE PROCESS FOR PROSPECTIVE BIDDERS INTERESTED IN LEASES SOLD AT PUBLIC AUCTION

Uchida requested amendment to the recommendation by adding to paragraph D, "If conviction is expunged from their record, there is no need to disclose conviction." Add Condition E, "Authorize the Board of Land and Natural Resources to have the ability to

exercise the option to disqualify any applicant who was convicted of any crime from bidding on a lease in cases where said crime directly relates to the applicant's ability to adequately and appropriately use the State lands for the purpose[s] intended and impacts the assessment of such ability. Failure by any applicant to disclose such criminal conviction information in their application would be grounds for cancellation of said lease for which they applied, should they be the winning bidder for said lease at public auction. If conviction is expunged from their record, there is no need to disclose conviction."

There was discussion about the need for this type of action by the Board. Uchida said the Division was advised by the Department of the Attorney General because of the prior Board action.

Unanimously approved as amended. (Matsumoto/Nekoba).

ITEM D-45: ISSUANCE OF A REVOCABLE PERMIT TO JAS. W. GLOVER LTD., WAIAKEA, SOUTH HILO, HAWAII, TMK: (3) 2-1-13-PORION 11

Unanimously approved to withdraw. (Kennison/Nekoba).

ITEM D-9: STAFF REQUEST FOR ESTABLISHMENT OF POLICY REGARDING PREVIOUS LESSEES OF THE STATE OF HAWAII WHO HAVE GONE THROUGH BANKRUPTCY

Unanimously approved to defer. (Matsumoto/Nekoba).

ITEM J-1: CONSENT TO ASSIGNMENT OF SUBLEASE, HONOKOHAU HARBOR, KEALAKEHE, ISLAND OF HAWAII, GENTRY'S KONA MARINA, SUBLESSEE: STEVE MILNER

Unanimously approved as submitted. (Nekoba/Kennison).

ITEM J-2: CONSENT TO ASSIGNMENT OF SUBLEASE, HONOKOHAU HARBOR, KEALAKEHE, ISLAND OF HAWAII, GENTRY'S KONA MARINA, SUBLESSEE: MICHAEL AKAZAWA

Unanimously approved as submitted. (Nekoba/Kennison).

ITEM J-3: CONTINUANCE OF REVOCABLE PERMITS (DIVISION OF BOATING AND OCEAN RECREATION):

- A. BIG ISLAND PETROLEUM, KEAUHOU BOAT HARBOR, KAILUA-KONA PIER, KAWAIHAE BOAT HARBOR, ISLAND OF HAWAII
- B. KONA SAILING CLUB, HONOKOHAU BOAT HARBOR, ISLAND OF HAWAII

Unanimously approved as submitted. (Matsumoto/Kennison).

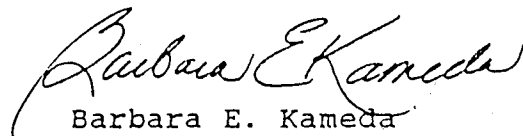
ITEM J-4: ISSUANCE OF GRANT OF EASEMENT, KAILUA WHARF,
KAILUA-KONA, ISLAND OF HAWAII

Unanimously approved as submitted. (Matsumoto/Nekoba).

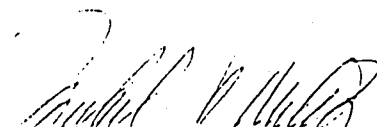
NOTE: ALL MATERIALS LISTED ON THIS AGENDA ARE AVAILABLE FOR
REVIEW IN THE DLNR CHAIRPERSON'S OFFICE.

The meeting was adjourned 2:40 p.m.

Transcribed by:


Barbara E. Kameda

APPROVED FOR SUBMITTAL:



MICHAEL D. WILSON
Chairperson
Board of Land & Natural Resources