

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

DATE: April 24, 1998  
TIME: 9:00 a.m.  
PLACE: Board Room  
Kalanimoku Building, Room 132  
1151 Punchbowl Street  
Honolulu, Hawaii 96813

Chairperson Michael D. Wilson called the meeting of the Board of Land and Natural Resources to order at 9:22 a.m. The following were in attendance:

MEMBERS:

Mr. Colbert Matsumoto  
Mr. Christopher Yuen

Ms. Lynn McCrory  
Mr. Michael D. Wilson

STAFF:

Mr. Dean Uchida, Land  
Mr. John Hino, DOBOR  
Mr. Walter Ikehara, DAR

Mr. Bill Devick, DAR  
Mr. Dan Quinn, SP

OTHERS:

Mr. Randy Young, Esq.  
Deputy Attorney General  
Dr. Steve Coles, Bishop  
Museum, B-1  
Dr. Shannon Atkinson, B-3  
Mr. Clem Lum, D-5  
Mr. Hollis Crozier, D-16  
Mr. Marc Ericksen, D-15

Mr. Peter Garcia, Department  
of Transportation  
Dr. Chris Kelly, UH, B-3  
Dr. Gordon Grau, UH, B-3  
Mr. Kevin McMahan, D-8  
Ms. Cheryl Connett, D-16  
Mr. John Merrill, D-15

Business:

ITEM A-1 JANUARY 30, 1998

Member McCrory requested two amendments to the minutes of January 30, 1998:

Item C-5 (page 7, 5th paragraph), amend "acquitted in" to acquainted with.

Item D-13 (page 16), amend "Park" Ranch Trust to Parker Ranch Trust.

The minutes of January 30, 1998 were approved as amended (McCrory/Yuen).

**ITEM A-2 APRIL 9, 1998 (BRIEFING)**

Member Matsumoto questioned whether the characterization of the assembly as a "meeting" as opposed to a "briefing" was appropriate. Discussion by Chairperson Wilson and Deputy Attorney General Young clarified that the item had been noticed as a "briefing," and, in order to avoid any misunderstanding, wherever appropriate, the minutes should be amended to reflect a "briefing."

The minutes of the April 9, 1998 Board Briefing were approved as amended (Matsumoto/Yuen).

**ITEM B-1 REQUEST FOR APPROVAL TO CONTINUE AN AGREEMENT WITH THE BERNICE P. BISHOP MUSEUM**

Mr. Bill Devick presented the staff submittal recommending the approval for the continuation of an agreement with the Bishop Museum for the investigation on introduced nonindigenous marine species.

Member Matsumoto inquired as to whether the subject agreement was related to an agreement approved in 1997 regarding the introduction of alien species through ballast water. Mr. Devick responded that the subject agreement was for the second year of the two-year study relating to the ballast water sampling.

Member Yuen inquired about the federal regulations requiring ships to de-ballast at sea. Dr. Steve Coles, representing the Bishop Museum, informed members that current regulations are only voluntary. Dr. Coles stated that current regulations require each ship to keep a record of de-ballasting, however, the ships are not required to de-ballast in the open ocean. Dr. Coles testified, however, that the regulations also state that, should voluntary compliance not be successful, more stringent requirements would be put in place.

Members and Dr. Cole discussed ballast discharge as it relates to Hawaii and the possible introduction of alien species (such as the hypnea algae) by ships.

Item B-1 was approved as submitted (Yuen/McCrory).

**ITEM B-3 REQUEST FOR APPROVAL TO CONTINUE TWO AGREEMENTS WITH THE UNIVERSITY OF HAWAII**

Staff submittal requested approval for the continuation of five agreements with the University of Hawaii for:

1. Modified Fish Aggregating Device (FAD) System
2. Improvement of Bottomfish Stocks in the Hawaiian Islands

ITEM B-3 (cont.)

3. Development of Bioassessment Protocols and a Long-term Monitoring Model for Hawaiian Streams through the Hawaii Stream Research Center
4. Marine Mammal Joint Research/Education Project
5. Interactions of Nonindigenous Blueline Snapper (Taape) with native Fishery Species

Mr. Devick introduced Drs. Gordon Grau and Chris Kelly, University of Hawaii, who were present to respond to questions regarding the bottomfish study. Discussion by members then centered on the bottomfish study and the impact of the taape. Dr. Kelly noted that it would be helpful to scientists to know if, in fact, there was a relationship between the increase in taape and the drop in the bottomfish population. He stated that, should a relationship be found, it would serve as an impetus to implement programs aimed at controlling the taape and possibly, stricter rules on bottomfish fishing.

Dr. Kelly briefly described the dives already completed and some of the observations made regarding the various types of bottomfish. He further described some of the genetic work the university scientists were doing. He noted that scientists were currently studying how closely related the genetic make-up of the bottomfish found around the Main Hawaiian Islands were to those found around the Northwest Hawaiian Islands.

Dr. Shannon Atkinson, of the University of Hawaii, provided members with an update on the Marine Mammal Joint Research Program. Discussion centered on the need for more public educational and informational programs, and the need to reach a greater segment of the population.

Item B-3 was approved as submitted (Yuen/McCrory).

**ITEM B-5 REQUEST FOR APPROVAL TO CONTINUE THE PILOT AQUATIC RESOURCES EDUCATION PROJECT**

Staff submittal requested approval for the continuation of the Pilot Aquatic Resources Education Project with the Hawaii Institute of Marine Biology. Mr. Devick stated that the focus of the project had been changed to address the problems currently occurring in Kaneohe Bay.

Member Matsumoto questioned how the project intends to achieve consensus among the various interest groups associated with Kaneohe Bay. Dr. Gordon Grau responded that, by encouraging dialogue between the various groups, the faculty members involved -- Randy Harr and Dr. Malia Chau -- would try to address issues before they become points of conflict. Staff

ITEM B-5 (cont.)

also hope to address long-standing problems by addressing the underlying issues and bring opposing sides together to find mutually agreeable solutions.

In response to Member Matsumoto's question regarding the measurement of progress, Mr. Devick stated that a brief report detailing accomplishments within the past year was produced.

It was also noted that a website for Kaneohe Bay was created.

Item B-5 was approved as submitted (Matsumoto/Yuen).

ITEM D-8 CANCELLATION OF BOARD'S 7/22/83, AGENDA ITEM F-16 ACTION, SALE OF INTENSIVE AGRICULTURE LEASE AT PUBLIC AUCTION, PORTION OF GOVERNMENT LAND OF KEKAHA, WAIMEA (KONA), KAUAI, TMK: 1-2-2: 40

Mr. Dean Uchida provided background on the subject submittal:

The property is currently under a revocable permit held by Novartis Seeds, Inc. A prior board action of July 22, 1983 approved the sale at public auction of a 15-year diversified agriculture lease for the subject property. In order to update the lease to present standards, staff was requesting that the previously approved sale be cancelled, and a sale at public auction -- with updated standard conditions attached -- be approved.

Mr. Kevin McMahon, representing Novartis Seeds, testified that Novartis Seeds has been using the property under the revocable permit for "quite a long time." Mr. McMahon acknowledged that he understood the necessity to put the lease out to bid and that the upset rental was not "out of line" with what was currently being paid. Members and Mr. McMahon discussed the nature of the business and the types of seeds being produced by Novartis.

Member Matsumoto questioned why the specific seed crop use was utilized in determining the upset rental rather than a general intensive agricultural use. Mr. Uchida responded that he was not familiar with the reason for using a specific use in doing the appraisal. Members noted that they had no problem with this particular appraisal but that staff should look into the matter for future appraisals.

Item D-8 was approved as submitted (McCroory/Yuen).

**ITEM D-5 GAY & ROBINSON, INC. REQUEST FOR DIRECT ISSUANCE OF LEASE FOR SUGAR CANE CULTIVATION AND PASTURE PURPOSES, HANAPEPE**

Staff submittal recommended approval of a direct lease to Gay & Robinson for sugar cane cultivation and pasture purposes in Hanapepe. Mr. Uchida informed members that the terms and conditions of the subject lease would be made consistent with the terms and conditions of the direct lease currently being negotiated with Kekaha Sugar. Mr. Uchida requested an amendment by adding a condition #3, requiring board approval of the final terms and conditions of the lease.

Mr. Clem Lum, representing Gay & Robinson, Inc. testified that, in seeking the direct lease, the company was looking for long-term stability for its operations.

Discussion by members, Mr. Uchida, and Mr. Lum then centered around the minimum lease rent. Member Matsumoto inquired as to why the minimum lease rent was set so low (approximately \$20/acre/year); his recollection was that sugar generated an income of approximately \$200 - \$400/acre/year. Mr. Uchida responded that the minimum rent was based upon the existing revocable permit rent, which historically was set to encourage sugar operations.

While stating that he had no problems with the lease to Gay & Robinson, Member Matsumoto noted his concern that such a low minimum rent would allow a tenant to "hold" the lands without engaging in active production.

Member Yuen noted that, historically, amounts paid on sugar leases were always relatively low -- \$20 - \$50/acre/year. He stated that based on rental calculations for other types of uses (3 1/2% of the expected gross income), Gay & Robinson's lease would work out to approximately \$100/acre/year. Members noted that this amounted to a substantial state "subsidy" of sugar operations which should be acknowledged by sugar producers.

Item D-5 was approved as amended (McCrory/Matsumoto).

**ITEM D-16 CONSENT TO SUBLEASE BETWEEN USA, DEPARTMENT OF THE NAVY, THE LICENSOR/SUBLESSOR AND CYBERTEL CORPORATION DBA AMERITECH CELLULAR SERVICES, THE LICENSEE/SUBLESSEE, PORTION OF GENERAL LEASE NO. S-3952, MAKAHA RIDGE, WAIMEA, KAUAI, TMK: 1-2-01: POR. 6**

Mr. Uchida presented the staff submittal recommending approval of a consent to sublease between the Department of the Navy and Ameritech Cellular Services for use of communication facilities at Waimea, Kauai. Mr. Uchida stated that, although

**ITEM D-16 (cont.)**

the State generally discourages this type of subleasing, approval was being recommended because the sublessee would have also qualified for a direct lease from the State.

Ms. Cheryl Connett, U.S. Department of the Navy, clarified that the total rent being paid by Ameritech Cellular would be \$1,775 -- with \$1,000 going to the Navy and \$775 going to the State. She stated that the Navy was not charging for the use of much of the facilities because of the need for cellular service in the area.

Mr. Hollis Crozier, representing Ameritech, noted that Ameritech would not derive any economic benefit but, rather, was providing the service as a community/public benefit.

Item D-16 was approved as submitted (McCrory/Yuen).

**ITEM D-15 EXTENSION OF 180-DAY PROCESSING PERIOD - CONSERVATION DISTRICT USE APPLICATION (CDUA) OA-2866 FOR ARTIFICIAL REEF INSTALLATION BY VOYAGER SUBMARINES HAWAII**

Staff submittal recommended approval of the 180-day processing period for the CDUA by Voyager Submarines for an artificial reef off of Ala Moana Beach Park. Mr. Uchida noted that this was the second extension being requested. A prior 90-day extension was processed administratively, however statute required that any further extension get board approval. Mr. Uchida stated that the applicant has made a good faith effort to complete the EIS, but that questions regarding the method of disposing the submerged lands and the subsequent involvement of the Department of the Attorney General, have prevented completion. Staff opinion was that an additional 180-day extension would be sufficient to complete processing of the CDUA.

Mr. John Merrill and Mr. Marc Ericksen, representing Voyager Submarines Hawaii, testified that the reef would be steel based and situated at an approximate depth of 90 to 100 feet.

Item D-15 was approved as submitted (Matsumoto/Yuen).

**ITEM D-10 SELL STATE LAND TO THE COUNTY OF HAWAII FOR ROAD PURPOSES AT WAIKEA, HAWAII**

Staff submittal recommended approval to sell state lands to the County of Hawaii for three road extensions which were constructed on the 1960's. Staff noted that, for reasons unknown, ownership of the completed road extensions were never transferred to the county.

**ITEM D-10 (cont.)**

Member Yuen questioned why the state was selling the land instead of setting it aside to the county. Mr. Uchida responded that staff's position was that a set aside would still hold the state responsible for the roadway. Member Yuen noted that, under chapter 264, title to the roadway would be vested in the county, so the transfer of title should be done at gratis.

No public testimony was presented.

Member Yuen moved to amend Item D-10 to transfer title of the lands at gratis.

Item D-10 was approved as amended (Yuen/Matsumoto).

**ITEM D-13 SALE OF FOURTEEN LEASES AT PUBLIC AUCTION FOR PASTURE PURPOSES ON HAWAII**

Staff submittal recommended the sale, at public auction, of fourteen leases in Puna, north and south Hilo, and Kau, for pasture purposes.

Member Yuen requested that several of the leases -- lease #s 1, 2, 3, 4, and 12 -- be held. Member Yuen noted that leases 3 & 4 could be leased at a higher use -- possibly intensive agriculture. Staff was requested to "re-look" at leases 1 & 12 to see if the lots could be sold as already subdivided, instead of consolidating them into one large pasture lease. Staff was also requested to look at the potential for lease #2 to be included in one of the adjacent forest reserves. Motion was made to sell the remaining nine leases.

No public testimony was presented.

Item D-13 was approved as amended (Yuen/Matsumoto).

**ITEM B-6 AMENDMENTS TO NEW ADMINISTRATIVE RULES OF THE DEPARTMENT OF LAND AND NATURAL RESOURCES TITLE 13, SUBTITLE 4, CHAPTER 13-94, BOTTOMFISH MANAGEMENT.**

Mr. Devick informed members that the subject request was for technical revisions to the previously approved bottomfish rules. He noted that the most substantive amendment eliminated an area already controlled by the Kahoolawe Island Reserve Commission.

No public testimony was presented.

Item B-6 was approved as submitted (Yuen/Matsumoto).

**ITEM J-2 AUTHORIZATION TO SELL AT PUBLIC AUCTION A LEASE FOR GOVERNMENT LANDS SITUATED AT HONOKOHAU SMALL BOAT HARBOR, ISLAND OF HAWAII**

Mr. John Hino, Boating Division, presented the staff submittal recommending approval to sell, at public auction, a lease at the Honokohau Small Boat Harbor. Mr. Hino stated that the intent was to solicit bids to build, operate and maintain a yacht club facility.

Member Matsumoto inquired as to whether the proposal foresaw private membership only; Mr. Hino answered in the affirmative. Member Matsumoto voiced his concern with the wording of the purpose for the lease; he noted that restricting the purpose to a yacht club facility would limit the state's ability to negotiate a fair market valued rent at the time of rental reopening. Member Matsumoto questioned whether usage required a yacht club at the site; Mr. Hino responded in the negative. Member Matsumoto then recommended amending the purpose to a general commercial lease.

Member Yuen inquired as to what possible outcome would occur if the lease was put to bid as a straight commercial lease. Mr. Hino stated that, due to the current real estate market in the Kona area, a yacht club would probably be the only interested party.

Item J-2 was approved as amended (Yuen/Matsumoto).

**ITEM J-3 AUTHORIZATION TO LEASE AT PUBLIC AUCTION A BOATING AND OCEAN RECREATION ACTIVITY FACILITY (YACHT CLUB) ON GOVERNMENT LANDS SITUATED AT KALIA, WAIKIKI, HONOLULU, ISLAND OF OAHU**

Staff submittal recommended approval to sell, at public auction, a lease for a yacht club facility at the Ala Wai Small Boat Harbor.

In response to Member Matsumoto's question regarding the facility's fit into the Harbor's plan, Mr. Hino stated that, at present, there is no "master plan" for the Harbor. Mr. Hino stated that, although the Executive Order notes a yacht club within the harbor, there was no mandated specific use for the subject site.

No public testimony was presented.

Item J-3 was approved as submitted (Matsumoto/Yuen).



**ITEM K-1 DEPARTMENT OF TRANSPORTATION REQUEST FOR AUTHORIZATION TO ISSUE CONSTRUCTION RIGHT-OF-ENTRY AGREEMENTS AND TO SELL, AT PUBLIC AUCTION, TWO (2) SEPARATE LEASES OF STATE LAND FOR CEMENT SILO OPERATIONS TOGETHER WITH NON-EXCLUSIVE EASEMENT FOR OFFLOADING AND TRANSMISSION OF BULK CEMENT AT BARBERS POINT HARBOR, EWA, OAHU**

Mr. Peter Garcia presented the DOT submittal requesting approval to sell two separate leases at Barbers Point Harbor. No public testimony was presented.

Item K-1 was approved as submitted (Matsumoto/McCrory).

**ITEM K-2 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 20, HONOLULU HARBOR, OAHU (BIG ISLAND SEAFOOD)**

Item K-2 requested Board approval for a revocable permit to Big Island Seafood, for storage purposes at Pier 20. No public testimony was presented.

Item K-2 was approved as submitted (Matsumoto/McCrory).

**ITEM K-3 AUTHORIZING THE DEPARTMENT OF TRANSPORTATION TO DISPOSE OF HIGHWAY REMNANT AND PERPETUAL NON-EXCLUSIVE WATERLINE AND UTILITY EASEMENTS, HANAMAULU-AHUKINI CUTOFF ROAD, FEDERAL AID PROJECT NO. DP-051-1(5)**

Item K-3 requested Board approval to authorize the DOT to dispose (sale) of Highway Remnant R-2 to the abutting property owner (Hanamaulu Triangle, Inc.).

Member Matsumoto expressed some surprise that a 1.1 acre parcel would be considered a remnant. Further discussion revealed that the subject parcel was basically an old roadway which included a number of utility easements. No public testimony was presented.

Item K-3 was approved as submitted (McCrory/Matsumoto).

**ITEM K-4 REPORT ON REVOCABLE PERMITS ISSUED OR RENEWED BY THE DEPARTMENT OF TRANSPORTATION FOR CONSISTENT USES**

Mr. Garcia informed members that no action was required for Item K-4.

**ITEM E-1 CANCELLATION OF REVOCABLE PERMIT NOS. S-5284, S-5290, S-5293, S-5304, AND S-5305, KAHANA VALLEY STATE PARK, KAHANA, KOOLAULOA, OAHU, TMK: 5-1-01**

Mr. Dan Quinn presented the staff submittal requesting the cancellation of five revocable permits in Kahana Valley State Park. Mr. Quinn informed the Board that the permits were for the older areas that the tenants have moved out of.

ITEM E-1 (cont.)

Member Matsumoto requested that staff provide the Board with a time table for improvements to the park.  
No public testimony was presented.

Item E-1 was approved as submitted (Matsumoto/Yuen).

ITEM D-1 AMEND INTENSIVE AGRICULTURAL LEASE TO BE SOLD AT PUBLIC AUCTION, LOTS 32-A, 33-A, 34-A, 35-A, 38 AND 40, KAPAA HOMESTEADS, 1ST SERIES, KAPAA, KAWAIHAU, TMK: 4-6-5: 7

Staff submittal recommended approval to update the standard terms and conditions for an intensive agricultural lease to be sold at auction.  
No public testimony was presented.

Item D-1 was approved as submitted.

ITEM D-2 CONSENT TO MORTGAGE OF GENERAL LEASE NO. S-3771 AND GENERAL LEASE NO. S-3766, EXTENSION OF TERM ON GENERAL LEASE NO. S-3771 AND GENERAL LEASE NO. S-3766, LOTS 31 AND 26 OF THE WAIMANALO AGRICULTURAL SUBDIVISION, WAIMANALO, KOOLAUPOKO, OAHU, TMK: 1ST/4-1-27: 19 & 4-1-27; 29

Staff submittal recommended approval of lease extensions and consent to mortgage for two Waimanalo leases. In response to a question by Member Matsumoto, Mr. Uchida noted that the tenants have been complying with all provisions in the leases and were not delinquent in rents.  
No public testimony was presented.

Item D-2 was approved as submitted (Matsumoto/McCrory).

ITEM D-3 REQUEST TO AMEND THE BOARD'S NOVEMBER 20, 1997 AGENDA ITEM D-8 AUTHORIZING THE SALE OF LEASE AT PUBLIC AUCTION AND ISSUANCE OF A REVOCABLE PERMIT FOR PASTURE PURPOSES AND IMMEDIATE RIGHT OF ENTRY FOR SITE CONTROL PURPOSES TO KEITH AND BONNIE DOUGLAS AND JEFFREY & JUDI WHITE ON GOVERNMENT LANDS IDENTIFIED AS TMK: 2-9-11: 08, SITUATE AT PORTION OF HANEHOI, HOALUA, HANAWANA & PUUOMAILE, HAMAKUALOA, MAKAWAO, MAUI

Staff submittal recommended approval of a name change from "Keith and Bonnie Douglas and Jeffrey and Judi White" to "Wahieloa L.L.C., a Hawaii limited liability corporation, and Jeffrey and Judi White, tenants by the entirety, as Tenants in Common."  
No public testimony was presented.

Item D-3 was approved as submitted (McCrory/Yuen).

**ITEM D-4 REQUEST TO AMEND PRIOR BOARD ACTION OF DECEMBER 15, 1995 TO APPROVE SUPPLEMENTAL AGREEMENT NO. 5 EXTENDING DEPARTMENT OF AIR FORCE LEASE CONTRACT NO. DA-94-612-ENG-191 COVERING MOKULELE ELEMENTARY SCHOOL, HICKAM AIR FORCE BASE, HONOLULU, HAWAII**

Staff submittal recommended approval of several amendments to the previously approved Supplemental Agreement No. 5.

Mr. Randy Young, Deputy Attorney General, voiced a concern over provision 2 of the submittal which indemnified the Air Force from all property damage or injury claims. Mr. Young suggested that the approval be made subject to the review of the Department of the Attorney General.

Member Matsumoto moved to approve subject to the approval of the Attorney General.

Item D-4 was approved as amended (Matsumoto/McCrory).

**ITEM D-6 DIRECT SALE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT FOR ACCESS AND UTILITY PURPOSES AT PUNA, HAWAII, TMK: (3) 1-2-6-PORION 73**

Staff submittal recommended approval for the direct sale of a perpetual, non-exclusive easement to Terry Chevalier for access and utility purposes.

No public testimony was presented.

Item D-6 was approved as submitted (Yuen/Matsumoto).

**ITEM D-7 ISSUANCE OF A REVOCABLE PERMIT FOR STORAGE AND REPAIR OF REFRIGERATION EQUIPMENT AND PARTS AT KUWILI, IWILEI, HONOLULU, OAHU, TMK: 1-5-07: 14 (POR.)**

Staff submittal recommended the approval of a revocable permit to G. Repair for storage and repair of refrigerator equipment at the planned Liliha Civic Center site. Mr. Uchida noted that the use would be temporary until funding for the civic center is obtained.

No public testimony was presented.

Item D-7 was approved as submitted (Matsumoto/McCrory).

Items B-2, B-4, D-9, D-11, D-12, D-14, D-17, E-2, J-1, and J-4 were deferred due to the loss of quorum.

There being no further business, Chairperson Wilson adjourned the meeting at 12:25 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 by,

*Gail Y. Murayama*  
Gail Y. Murayama

Approved for submittal:

*Michael D. Wilson*  
MICHAEL D. WILSON  
Chairperson  
Board of Land and Natural Resources