

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

DATE: FRIDAY, JANUARY 30, 1998
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII

Chairperson Michael D. Wilson called the meeting of the Board of Land and Natural Resources to order at 9:28 a.m. The following were in attendance:

MEMBERS:

Mr. Michael D. Wilson	Mr. Colbert M. Matsumoto
Mr. Christopher J. Yuen	Ms. Lynn P. McCrory
Mr. William Kennison	Ms. Kathryn W. Inouye

STAFF:

Mr. Dean Uchida, Land Division	Mr. Bill Devick, Aquatic Resources
Mr. Michael Buck, Forestry and Wildlife	Mr. Ralston Nagata, State Parks
Mr. Paul Conry, Forestry and Wildlife	Ms. Aulani Wilhelm, Public Information Office
Ms. Carol Terry, Forestry and Wildlife	

OTHERS:

Mr. Ray Enos, Attorney General's	Mr. Peter Garcia, Dept. of Transportation
Mr. Randall Young, Attorney General's	Mr. David Kimo Frankel, Sierra Club, C-3 and C-5
Mr. James A. Frazier, NELHA, D-24	Mr. Steven Kubota, Ahupua'a Alliance, C-3 and C-5
Admiral Kihuni, NELHA, D-24	Mr. J. Gordon Cran, Kapapala Ranch, D-4
Mr. Steve Holmes, Councilmember, D-10	Mr. John Morgan, Kualoa Ranch, D-10
Mr. John Reppun, D-10	Mr. Dick Tillson, Ski Shop Hawaii, D-26

APPROVAL OF MINUTES OF OCTOBER 30, 1997:

Page 9, paragraph 4 was amended to read:

Member McCrory referred back to the draft that came out in September. She said the intent of that draft was there would be interim rules.....

Page 10, paragraph 4, 3rd sentence was amended to read:

....one year period or until these rules are amended in **compliance** with a community based planning process such as the LAC process and the completion of an environmental study...

The minutes of the meeting of October 30, 1997 was unanimously approved as amended. (McCrary/Yuen).

APPROVAL OF MINUTES OF DECEMBER 12, 1997:

Page 3, paragraph 5 was amended to read:

Member Kathryn Inouye recused herself due to conflict of interest.

Page 6, paragraph 2, was amended to read:

Member Lynn McCrary felt that by increasing or decreasing the rentals, the Division is "balancing the situation with the **market** reality". (Delete next sentence that reads: Her concern is that, "everyone is walking in the door".)

The minutes of the meeting of December 12, 1997 was unanimously approved as amended. (McCrary/Yuen).

ITEM C-3: POLICY FOR COMMERCIAL ACTIVITIES ON STATE OWNED AND MANAGED LANDS AND WATERS

Mr. Michael Buck, Administrator of the Division of Forestry and Wildlife (DOFAW) stated that on October 10, 1997, the Board approved an application of the proposed department-wide commercial use policy for the Na Ala Hele trails and access program and deferred action on the proposed department-wide commercial activities. He said some concerns remained on the specific implementation of the policy among the Department's many line divisions. There was also uncertainty concerning the policy's impact on not for profit organization that had a long term history of utilizing activities on public lands. Staff's recommendation is: 1) that the Board accept the final report of Findings and Recommendations from the Department's Commercial Use Task Force, and acknowledge the fine work of the Task Force in establishing the basis for the Department's commercial use policies, and 2) the Board adopt the commercial use policies and direct the Department to develop the appropriate standards and processing mechanisms to implement these policies as needed.

Chairperson Wilson shared, with other Board members, his concerns of the

subject commercial use policy. He said the growing interest in using public lands for eco-tourism has been combined with an economic challenge for the state's required budget cuts. He explained that a lot of work has been done for over a year to come to this point and it seems that this policy would not limit the board's discretion, it would help give direction to the staff about how to pursue requests for commercial use.

Member Yuen suggested changing page 3 of the staff submittal to read: "Reasonable fees...should be assessed based on a percentage **and/or per capita** of gross revenues.... and, page 2 to read: "Any new permits for commercial activity should have **explicit** conditions. Chairperson Wilson suggested changing page 3 to read: "Reasonable fees Not for profit groups that charge fees only to cover administrative costs **can** be exempted from fees. His concern was that a non-profit organization could take 2,000 people through a trail and that could be an impact. He said perhaps there should be additional charges based on impacts.

There was some discussion on the definition of "Use". Member Inouye asked if the placement of the definition in the document was appropriate. Her concern was that it was not found contextually within the document. Mr. Buck stated that it is not. He said this process was set in place when they made the new conservation district rules that defined "Use". Chairperson Wilson suggested taking it out. Member Inouye stated to either take it out or just expand on "Activity" as compared to what a "Use" is.

There was some discussion on "Passive Use". Member McCrory said she was confused on passive use in terms of looking at it being hiking. She asked if this commercial use policy would not be applicable to van tours or mountain tours. Mr. Buck said if this is considered a passive use and the department decided that they wanted to charge a reasonable fee, then they would have the ability to do that. Chairperson Wilson added that part of the reason it has been put together as the report indicated is because we do have areas where large number of tour buses come through and use the bathroom so frequently that it displaces the recreational public and now this gives a manager the opportunity to enter into a discussion with a company and try and work it out.

There was some discussion about "Commercial Activity" and the distinction of legitimate "Non-profit" organizations. . Member Yuen stated that he felt school groups should not need to contact DLNR for the use of a state park because they are non-commercial. He suggested adding to the definition of Commercial Activity "the collection of fee charges or other compensation for the use of state land or for services rendered on state land". Member McCrory stated that if we start defining it like that, we will have a whole bunch of people figuring out how to get around that, diligently. She stated that the schools in following the

responsibility towards the parents and the teachers would want to make sure that things are fine and they can take the children and they would make that call for a safety factor. Chairperson Wilson said we should not go out of our way to extend the definition of commercial activity to something that involves a fee period. Mr. Buck said the way it's written is if you are a not for profit charging a fee, be it administrative, you would need to make a phone call and just let the person know that you are going there.

Mr. David Kimo Frankel representing the Sierra Club testified in opposition to the staff submittal. He stated that the issue that needs to be dealt with is the commercial operators. The commercial operators are either a problem or a potential problem, so rather than define commercial and non-profit, define commercial operator as anyone who uses the same sight in any three or four week period. He said if you come up with a definition like that, you won't have a problem with school groups, Hawaii Nature Center or Sierra Club and you deal with the specific problem which is somebody making money off of the states land and resources. Mr. Frankel said there is another problem with the proposal and that is the MOA system. He said there is no criteria, you can not adopt a policy where you are going to exempt people without any criteria. He stated that the clear criteria needs to be set forth up front.

Mr. Steven Kubota representing the Ahupua'a Action Alliance stated that the central issue his organization is concerned about is that there needs to be a clear commitment definition or policy regarding native Hawaiian uses. He explained that the Alliance's activities are centered around the fact that the residence of Kahana Park are part of the state's policy to restore the taro loi. He stated that another issue that is really problematic is the definition of commercial activity. The board should look at the issue of how to define commercial activity. The board should also establish some policies on what is an earth friendly type of commercial activity. He said he supports the idea that they should not be required to go through making phone calls and permits.

A motion was made to approve Item C-3 with the following amendments:

- 1) amend page 2 to read: Any new permits for commercial activity should have **explicit** conditions...;
- 2) amend Policy on page 3 to read: Reasonable fees for commercial users should be assessed based on a percentage **and/or per capita** of gross revenues....; and
- 3) add a new last sentence for the definition of Commercial Activity on page 3: Charging of a nominal amount to cover direct expenses where there is no compensation for a guide does not make a activity commercial.

(Yuen/Inouye).

There was some confusion among the board members about the definition of and "commercial". Mr. Buck stated that defining commercial is a huge issue. He said he knows the struggle that the task force went through in defining commercial and they tried to simplify it because it got very complicated. He said they went through all these issues and that is how they came up with "exchange of money". He said the major implications of this policy will be: 1) our ability to exclude commercial activities on certain activities where we do not think they are appropriate, 2) legitimate people that are looking for some process and policy direction, and 3) illegal people who are obviously commercial. He said there is some reasonableness that things can be worked out to deal with the legitimate not for profits. Mr. Buck requested to discuss this with staff.

Discussion on Item C-3 was suspended to allow Mr. Buck to gather information from staff personnel.

ITEM D-24: DELEGATION OF AUTHORITY TO THE CHAIRPERSON FOR THE APPROVAL OF NELHA'S FUA AND FRA AT NORTH KONA, HAWAII

Mr. Dean Uchida, Acting Administrator of the Land Division presented the staff submittal recommending the Board's approval to delegate the authority to the Chairperson to approve the Facilities Use Agreements (FUA) and Facilities Rental Agreements (FRA) for periods of one year or less subject to conditions.

In response to Member McCrory's question regarding a time limit on the general incubation period, Mr. James A. Frazier, Executive Director of the Natural Energy Laboratory of Hawaii Authority (NELHA) stated that they target the initial request and then two renewals. Admiral Kihuni, Chairperson of the NELHA added that there is a three-year limit before it has to come back to the board. (Written testimony submitted)

In response to Member Yuen's question regarding the maximum of three years under which someone would operate under an FRA. Admiral Kihuni said there is no maximum, the maximum is set by the NELHA Board. Member Yuen suggested a total of four years without having to go to the Land Board.

Member Yuen moved to approve D-24 with the following amendment to staff recommendation A to read as follows:

- A. Delegate its authority to the Chairperson to approve NELHA's Facilities Use Agreement (FUA) and Facilities Rental Agreement (FRA) that only cover a period of one (1) year or less; **provided that the Chairpersons authority is limited to 4 consecutive one (1) year agreements, any**

agreements after the 4th year must be approved by the BLNR.

Unanimously approved as submitted (Yuen/Kennison).

ITEM D-4: APPROVE ECO-TOURISM PLAN FOR GENERAL LEASE #S-5374, KAPAPALA, HAWAII, TMKS: (3) 9-8-1-PORITION 3, -9, -10 AND 9-7-1-PORITION 1

Mr. Uchida said in August of 1997, the board approved and amended the character of use for General Lease #S-5374. He said at that time the board discussed the commercial use policy which is also being discussed today under another agenda item (Item C-3). He stated that there are measures in place that can address the hierarchy that was established in the policy that's been before the board today and that the commercial operation proposed is compatible and complimentary with the ranches operation. He said the action today is to take a look at the plan and approve it to allow Kapapala Ranch to begin the County permitting process. The staff has received some comments from other agencies and everybody is very supportive with Mr. J. Gordan Cran's effort. Staff's recommendation is that the board approve the eco-tourism plan for General Lease #S-5374 subject to our standard conditions.

In response to Chairperson Wilson's question regarding the definition of the compatibility with the hierarchy of the commercial use policy. Mr. Uchida stated that the hierarchy that's being proposed in this policy is first the protection of the resources, second the resources being available to the general public and third the commercial operators. In this case the concern about the impact to the general public is a moot issue because the ranch will be responsible for that area. He added that Kapapala Ranch has a very good track record with us and they have kept the lease area well maintained and utilized.

Member Yuen asked Mr. J. Gordan Cran, owner of Kapapala Ranch (present at meeting), to coordinate his commercial activities with hunting so that there is no conflict between the two.

Unanimously approved as submitted (Yuen/Kennison).

ITEM D-20: AUTHORIZATION FOR A DIRECT SALE OF LOT 11 OF THE PALOLO HOMESTEAD LEASE LOTS, COVERED UNDER CERTIFICATE OF OCCUPATION NO. 90 A, AT WAIOMAO, PUKELE, PALOLO VALLEY, TMK: 1ST/3-4-03: 09

Mr. Uchida presented the staff submittal recommending that the board authorize the direct sale of this lot to the existing certificate of occupation holder subject

to our standard conditions.

Unanimously approved as submitted (Inouye/McCrory).

ITEM C-5: REQUEST FOR APPROVAL OF A CONTRACT WITH THE HAWAII FOREST INDUSTRY ASSOCIATION (HFIA) TO CONDUCT SERVICES RELATING TO IMPLEMENTING PROJECTS OF THE STATE'S HAWAII FORESTRY AND COMMUNITIES INITIATIVE PROGRAM

Mr. Buck presented the staff submittal recommending that the Board authorize the Chairperson to execute the subject contract with the Hawaii Forest Industry Association (HFIA) in the amount of \$89,500, pending any modification and approval as to form by the Attorney General's Office.

Mr. Frankel testified in opposition to approving the staff submittal. He was concerned about the strong attacks in the HFIA newsletter against certain environmental organization. He asked if it was appropriate for the State to subsidize HFIA's newsletter. He suggested that there be some balance in the HFIA symposium for those that disagree with the HFIA's mission.

Chairperson Wilson stated that Mr. Frankel brings up a good point about the extent into which DLNR will be participating. He said that he hopes this newsletter will communicate what our Hawaii Forest Community Initiative is attempting to do and not just promote the agenda of the HFIA.

Mr. Kubota stated that if the state will contribute into the newsletter, perhaps an agreement could be reached that extra copies be reproduced and distributed beyond the mailing list and made available to the general public.

Chairperson Wilson asked Mr. Buck to talk to Mr. Mike Robinson and make sure that the interested public is acquitted in the mailing. He said there are communities on the Big Island and Kauai who would also be interested. Mr. Buck stated that this is not the only vehicle that the HFIA is going to utilize to get the word out.

Unanimously approved as submitted (Yuen/McCrory).

ITEM D-10: SET ASIDE TO THE CITY AND COUNTY OF HONOLULU, DEPARTMENT OF PARKS AND RECREATION, FOR BEACH PARK PURPOSES, ACCRETED LANDS FRONTING MOLII FISH POND AT HAKIPUU, KOOLAUPOKO, OAHU, TMK: 1ST/4-9-03, MAKAI OF MOLII FISH POND

Mr. Uchida stated that the area is presently unencumbered and is in the agriculture district of the State Land Use Commission. He said this is a request made by the City and County of Honolulu, Department of Parks and Recreation to add this to their existing Kualoa Beach Park area. Staff's recommendation is that the Board authorize the issuance of an Executive Order setting aside the subject land area to the City and County for an addition to the Kualoa Beach Park and to also authorize the immediate right-of-entry to the City and County for beach park purposes subject to our standard conditions.

Councilmember Steve Holmes, representative of Windward Oahu from Kailua to Kahaluu, testified in support of the staff submittal. He said he has been to the sight on numerous occasions, and it's been subject of much public discussion. He stated that their attorney has looked through this very carefully and feels that the state has every right to claim this as accreted land. He added that he has a masters degree in geology and it's clear to him that the land at Kualoa Park is under migration. (Written testimony submitted.)

Mr. John Morgan, President of Kualoa Ranch, Inc. testified in opposition to approving the staff submittal. He said the land that has been accreted to the Molii Fish Pond wall and sea shore is private property, owned by Kualoa Ranch. He stated that the State Abstractor and the Oahu District Land Agent has either intentionally or negligently disregarded a cornerstone of title law in Hawaii that Kualoa Ranch Inc., as the owner of Molii Fish Pond, has rights with respect to accretion. He urged the Board members to ask the Oahu Land Agent for more information regarding the source of title. He said that legal title is the issue here and the Land Board deserves to hear the Attorney General's response to our legal arguments regarding our claims before you are asked to make a decision to set aside this property. (Written testimony submitted.)

Member Matsumoto asked if Kualoa Ranch was notified of the contention that the parcel was not accreted land. Mr. Uchida stated that there has been no direct communication with Kualoa Ranch. He said the City asked for a set aside, we did research on the title, our abstractors found that we own the land, so we proceeded with following through with the request on the set aside.

Mr. John Reppun testified in support of staff's recommendation. He stated that he would like to encourage the land board to resolve this issue of ownership. He stated that he does not approve of the commercialization on these accreted lands and supports the idea of handing it over to the City for public use.

Mr. Kubota said the issue of land title is beyond the Board. He urged the board to make a decision that would turn this over to the court. He said he supports the intent with respect to the landowner, but believes the research that the land agent has done puts the board in a relatively reasonable position to make a decision.

A motion was made at 12:15 p.m. to go into Executive Session to consult with the Attorney General. (Yuen/Matsumoto.) The meeting was reconvened at 1:20 p.m.

Member Inouye made a motion to quit claim whatever interest we have to the City and County. Member Yuen added that as long as the City and County uses it for park purposes.

Member Matsumoto stated that the testimony of Kualoa Ranch raises some serious issues with regards to the property rights of Kualoa Ranch as the adjacent land owner and as a result it would be premature to take any action asserting any kind of rights with respect to the property. He added that this matter deserves more investigation before we attempt to exercise any control over the property, and he would view quit claim deed as an attempt to exercise the property right. He said to that extend he will not be supporting the motion.

After consulting with the Deputy Attorney General (DAG) Randall Young, Member Inouye suggested one of two things: 1) move this issue forward by doing the quit claim, subject to the AG's review, or 2) not do a quit claim and refer it to the AG's for review. Member Yuen said he would like to support the quit claim. Member McCrory supported the quit claim with review by the AG's office.

Member Inouye withdrew her motion. McCrory seconded.

A motion was made to defer Item D-10 and refer this to the AG's office to review the question of whether or not the state has legal title to the accreted land. (Matsumoto/Inouye).

Member Yuen added that this issue has been floating around for sometime and people of the community are very interested in what is the story. He requested staff to move on it, it should not be pending forever, the state should come up with a position of whether its private or state. Mr. Uchida said he will speak to the AG and see how we can expedite the review. Chairperson Wilson asked Mr. Uchida to let him know by next week, when we can put it back on the board agenda.

ITEM D-26: CANCELLATION OF VARIOUS MONTH-TO-MONTH REVOCABLE PERMITS ON HAWAII

Mr. Uchida said staff's recommendation is that the board cancel these permits, because the permittees have not provided there required liability insurance coverage. He requested to withdraw RP S-6603, Kailua-Kona Development

Corporation, who has provided the necessary certificate of insurance. He said he would like to proceed with the cancellation of the remaining permits, RP S-5257, RP S-6998 and RP S-6997.

Mr. Dick Tillson, representing the Ski Shop Hawaii (RP S-6997), testified in opposition to the cancellation of his permit. He said that he is not in operation, and if he is not in operation, there is no liability insurance. He explained that he is in a position where his insurance agent is ready to implement his insurance before he starts any activity.

Member Yuen suggested adding a condition that requires the insurance agent to submit a letter which states that the insurance agent is prepared to have a policy issued upon payment and that the insurance company will fax a copy of the insurance certificate showing that the insurance is in effect. He added that the department should write an acknowledgement letter for the permittee to sign with the agreement that they are not allowed to engage in any operation under their permit without the required insurance.

Member Yuen made a motion to, withdraw RP S-6603 Kailua-Kona Dev Group, cancel RP S-5257 Kau Agribusiness, subject to conditions 1 through 6, and add condition 7 which reads as follows::

7. That for RP's S-6997 and 6998, the following are additional conditions to their permit, which effectively modifies Condition 9 of their Permit in the following manner:
 - A. The permittee is required to obtain a letter from an authorized insurance agent which states that upon request from the permittee, the company will immediately provide the necessary insurance in the amounts specified in the permit. This will include an agreement that the insurance company and/or agent will fax or deliver the insurance certificate to the HDLO.
 - B. The permittee is required to sign an acknowledgement letter indicated that the permit will be automatically cancelled in the event the permittee operates on the state lands without the required insurance.

Unanimously approved with amendments (Yuen/Kennison).

ITEM D-2: DEPARTMENT OF HEALTH REQUEST FOR CONSENT TO REVISION/RENEWAL OF REVOCABLE PERMITS AND ISSUANCE OF A NEW REVOCABLE PERMIT AT KAUAI VETERANS MEMORIAL

HOSPITAL, WAIMEA, KAUAI

Mr. Uchida stated that the Department of Health (DOH) is requesting for consent to revise and renew three existing Revocable Permits to Wilcox Health Care System, Crane Eye Care and HPI Pharmacy, and the issuance of a new Revocable Permit to St. Frances Renal Institute of the Pacific, at the Kauai Veterans Memorial Hospital. He said the staff's recommendation is that board consent to the issuance, renewal and revision of the permits, subject to our standard conditions.

Unanimously approved as submitted (McCrorry/Yuen).

ITEM B-1: REQUEST FOR APPROVAL TO CONDUCT A CORAL REEF MONITORING WORKSHOP ON JUNE 9-11, 1998 AT THE EAST-WEST CENTER, UNIVERSITY OF HAWAII

Mr. Bill Devick, Acting Administrator for the Division of Aquatic Resources presented the staff submittal recommending that the Board approve the expenditure of funds to hold the coral reef monitoring workshop.

Unanimously approved as submitted (Yuen/Kennison).

ITEM C-3: POLICY FOR COMMERCIAL ACTIVITIES ON STATE OWNED AND MANAGED LANDS AND WATERS

Discussion continued on Item C-3.

Mr. Buck recommended some language to the board that reads: Not for profit group that charge only a nominal fee to cover administrative cost that utilize a public facility or resource at a frequency or magnitude that does not significantly contribute to the degradation of the facilities and or resource, would be considered non-commercial. Member Yuen agreed and modified his previous motion.

Member Inouye stated that she was confused about the definition of Undue Damage or Impact. She asked if this definition should include excess damage. She stated that her concern was that there are also damages that are not easily mitigated and you want to prevent that kind of damage. She said that this is saying only if it does permanent damage, but if its excess damage you might want to include it. Mr. Buck said he will change the definition of Undue Damage or Impact, the per-capita, "explicit" rather than "implicit" and the extraction of the natural resources to help further define activity. Member Inouye added that on page 2, second to the last paragraph that reads: This will ensures that managing

agencies...., delete the the s from ensures.

Unanimously approved as amended (Yuen/Inouye).

ITEM C-1: CHAPTER 13-107, RULES REGULATING THREATENED AND ENDANGERED PLANTS, AND CHAPTER 13-124, RULES REGULATING INDIGENOUS WILDLIFE, ENDANGERED AND THREATENED AND INTRODUCED WILD BIRDS

Mr. Buck presented the staff submittal recommending the Board's approval of Chapter 13-107 and Chapter 13-124 and subsequent submittal to the Governor's office for final approval. He presented a prop to the Board members and said that Member Inouye has volunteered to be the first recipient of garden grown hibiscus fracin----, this is something that can be grown in the backyard and not have to worry about licenses or permit.

In response to Member Matsumoto's question regarding the value of the tag. Mr. Buck stated that the tag is more for identification so that people can be assured that they are buying a garden grown endangered plant and that it is not something from the wild.

Member Yuen was concerned about the public hunting on private land provision. He asked why is the farmers misfortune a hunting opportunity. Mr. Buck said this is a hot issue and what we are saying is before we give them an animal control permit we want a chance to look at the situation and decide if there is an opportunity to provide public hunting, he might want to say that he is going to fence his boundary rather than have public on his land. He said that it is a policy call.

Member Yuen asked to define feasible and how this would work with someone's liability insurance. Mr. Paul Conry, Wildlife Program Manager said that DOFAW is actually running the hunt, so we would take over alot of the responsibilities. He said this is an agreement that we have with the private landowner. Mr. Buck requested a recess from this item so that he could work on a some language to give some policy direction.

Discussion on Item C-1 was suspended to allow Mr. Buck and staff to gather information.

ITEM C-2: RESOLUTION IN SUPPORT OF THE TEAMING WITH WILDLIFE FUNDING INITIATIVE

Mr. Buck presented the staff submittal recommending the Board's approval of the resolution and authorize the Chairperson to transmit copies of the Resolution to the Governor, Hawaii Congressional Delegation, State Legislature and other

influential members to seek their support of this initiative.

Unanimously approved as submitted. (Yuen/Inouye)

ITEM C-4: REQUEST APPROVAL OF CONTRACT WITH HAWAIIAN MAHOGANY COMPANY, INC. TO PARTICIPATE IN THE STATE FOREST STEWARDSHIP PROGRAM

Mr. Buck presented the staff submittal recommending that the Board approve the Contract with Hawaiian Mahogany Company, Inc., and the Department of Land and Natural Resources, Division of Forestry and Wildlife, to participate in the implementation of the State Forest Stewardship Program.

In response to Member Matsumoto questions regarding Hawaiian Mahogany Company not being committed to matching the states contributions and the payback will not start until he actually starts to sell which could mean another fifteen years. Mr. Buck stated that this is an unusual situation in that we are even asking them to pay us back. He said the program was not designed as a revolving loan program, it was designed as a straight up cost share.

Member Matsumoto questioned the Compensation and Payment Schedule 1.2 (a) that reads: This payment shall not be subject to the State's approval of such progress report. He said it's puzzling that the contract is drafted in that fashion. Member Yuen suggested that it be changed. He said according to the budget for the first four years, the project could be done fifty-fifty but its not being presented that way. Member McCrory concurred with Member Matsumoto, especially because it seemed like a large loan and the state was not going to get a return coming back for all of this funding. Member Inouye said she sees it more as a subsidy, the plan calls for a minimum fifty-fifty share the contractor has submitted a plan that shows that he wants to contribute more and it seems as though he's being penalized for that. Mr. Buck said we need to sit down and try to clean up some of the aspects that Member Matsumoto brought out. He said he wasn't sure if he could bring it back to the board, but we are talking about a change in how we implement this program. Member Matsumoto said that there is no lack of support on his part in terms of approving this contract. He stated that these things should have been thought out before this contract was drafted.

Unanimously approved as amended (McCrory/Yuen).

ITEM C-1: CHAPTER 13-107, RULES REGULATING THREATENED AND ENDANGERED PLANTS, AND CHAPTER 13-124, RULES REGULATING INDIGENOUS WILDLIFE, ENDANGERED AND THREATENED AND INTRODUCED WILD BIRDS

Discussion continued on Item C-1.

Mr. Conry suggested to insert the language "on parcels larger than 300 acres". He said the rationale for selecting 300 acres is that the State has a public hunting area that is 267 acres. He stated that they approached these things with not only acreage size in mind, but looked at it as far as the neighborhood and whether the public safety and concerns are a factor. He said they were also sensitive to the desires of the landowner so that the small farmer is not going to be put into liability. He added that they would probably get into discussion with the landowner and give him a control permit, but clearly this is a situation where public hunting can be used in the future.

Member Yuen moved to approve Item C-1 with the amendment to 13-124-7 (a)(2) to read as follows:

- (2) Permits to control game mammals and game birds on parcels larger than 300 acres, may be issued only when.....

Unanimously approved as amendment (Yuen/Inouye).

ITEM E-1: APPROVAL TO ENGAGE THE SERVICES OF A CONSULTANT TO RESEARCH, DESIGN, AND PRODUCE CAMERA-READY LAYOUT FOR INTERPRETIVE SIGNS AT DIAMOND HEAD STATE MONUMENT ON OAHU AND KEKAHA KAI STATE PARK AND KEALAKEKUA BAY STATE HISTORICAL PARK ON THE ISLAND OF HAWAII

Mr. Ralston Nagata, Administrator for the Division of State Parks said this is for an approval to engage the services of a consultant for interpretive signage at Diamond Head State Monument, Kekaha Kai State Park and Kealakekua Bay State Historical Park. He said the suggested consultant is The Sea Grant Program.

Unanimously approved as submitted (Inouye/Yuen).

ITEM E-2: AUTHORIZATION TO INSTALL YOUTH BALL FIELDS AT SAND ISLAND STATE RECREATION AREA, OAHU (TO BE DISTRIBUTED AT THE MEETING)

Mr. Nagata stated that Item E-2 will not be coming before the board. He said he talked to the Kalihi-Palama Community Council and the Neighborhood Board and they gave their support. He said that he also met with Land Division and the Department of Transportation and that's one of the reasons why we are holding off on the last two ball fields so that they can do more homework. It will be

coming back before the board later on.

No motion was made to withdraw Item E-2.

ITEM D-1: FORFEITURE OF GENERAL LEASE NO. S-5115, WAILUA

Mr. Uchida informed the Board that payment was made by lessee on Kauai.

Unanimously approved to withdraw Item D-1 (McCrorry/Matsumoto).

ITEM D-3: FORFEITURE OF GENERAL LEASE NO. S-3973, HANAPEPE

Mr. Uchida advised the Board of a change in the lease number identified on page 2, item E from General Lease No. S-5115 to General Lease No. S-3973.

Unanimously approved as amendment (McCrorry/Inouye).

ITEM D-5: REQUEST FOR WITHDRAWAL OF LAND FROM GENERAL LEASE NOS. S-5246 AND S-5122, AND COMMENSURATE REDUCTION OF LEASE RENTS, POR. OF HOOPAU SWAMP, HANAPEPE HOMESTEADS, KAUAI, TMKS: 5-4-2: 33, 34 AND 42

Unanimously approved as submitted (McCrorry/Inouye).

ITEM D-6: SALE OF THREE LEASES AT PUBLIC AUCTION FOR PASTURE PURPOSES ON HAWAII

Unanimously approved as submitted (Kennison/Matsumoto).

ITEM D-7: ISSUANCE OF A REVOCABLE PERMIT TO HILO MEDICAL CENTER, PIIHONUA, HAWAII, TMK: (3) 2-3-32-PORION 1

Unanimously approved as submitted (Yuen/Matsumoto).

ITEM D-8: DEPARTMENT OF HEALTH REQUESTS APPROVAL OF AMENDMENT NO. 11 OF LAND OFFICE DEED LOPP-OA-06, WAIKIKI, HONOLULU, OAHU, TMK: 2-6-03: 24 (PORTION)

Unanimously approved as submitted (Inouye/McCrory).

ITEM D-9: REQUEST FOR CONSENT TO THE ASSIGNMENT OF GENERAL LEASE OF EASEMENT NO. S-5199, HEEIA, KANEOHE, KOOLAUPOKO, OAHU,

TMK: 1ST/4-6-03: SEAWARD OF PARCEL 88

Unanimously approved as submitted (Inouye/McCrory).

ITEM D-11: AUTHORIZATION OF A MUTUAL CANCELLATION AGREEMENT OF GENERAL LEASE NO. S-3775 AND DIRECT ISSUANCE OF A LEASE AT LOT 36 OF THE WAIMANALO AGRICULTURAL SUBDIVISION AT WAIMANALO, KOOLAUPOKO, OAHU, TMK: 1ST/4-1-27: 09

Unanimously approved as submitted (Inouye/McCrory).

ITEM D-12: AMENDMENT TO PRIOR LAND BOARD ACTION OF FEBRUARY 9, 1996, AGENDA ITEM D-8 CONCERNING THE IWILEI ROAD WIDENING PROJECT BETWEEN SUMNER AND KUWILI STREETS, WITHDRAWAL OF LAND FROM GOVERNOR'S EXECUTIVE ORDER NO. 1126 AND CONVEYANCE IN FEE OF SAID LAND TO THE CITY AND COUNTY OF HONOLULU, DEPARTMENT OF PUBLIC WORKS, IWILEI FIRE STATION, LELEO AND KUWILI, IWILEI, HONOLULU, OAHU, TMK: 1ST/1-5-09: 10 (PORTION)

Unanimously approved as submitted (Inouye/Kennison).

ITEM D-13: SUPPLEMENTAL SUMMARY - ANNUAL REVIEW OF REVOCABLE PERMITS ON THE ISLAND OF HAWAII, MAUI/MOLOKAI, OAHU, AND KAUAI

Mr. Yuen stated that the report for Hawaii is inaccurate. He said Richard Smart is no longer our permittee, the new entity is Park Ranch Trust. He also said the percentage change column for this permit is incorrect.

Unanimously approved as amended (Yuen/Kennison).

ITEM D-14: AMENDMENT TO PRIOR BOARD ACTIONS OF DECEMBER 14, 1984 AGENDA ITEM F-12 AND SEPTEMBER 27, 1996 AGENDA ITEM D-32, PUBLIC AUCTION SALE AWARDED TO FRANK SEKIYA FOR AGRICULTURAL LEASE LOT 25, SITUATE AT WAIMANALO AGRICULTURAL SUBDIVISION, WAIMANALO, OAHU, TMK: 4-1-027: 30

Unanimously approved as submitted (Inouye/McCrory).

ITEM D-15: AMENDMENT TO PRIOR ACTION OF SEPTEMBER 12, 1997 (AGENDA ITEM D-21) ISSUANCE OF A REVOCABLE PERMIT TO BOB'S EQUIPMENT SALES AND RENTALS FOR BASEYARD AND SALES AND RENTAL CONSTRUCTION EQUIPMENT ON GOVERNMENT LAND SITUATED AT KALIHI-KAI, OAHU, TMK: 1-2-021: 40

Unanimously approved as submitted (Inouye/McCrory).

ITEM D-16: AFTER-THE-FACT REQUEST FOR PERPETUAL, NON-EXCLUSIVE EASEMENTS FOR GAS TRANSMISSION PIPELINE, KAPALAMA, HONOLULU, OAHU, TMK: 1-5-33: POR. 9 AND POR. KAPALAMA DRAINAGE CANAL

Unanimously approved as submitted (Inouye/Kennison).

ITEM D-17: CONSENT TO SUBLEASE BETWEEN HAWAII PLANNING MILL, LTD. DBA HPM BUILDING SUPPLY, AS SUBLESSOR AND BUDGET RENT A CAR SYSTEMS, INC. DBA BUDGET CAR SALES, AS SUBLESSEE. SUBLEASE OF STATE GENERAL LEASE NO. S-4443 IDENTIFIED AS TMK: 3RD/2-2-58: 01 (FORMERLY 3RD/2-2-47, LOT 1-B)

Member Inouye questioned the Computation Sheets. She said because the entire area is subleased to Budget Rent-A-Car it should not have any "Management and Vacancy loss."

Unanimously approved to defer Item D-17 (Inouye/Yuen).

ITEM D-18: ISSUANCE OF A REVOCABLE PERMIT TO MR. MICHAEL JACOBS FOR A BOAT PIER AT KANEOHE, KOOLAUPOKO, OAHU, TMK: 1ST/4-5-47: SEAWARD OF 56

Unanimously approved as submitted (Inouye/Matsumoto).

ITEM D-19: AUTHORIZATION FOR PUBLIC AUCTION SALE OF PASTURE LEASE COVERING GOVERNMENT LAND AT UPPER POUHALA, WAIKELE, EWA, OAHU, TMK: 1ST/9-4-12: 11

Unanimously approved as submitted (Inouye/Matsumoto).

ITEM D-21: AUTHORIZATION FOR PUBLIC AUCTION SALE OF GENERAL AGRICULTURAL LEASE COVERING GOVERNMENT LAND AT WAIALEE, KOOLAULO, OAHU, TMK: 1ST/5-8-01: 53

Unanimously approved as submitted (Inouye/Matsumoto).

ITEM D-22: AUTHORIZATION FOR PUBLIC AUCTION SALE OF DIVERSIFIED AGRICULTURAL LEASE FOR GOVERNMENT LAND SITUATE AT LOT 3, WAIMANALO AGRICULTURAL SUBDIVISION, WAIMANALO, KOOLAUPOKO, OAHU, TMK: 1ST/4-1-10: 32

Mr. Uchida requested that the item be withdrawn. He said DHHL has expressed interest in this property.

Unanimously approved to withdraw Item D-22 (Inouye/Kennison).

Chairperson Wilson asked staff to schedule a briefing for the Board about the background and status of the conveyance of the 16,518 acres to DHHL before the Board considers the request to amend the transfer agreement.

ITEM D-23: AUTHORIZATION FOR PUBLIC AUCTION SALE OF GENERAL AGRICULTURAL LEASE FOR GOVERNMENT LAND AT WAIALEE, KOOLAULO, OAHU, TMK: 1ST/5-8-01: 38

Unanimously approved as submitted (Inouye/Kennison).

ITEM D-25: RESCIND PRIOR BOARD ACTIONS FOR DIRECT SALE OF PERPETUAL, NON-EXCLUSIVE EASEMENTS AT HAMAKUA AND NORTH KONA, HAWAII, TMK: (3) 4-5-11-PORION 7 AND 7-4-8-PORION 3

Unanimously approved as submitted (Yuen/Kennison).

Mr. Uchida presented the Board with the Coastal Lands Program brochure. He said this was a Board briefing conducted by Dr. Chip Fletcher and Mr. Sam Lemmo. He stated that through Mr. Lemmo's hustle we were able to have these brochures printed out for free from Sea Grant. We are using this to take around to the legislature to talk about our Coastal Lands Program. Member Inouye commended Mr. Uchida and staff and said they did a very informative presentation to the Land Use Research Foundation on Coastal Management Program. Chairperson Wilson stated that David Polhemus, Editor of the Honolulu Advertiser is pushing this. He asked to issue a press release announcing that this form is available to help clarify our Coastal Lands Program. Mr. Uchida stated that they are trying to get the word out and get the legislators up to speed on this.

ITEM K-1: LEASE, HONOLULU INTERNATIONAL AIRPORT, OAHU (UNITED AIRLINES, INC.)

Unanimously approved as submitted (Inouye/Matsumoto).

ITEM K-2: GAMEROOM CONCESSION, HONOLULU INTERNATIONAL AIRPORT, OAHU (MAKAALA, INC.)

Unanimously approved as submitted (Inouye/Matsumoto).

ITEM K-3: ISSUANCE OF REVOCABLE PERMIT, NEAR PIER 32, HONOLULU HARBOR, OAHU (OAHU LUMBER & HARDWARE CO., LTD.)

Unanimously approved as submitted (Inouye/Kennison).

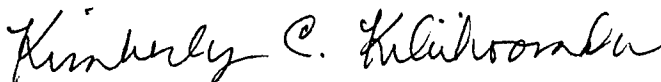
ITEM K-4: ISSUANCE OF REVOCABLE PERMITS, KEEHI INDUSTRIAL LOTS, HONOLULU, OAHU (CURRENT TENANTS WHO WERE FORMERLY DEPARTMENT OF LAND AND NATURAL RESOURCES TENANTS)

Unanimously approved as submitted (Inouye/Kennison).

There being no further business, Chairperson adjourned the meeting at 3:45 p.m.

Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Transcribed and submitted,



Kimberly C. Keliioomalu

Approved for submittal:



MICHAEL D. WILSON

Chairperson

Board of Land and Natural Resources

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