

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

DATE: FRIDAY, JANUARY 16, 1998
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
BOARDROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII

Chairperson Michael D. Wilson called the meeting of the Board of Land and Natural Resources to order at 9:20 A.M. The following were in attendance

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

Staff: Dean Uchida
John Hino
John Corbin

Others: Linnell Nishioka
Peter Garcia
Caesar Portugal
Mack Willey
Cheryl Vasconcelles
Kenneth Nakamura
Gordon Heit
Jim Coon
Max Graham
Ellen Vincent
John Douglas
Donald Thornas
Bud Keister
Norman Miyata
Brian Minaai
Lee Sichter

APPROVAL OF MINUTES

Unanimously approved to defer minutes of November 22, 1996, January 23, 1997, February 14, 1997, March 14, 1997, and May 9, 1997. (McCrory/Matsumoto).

APPROVAL OF MINUTES OF NOVEMBER 14, 1997.

The minutes of the meeting of November 14, 1997 was unanimously approved as submitted. (Yuen/McCrory).

APPROVAL OF MINUTES OF NOVEMBER 20, 1997.

Page 1, Others. Insert name of Troy Tanigawa.

Page 9, 2nd paragraph. Correct, "...approximately 300 people currently visit..." to add, "...300 people per month..."

Page 15 and 16. Insert name in blank lines Troy Tanigawa.

Unanimously approved to accept as amended. (McCrorry/Yuen).

ITEM D-45 REQUEST FOR MODIFICATION OF CONDITIONS IMPOSED BY THE BOARD OF LAND AND NATURAL RESOURCES ON A TEMPORARY VARIANCE NO. KA-97-2 TO ESTABLISH A TEMPORARY JUNK VEHICLE PROCESSING CENTER AT AHUKINI, KAUAI, HAWAII (TMK: 3-7-02:01) - (TO BE DISTRIBUTED)

Dean Uchida, Acting Administrator of the Land Division briefed the Board. This is a follow up to action taken in November 1997, with regards to a temporary variance to the County of Kauai for temporary processing and storage of abandoned vehicles. There were several conditions imposed on the County in the clean up of the site which is owned by the Department of Transportation (DOT). There were problems in executing an agreement since DOT is responsible as the landowner in the remediation of the property. Uchida said a meeting with the County, DOT and DLNR resulted in an agreement that some of the conditions needed to be amended to reflect the rightful responsibility of DOT, and that the County would be responsible for anything brought onto the property henceforth. He explained that the County does not have any responsibility for actions taken from the past since it was not in the contract.

Uchida said the County asked to address Conditions 2, 8, 9 and 10. He said the staff recommendation is that the Board approve the following condition modifications: 1) Condition 2 is not amended, 2) Combine Conditions 8 and 9 to read: "The State of Hawaii, DOT Airports Division will prepare a remediation plan for this clean-up of the surface of the site, including all debris and materials left on the surface of the site, and after nine (9) months from the date of this action, present the plan for approval by the Board. The plan will include identification of remediation actions taken to date (it is expected that some of the existing materials will be removed during the County's occupation of the site) and remediation actions proposed for the future. As an offset to the rental owed by the County to DOT the County will assist DOT in the clean up of surface materials left on the premises leased under the DOT's revocable permit", 3) Condition 10 is amended to read: "That the DOT Airports Division shall develop a plan, in consultation with the Department of

Health, to close/clean the site within two (2) years or earlier from the date of this approval. If funding cannot be obtained to clean/close the site within the Board imposed time frame, DOT may request an extension from the Board. A copy of the closure plan shall be provided to DLNR, Land Division for review and approval", and 4) that the one (1) year completion requirement for this Temporary Variance and preparation of any plans for the site clean-up are effective from the date of the Board's approval of this modification request.

Member Chris Yuen expressed his displeasure with regard to last minute Board submittals. Uchida offered his apologies.

Caesar Portugal, County Engineer of Kauai introduced himself and said they are in agreement with the staff recommendation.

Peter Garcia, of DOT said he did not see the submittal until this morning and asked that the item be deferred until he was able to reach the Airports Division to obtain more information from them.

The Board members agreed to defer this item and to bring it up later on the agenda.

Item-36 GRANT OF PERPETUAL NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT AFFECTING PORTIONS OF STATE OWNED LANDS, WAIOLI VALLEY, HANAIEI, KAUAI

Uchida briefed the Board and said this item is a follow up to a Conservation District Use Application (CDUA) that the Board approved in September 1997, to provide access to a single family resident. The staff recommendation is that the Board authorize the issuance of a perpetual non-exclusive access and utility easement subject to terms and conditions.

Max Graham said the total length of the existing road for which the easement is being requested is 1,524 feet with a 12 foot right-of-way, with a total area of 18,298 square feet. He said the driveway is 187 feet long, with a total area of 2,108 square feet. Graham said when the CDUA was originally filed, he asked for permission to construct a house on the kuleana lot and to construct the easement from the existing road to the lot. Uchida responded by saying that the construction right-of-way can be issued as part of this action by amending the recommendation to include it.

**Unanimously approved with amendment to include a construction right-of-entry for the construction of the driveway.
(McCrory/Kennison).**

ITEM D-27 FORFEITURE OF GENERAL LEASE NO. S-4450, ANTONE & EMILY VINCENT, LOT 19, PANAEWA FARM LOTS, 2ND SERIES, WAIAKEA, SOUTH HILO, HAWAII, TMK: 2-4-49: 03

Uchida said this item is a request for cancellation of forfeiture of a general lease in which the lessee has failed to keep the lease payments current, and owes \$550 in back rent. The staff recommendation is that the Board terminate the lease subject to terms and conditions.

Ellen Vincent introduced herself as representing the lessees Emily and Antone Vincent, and said the rental check is being delivered to the Hilo District Office today. There was discussion about the cost incurred by the State to process delinquency notices.

The Board agreed to defer this item until the confirmation of the receipt of the rental check in the Hilo District Office.

ITEM D-43 REQUEST FOR A TIME EXTENSION ON CONSERVATION DISTRICT USE PERMIT OA-2304 FOR THE CONSTRUCTION OF A SINGLE FAMILY RESIDENCE ON ROUND TOP DRIVE, HONOLULU, OAHU

Uchida said this is the fourth time extension on this CDUP which was originally approved in 1990. He said this property has changed hands four times and has had financial problems as well as concerns raised by neighbors. Uchida believes that the problems have been resolved and that the exterior framework of the house have been completed. Staff recommendation is that the Board allow one year from the date of this action to complete the construction of the house, subject to terms and conditions.

John Douglas introduced himself as the applicant. He said a Memorandum of Agreement have been entered into with both neighbors to address their concerns and to assure them that the house would be completed. Douglas believes that the delay was due to financial matters.

Unanimously approved as submitted. (Inouye/Matsumoto).

ITEM D-41 REQUEST TO EXTEND THE PROCESSING PERIOD FOR ADDITIONAL 180-DAYS FOR CONSERVATION DISTRICT USE APPLICATION OA-2801 FOR A 138KV TRANSMISSION LINE AT WAAHILA RIDGE HONOLULU, HAWAII

Uchida said Hawaiian Electric Company (HECO) is still in the processing of completing the Environmental Impact Statement (EIS). A bill passed last legislative session requiring economic analysis to be performed by HECO, and possible alternative alignments are being explored. The staff recommendation is that

the Board approve the request for a time extension of an additional 180-days to allow HECO sufficient time to complete the EIS process.

Mark Willey stated that when the bill was passed, [Act 95, Session Laws of Hawaii 1997] no one realized the extent of work that would be involved but that he is anticipating that the draft EIS would be available.

There was discussion on whether the 180 days was sufficient time to complete the process. Willey said no. Deputy Attorney General Linnel Nishioka said 180-day extensions have been done back-to-back and that if the Board desired this, it is possible.

~~Unanimously approved with amendment that the extension be for 360 days. (Inouye/Yuen).~~

ITEM K-1 APPLICATION FOR ISSUANCE OF REVOCABLE PERMIT, HILO INTERNATIONAL AIRPORT, ISLAND OF HAWAII (UNIVERSITY OF HAWAII - SCHOOL OF OCEAN AND EARTH SCIENCE AND TECHNOLOGY)

Peter Garcia said the Revocable Permit is for the construction of a drill site using an area of 88,200 square feet and that DOT wishes to issue this permit to the University of Hawaii.

Don Thomas introduced himself as the principal investigator for the research project that is being proposed for the purpose of basic scientific study. The anticipated depth of the hole is approximately 4.5 kilometers. The purpose of the study is to conduct detailed chemical analysis of the rocks that are recovered.

Unanimously approved as submitted. (Yuen/McCrory).

ITEM D-12 REQUEST TO CANCEL EXECUTIVE ORDER NOS. 3368 AND 3549 TO THE DEPARTMENT OF HEALTH AND AUTHORIZE THE DIRECT ISSUANCE OF A GENERAL LEASE TO HANA COMMUNITY HEALTH CENTER, INC, HANA, MAUI, TMK: 1-4-03: 22 AND 24

Uchida said this item is a follow up to legislation that was enacted during the Legislative Session in 1996. Act 262, Session Laws of Hawaii 1996, required that the Department of Health (DOH) transfer the Hana Community Hospital and assets of the Hospital to a non-profit organization, Hawaii Health Systems Corporation, as an attempt by the Legislators to get the State out of managing and operating a community hospital. The staff recommendation is that the Board authorize the withdrawal of State lands under Governor's Executive Order from DOH, and authorize the issuance of a general lease to Hana Community Health Center under terms and conditions. Uchida noted that there are County funds

involved and that it jeopardizes the leases. The land is nonceded.

Member Lynn McCrory expressed her preference to see the lease at a fair market value, and that a grant be given to the Hospital for the non-profit group for the amount of the lease by DOH. She asked that DLNR receive an annual report from the Hospital while the lease is in effect, covering how they are doing, what they doing, how the funding resources are being allocated, etc., so that it is clear that the Community is being served and that the granting of not having a lease payment is justified.

Cheryl Vasconcellos, Executive Director of the Hana Community Health Center, introduced herself and said the annual report would be forthcoming.

Unanimously approved with amendment that the lessee shall provide the Department with a copy of their annual report, which at a minimum, would contain information on the organization's funding sources and expenditures. (Kennison/Yuen).

ITEM D-1 CANCELLATION OF REVOCABLE PERMIT NO. S-6745 AND ISSUANCE OF A REVOCABLE PERMIT TO SOUTHERN FOODS GROUP, L.P. FOR PASTURE PURPOSES, AT WAIMANALO, KOOLAUPOKO, OAHU, TMK: 4-1-08: POR. 05 & 79

Uchida said the Board in a prior action, consented to the assignment of the lease from Borden/Meadow Gold to Southern Foods Groups, and that this action today is to establish and recognize the new owners on the property. The staff recommendation is that the Board authorize the cancellation of the Revocable Permit No. S-6745 and to reissue a new permit to Southern Foods Group subject to terms and conditions.

Bud Keister, Farm Manager for Meadow Gold Dairy, Waimanalo, introduced himself and said he was present to answer any questions.

Unanimously approved as submitted. (McCrory/Kennison).

ITEM D-5 AUTHORIZATION TO CANCEL GENERAL LEASE NO. S-5355 TO NORMAN AND YAEKO MIYATA, WAIMANALO, KOOLAUPOKO, OAHU, TMK: 4-1-18: 51

Uchida requested the withdrawal of the submittal since a partial payment was received on the delinquent amount, and that there are other factors affecting the lease. He explained that the earlier action by the Board assigned the lease from the Miyata's to a corporation. Subsequent to the Board's authorization, it was discovered that there was a stock transfer whereby the Miyata's, through the setting up of the corporation, were going to assign

their interest in the lease to a new entity. The Department of the Attorney General (AG's) advised that the premium would be applicable in this case and that it has taken several months to obtain the sales agreement from the Miyata's to calculate the premium amount. Uchida said the staff is in its final stages of completing the assignment premium calculation and that it will be brought back before the Board with the recognized premium.

Kenneth Nakamura introduced himself and explained that the transfer was supposed to occur between the Miyata's and himself, but because of the provision in the lease that called for a transfer to a corporation, they took that route. He said his agreement with Norman Miyata was that he [Miyata] would retain 80% and that annual increments of \$15,000 would be paid to Miyata, thus transferring the stocks. Nakamura said it was months before he was contacted by DLNR and in October 1997, paid \$6,300. He had been in contact with Cecil Santos and in December 1996 was told by Santos to deal with the Miyata's directly. Nakamura said because of an accident, he has had to close his law office and asked the Board to be sympathetic to his situation, and that he would be able to live up to the agreement. Nakamura asked that he be allowed to withdraw and cancel all consent to the assignment of lease between the Miyata's and the Corporation, and that he be allowed to be the assignee of the lease. He also asked the Board for an extension of 6 to 8 months to put his finances in place. Nakamura said his property taxes are current. His intention for the land use is to produce primary salad mix products.

Norman Miyata introduced himself and said he has been farming for 30 years but because of his age and health problems he has decided to retire from farming.

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

ITEM D-21 RECONSIDERATION OF PRIOR BOARD ACTION FOR CANCELLATION OF GENERAL LEASE NO. S-4364

Uchida said this item was tied up in administrative premium charges that were discussed and withdrawn at the last Board meeting. The Board in the past, assessed the premium to reinstate leases that were previously cancelled by the Board to cover administrative costs. In December 1997, the Land Division was advised by the AG's that that type of assessment should be done through the rule making process. The staff recommendation is that the Board rescind its action of June 24, 1997 subject to terms and conditions. Uchida said the Land Division is not prepared to make a recommendation on the premium due to recover administrative costs at this time.

Member McCrory asked whether the Board would be able to charge a reasonable administrative cost. Deputy Attorney General Nishioka

stated that it is universal across the board and that there should be a standard formula.

There was discussion about whether the prior action should be rescinded or whether the lease should be reinstated. Nishioka said it would be more appropriate to rescind the prior action. Uchida clarified that nothing was done to the lease. Member Kathryn Inouye said the statement on page 1, third paragraph, "This request is for a reinstatement of a lease that was never fully cancelled", should be clarified.

Gordon Heit introduced himself and agreed that the third paragraph be clarified also. He said he is currently growing ginger, anthuriums, and landscape materials but is beginning to change to orchids, and foliage crops on a twelve and three-quarter acre lot.

Member Yuen said since the legality charges are in question, the charges should be consistently done across the board. He said since the only staff involvement was made necessary by the failure to provide a performance bond by a single submittal to cancel and to reinstate, he did not feel that a fine should be imposed on this particular item. Member Yuen said the question of what kinds of administrative costs would be involved should be dealt with not in connection with a particular case, but as in a general matter.

Unanimously approved as submitted. (Yuen/McCrory).

Chairperson Wilson brought Item D-45 back to the table.
ITEM D-45 CONTINUED.

Brian Minaai, Deputy Director of DOT referred to Condition 10 to clarify that DOT will develop a plan to close/clean the site within nine months and will remediate the site within two years subject to availability of funds. He said the earliest that DOT would be able to obtain funds would be a year from now, which would only give them one year to finalize the remediation, and asked whether the Board would reconsider the condition. Uchida explained that DOT can come back before the Board to ask for an extended time frame.

Unanimously approved as submitted. (McCrory/Inouye).

ITEM D-13 REQUEST FOR DIRECT ISSUANCE OF THREE (3) PERPETUAL, NON-EXCLUSIVE EASEMENTS FOR THE PURPOSE OF INSTALLING AND MAINTAINING A SUBMARINE TELECOMMUNICATIONS CABLE, OVER, UNDER, ACROSS AND ON SUBMERGED GOVERNMENT LANDS LOCATED IN THE OFFSHORE WATERS OF KAUNAKAKAI, MOLOKAI, AND IN THE OFFSHORE WATERS AND ON FAST LANDS OF MANELE HARBOR, LANAI, MAUI

Uchida said this is a follow up to a CDUA that was approved by the Board. He said the applicant is GST Pacwest Telecom Hawaii Inc. and that the Land Division would like to make an amendment to remove any reference to areas under the Division of Boating and Ocean Recreation's (DOBOR) jurisdiction and to deal only with the unencumbered offshore State submerged lands. The staff recommendation is that the Board authorize the direct issuance of a perpetual, non-exclusive easement subject to terms and conditions.

Unanimously approved with amendment to remove any reference to areas under DOBOR's jurisdiction. (Kennison/Yuen).

ITEM D-42 DIRECT ISSUANCE OF A TERM NON-EXCLUSIVE EASEMENT FOR PORTION OF A BUILDING, RETAINING WALL AND STAIRS, AUWAIOLIMU LOTS, AUWAIOLIMU, PUNCHBOWL, HONOLULU, OAHU, TMK: 2-2-06 ADJOINING PARCEL 32

Uchida said the applicant is Patrick Pacheco and that he is selling his property. The easement area is State land that fronts his property with a walkway that services each of the properties. Pacheco or a prior owner built some improvements on his property that also encroached onto State lands fronting his property. He obtained building permits at the time but no one noticed the encroachment. During the survey for the sale of his property, the encroachments were discovered. Uchida said in an effort to accommodate Pacheco's situation, the staff is requesting that the Board authorize the issuance of the easement for this parcel. He said the staff is currently investigating the other lots in the area. The staff recommendation is that the Board authorize the direct issuance of a sixty-five year term, non-exclusive easement for a portion of a building, retaining wall, and stairs to the applicant subject to terms and conditions.

Unanimously approved as submitted. (Inouye/McCrory).

ITEM D-6 STAFF REPORT ON THE PUBLIC HEARING CONDUCTED ON MOLOKAI REGARDING THE DISPOSITION, BY LEASE, THE HONOULIWAI FISH TRIP AND KAHINAPOHAKU FISH POND, AND REQUEST TO AMEND THE BOARD'S APRIL 26, 1996, AGENDA ITEM D-28 ACTION, INVOLVING GOVERNMENT LANDS, HONOULIWAI, MOLOKAI, TMK: 5-8-02: 68 & 5-8-1: POR. 02

Uchida said this item is a follow-up of the public hearing conducted on Molokai at which Member Willie Kennison was the hearings officer. [George] Peabody requested a contested case hearing at the time, but after discussions with the AG's, it was discovered that there are no grounds for a contested case hearing. The staff recommendation is that the Board accept the minutes of the November 5, 1997 public hearing, and amend their

previous action of April 26, 1996 to include Kahinapohaku Fish Pond as part of the lease, subject to terms and conditions.

John Corbin, Administrator of the Aquaculture Development Program (ADP) said this is another step in the continuing process to demonstrate community based fishpond restoration on Molokai. Fishponds are a "Hot Spot" priority for DLNR, and there is an action plan in place.

Member Kennison reported that of the approximately 50 people who attended the public hearing, all 19 who testified were in favor of the project. He commented that there are many young people getting involved with the restoration. He noted they are getting educated about the culture and learning about sustained living.

Corbin explained the process on how the restoration plan would proceed. He said the Land Division is in the process of identifying a non-profit organization to sublease to. The organization would identify members of the community or ohana groups to work out an agreement to restore the fishponds. The expected date of completion is January 1998.

Unanimously approved as submitted. (Kennison/McCrory).

ITEM K-2 AUTHORIZATION TO ISSUE SPECIAL BERTHING PERMITS FOR THE BERTHING, LOADING AND OFF-LOADING OF PASSENGERS AND DESIGNATION OF A NON-EXCLUSIVE EASEMENT, PIER 8, HONOLULU HARBOR, OAHU, TO QUALIFIED CRUISE BOAT OPERATORS SELECTED THROUGH A REQUEST FOR PROPOSALS

Peter Garcia introduced himself as the representative of DOT and introduced Brian Minaai, Deputy Director. He briefed the Board and said that the staff recommendation is that the Board authorize the issuance of Special Berthing Permits for berthing, loading and off-loading of passengers at Pier 8 to qualified cruise boat operators selected through a request for proposals.

Minaai added that the Harbor's 20/20 Master Plan calls for relocation of the cruise boats to Pier 8 and assisting in the further development of activity for the Aloha Tower. A dinner cruise boat from the Kewalo Basin needs to be relocated and is a highly probable permittee for Pier 8. He said DOT's priority is to first relocate those cruise boats that need to be relocated, relocate the dinner boat cruises, then, to optimize available spaces for the small type users.

There was discussion about the term, "DOT reserves the right to cancel the SBP's for the inner 300' of Pier 8". Garcia stated that that was included in case of future ferry operations.

Unanimously approved as submitted. (McCrory/Matsumoto).

Chairperson Wilson brought Item D-27 back to the table.

ITEM D-27 (Continued).

Uchida said the Hilo Land Division staff confirmed that the check was received and that the staff recommends that this item be withdrawn.

Unanimously approved to withdraw Item D-27. (Yuen/McCrory).

ITEM D-24 SALE OF NINE LEASES AT PUBLIC AUCTION FOR INTENSIVE AGRICULTURE PURPOSES, HAMAKUA, HAWAII

ITEM D-25 SALE OF FIVE LEASES AT PUBLIC AUCTION FOR INTENSIVE AGRICULTURE PURPOSE, HAMAKUA, HAWAII

ITEM D-28 SALE OF TWENTY-SIX LEASES AT PUBLIC AUCTION FOR INTENSIVE AGRICULTURE PURPOSES ON HAWAII

Uchida said these items are request for sale of leases at public auction. He said the staff would like to amend the character of use to intensive agriculture to provide more flexibility to the tenants, and to include the cultivation of truck, orchard, flower, foliage crops, and other agricultural uses excluding pasture, raising of animals and poultry.

Uchida said Item D-25 lease deals with the Department of Agriculture's requirement to participate in their irrigation system for the use of Hamakua Ditch. Approximately 154 acres are involved. Uchida said the remainder of leases are the leases left from the Hamakua Sugar operation. These leases are those properties that have legal access, are intensive agriculture, and have terms for 30 years and reopenings at 10 and 20 years. He said the Land Division will revisit the pre-qualification standards in trying to accommodate the current economic situation.

Uchida said in reference to Item D-28, the staff would like to amend this item to withdraw five leases, Lease #11, 12, 13, 14 and 15.

Uchida asked that the Board authorize the sale of leases at public auction for intensive agriculture purposes subject to terms and conditions. The acreage of the parcels varies in sizes.

Member Colbert Matsumoto asked about safeguards to ensure the productivity of the land, and that there would be no speculation on the leases. He asked whether there would be any contractual requirements in the lease to ensure that there will be actual agricultural use of the land in a timely manner. Uchida said the

Land Division will make sure it is incorporated into the lease agreement. Member Yuen concurred with Member Matsumoto and commented that the qualifications and the rental amount should be reasonable. He also stated that the staff appraiser needs to look at the net acreage. Member Yuen recommended the withdrawal of Lot 3197 since it is in the same grouping with the others that were withdrawn.

Member Yuen said if the Co-op lease has not been finalized, it needs to be clarified that this is not part of this action but that the parcels should have the same requirements as far as participating in irrigation constraints. He also clarified that these parcels are lots that had already been withdrawn from Oji before the final Oji decision and that the Department had already made a determination that these would be better for farm use by agricultural uses.

Member Inouye asked whether the leases would be granted to people with little or no farming experience. Uchida said the Land Divisions' intent is to allow as many people with farming experience to come in. There was discussion on developing the criteria.

Unanimously approved to adopt staff recommendation with amendment to remove Lease #13, the staff bring back a revised criteria for qualifications and the proposed language on the utilization of the land and the criteria as to why they should be relaxed in certain areas. (Yuen/Matsumoto).

ITEM D-44 DEPARTMENT OF TRANSPORTATION REQUEST FOR A RIGHT-OF-ENTRY AT KOHALA, HAWAII, TMK: 5-5-6-4, -15

Uchida said the staff recommendation is that the Board authorize the issuance of the immediate right-of-entry to the Department of Transportation (DOT) with conditions.

Lee Sichter introduced himself as the consultant to DOT. He said in the course of his studies, it has been determined that if operations at the Airport increases in the future, larger aircrafts would be required, requiring that the existing terminal and maintenance building be moved back to meet Federal Aviation Administration (FAA) clearance standards. Sichter said to move the buildings mauka would take them off the Airport property and on to abutting State lands. He said the purpose of the right-of-entry is to conduct an archaeological and botanical survey. Sichter asked because of Historic Preservation Division's requirement to conduct subsurface testing, that Condition 5 be modified.

Unanimously approved with amendment to approve subsurface trenching be permitted. (Yuen/Matsumoto).

ITEM D-2 AUTHORIZATION FOR PUBLIC AUCTION SALE OF DIVERSIFIED AGRICULTURAL LEASE COVERING GOVERNMENT LAND, LOT 18, HAUULA HOMESTEADS, HAUULA, KOOLAULO, OAHU, TMK: 5-4-14: 03

Uchida asked to amend the character use from diversified to intensive agriculture, amend the present 35 years lease term to 30 years with reopenings at 10 and 20 years. The staff recommendation is that the Board; a) Find the area to be an economic unit, b) Find that the subject area is not suitable for hunting, nor will it become so during the term of the lease, c) Find that a public access easement is not required across the premises for access purposes to a forest reserve or a shoreline, d) Authorize the sale of a lease at public auction covering the subject area for intensive agricultural purposes and all other uses permitted by the City and County zoning for this parcel, residence permitted, and subject to terms and conditions.

Unanimously approved with amendment to change the character use to Intensive Agriculture and amend the lease terms to 30 years with reopenings at 10 and 20 years. (Inouye/McCrory).

ITEM D-3 AMENDMENT TO PRIOR LAND BOARD ACTION OF FEBRUARY 14, 1997, AGENDA ITEM D-11 CONCERNING THE WITHDRAWAL OF LAND FROM THE HONOLULU WATERSHED FOREST RESERVE BY GOVERNOR'S EXECUTIVE ORDER AND RESET ASIDE TO THE DIVISION OF STATE PARKS, STATE OF HAWAII, FOR THE MAKIKI VALLEY STATE PARK AND THE PUU UALAKAA (ROUND TOP) STATE PARK, AT MAKIKI AND TANTALUS, HONOLULU, OAHU, TMK: 2-5-09: POR. 08, 2-5-20; POR. 04, 05, 2-5-19: POR. 03, 04

Uchida said the staff is recommending to amend a prior Board action to include in the Executive Order Makiki Valley State Park and the Puu Ualakaa State Park subject to terms and conditions.

Unanimously approved as submitted. (Matsumoto/Inouye).

ITEM D-4 AMENDMENT TO PRIOR BOARD ACTION OF SEPTEMBER 12, 1997 UNDER AGENDA ITEM D-22 REGARDING CONSENT TO ASSIGNMENT OF GENERAL LEASE NO. S-3782, CONSENT TO MORTGAGE OF GENERAL LEASE NO. S-3782, AND EXTENSION OF TERM ON GENERAL LEASE NO. S-3782, LOT 48, WAIMANALO AGRICULTURAL SUBDIVISION, WAIMANALO, KOOLAUPOKO, OAHU, TMK: 4-1-26: 17

Uchida said staff recommendation is that the Board amend its prior Board action to consent to the mortgage of the General Lease to American Savings Bank.

Unanimously approved as submitted. (Matsumoto/Yuen).

ITEM D-7 REQUEST FOR A CONSENT TO MAUI BLOCKS, INC., SUBLESSEE TO HAWAIIAN CEMENT, UNDER GENERAL LEASE NO. S-5284-A FOR CONSTRUCTION OF BUILDING IMPROVEMENTS, PULEHUNUI, WAILUKU, MAUI, TMK: 3-8-08: POR. 01

Uchida said the staff recommendation is that the Board approve the consent to Maui Blocks, Inc. for the construction of improvements to their operations within their sublease area subject to terms and conditions.

Unanimously approved as submitted. (Matsumoto/McCrory).

ITEM D-8 RESUBMITTAL OF LAND BOARD AGENDA ITEM D-11 DEFERRED ON SEPTEMBER 26, 1997, REQUEST FOR ISSUANCE OF A REVOCABLE PERMIT BY JEFFREY AND DONNA ALEXANDER FOR PASTURE PURPOSES ON GOVERNMENT LANDS, KULA, MAKAWAO, MAUI, TMK: 2-3-08: POR. 27

Uchida said the Board deferred the item due to concerns of overgrazing of the site and whether the Land Division had consulted with the Hawaii Association of Conservation Districts (HACD) or Natural Resource Conservation Service (NRCS) on a conservation plan. He said that staff has found that the capacity of the land is for no more than two heads of cattle, that the area would be able to revegetate itself if there was overgrazing, and that NRCS felt that the pasture would be able to sustain the two heads of cattle. The staff recommendation is that the Board find that the pasture use is exempt from the obtaining a negative declaration, and authorize the issuance of a revocable permit subject to terms and conditions.

Unanimously approved as submitted. (Matsumoto/McCrory).

ITEM D-9 REQUEST ISSUANCE OF A REVOCABLE PERMIT BY ROBERT FASE FOR PASTURE PURPOSES ON GOVERNMENT LANDS, KULA, MAKAWAO, MAUI, TMK: 2-3-07: POR 17

Uchida said the Land Division is limiting the use to two heads of cattle. The staff recommendation is that the Board authorize the issuance of a revocable permit subject to terms and conditions.

Unanimously approved as submitted. (Matsumoto/McCrory).

ITEM D-10 REQUEST FOR ISSUANCE OF A REVOCABLE PERMIT BY MICHAEL J. ABREU FOR PASTURE PURPOSES ON GOVERNMENT LANDS, KULA, MAKAWAO, MAUI, TMK: 2-3-08: POR. 28

Uchida said the carrying capacity on this parcel is eight heads of cattle. The staff recommendation is that the Board authorize

the issuance of a revocable permit subject to terms and conditions.

Unanimously approved as submitted. (Matsumoto/McCrory).

ITEM D-11 REQUEST FOR A CONSENT BY THE MAUI COUNTY COUNCIL, LTD., BOY SCOUTS OF AMERICA TO CONSTRUCT A PLAY FIELD ON STATE LAND UNDER GENERAL LEASE NO. S-5177, KAHAKULOA, WAILUKU, MAUI, TMK: 3-1-01: 01

Uchida said the staff recommendation is that the Board approve consent to the Maui County Council to construct a play field subject to terms and conditions.

Unanimously approved as submitted. (Matsumoto/Yuen).

ITEM D-14 SET ASIDE TO THE COUNTY OF HAWAII FOR PARK AND RECREATIONAL PURPOSE, TMK; 2-1-5-1 AND ABANDONED RAILROAD RIGHT OF WAY, WAIAKEA, HAWAII

Uchida said this a follow up to a Board action taken in October 1977, giving the right-of-entry and there has been no subsequent follow up. The staff discovered that the area is being used as a park. The staff recommendation is that the prior action be rescinded and authorize the issuance of the Executive Order to the County of Hawaii for park purposes subject to terms and conditions.

Unanimously approved as submitted. (Matsumoto/Yuen).

ITEM D-15 CONSENT TO SUBLEASE OF GENERAL LEASE NO. S-3599, WAIAKEA, SOUTH HILO, HAWAII, TMK: 2-2-50: 90

Uchida said this involves industrial property and the staff appraiser determined there was no sandwich profits involved. The staff recommendation is that the Board consent to the sublease subject to terms and conditions.

Unanimously approved as submitted. (Yuen/McCrory).

ITEM D-16 CONSENT TO SUBLEASE AND ASSIGNMENT OF SUBLEASE OF GENERAL LEASE NO. S-3599, WAIAKEA, SOUTH HILO, HAWAII, TMK: 2-2-50: 90

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

Unanimously approved as submitted. (Yuen/McCrory).

ITEM D-17 CONSENT TO SUBLEASE OF GENERAL LEASE NO. S-5374,
KAPAPALA, HAWAII, TMK: 9-8-1: POR. 3, 9, 10 & 9-7-1:
POR. 1

Uchida said Mr. Cran has an agreement with the National Weather Service to install a rain gauge system. The staff recommendation is that the Board consent to the sublease between Kapapala Ranch and the U.S. Department of Commerce.

Unanimously approved as submitted. (Yuen/McCrory).

ITEM D-18 FORFEITURE OF GENERAL LEASE NO. S-4636, RONALD
OKAZAKI, LOT 8, PANAEWA FARM LOTS, 2ND SERIES,
WAIAKEA, SOUTH HILO, HAWAII, TMK: 2-4-49: 22

ITEM D-19 FORFEITURE OF GENERAL LEASE NO. S-4639, THOMAS
KASECKY, KAAPAHU, HAMAKUA, HAWAII, TMK: 4-4-11: 33

Uchida said the staff requests to withdraw Items D-18 and D-19 as the applicants have taken care of the delinquencies. There was discussion about Thomas Kasecky's habitual late payments. The concurrence by the Board members for future default, once the item is listed for Board action to cancel, is that no payment will be accepted and the lease will be terminated. Deputy Attorney General Nishioka stated that the Board is not required to reinstate a lease when a lease is outside of the 60 days. Uchida suggested that the submittals requesting default of the lease for failure to pay the rent should include a history of the number of times a specific lessee has defaulted so that the Board can decide to cancel a lease or not after a late payment is received.

Unanimously approved to withdraw Items D-18 and D-19.
(Yuen/Matsumoto).

ITEM D-20 AMEND PRIOR BOARD ACTION FOR ISSUANCE OF A REVOCABLE
PERMIT, PUU ANAHULU, HAWAII, TMK: 7-1-5:5

Uchida said the staff recommendation is that the Board amend prior Board action for issuance of a revocable permit subject to terms and conditions.

Unanimously approved as submitted. (Yuen/McCrory).

ITEM D-22 SALE OF LEASE AT PUBLIC AUCTION FOR INTENSIVE
AGRICULTURE PURPOSE, PUNA, HAWAII, TMK: 1-2-6:73

Uchida amended the intensive agriculture use definition to be consistent with the Hamakua leases. The staff recommendation is that the Board find the area to be an economic unit and authorize

the sale of a lease at public auction covering the subject area for intensive agriculture purposes.

Unanimously approved as submitted. (Yuen/McCrory).

ITEM D-23 SALE OF TWO LEASES AT PUBLIC AUCTION FOR PASTURE PURPOSES, WAIAKEA, HAWAII, TMK: 2-4-5:1 & 2-4-51: 1

Uchida recommended amending the lease term from 30 to 20 years for pasture leases. The staff recommendation is that the Board authorize the sale of a lease at public auction for pasture purposes subject to terms and conditions. Uchida said the lands are, unencumbered and that there are flooding problems.

Unanimously approved with lease term amendment from 30 to 20 years. (Yuen/McCrory).

ITEM K-3 CONSENT TO AMENDED CONTRACTUAL AGREEMENT FOR HERITAGE TOUR BOAT LANDINGS AT PIER 7, HONOLULU HARBOR, OAHU (HAWAII MARITIME CENTER AND X-5 CORPORATION)

Peter Garcia said the original agreement was approved in 1994 by the Board and that the amendment is to; 1) Recognize a third party, Ocean Adventures, to operate the Vessel under agreement with X-5, guarantee the obligations and responsibilities of X-5, and to pay to Hawaii Maritime Center (HMC) ten percent of its annual profit before income taxes on or before March 31 following each year of operation under the contract; 2) Eliminate admissions as per schedule; and 3) Include a provision on complimentary passengers as amended. The staff recommendation is that the Board approve and consent to the contractual agreement, as amended subject to terms and conditions.

There was discussion about the graduated admission charges. Garcia said it was felt that the 1,500 admissions per month was not attainable and that it was more reasonable to have a graduated schedule.

Unanimously approved as submitted with clarification to the graduated admission charges for the first year and to be reviewed at the end of the first year. (Matsumoto/Yuen).

ITEM K-4 TEMPORARY AGREEMENT FOR NONEXCLUSIVE ACCESS TO BARBERS POINT HARBOR, EWA, OAHU

Garcia said this allows Campbell Estate to nonexclusive access use of two gates and attendant roadways located on State land. The staff recommendation is that the Board approve the temporary agreement subject to terms and conditions.

Unanimously approved as submitted. (Matsumoto/Inouye).

**ITEM K-5 COOPERATIVE AGREEMENT FOR THE USE OF STATE LAND AT PUA
KA 'ILIMA 'O KAWAIHAE, KAWAIHAE HARBOR, SOUTH KOHALA,
HAWAII**

Garcia said the purpose of this item is for recreational, educational and cultural purposes and that the perpetuation and maintenance of the area for the ocean-related recreational activities, vital to the health and quality of life of the community, shall be at no cost to the State. The staff recommendation is that the Board approve the cooperative agreement subject to terms and conditions.

Unanimously approved as submitted. (Yuen/McCrory).

**ITEM K-6 ISSUANCE OF REVOCABLE PERMIT, KEEHI INDUSTRIAL LOTS,
HONOLULU, ISLAND OF OAHU**

Garcia said the applicant is Island Recycling and the purpose is receiving, processing and shipping of recyclable materials. The staff recommendation is that the Board authorize the DOT issue the applicant a revocable permit subject to terms and conditions.

Unanimously approved as submitted. (McCrory/Matsumoto).

**ITEM K-7 ISSUANCE OF REVOCABLE PERMIT, PUBLIC PARKING AREA, HILO
HARBOR, ISLAND OF HAWAII**

Garcia said the applicant is Kumiko S. Brandon and the area is approximately 200 square feet of open-paved land. The staff recommendation is that the Board authorize the DOT to issue the applicant a revocable permit subject to terms and conditions.

Unanimously approved as submitted. (Matsumoto/McCrory).

A break was taken and the meeting was reconvened at 1:30 p.m.

**ITEM J-1 APPROVAL OF CONSENT TO SUBLEASE, KEEHI MARINE INC.,
KALIHI KAI, ISLAND OF OAHU**

John Hino of DOBOR said the lessee is Keehi Marine, Inc. and there are no sandwich leases involved. The staff recommendation is that the Board approve the Consent to Sublease subject to terms and conditions.

Unanimously approved as submitted. (Inouye/Yuen).

**ITEM J-2 ISSUANCE OF REVOCABLE PERMIT TO HAWAII YACHT CLUB,
LOCATED AT THE ALA WAI BOAT HARBOR SITUATED AT KALIA,
WAIKIKI, HONOLULU, ISLAND OF OAHU**

Hino said staff recommendation is that the Board approve the Revocable Permit subject to terms and conditions.

Member Matsumoto asked about the Board's approval for a process request given a year ago to the DOBOR to do a bid on private parking operations. Chairperson Wilson asked Hino to place this on the next agenda for an update.

Unanimously approved as submitted. (Matsumoto/Inouye).

ITEM J-3 ISSUANCE OF REVOCABLE PERMIT TO TRILOGY CORPORATION FOR THE USE OF LANDS FOR LANDSCAPING PURPOSES, SITUATED AT THE MANELE BOAT HARBOR, ISLAND OF LANAI

Hino said staff recommendation is that the Board approve the issuance of the Revocable Permit subject to terms and conditions. Member Matsumoto clarified that the revocable permit will be used only for landscaping purposes and for no other activities.

Jim Coon introduced himself as the Chief Executive Officer of Trilogy Corporation. He said the building of this project should be completed within the next 2 months, and that the landscaping will be completed in June. He asked the Board to consider the monthly charge as Trilogy is doing the landscaping mainly for the Community and that they will also maintain the area. Coon said the Manele Advisory Committee passed the proposal even though Ron McComber, one of the committee members opposed it.

Unanimously approved as submitted. (Matsumoto/Inouye).

ITEM D-26 CANCELLATION OF LEASE AND REVERSION OF STATE-OWNED LAND TO KAU AGRIBUSINESS CO., INC., HAWAII NATIONAL GUARD PAHALA ARMORY SITE, PAHALA, KAU, HAWAII, TMK: 9-6-18: 9 & 30

Uchida said when the lands were acquired, there was a reverter clause in the lease. The staff recommendation is that the Board authorize the conveyance in fee simple, to Ka'u Agribusiness and to authorize the immediate cancellation of the lease agreement.

Unanimously approved as submitted. (Yuen/McCrory).

Member Yuen asked about a parcel in Kona that had been conveyed to the sugar plantation by the State with a reverter clause for use as a railway station which has not been used. He asked Uchida to check into it.

Uchida to check on the improvements and the hazardous substances on the parcel. Member Matsumoto suggested that a protection clause be included in the lease.

**ITEM D-29 DEPARTMENT OF HEALTH REQUEST RENEWAL OF LEASE
AGREEMENT #94-411, PUNA, HAWAII, TMK: 1-4-1: POR. 44**

Uchida said staff recommendation is that the Board approve the renewal of the lease subject to terms and conditions.

Unanimously approved as submitted. (Yuen/McCrory).

**ITEM D-30 DIRECT SALE OF PORTIONS OF AN ABANDONED RAILROAD
RIGHT-OF-WAY, WAIAKEA, HAWAII, TMK: 2-2-23**

Uchida said staff recommendation is that the Board approve the direct sale subject to terms and conditions.

Unanimously approved as submitted. (Yuen/McCrory).

**ITEM D-31 DIRECT SALE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT TO
HAWAII ELECTRIC LIGHT CO., INC. FOR ANCHOR PURPOSES,
KOHALA, HAWAII, TMK: 5-5-4: POR. 6**

Uchida said an amendment under consideration is for the use of an independent appraisal or staff appraiser to determine the sum owed to the State. The staff recommendation is that the Board authorize the direct sale of the easement subject to terms and conditions.

Unanimously approved with amendment for a sum to be determined by an independent appraisal or staff appraiser. (Yuen/Matsumoto).

**ITEM D-32 FORFEITURE OF GENERAL LEASE NO. 3631, A & A HAWAII,
INC., LOT 11, KANOELEHUA INDUSTRIAL LOTS, WAIAKEA,
SOUTH HILO, HAWAII, TMK: 2-2-50: 79**

Uchida said the cancellation is due to failure to keep lease rent payments current. The staff recommendation is that the Board authorize to terminate the lease subject to terms and conditions.

Unanimously approved as submitted. (Yuen/McCrory).

**ITEM D-33 WITHDRAWAL AND SET ASIDE TO THE STATE OF HAWAII,
DEPARTMENT OF TRANSPORTATION FOR ROAD PROJECTS AT
PUNA, HAWAII, TMK: 1-5-3:45, 1-5-7: 62; 1-5-116:18,
19, 46, ROAD; 1-5-5-ROAD; 1-5-6-ROAD AND 1-5-3-ROAD**

Uchida said staff recommendation is that the Board approve of and recommend to the Governor issuance of an executive order setting aside the property to the State of Hawaii, DOT, withdrawal from the Governor's Executive Order 3109 and 3380, and withdrawal from General Lease #S-3944 subject to terms and conditions.

Unanimously approved as submitted. (Yuen/McCrory).

ITEM D-34 COUNTY OF HAWAII REQUEST FOR A RIGHT-OF-ENTRY AT NORTH AND SOUTH KOHALA, HAWAII, TMK: 5-6-1:35; 5-7-1:4; 5-8-1:2, 5, 6; 5-9-3:2, 4

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

Member Yuen said that written testimony was received in opposition of the project. He clarified that the Board is not the decision maker on this project and that the decision today is to allow the County access on the State land to do engineering and other studies, that the action does not reflect the merits of the project itself.

Unanimously approved as submitted. (Yuen/McCrory).

ITEM D-35 FINAL EXTENSION OF CONSTRUCTION DEADLINE, SPECIAL SALE AGREEMENT NO. S-5598, LOT 99, HANAPEPE TOWN LOTS, FIRST SERIES, HANAPEPE, WAIMEA (KONA), TMK: 1-9-10:50

Uchida said staff recommendation is that the Board approve an extension of the dwelling construction deadline to June 12, 1998.

There was a discussion on whether or not the applicant would be able to complete construction by the deadline date and what would the next step be.

Unanimously approved as submitted. (McCrory/Matsumoto).

ITEM D-37 GRANT OF PERPETUAL NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT AFFECTION A PORTION OF STATE OWNED LANDS, KAPAA, KAWAIHAU, KAUAI, TMK: 4-5-15:8

Uchida said staff recommendation is that the Board authorize the sale of the perpetual non-exclusive easement subject to terms and conditions.

Unanimously approved as submitted. (McCrory/Yuen).

ITEM D-38 ASSIGNMENT OF GENERAL LEASE NO. S-5042, LOT 87, KOKEE CAMP SITE LOTS, WAIMEA (KNOA), KAUAI, TMK: 1-4-4:52

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

Unanimously approved as submitted. (McCrory/Yuen).

ITEM D-39 AMEND REVOCABLE PERMIT NO. S-7087, PORTION OF LOT 173,
KAPAA HOMESTEADS, 3RD SERIES, KAPAA, KAWAIHAU (PUNA),
KAUAI, TMK: 4-6-8:1

Uchida said staff recommendation is that the Board amend the previous their actions of February 28, 1997 and June 13, 1997, by deleting Adam Klausner from the permit subject to terms and conditions.

Unanimously approved as submitted. (McCroory/Yuen).

ITEM D-40 CERTIFICATION OF ELECTION AND APPOINTMENT OF SOIL AND WATER CONSERVATION DISTRICT DIRECTOR

Uchida said staff recommendation is that the Board appoint Karen Klein as District Director of the Kona Soil and Water Conservation District to fill the unexpired term of Hilary Brown.

Unanimously approved as submitted. (McCroory/Inouye).


The meeting was adjourned at 2:07 p.m.

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 parties present. A copy of the agenda is attached for reference.

Transcribed by,


Barbara E. Kameda

Approved for submittal:



MICHAEL D. WILSON
Chairperson
Board of Land and Natural Resources