

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

**DATE:** FRIDAY, DECEMBER 12, 1997  
**TIME:** 9:00 A.M.  
**PLACE:** KALANIMOKU BUILDING  
LAND BOARD CONFERENCE ROOM 132  
1151 PUNCHBOWL STREET  
HONOLULU, HAWAII

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

Chairperson Michael D. Wilson called the meeting of the Board of  
Land and Natural Resources to order at 9:15 a.m. The following  
were in attendance.

Members: Michael Wilson  
Chris Yuen  
Colbert Matsumoto  
Lynn McCrory  
Kathryn Inouye  
Willie Kennison

Staff: Dean Uchida  
Mike Laureta  
Scott Shigeoka  
Aulani wilhelm  
Bill Devick  
Francis Oishi  
Randall Young  
Ralston Nagata  
John Hino  
Curt Cottrell  
Mason Young

Others: Sam Callejo  
Roy Kaneda  
Ellen Levinsky  
Bruce Meyers  
Richard Haake  
John Hall  
Kat Brady  
Brad Joly  
Harold Meheula  
Aaron Fujii  
Peter Garcia  
Jerry Sumida  
Dave Jolly  
Scott Louis Vuillemot  
Allan Ah San  
Keith Lee-Quinn  
Sherrie Barnhard  
Joe Lee  
Reese Liggett  
Robert Wenkham  
Ipolani Tano  
Scott Villamont  
Michael Meirdiercks  
Marvin Wong  
Linnell Nishioka  
Craig Chapman  
Al Katekarw

**APPROVAL OF MINUTES OF OCTOBER 10, 1997**

Page 12, C-3 Correct Na Ala Hallway to Hele Trail.

J-1 Correct, "...requested her participation in drawing up the proposed..." Correct word drawing to voting.

The minutes of the meeting of October 10, 1997 was unanimously approved as amended. (McCroory/Inouye).

**APPROVAL OF MINUTES OF OCTOBER 24, 1997**

Page 16, 3rd paragraph. Correct the number of acres to read 5,136.

Page 24. Clarification that the meeting was recessed to be reconvened on November 14, 1997.

The minutes of the meeting of October 24, 1997 was unanimously approved as amended. (Yuen/Kennison).

**D-5 CANCELLATION OF VARIOUS GENERAL LEASES AND SET ASIDE TO THE UNIVERSITY OF HAWAII FOR GENERAL UNIVERSITY, STUDENT HOUSING AND UNIVERSITY-RELATED COMMERCIAL PURPOSES AT VARIOUS LOCATIONS IN THE STATE OF HAWAII**

Dean Uchida, Acting Administrator of the Land Division, said the Division would like to cancel the leases involved to set aside these lands to the University under an Executive Order. He explained that under the Constitution, lands set aside under the Executive Orders will allow the University flexibility in planning their assets. Uchida said five of the general leases, involving the Hilo campus, are being consolidated into one Executive Order.

Uchida said the staff recommendation is to cancel the leases and set aside to the University under terms and conditions.

There was discussion about Condition 4 whereby the University could not rent or sublet any of the premises without prior written approval. Member Colbert Matsumoto suggested modifying the condition with respect to purposes inconsistent with the identified uses outlined in the Executive Order.

Member Chris Yuen questioned Condition 3 with respect to non-university related commercial activities on the ceded lands, whether the University of Hawaii would directly resolve, with the Office of Hawaiian Affairs (OHA), the matter of entitlement. Uchida said the exemptions are being discussed between the University and OHA. Member Yuen suggested that the Condition should say that they should directly negotiate and also clarified that the leases should not be cancelled until the Executive Order

is issued. Allan Ah San stated that the land assets play an important role in the future development and expansion to the University services to the community.

Unanimously approved with amendments to Conditions 3 and 4 to read: "With respect to non-university related commercial activities on the ceded lands, the University of Hawaii shall directly negotiate with...", and "The University of Hawaii shall not rent or sublet the whole or any portion of the premise for uses that are inconsistent with the purposes outlined in the Executive Order,...". (Matsumoto/Kennison).

D-6 THE QUEEN EMMA FOUNDATION REQUEST TO PURCHASE THE MABEL SMYTH MEMORIAL AUDITORIUM BUILDING AND PROPERTY SITUATE AT AUWAIOLIMU AND PUOWAINA, HONOLULU, OAHU, HAWAII, TMK: 1ST/2-1-35: 01

Uchida explained that amendments to the submittal were made under advisement by the Department of the Attorney General that the State could not sell to an inter-state buyer and that it be done through public auction. He said in 1987, the State acquired the Mabel Smyth Auditorium in a land exchange with the Queen Emma Foundation with a value of 4.2 million dollars. He said the Department of Accounting and General Services (DAGS) and the State Historic Preservation Division (SHPD) object the sale since the Auditorium is on the Historic Register, unless it can be sold with deed restrictions. Uchida said to put restrictions on the deed may affect the value which the Land Division feels is worth \$5 million. He explained that the State invested \$600,000 to comply with American with Disabilities Act (ADA) requirements, remove asbestos and incorporate general renovations to the building, and that the appraised value of the land is \$3.8 million and the facility itself is worth \$1 million.

Uchida said the staff recommendation is that the Board authorize the cancellation of Executive Order to DAGS; find that there is an economic unit; authorize the public auction sale, in fee simple; that the successful bidder shall purchase the Auditorium building and property in an "as is" condition; allow the interim use pending sale of the fee at the public auction; and if the Queen Emma Foundation is not the successful bidder, the revocable permit shall be terminated within ninety days from the date of the public auction sale of the Auditorium and property.

Member Kathryn Inouye recused herself due to conflict of interest.

Sam Callejo, State Comptroller of DAGS reported that the Hawaiian Sovereignty Election Council rented space until December 1996, and presently, the UH Cancer Research Center of Hawaii and the Reciprocal Beneficiary Relationship office which is part of Department of Health, are renting space in the building. He said

because it is short term, DAGS did not want to move anyone in.

Keith Lee, Corporate Secretary with the Queen Emma Foundation said he was present to answer any questions.

**Unanimously approved with amendments as proposed by staff.  
(Matsumoto/Kennison).**

Member Yuen clarified that the staff should not take this as a policy to sell land to make money, and that this piece of property is not particularly useful to the State.

**D-1 RESUBMITTAL OF THE COUNTY OF MAUI REQUEST TO LEASE THE OLD LAHAINA COURTHOUSE, UNDER EXECUTIVE ORDER NO. 16-2, FOR USES OTHER THAN COUNTY PURPOSES, TMK: 4-6-01: 09, LAHAINA, MAUI**

Uchida said this matter was brought before the Board in September 1997, and there were questions regarding existing users on the property. He said in 1969, the Lahaina Art Society began using it for general community type educational programs. In the 1990s, the Land Division began discussions with the County of Maui and as a result, a Task Force was organized through the Mayor's Office in 1995 to determine future uses, renovation, management and finances of the building. Uchida said the Task Force and the staff recommended five uses and that the Division of Boating and Ocean Recreation (DOBOR) has also requested use of space for storage purposes.

Uchida said staff recommendation is that DOBOR be provided with 400 square feet, allow the uses for the museum, art gallery, visitor center, community center and office administrative space provided certain conditions are met.

Member Matsumoto addressed the acknowledgement of the State land contribution.

There was discussion about the County of Maui issuing leases to other selected organizations and Uchida clarified that it was subject to approval from the Land Board.

Chairperson Michael Wilson asked whether the County would consider an educational display on Miconia in the Visitor Center.

Richard Haake, Managing Director, for the County of Maui introduced himself. He stated that the County is contemplating an interpretative display within the Court House and agreed that the Miconia display would be an appropriate display in the Visitor Center.

Ellen Levinsky introduced herself as a professional, cultural artist, and testified in favor of allowing the County to have non-profit organizations in the Court House.

Sherrie Barnhard introduced herself as President of the Lahaina Art Society and testified in favor of the project. After a short discussion, Ms. Barnhard agreed to incorporate into the list of credits, the Department of Land and Natural Resources in their TV show that is shown on Public TV. Member Matsumoto suggested that appropriate acknowledgement and the State's role be made in fund raising efforts and other public information activities.

Unanimously approved as amended to include the acknowledgement of the State land contribution in publications of all non-profit groups using space in the Court House and the appropriate signage acknowledging State land contribution be placed within the Court House Building. (Kennison/Matsumoto).

**D-2 COUNTY OF HAWAII REQUEST FOR A RIGHT-OF-ENTRY AT WAIAKEA, HAWAII, TMK: (3) 2-5-6-1**

Uchida said staff recommendation is that the Board authorize the issuance of any immediate right-of-entry to County of Hawaii, Department of Public Works subject to terms and conditions.

Unanimously approved as submitted. (Yuen/McCrory).

**D-3 ANNUAL REVIEW OF REVOCABLE PERMITS ON THE ISLANDS OF HAWAII, MAUI/MOLOKAI, OAHU, AND KAUAI**

Uchida explained that in some years, the rents were adjusted across the board and in other years, there has been no increases. He said for the first time this year, the staff appraiser conducted an in depth analysis on real estate value based on comparable sales on each of the permits. Uchida said for this reason, there are many fluctuations in the permits. He said the permittees have not been notified pending approval by the Board and noted that the new rental rates will be effective March 1, 1998. Uchida said the Land Division expects the permittees to come back with questions and at that point the Division will review their concerns. In cases where the permittee is not able to afford the new rates, it would be brought before the Board for a decision. He clarified that once the Board takes action, it will not preclude the permittee from coming back to the Board.

The staff recommendation is that the Board; 1) Approve continuation of the revocable permits, as listed on schedule, on a month-to-month basis for another year, except for permittee whom are in arrears of the rental payment for more than 60 days. Permittees in arrears of rental for 60 days or more shall not have their permits renewed, 2) Approve rents as recommended in the schedule for all permits issued up to October 1, 1997. The rental rate increases shall be effective March 1, 1998.

Member Kathryn Inouye asked about the high increase in rent for Permit Number S-4031, Joseph Lee. Uchida said the reflection is

based on the values of comparable industrial zoned properties but that a portion of it is being used for salt production and the other portion for storage. He said this may need to be reviewed as to the use of the property. Member Inouye clarified the process in that all of the permittees will be notified and will have the option to contest the rental fees.

Member Yuen asked whether the Mauna Kea commercial permits are consistent with the Board action of the last meeting. Uchida said the Board action will be applied with some modifications of conditions. Member Yuen referred to S-6977, Kiyosaki Tractor Works and asked about the reduction of the rental difference of \$566 per month. He felt that if the permittees are not complaining, why reduce it. Staff appraiser, Scott Shigeoka said he looked at the taxed assessed value and established a per square foot for the end result. There was discussion about the reduced rates. Uchida said the Land Division is trying to reflect the true value of the property. Member Matsumoto felt that because these are revocable permits, the State should not be initiating reductions, and that most were of commercial activities. He said with respect to the increases, the Board has an obligation to protect the public's economic interest in leasing out these lands for commercial purposes and that these rentals should be adjusted to its value. Member Lynn McCrory felt that by increasing or decreasing the rentals, the Division is "balancing the situation with the reality". Her concern is that, "everyone is walking in the door". Member Inouye felt it makes more sense for the Board to set the floor of fair market and move up, and in hardship situations, it be handled on a case by case basis. Member Yuen said a unilateral percentage of reduction could be put in for market fluctuation.

Steve Lee said his father, Joseph Lee has been on the site for 30 years in the salt pond business and revived the Keehi salt ponds which were abandoned. Approximately two and one-half acres are used for the production of the salt and less than one acre is used for storage. The current rent for S-4031 is \$800 per month and the new rate will be \$1,200.

Roy Kaneda introduced himself as the owner of Aloha Fender (S-5738) in the area. His current rent is \$780 and the new proposed rate will be \$2,466. Mr. Kaneda asked for a reasonable rent.

Member Yuen said his preference on the reductions would be to cut up to 10% and suggested that the two (S-4031 & S-5738) be put on hold because of the substantial increase. He also asked that the Big Island Broadcasting (S-6539) be on hold pending present discussions. Member Willie Kennison concurred with Member Yuen on holding of the two that came before the Board and concurred with Member Matsumoto on the reduction of rentals. Member Matsumoto was concerned about the extent to which adjustments were being made because of significant rent increases in some of

the permits. Member McCrory agreed with Member Yuen in allowing the reduction of 10%. Member Inouye's preference is to set the floor on fair market or existing, whichever is higher.

Unanimously approved to include amendments C) All permits are renewed with exception to hold increases on Joseph Lee, Aloha Fender and Big Island Broadcasting pending further staff review and D) No reduction on any permits, the permittee has the right to come before the Board to request for a reduction. (Yuen/Inouye).

Uchida clarified with the Board on annual reviews that the renewal of revocable permit rents shall be at "fair market value" or existing rent whichever is higher. Member Yuen further clarified that if there is a clear change in circumstances for the permittee, i.e. reduction of land area or the access to parcel decreased, those situations should be brought to the Board.

**D-9 ENFORCEMENT FOLLOW-UP: PROPOSAL TO RESOLVE A PUBLIC PARKING ISSUE AT THE WILIWILINUI RIDGE TRAIL HEAD, IN COMPLIANCE WITH THE BOARD'S NOVEMBER 17, 1995 DIRECTIVES TO ALLOW FOR PUBLIC ACCESS AND PARKING AT WILIWILINUI RIDGE, EAST HONOLULU, OAHU, TMK: 3-5-24: POR. 3**

Uchida said the Board took action to approve a water tank to Kamehameha Schools/Bishop Estate (KS/BE) that allowed them to develop the Waiialae Iki subdivision in November, 1995. As part of a Conservation District Use Application (CDUA) approval on the water tank, the Board required public access to the forest reserve assuming that the roads would be public. KS/BE sold the property to Gentry who commenced development to turn the Waiialae Iki subdivision into a gated community, meaning the roads within the community were no longer public. Uchida said the public has to park on the highway and walk through the subdivision to get to the forest reserve which was not the intent of the condition. Since 1990, there has been a series of meetings with KS/BE, the community, Waiialae Iki subdivision and Gentry to resolve this issue. Gentry has agreed to build an 8 car parking lot within the subdivision near the trail edge. Uchida said his Division began focusing on overflow parking and looked at providing parking along the Board of Water Supply access road to the water tank but ran into problems with Bishop Estate being the land owner. Through the work of Staff Planner Sam Lemmo, Bishop Estate will convey the access road to the water tank as well as provide a 12 foot wide pedestrian access to Gentry, Gentry will then convey that to the State. The State would put an easement on the property and set aside the entire area, subject to the easement, to forestry as part of the Na Ala Hele Program. Gentry would construct the parking improvement on the easement. The staff recommendation is that the Board adopt the recommendations.

Member Matsumoto recused himself.

Reese Liggett, Oahu Group Executive Committee member pointed out that the recommendation does not address that KS/BE is going to convey the land to Gentry and that there will be further overflow parking on the wide portion of the Okoa Street.

John Hall said the staff recommendations are satisfactory and should solve problems.

Robert Wenkam testified in support of the recommendations. He clarified that the Hawaiian Trail and Mountain Club and the Sierra Club are non-commercial, non-profit users of the property.

Kat Brady complimented staff and thanked Gentry.

Uchida said KS/BE owns the fee under the water tank and that the access road which will be conveyed to Gentry. He said KS/BE has agreed to this arrangement but that the Land Division will put in a proviso in that if they do not agree, they will be fined.

**Unanimously approved as submitted. (Inouye/Yuen).**

**C-1 REQUEST FOR APPROVAL TO CONDUCT PUBLIC HEARINGS TO ADOPT HAWAII ADMINISTRATIVE RULES, CHAPTER 13-130, RULES FOR NA ALA HELE, THE HAWAII STATEWIDE TRAIL AND ACCESS PROGRAM**

Curt Cottrell, Na Ala Hele program manager, handed out a list of trails to be covered under the proposed rules. The staff recommendation is that the Board approve conducting public hearings for the adoption of the Hawaii Administrative Rules (HAR), Chapter 13-130 to provide NAH with administrative rules for the Hawaii Statewide Trails and Access Program.

There was discussion regarding when permits would be required under Section 13-130-36 HAR. Cottrell explained that they would like to have the public respond to a permit in certain instances such as for a large group where environmental resources should be protected. There was also discussion on how the public would know when a permit was required because of the enforcement provision. The rules did not cover information on when permits were required, the extent of the permits, what the fees would be and various other specifics. Member Inouye suggested that the rules should clearly state what the requirements were. Cottrell stated that he has worked with Ed Watson of the Department of the Attorney General (AG's) and that the rules have been reviewed by The Division of Conservation and Resources Enforcement (DOCARE) who will be able to enforce the rules.

There was discussion about the commercial use policy of the Department. Cottrell said generic definition of commercial activity and purpose is in the rules. He said the intent is to



cover instances where non-legitimate or non-profits fall under.

Member Yuen talked about the overlap between the State Parks and the Forest Reserve rules and asked if a trail is in the forest reserve within a state park, whether the Forest Reserve Rules would apply. Cottrell said it is covered in the rules stating that if there are any program trails that are conflicting, it will be enforced under the more restrictive rule, given that the cultural and resource protection are the mandates.

Member Yuen addressed the fire rule. The rules should specifically say where a fire is permitted, leaving all other variables out.

Member McCrory addressed the enforcement of the rules and felt that it should be left open. Chairperson Wilson said that the public should know what the penalty is ahead of time for enforcement and prosecution purposes. Member Yuen suggested that the AG's review the maximum fine and penalty section and make recommendations to revise it to the toughest allowable penalty before it goes out to public hearing.

Reese Liggett, Oahu Group Executive Committee member, applauded the development of the rules with the exception of the definition of "commercial", those seeking commercial status to establish to the department and that is, "...strictly sharing of the actual expenses of the use or activity." He felt it could not be done practically and that objective criteria should be established. Written testimony by Dave Frankel was submitted.

John Hall testified and concurred with Liggett on the criteria for a non-commercial activity. He addressed Section 13-130-20, HAR, page 9, (1) Removing, in whole or in part, injuring, or killing any form of plant or animal life. Hall explained that their club, every Sunday, goes out to clear trails of vegetation and are trained to recognize native plants and cut the non-native vegetation. Chairperson Wilson suggested that the Organization write a letter to clearly state the nature of the trail cutting.

Unanimously approved with amendments that the AG's further review the penalty section and make recommendations to increase it to the permissible maximum, that the State clarify Section 13-130-36 to read, "A trail or access activity permit is required pursuant to these rules for access to restricted areas, camping, or for special events", and that the fire use restrictions be rewritten as discussed earlier. (Yuen/McCrory).

**E-3 RESUBMITTAL - APPROVAL OF LEASE RENEWAL TO FRIENDS OF MALAEKAHANA (FRIENDS) FOR A PORTION OF THE KAHUKU SECTION OF THE MALAEKAHANA STATE RECREATION AREA, OAHU**

Ralston Nagata, State Parks Administrator, recalled for the

Board, at the October 1997 Board meeting, Members Matsumoto and Kennison reported on their field inspection in August 1997 expressing their concern for the long-term planning as a State recreation area, that it should be done under the auspices of the State Parks Division rather than the lessee, that such planning should be done before entering into a long-term lease. He said the Friends of Malaekahana have been operating on a month-to-month holdover basis as the lease expired earlier in the year. Nagata said staff recommendation is that the Board approve a 3-year lease to the Friends of Malaekahana, consistent with previous lease conditions and to include; 1) That the name "Malaekahana State Recreation Area - Kahuku Section" be clearly displayed near the Highway entrance, 2) That the lessee pay for all utilities charges including water, 3) That the lessee submit records of visitor use, revenues, and expenses on a quarterly basis, and 4) That the lessee shall not install any additional structures during this period.

Nagata said DLNR is requesting \$100,000 from the Legislature to do master planning and Environmental Impact Statement (EIS) with the staff acting as the project managers. He said the use of the Park would be of a passive nature, consisting of camp grounds with cultural type programs that the Friends have been providing in the past. Member Matsumoto was concerned about the Department's position and asked whether the development of the Kahuku side would be in the same manner as the Laie side. Nagata said it would be similar with the exception of existing cabins found on the Kahuku side. Member Matsumoto felt that the State should be responsible for the long term vision of this property and didn't feel that this initiative was being taken by the State Parks Division. He said it should not be left to a non-profit group to do the planning as the State has a responsibility to the public-at-large. Member Matsumoto was not in favor of the 3 year lease, even if the Park has to be closed down to send a message to the Legislature. He said this type of public resource should not be squandered.

Member Kennison supports the 3 year lease and felt that the State Parks Division is taking the lead. He felt that a master plan will decide what is the best use for the State Park. Member Kennison also considered the financial condition of the State.

Member McCrory agreed with Member Matsumoto on the initiative by the State Parks Division. She felt that it should be a one year lease and by the end of that one year, if the master plan is not completed, the Park should be closed down.

Member Yuen supported the 3 year lease and felt that the public is able to use the Park and enjoying it.

Member Inouye also supported the 3 year lease because of the time and fund factors and felt that the time line was realistic.

Nagata said it would take 3 years after the funding is appropriated for the all of the master planning to begin with various timetables.

Member Matsumoto felt that the one year lease was more appropriate because if there was no appropriation by the Legislature, the State Parks Division would have a problem following up on the Land Board's expectations. He said because of the lack of initiative by the Department, the Park has been basically privatized and felt that if no commitment from the Department or the Legislature to develop the property for the intended use when it was acquired, the Park should be closed down. Member Matsumoto said the public should know that there is no willingness to commit the resources necessary to properly develop the property. There was discussion about shutting the Park down if there were no funding appropriations. Member Matsumoto felt that the potential of the property has not been properly exploited during the period of time. He said if the State is not willing to commit public resources necessary to develop it, the land should be sold or should be privatized. Member Matsumoto said the lease itself has a number of deficiencies, that the State Parks Division should have no business drafting leases and entering into leases with lessees as they are not properly qualified to do that. He said this lease is a dollar a year lease with the State paying for the water, while the lessee is able to derive 100% of all the revenue from the rentals of the facilities on the property.

There was discussion about the master plan and the need to update it. Nagata felt it should be updated because of changes over the years and said there should be input from the public. Chairperson Wilson stated that Malaekahana and Diamond Head are the Governor's major priorities. He said the concern that Member Matsumoto has is "on target" and that the State Parks Division will need to be working on moving the EIS ahead, even if the funding is not appropriated, utilizing the planning staff of the State Parks Division. Chairperson Wilson clarified that the lease should not mislead the lessee into thinking that the Park is going to be privatized in the long run or that it would be turned into a camping ground. Nagata clarified that the lessee has been maintaining the entire area.

Ipolani Tano of the Friends of Malaekahana stated the benefits the State derives from the lessee. In addition to the full maintenance of the Park, the lessee has provided; lighting for security, hot water showers and food for the homeless, and an alternative learning center for Kahuku High School. She went on to say there are various organizations who are willing to donate time and money to this project, but not on a 3 year lease. Ms. Tano talked about the leaky water system and the \$60,000 cost to improve it. Craig Chapman of the Friends of Malaekahana said \$150,000 in grant funds have been committed to them for a longer

term to derive some type of benefit to the community. He said they are generating \$180,000 a year in revenue at a cost of \$194,000 a year to run the Park. He said they would be happy to share the revenue over their break even margin. He explained that they have hired people out of prison, on welfare and from the local community. Surveys and topos were paid for by the Friends. Chapman said they want to help. and asked that the Department take it to the next step, with regard to obtaining a better product for less or no more. The Friends are able to get the money from private grant funds if there was more time [on the lease]. Chapman said the Friends are providing a service to the community of Hawaii and is asking that they be allowed to provide more, with no charge to anyone, all they are asking for is the time.

Member Yuen commented that the Friends of Malaekahana has done a good job and that the State is fortunate to have them there.

Member Matsumoto said the problems that the Friends are encountering in terms of properly developing the property, basically emphasizes his point about the failure of the State to properly undertake this task. The Friends have projected that it will cost a million dollars to do this development and felt that it was significantly understated in order to develop this 34 acre site. Member Matsumoto said if three years from now, the \$100,000 is inadequate to carry out the plans, and the Friends are not able to get the resources to develop it, the conditions will be the same as today. He doesn't want to see the same kind of situation as the Kahana Valley Park which he felt is a disaster in terms of the Department's ability to properly develop it for the last 30 years. He said if the State is not going to commit the resources necessary to do the proper planning and to develop it in the manner in which it should be developed, then, it's a reflection on the Department and the Legislature's ability to meet the recreational needs of the public. Member Matsumoto clarified that he was not saying that the Friends are not the right people to undertake this but that it requires the resources of the State of Hawaii to be able to get it done in a time frame that it ought to be done. He said he is opposed on the basis that the whole concept is flawed and is doomed to end up as another Kahana Valley situation.

Member Yuen said there are many parks all over the State that needs funding for development and that there is a serious backlog. He said it is attractive to him to see a community group come in to commit themselves.

Member Inouye clarified that although there is a revocable permit on the site, the master plan may or may not include the uses that the Friends may have.

Chairperson Wilson said the idea of raising funds is important

but it's a question of the purpose of raising the fund. He said the Board has the role to decide what the concept of the Park should be. He said the Friends have a vision for the Park and for the Department to develop infrastructure and ideas for the Park. Chairperson Wilson said it might not be fair if the Department is not at a point to embrace the Friend's vision in a formal sense. He said the Friend's aspirations are long-term and so much more "hands on" than anything else that the Department has been involved in and that the Department has to be more thoughtful about the extent to which a commitment is made to the Friend's long term effort.

Member Inouye made a motion to defer the item subject to review of the existing lease conditions and requested a presentation from the Friends. Member Yuen and Kennison's preference were to approve the 3 year lease. Member McCrory was in favor of the one year lease and wanted to offer it to others. Member Matsumoto opposed the 3 year lease and couldn't see deferring it and having the Friends come back to do a presentation. He also felt that it should involve more than just the Friends. Member Kennison said he was in favor of the 3 year lease because it will take 3 years to get it off the ground. Chairperson Wilson said he was interested in having a presentation from the Friends. Member McCrory said she would be interested also. Member Inouye withdrew her motion.

**Motion to adopt 3 year lease subject to review of the lease conditions. (Yuen/Kennison).**

**Vote: 4 in favor (Kennison/Inouye/Yuen/Wilson).  
2 oppose (McCrory/Matsumoto).**

**B-1 REQUEST RECONSIDERATION OF THE PERMIT ISSUED TO AMERICAN DEEPWATER ENGINEERING, LTD. FOR PRECIOUS CORAL HARVESTING: A PROPOSAL TO ISSUE A SCIENTIFIC COLLECTION PERMIT (THE BOARD MAY MEET IN AN EXECUTIVE MEETING UNDER SECTION 92-4, HRS, AND PURSUANT TO SECTION 92-5 (a) (4), HRS, TO CONSULT WITH LEGAL COUNSEL ON QUESTIONS AND ISSUES PERTAINING TO THE PERMIT ISSUED TO AMERICAN DEEPWATER ENGINEERING, LTD. FOR PRECIOUS CORAL HARVESTING)**

Bill Devick, Acting Administrator of the Division of Aquatic Resources (DAR) said the Board, in June 1997, approved issuance of a permit to take precious corals from the Makapuu Bed subject to several conditions. He said since the execution, several things have occurred and DAR is seeking the Board's guidance. Devick said staff recommendation is that the Board support the Chairperson in issuing the permittee a scientific collecting permit under Section 187A-6, HRS, that would allow further exploration and harvest of precious corals in State waters and provide the Department with additional scientific data needed for management of precious coral stocks.

Jerry Sumida introduced himself as the legal counsel to American Deepwater Engineering (ADE) and also introduced Scott Vuillemot who is the principal behind the deepwater operations that are being proposed. He said the approach that is being recommended is appreciated and that they look forward to continuing to work with the Department and to insure the proper management of the sustainable development for the protection and exploration of the State's coral resources.

Member Yuen asked about the limits that are being proposed on the scientific collecting permit. Chairperson Wilson said it is 1,000 kilograms which is the present limit under the federal regulations as well as limitations similar to the permit on the Makapuu Bed of harvesting only those corals that are 10 inches or more. Sumida said based on their familiarity of the research report on the suspension of the harvest of the gold coral, ADE does not seek to harvest the gold coral. He clarified that their understanding of the proposal is that the corals that are permitted to be harvested would be under the scientific permit for which scientific data would be produced and given to the Department under the federal permit. Sumida further clarified that the only extensively developed and scientifically supportive fishery management plan for precious corals, adopted several years ago by Western Pacific Fishery Management Council (WestPac) is monitored extensively and continuously by WestPac. He said that plan requires that; 1) there be appropriate scientific data to establish any quota and other limits, 2) data be provided and updated and, 3) any allowances for harvest and any other conservation and development matters be fully worked out, fully based on scientific data and officially promulgated.

**Unanimously approved to move into executive session to consult with legal counsel. (Yuen/Matsumoto).**

Chairperson Wilson reconvened the meeting @ 2:00 P.M.

Jim Cook, Chairman for WestPac, explained that ADE is interested in beginning a business to harvest, process and sell sustainable resources in the State. He said they have applied for and were granted a permit under the coral Fishery Management Plan by WestPac. Cook said the WestPac supports their efforts and feels that it would be beneficial to the State.

Member Yuen's concern was the sustainability of the natural resource and the level of extractions. He asked what the area was that is covered by the Federal permit outside the Makapuu Bed and the extent of resource in that area. The different types of beds are: 1) the Makapuu Bed, with maximum sustainable yield for which there is a quota, 2) designation of Conditional Beds which is known to have precious coral but not much information, 3) exploratory beds where they think corals are there but are not sure. Since it is not known whether there is coral there or not,

there is an applicable quota of 1,000 kilograms. Cook clarified that ADE is required to act in a precautionary manner whenever there is a lack of scientific information and that WestPac feels the quota is a conservative approach to the resource. There was discussion on the 1,000 kilograms quota and Member Yuen's inquiry as to the basis of the quota. The analysis was passed through the WestPac's scientific committee which is made up of scientists from the State and Federal Government agencies and concurred with by the precious coral committee of the Council. It was clarified that the precious coral committee consisted of a number of different scientists that are experts in the field of coral.

Chairperson Wilson asked with regards to the exploratory permit, whether WestPac will be receiving information during the harvest to inform them sufficiently so that if corrective measures needs to be taken to reduce the size of the harvest below 1,000 kilograms, that they will have an opportunity to do so. Cook said yes, and that ADE has offered to provide surveys of the area prior to harvesting. Cook said there is a valid scientific purpose for the exploratory permit to be issued because their information on the resources are limited and outdated.

Dave Jolly, President of ADE said the 1,000 kilograms for exploratory work cannot be taken from one bed and from a commercial standpoint, it is not feasible, that it would only be for sampling. He said the quantity allocated for a two mile radius is 4,400 pounds. There was discussion about the allowable quota. Al Katekarw explained that the quota was based on Dr. Grigg's scientific survey, who developed the Maximum Sustainable Yield (MSY). Member Yuen clarified that the feds have a category of exploratory permits in which there is a limit of 1,000 kilograms.

Member Inouye asked whether the 1,000 kilograms harvested would be for sale. Sumida said his understanding is that it could be sold. He explained that the State needs the scientific data to be able to manage the program and that ADE has the technology and the capability to provide the State with necessary data. Sumida said in order for that to be done, expenses are covered by selling the sampling harvest in order to provide the data to the State. There was discussion about the kind of data to be provided. Scott Louis Vuillemot, owner of American Marine Services and ADE said they are trying to establish a federal fishery plan. As a way to justify the expenditures and investments of trying to develop this industry, they want to create a shared scientific data base between the State and Federal government and to establish a viability of establishing a realistic business. He talked about the poaching of the precious corals in Hawaiian waters.

There was discussion on the commercial value of the 1,000 kilograms of coral. Vuillemot said the wholesale value is \$100

per pound. Sumida said ADE's business plan estimates 10 million dollars a year to the State of Hawaii and will create 110 to 120 jobs. Member Inouye felt justification was needed under the permit to clarify specifically what the State could expect from the scientific data.

Harold Meheula, Sr. testified in opposition of the permit.

Member Yuen commented that he was comfortable with the quota given the area to be surveyed and the indication of the size of the resource itself. He felt that the scientific permit is broad enough for ADE to have the ability to sell the materials that they obtain while they are doing the sampling.

Member McCrory commented that she felt comfortable that the 1,000 kilograms was not the company's decision but that of the Federal Government's [decision], with an understanding that ADE video tape for the State and Federal Government to derive information that is needed. She assumed that the report will be reviewed on a regular basis and that if additional data was required, ADE will go back out to retake the videos.

Member Inouye commented that she had no problem with ADE using the proceeds of the harvest as they explore the areas but wanted the Department to clarify the type of information that they will be obtaining as a result of this project.

Member Matsumoto wanted to clarify the action of what the submittal calls for. Chairperson Wilson clarified that the recommendation is the granting of a scientific permit for the area outside the Makapuu Beds, with conditions that the provisions of the Federal permit pertaining to a limit of 1,000 kilograms and the size limitations and the additional reporting conditions are part of the scientific permit.

Member Yuen said the decision to issue the permit is at the Chair's discretion and felt that it was not right for the Board to make a motion. Member Kennison said he supports the position and concurred with Member Yuen. Member Matsumoto stated that he is also satisfied and that any potential revenues that would be generated from the sale of the coral that is harvested is incidental to him but that he had the same concerns of Member Inouye for the clarity of the nature and extent of the information to be made available to the Department so that there is a sufficient baseline source of information from which to develop the rules for any future activity with respect to this resource.

Chairperson Wilson stated his decision to exercise the discretion to consider this to be a scientific permit and asked DAR to clarify the schedule they expect to receive information, the nature, the video tapes and the type of statistical information.



He said because concerns have been expressed by the AG's with regard to whether or not this is a scientific permit, he intends to wait for reaction from the Deputy Attorney General before signing the permit.

Member Yuen commented that as a long-term solution, the Department should review WestPac's regulations and decide whether or not the Department is satisfied with the resource management expertise within WestPac to adopt the State rules to be consistent with WestPac's.

**E-1 SPECIAL USE PERMIT EXTENSION FOR MICHAEL A. MEIERDIERCKS FOR RESIDENTIAL PURPOSES, KALIHI, OAHU**

Ralston Nagata, briefed the Board and said the Park was transferred to the State from the City and County and since that time, no development has taken place. Nagata said the documentation for the transfer was completed in early summer. He said the Meierdiercks have lived there for a number of years and would like to continue to extend their Special Use Permit under terms and conditions.

Michael Meierdiercks asked for consideration to approve the permit extension.

**Unanimously approved as submitted. (Inouye/Kennison).**

**E-4 AUTHORIZATION TO INSTALL YOUTH BALLFIELDS AT SAND ISLAND STATE RECREATION, OAHU**

Nagata briefed the Board and related on a drawing the proposal of the area. It is indicated that the support of the community is strong and that the ballfields can be built at little or no cost to the State. He said there were some concerns expressed by some of the community groups and the neighborhood board about moving forward and that meetings have been scheduled to discuss this. Nagata said his Division has indicated to the community groups that unless there is substantial support from the various communities, the project may not continue beyond that point. Staff recommendation is that the Board approve; 1) the installation of eight baseball fields at Sand Island State Recreation Area, using private funding and resources, subject to State Parks Division review and approval of plan, 2) Addition of approximately 1.29 acres [subject to amendment] to park lands and immediate right-of-entry for construction purposes, and 3) Formation of a Ballfield Scheduling and Use Committee to assist the State Parks Division in equitable utilization of the ballfield areas.

Member Matsumoto clarified that the project is part of the State Parks system and asked about the maintenance of the area. Nagata said once the facilities are built in, it would be donated to the State and the basic maintenance will be the State Parks Division.

There was discussion about the scheduling [of use] and whether there will be fees for the use of the facilities. Nagata said fees have not been discussed and that the scheduling will be at the discretion of the State Parks Division.

Member McCrory's concern was the parking area for the proposed 8 ballfields which she felt might be inadequate and felt uncomfortable that the Community had not had a chance to review and comment on it. Marvin Wong said he approached various youth organizations and schools and that they were receptive to the proposals. Chairperson Wilson explained that community organizations have had representatives to discuss this proposal and have not had any opposition. He said to postpone this would create a timing problem in terms of being able to have the fields ready by the time the baseball season begins. Wong agreed and said the other factor is that the project is being put together by volunteers to clear and grade the property, and the timeliness of the donation of topsoil and grass plugs by the donors according to the donor's schedules. The expected completion date is May 1998.

Member Matsumoto was concerned about the impact on the existing users of the boat ramp facility and their access to the recreational facilities. He said he had reservations about the number of ballfields proposed and asked whether there would be a problem to lessen the number of ball fields. Wong felt that the public and the State would lose out by not taking advantage of the donations now.

Peter Garcia from the Department of Transportation (DOT) said they have not been involved with any of the planning but noted that DOT has a concern about the use of the property that might infringe on their use. He said they need to develop their area to take care of their shipping needs.

Unanimously approved with amendments to reduce the amount of the ballfields from 8 to 6 fields within the Master Plan area, to delete item 2 of the recommendation for the addition of approximately 1.29 acres to park lands and immediate right-of-entry for construction purposes, and that the construction notice to proceed be issued after discussion with the Kalihi/Palama Neighborhood Board and the Kalihi/Palama Community Council. (Matsumoto/Inouye).

**E-2 APPROVAL TO ENGAGE THE SERVICES OF A CONSULTANT TO DESIGN, FABRICATE, AND INSTALL INTERPRETIVE SIGNS AT THE KAMEHAMEHA STATUE, WAILOA RIVER STATE PARK, HILO, HAWAII**

Nagata asked that the Board grant permission to engage the services of a consultant and authorize execution of the contract documents.

**Unanimously approved as submitted. (Matsumoto/McCrory).**

**G-1 CANCELLATION OF UNCOLLECTIBLE ACCOUNT**

Mason Young, Acting Administrator of the Bureau of Conveyances, stated the staff recommendation that the Board approve that the uncollectible account be deleted from the DLNR accounts receivable.

**Unanimously approved as submitted. (Matsumoto/McCrory.)**

**J-1 APPROVAL OF CONSENT TO SUBLEASE, HONOKOHAU BOAT HARBOR, NORTH KONA, ISLAND OF HAWAII**

John Hino, of the Division of Boating and Ocean Recreation, said staff recommendation is that the Board approve the Consent to Sublease subject to terms and conditions.

**Unanimously approved as submitted. (Kennison/McCrory).**

**D-4 ESTABLISH A PREMIUM COST IN CONNECTION WITH THE ISSUANCE OF ALL FUTURE REVOCABLE PERMITS**

Dean Uchida said after discussions with the AG's, the Land Division would like to defer this item to try to incorporate it into their rules.

**Unanimously approved as submitted. (Kennison/McCrory).**

**D-7 ACCEPTANCE OF A QUITCLAIM DEED OF A REMNANT PARCEL MAKAI OF KAMEHAMEHA HIGHWAY AT KAPAKA, KOOLAULOA, OAHU, TMK: 1ST/5-3-14: 09 AS SHOWN OUTLINED ON LAND BOARD EXHIBIT "A".**

Uchida said DOT is using a remnant parcel for the protection of Kamehameha Highway and the landowner wants to release himself from the liability through a quitclaim deed to DOT with amendment to the recommendation to read, "That the Board approve the acquisition of the above described remnant parcel by acceptance of a quitclaim deed from the Katsumi Wakatake Trust subject to the following conditions:". He said once the Division accepts the title, it will be passed over to DOT.

**Unanimously approved as amended. (Inouye/McCrory).**

D-8 CONSENT TO AMENDMENT NO. 6 TO LEASE NO. 1-62 (FAA LEASE NO. FA-PC-245) A TEN-YEAR EXTENSION OF LEASE NO. 1-62, BETWEEN THE STATE OF HAWAII, DEPARTMENT OF DEFENSE, BY THE BOARD OF LAND AND NATURAL RESOURCES, AS LESSOR, AND THE FEDERAL AVIATION ADMINISTRATION, WESTERN-PACIFIC REGION, AS LESSEE, AT DIAMOND HEAD CRATER, WAIKIKI, OAHU, TMK: 1ST/3-1-42: 06 (PORTION)

Uchida said the staff is asking for another ten-year extension on behalf of DOT subject to terms and conditions.

Unanimously approved with amendment that the extended term be three years. (Matsumoto/Kennison).

D-10 REQUEST FOR CONSENT TO THE ASSIGNMENT OF GENERAL LEASE OF EASEMENT NO. S-3981, PAUOA VALLEY, HONOLULU, OAHU, TMK: 1ST/2-2-16

Uchida said staff recommendation is that the Board consent to the assignment of General Lease of Easement subject to terms and conditions.

Unanimously approve as submitted. (Inouye/McCrory).

D-11 REQUEST FOR DIRECT ISSUANCE OF LAND LICENSES TO HAWAIIAN CEMENT CO. AND AMERON MAUI HAWAII FOR MINING AND SALE OF CINDER FROM THE OLOWALU CINDER PIT, IMMEDIATE RIGHT OF ENTRY FOR MINING AND SALE OF CINDER PURPOSES, AND STAFF REQUEST TO WITHDRAW PARTIAL LAND FROM EXECUTIVE ORDER NO. 2972, WITH THE COUNTY OF MAUI FOR INCLUSION IN THE LAND LICENSE, TMK: 4-8-03: 04 AND PORTION 39, OLOWALU, MAUI. (TO BE DISTRIBUTED)

Uchida requested withdrawal of this submittal.

Unanimously approved to withdraw. (Kennison/Matsumoto).

Member Matsumoto referred back to Item D-3 and said upon further review of the proposed increases, there are several others that the Board should consider because of residential leases and leases to non-profit entities. He proposed that all of the residential revocable permits be capped with increases not to exceed 25% and that the tenants of the proposed increases be notified to give them an opportunity to state any kinds of concerns that they may have to the Land Division for consideration in establishing what the appropriate rent should be. Members Inouye and McCrory felt uncomfortable with picking the leases by a certain percentage. Uchida said that the Division's intent was to explain the process when the notification was sent out to give them the opportunity to come to the Land Division to refute. After further discussion, a motion was made.

Unanimously approved to add to the previous motion to add Kahana Valley to the list and to add the notice requirement to those whose fees were being increased. (Inouye/McCrory).

K-1 CONSENT TO ASSIGNMENT OF LEASE NO. DOT-A-95-4, HONOLULU INTERNATIONAL AIRPORT, OAHU, (DH INTERNATIONAL, INC. FKA ALOHA PRODUCE CORPORATION/SUPER FOODS, INC.)

Peter Garcia briefed the Board and said staff recommendation is that the Board approve the consent to assignment of lease.

Unanimously approved as submitted. (McCrory/Matsumoto).

K-2 CONSENT TO ASSIGNMENT OF VENDING MACHINE AGREEMENT LEASE NO. DOT-A-96-10, KAHULUI AIRPORT, MAUI (BANK OF AMERICA, FSB/AMERICAN SAVINGS, F.S.B.)

K-3 CONSENT TO ASSIGNMENT OF VENDING MACHINE AGREEMENT LEASE NO. DOT-A-96-12, LIHUE AIRPORT, KAUAI (BANK OF AMERICA, FSB/AMERICAN SAVINGS BANK, F.S.B.)

K-4 CONSENT TO ASSIGNMENT OF VENDING MACHINE AGREEMENT LEASE NO. DOT-A-95-13, HILO INTERNATIONAL AIRPORT, ISLAND OF HAWAII (BANK OF AMERICA, FSB/AMERICAN SAVINGS BANKS F.S.B.)

Garcia said asked that Items K-2 through K-4 be addressed together.

Unanimously approved as submitted. (Matsumoto/Kennison).

K-5 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KEEHI INDUSTRIAL LOTS, OAHU (DOUGLAS PAGALA)

Garcia stated the staff recommendation that the Board approve the issuance of revocable permit.

Unanimously approved as submitted. (Matsumoto/McCrory).

K-6 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KAHULUI HARBOR, MAUI (DEL'S FARM SUPPLY, INC.)

Garcia stated the staff recommendation that the Board approve the issuance of revocable permit.

Unanimously approved as submitted. (Kennison/McCrory).

K-7 AUTHORIZING THE DEPARTMENT OF TRANSPORTATION TO DISPOSE OF HIGHWAY REMNANT 50-B, HANA HIGHWAY, FAP NO. 32-A, AT KEALII-NUI, HAMAKUALOA, MAUI (M/M MICHAEL CARROLL)

Garcia stated the staff recommendation that the Board approve DOT's disposal of highway remnant to Mr. and Mrs. Michael Carroll.

Unanimously approved as submitted. (Kennison/Matsumoto).

**K-8 CONSTRUCTION RIGHT-OF-ENTRY, HONOLULU INTERNATIONAL AIRPORT  
(UNITED AIRLINES, INC.)**

Garcia said this is to plan, design, develop and construct an airport cargo facility. Staff recommendation is that the Board authorize the granting of an immediate construction right-of-entry to United Airlines under terms and conditions.

Unanimously approved as submitted. (Matsumoto/Kennison).

**K-9 ISSUANCE OF REVOCABLE PERMIT, KEEHI INDUSTRIAL LOTS,  
HONOLULU, OAHU (M. MITSUI LEASING CO.)**

Garcia said the purpose is for storage of equipment and containers. Staff recommendation is that the Board approve the issuance of the revocable permit.

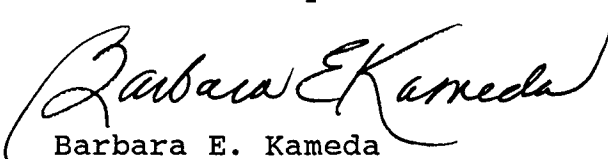
Unanimously approved as submitted. (McCroory/Kennison).

**K-10 REPORT ON REVOCABLE PERMITS ISSUED OR RENEWED BY THE HARBORS  
DIVISION, DEPARTMENT OF TRANSPORTATION**

Garcia said this is a report on revocable permits and that no Board approval is required.

The meeting was adjourned at 5:10 P.M.

Transcribed by

  
Barbara E. Kameda

APPROVED FOR SUBMITTAL:



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MICHAEL D. WILSON

Chairperson

Board of Land & Natural Resources