

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

DATE: FRIDAY, MAY 15, 1998
TIME: 9:00 A.M.
PLACE: HAWAII COUNTY ECONOMIC OPPORTUNITY COUNCIL
47 RAINBOW DRIVE, BUILDING A
HILO, HI 96720

Chairperson Michael D. Wilson called the meeting of the Board of Land and Natural Resources to order at 9:00 a.m. The following were in attendance:

MEMBERS:

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

STAFF:

Mr. Dean Uchida, Land Division	Mr. Bob Nishimoto, Division of Aquatic Resources
Mr. Charlene Unoki, Land Division	
Mr. Allan Takeya, Division of State Parks	

OTHERS:

Ms. Linnel Nishioka, Department of the Attorney General	Mr. Garrett Hew, East Maui Irrigation, D-9 thru D-12
Mr. Peter Garcia, Department of Transportation	Ms. Sally Raisbeck, D-9 thru D-12
Mr. Ron Koehler, Mauna Kea Support Services, D-28	Mr. Ivan Nakano, Big Island Toyota, D-27
Ms. Wendy Fulks, The Nature Conservancy, D-4	Mr. Steven Lim, D-6
Mr. Reynold Miyashiro, Miyashiro Poultry & Hog Farm, D-24	Mr. Brian Anderson, D-6
Ms. Patricia Tummons, Environment Hawaii, D-23, D-24 & D-26	Council Member Dominic Yagong, D-25
Ms. Meredith Ching, A&B Hawaii, D-9 thru D-12	Mr. Bob Shioji, Hamakua Farm Bureau, D-25
Mr. Steve Holiday, A&B Hawaii, D-9 thru D-12	Mr. Burt Smith, University of Hawaii, D-25
Mr. John Hoxie, A&B Hawaii, D-9 thru D-12	Ms. Courtney Merrill, D-25
	Mr. George Yoshida, Department of Parks & Recreation, County of Hawaii, D-18
	Mr. Louis Kaiwi and Ms. Mabel DeSilva, Big Island Veterans Assn, D-18
	Mr. Carl Shioji, Hilo Trollers Big Island Fish Association, B-1

ITEM D-28 ISSUE MAUNA KEA COMMERCIAL PERMIT, KAHOE, HAWAII, TMK:
(3) 4-4-15-9 AND -12

Mr. Dean Uchida, Acting Administrator of the Land Division said on March 27, 1998 the Land Board authorized the issuance of 4 Mauna Kea Summit and 1 Hale Pohaku only commercial revocable permits. He said at this meeting the Board asked about the requirement of a PUC license being stated on the revocable permit document. Staff has researched and found that in accordance with Chapter 271 the law requires that operators who engage in transportation by motor vehicle of passengers or property for compensation must obtain a PUC license, so rather than repeat that requirement the revocable permit refers to it by having them get all necessary government approvals. Staff's recommendation is that the Board approve 2 additional Hale Pohaku only commercial revocable permits and these permits be issued to Clifford Livermore and Hawaiian International Service & Tours subject to terms and conditions.

Mr. Ron Koehler representing Mauna Kea Support Services (MKSS) stated that he has no objections to the 2 permits that are up for approval but was concerned about the wording on the permits. He said in 1995, DLNR had asked people who had permits and people who wanted permits to fill out an application that asked them what activities they would be participating in (i.e. ski tours, hiking tours, stargazing). He said although the activities have stayed within what was originally stated in the application, there has been some drifting away from this because the permits do not restrict permittees from doing other activities. He explained that MKSS is able to support 14 scattered activities, but is unable to support 14 permittees conducting the same activity at the same time. He requested a meeting involving UH, MKSS and DLNR to try and sort out this problem and to make sure that the permits that have already been issued specify what activities are permissible and that all new permits include the activities that they will be participating in.

Member Christopher Yuen advised staff to incorporate Mr. Koehler's suggestions to limit the permittees to what they had specifically applied for on the next renewal of permits.

Unanimously approved as submitted (Yuen/McCrory).

ITEM D-4: CONSERVATION DISTRICT USE PERMIT APPLICATION (OA-2895)
FOR THE MANAGEMENT OF THE HONOULIULI NATURE PRESERVE,
HONOULIULI, EWA, OAHU, TMK: 9-2-5: 13

Mr. Uchida stated that the first time The Nature Conservancy (TNC) submitted this Conservation District Use Application (CDUA) for Honouliuli Preserve, they were found to be in violation because of the work they had started on the site without the Board's approval. The processing of the permit was stopped and TNC chose to withdraw their application. He said since then, TNC has resolved this violation and is resubmitting the CDUA for the Board's consideration. The application was sent to different agencies for review and comments and they had no objections. Staff's recommendation is that the Board approve the CDUA submitted by TNC for the management of the Honouliuli Preserve subject to the standard conditions.

Ms. Wendy Fulks representing the TNC stated that she was present to answer any questions that the Board might have.

Unanimously approved as submitted (McCroory/Matsumoto).

ITEM D-24: RESUBMITTAL - FORFEITURE OF GENERAL LEASE S-3954 ASSIGNED TO MIYASHIRO POULTRY & HOG FARM, INC., WAIAKEA, HAWAII, TMK: (3) 2-4-49-30

Mr. Dean Uchida said General Lease S-3954 was originally scheduled for the March 13, 1998 Land Board meeting but withdrawn by the request of the applicant to allow them enough time to prepare a written plan. He said the issue before the Board is upon staff's inspection and findings that an underground storage tank, which proved to be a serious liability concern, was built and installed on the property without the department's approval. The applicant's written plan dated March 13, 1998 proposes to fill this tank with sand and seal it up. Staff is recommending that the applicant physically remove the underground storage tank and that they do a Level One (1) Hazardous Waste Evaluation Plan to determine what needs to be done for the removal. He said staff is also recommending that the performance bond requirement be reimposed and the conservation plan requirement be imposed. Staff would also like to give the applicant until December 31, 1998 to comply with the modified recommendation and if they comply staff would like to withdraw the request to forfeit this lease.

Member Yuen asked if the installation of the underground storage tank is a violation of the lease. Mr. Uchida said the construction plans that were found in the files that date back to 1966 did not approve the installation of the underground storage tank and installing it without the Board's approval is a violation.

There was discussion about the "Character of Use" and the requirement to

operate a piggery. Member Yuen asked if the lease is on default if it is not being used for a piggery. Mr. Uchida said the "Character of use" which is on the first page of the staff submittal says it allows for other uses like raising chicken or developing a truck garden as long as it's not for commercial purposes, it does not say it has to be piggery. Member Colbert Matsumoto was concerned about the compliance of basic terms of the lease and not having a condition that is consistent with the "Character of use".

There was some discussion about the removal of the underground storage tank. Mr. Reynold Miyashiro (son of the lessee) of Miyashiro Poultry & Hog Farm said he was advised by the Department of Health (DOH) that the tank, being that it's 1,000 gallons, falls under the jurisdiction of the Fire Department. He said he contacted his local Fire Department and is still waiting for them to get back to him to see if he could just fill the tank with sand instead of removing it. Member Kathryn Inouye asked if there were any intentions of using the tank for the duration of the lease. Mr. Miyashiro said he has no intentions of using the tank and explained that he is aware that DOH has required that all underground storage tanks be removed by December 1998. Member McCrory asked then the tank would have to be removed whether DLNR required it or not. Mr. Miyashiro said he is still waiting for the Fire Department to get back to him to see if he can just fill it with sand.

Member Lynn McCrory asked the lessee when he anticipated starting the new Hog Farm operation. Mr. Miyashiro said the earliest he could purchase little piglets would be on June 16, 1998.

Member Inouye asked the lessee if he was able to comply with staff's recommendations. Mr. Miyashiro said the tank removal, cleaning of the weeds, the performance bond requirement and other things, yes.

Ms. Patricia Tummons, Environment Hawaii asked if staff's recommendation for the lessee to require a Level 1 Hazardous Waste Evaluation includes soil testing. Mr. Uchida said yes it does.

A motion was made to amend staff recommendation by adding a condition:

- E. That the lessee re-establish a commercial hog operation on the property by the end of the year.

Unanimously approved as amended (Yuen/Kennison).

ITEM D-9: REQUEST FOR AN ISSUANCE OF A REVOCABLE PERMIT BY EAST MAUI IRRIGATION COMPANY, LIMITED FOR WATER

DEVELOPMENT, DIVERSION AND USE PURPOSES ON GOVERNMENT LANDS, DESIGNATED BY TMK: 1-2-4: 05 AND 07, KOOLAU FOREST RESERVE, NAHIKU, HANA, MAUI

- ITEM D-10: REQUEST FOR AN ISSUANCE OF A REVOCABLE PERMIT BY A&B HAWAII, INC. FOR WATER DEVELOPMENT, DIVERSION AND USE PURPOSES ON GOVERNMENT LANDS, DESIGNATED BY TMK: 1-1-02: PORTION 02, KOOLAU FOREST RESERVE, KEANAE, HANA, MAUI
- ITEM D-11: REQUEST FOR AN ISSUANCE OF A REVOCABLE PERMIT BY A&B HAWAII, INC. FOR WATER DEVELOPMENT, DIVERSION AND USE PURPOSES ON GOVERNMENT LANDS, DESIGNATED BY TMKs: 1-1-01: 50 AND 2-9-14: 01, 05, 11, 12 AND 17, KOOLAU FOREST RESERVE, HUELO, HANA, MAUI
- ITEM D-12: REQUEST FOR AN ISSUANCE OF A REVOCABLE PERMIT BY A&B HAWAII, INC. FOR WATER DEVELOPMENT, DIVERSION AND USE PURPOSES ON GOVERNMENT LANDS, DESIGNATED BY TMK: 1-1-01: 44, KOOLAU FOREST RESERVE, HONOMANU, HANA, MAUI

Mr. Uchida stated that Items D-9 through D-12 are requests for the reissuance of revocable permits to East Maui Irrigation Company (EMI) and A&B Hawaii and these items will be taken together. He said Item D-9 is for the Nahiku License, Item D-10 is for the Keanae License, Item D-11 is for the Huelo License, and Item D-12 is for the Honomanu License areas. On August 23, 1985 the Land Board approved the public auction sale of a 30 year long-term lease for these Licenses and the issuance of these leases has been pending at the request of the Attorney General's (AG's) office. He said staff was advised by the AG's office to put it under a year-to-year permit due to concerns regarding the McBryde litigation and every year since staff has been requesting the renewal of these Licenses for A&B Hawaii and their subsidiary companies. He said now that the McBryde case has been resolved staff has had numerous discussions with both A&B Hawaii and the AG's office to work out a plan to get these Licenses to a public auction. He said the action before the Board is to continue the year-to-year permit with A&B Hawaii and their subsidiaries and to allow staff to continue working out the long-term lease agreement issue with the AG's office. Staff's recommendation is that the Board approve Items D-9 through D-12 for the reissuance of the revocable permits subject to standard conditions.

Ms. Meredith Ching testified on behalf of A&B Hawaii. She said the importance of these Licenses is to get reproduction up and cost down so that Hawaiian Commercial and Sugar Company (HCNS), a subsidiary of A&B Hawaii, can be more competitive in the world sugar market. She said one of

the significant challenges that HCNS was faced with in the first 3 month of this year was the severe drought on Maui which brought the ditch levels down to 20 million gallons a day (mgd) which is only 10% of their average flow. She said after the Maui Board of Water Supply (BWS) takes the water it needs for Upcountry Maui and Maui Pineapple Company takes the water they need, there is only enough water left to keep two mills running at HCNS, which is not enough to plant or irrigate. She said during these 3 months, 500 acres were left unplanted, 100 workers were furloughed, and Maui BWS had to impose manadatorium water cutbacks on its Upcountry Maui water consumers. She said despite these challenges EMI and HCNS continued to participate in activities to manage the watershed. She stated that they would like to ask for the Board's support in approving these permits as recommended by staff and they will continue to use the water wisely and take care of the watershed.

Member William Kennison asked for an explanation on the process that EMI goes through in bringing the water over. Mr. Garrett Hew representing EMI said out of the 75 miles of aqueducts system 50 miles of them are tunnels or underground aqueduct system. He said they have over 400 different intakes or stream diversions which needs to constantly operate in order to get the maximum flow into the ditches. He explained that with their budgetary constraints and a total of only 19 employees this day to day operation is very challenging. He said if repairs are let go for any period of time, the time it takes to catch up to repair this over 125 year old system is one of those things that is irreplaceable. Mr. Hew said maintaining the tunnels or the underground aqueduct system is difficult especially if the problem was in the middle of a 4 or 5 mile tunnel. He said most of the ditches were built in the late 1800's or early 1900's and the methods of maintaining them and repairing them are similar to those days which involves a lot of manual labor.

Chairperson Michael Wilson asked when was the last time the flow was reduced to 20 mgd. Mr. Hew said in 1995 it was at the 20 mgd level and in 1984 it was at the lowest ever for the main Wailoa ditch where the flow was down to 10 mgd, 5% of their average flow.

Member Inouye asked what the average capacity has been for the last 5 years. Mr. Hew said the main Wailoa ditch has a capacity of 200 mgd and the overall historic delivery has been about 60 billion gallons per year which amounts to approximately 165 mgd average for all 4 ditches. He said when the Wailoa ditch is down to 20 mgd level the other 3 ditches usually have a little trickle in them.

Ms. Sally Raisbeck said she is a resident of Wailuku and has no objections to issuing the licenses to A&B Hawaii for another year as the Board has been doing since 1985, but her concern was the staff report that says A&B Hawaii

and Land Division are discussing the preparation of a Supplemental Environmental Assessment. She said the public including the Maui BWS deserves both the disclosure and the opportunity for public input that a full Environmental Impact Statement (EIS) would provide and a Supplemental EA does not provide the opportunity for public input. She said she understood that the average flow of the ditch was 165 mgd but was not sure what proportion of that flow comes from state lands. She said last summer A&B Hawaii allowed Maui BWS to buy an extra 175,000 gallons a day and in exchange A&B Hawaii demanded 37 water meters and water service for it's newest subdivision eventhough there were 500 names on the Upcountry waiting list for water meters some had been waiting 20 years. She said a public entity such as the Maui BWS should control the water from state lands for the benefit of the public rather than a private corporation controlling it for the benefit of its stockholders. She stated that A&B Hawaii is making most of it's profits from land development, not sugar. She questioned the legality of transferring water from one aquifer to another when the source has not been designated as a water management area and whether the current pricing structure is fair for such an important and needed resource.

Ms. Raisbeck stated that she will also be testifying for Mr. Jonathan Starr who was unable to attend. She read through Mr. Starr's written testimony and his main concerns were the 30-year long term lease that should be subject to an EIS and the wells that are being drilled by Central Valley showing a high concentration of DBCP which causes cancer of the testicles. He was also concerned about the Land Board meeting being held in Hilo where a lot of the East Maui residents can not attend to testify.

Member McCrory asked what the Maui BWS's responses have been if the water had been restricted for 30 years. Ms. Raisbeck said Maui BWS is resistant to her idea that rather than A&B Hawaii controlling the use of water it would be Maui BWS.

Ms. Raisbeck asked for clarification on what proportion of the flow in the ditches comes from state land and if transferring water from one aquifer to another is legal. Mr. Hew said out of the 50,000 acres 33,000 is state land and 17,000 is A&B Hawaii land. Chairperson Wilson said diversion of water from one watershed to the next is a legal matter and not on today's agenda.

Member Kennison stated that Maui BWS has held their "head above of water" in this bad economic times and firmly believes the reasons is because of companies like A&B Hawaii and Maui Pineapple who have been able to keep the economy steady. He said Ms. Raisbeck made a good assessment as far as Maui BWS handling the water leases but the operations of these systems are so dilapidated that this would cause a lot of problems in the future for Maui

BWS. He said EMI has done a great job in trying to continue and for that reason he would like to support staff's recommendation.

Unanimously approved as submitted (Kennison/Inouye).

ITEM D-27: AMEND PRIOR BOARD ACTION FOR EXTENSION OF LEASE, GENERAL LEASES S-4303 & 4379, APPLICANT - DAVID S. DELUZ, SR.

Mr. Uchida said this is a request to amend a prior Board action that was based on a mortgage of \$1.5 million from First Hawaiian Bank. He said the lessee Mr. David DeLuz has informed staff that the mortgage amount and lender has been changed to \$840,000 from Bank of Hawaii. Staff's recommendation is that the Board amend the prior action indicating the change of the amount and the lender subject to standard conditions.

There was some discussion about the lessees involvement in the Kanoelehua Industrial Area Association (KIAA) lawsuit. Ms. Unoki explained that the delinquency in regards to the KIAA situation is being worked out between the attorneys and should be resolved hopefully in a couple of months. Member Matsumoto asked if there was any kind of security to insure that the delinquent amounts are going to be paid once the KIAA situation is resolved. Deputy Attorney General (AG) Linnel Nishioka said her understanding is that the lessee is current with any other amounts outside of the disputed amounts that are subject to the lawsuit and these disputed amounts are probably the amounts that are showing up on the delinquency report. Mr. Ivan Nakano testified on behalf of Mr. DeLuz. He said payments are current for General Leases S-4303 and 4379 and if everything works out under the KIAA situation they would probably end up with a credit because they were in compliance.

Unanimously approved as submitted (Yuen/McCrory).

ITEM D-6: CONSENT TO ASSIGNMENTS AND SUBLEASE OF GENERAL LEASE S-5188, LANIHAU PARTNERS L.P. AT AUHAUKEAE, HAWAII, TMK: (3) 7-5-9-43

Mr. Uchida presented the staff submittal recommending that the Board consent to assignments for General Lease S-5188 from Lanihau Partners to Radcliffe Greenwell, then from Radcliffe Greenwell's Trust to Patricia G. Greenwell as trustee, then subsequent consent of the sublease from Patricia G. Greenwell to Joan and Brian Anderson as sublessee, subject to standard conditions. He said the lease is for commercial purposes but will be used for landscaping

purposes. It involves some state land that is surrounded by private property which is part of a large commercial development.

Member Yuen asked staff to monitor the reopening of this lease in the future. He wanted assurance that when this lease is reopened it will be appraised as a commercial property even if the development scheme ends up with it being the landscaping portion.

There was some confusion about the language in the Sublease term that reads: "Fifty-five (55) years commencing on December 22, 1997 and expiring on the last day of the calendar month in which the fifty-fifth anniversary date of the satisfaction of all of the contingencies, provided,". Member Yuen suggested changing the Sublease term to read: "The term of the sublease shall be co-terminus with the term of the Master lease, including an extension granted to the Master Lease." Mr. Steven Lim, Attorney for Mr. Brian Anderson said his client is agreeable to that change.

Unanimously approved as amended (Yuen/Matsumoto).

ITEM D-25: REVIEW OF AGRICULTURE/PASTURE APPLICATION AND QUALIFICATION QUESTIONNAIRE PROCESS FOR PROSPECTIVE BIDDERS INTERESTED IN LEASES SOLD AT PUBLIC AUCTION

Mr. Uchida said this is a request to review the Agriculture/Pasture Application Qualification Questionnaire Process for perspective bidders interested in leases sold at public auction. He said this is a follow-up on the Board's request at the January 16, 1998 Land Board meeting that staff take a look at trying to modify the pre-qualification process and conditions for areas suffering economic hardship due to plantation cultures, specifically, Hamakua where a lot of agriculture leases will be sold at public auction. Staff has had an opportunity to follow up on the Board's request and has done some extensive revisions to the application form by making it a lot clearer and easier for applicants to provide information. The screening committee which is made up of members of the community as well as staff believes that it would not be fair to shift the qualifications in one particular area for the benefit of a certain group of people, the qualifications should be set for everybody statewide. They also believed it was not fair that if an applicant took a 4-H class in High School that would qualify them as a bona fide farmer. He said the evaluation criteria has been redefined to 3 areas and weights: 1) Qualification and Experience (40%); 2) Business Plan, including development plans (40%); and 3) Financial Capacity (20%). Staff's recommendation is that the Board approve the modified public auction bid package and also delegate to the Chairperson the authority to revise any of the information in the packet as

needed to best service the interest of the State.

Council Member Dominic Yagong was concerned about the criteria in terms of being a bona fide farmer. He said there's a lot of people in Hamakua that do not have the type of criteria that is being asked for and this will virtually eliminate between 70-80% of the people that have worked very diligently in terms of this particular issue. He felt that everyone should have an opportunity to lease public lands including farmers and non-farmers and by having this criteria is like discriminating against a certain segment of the community. He wanted a clearer interpretation that says you will not be precluded from the bid process if you are a new first time farmer with no former experience. Member Matsumoto explained that the qualification requirements is not something that the Board may have discretion over because it's prescribed by the statute. Member Inouye stated that as trustees of the land, you would obviously want to give it to those people that succeed and the chances of success for someone with no farming experience or farming education is very small. Council Member Yagong said if you were a private developer (i.e. Bishop Trust) and your bottom line is profits then that would make a lot of sense but when this is public lands intrusted to a Board but owned by the people of Hawaii then this would be a good opportunity to open doors and give that segment of the community an opportunity even if they might not be successful. He said a lot of people has called him in disgust and discouragement and they feel that the opportunity is sliding away because the criterias are too restrictive.

Mr. Bob Shioji of the Hamakua Farm Bureau said his farm is very successful today and he started off with no farming experience and no money. He felt that the criterias are too strict and suggested that the Board give the newcomers a 1 term period to get something on the land and to prove that they can make it or take the land back.

Mr. Burt Smith, Livestock Specialist with the University of Hawaii testified in favor of staff recommendation. He felt that public lands should be available to qualified people. He said part of his job is to make determinations on the erosion of land. He mentioned that he worked along the Hamakua coast and the life of the soil is dead, the topsoil is gone and it takes a long time for this to recover. He said to put people on cane lands and assume that they are good agricultural lands is not right. They are not good lands, in fact, some of the worst lands in the state.

Member Yuen asked Mr. Smith if he had a professional recommendation on what should be done. Mr. Smith said he would like to see these lands fallowed for at least 2 years to allow -- grasses to come in and create an organic mass. He said this will begin a recycling period on these lands that

have no mineral matter.

Ms. Courtney Merrill testified in favor of staff recommendation. She felt the qualifications are not strict enough and thinks the land should be made available to serious farmers.

Member Yuen stated that the requirement for Federal income tax return forms was not necessary but suggested instead to request for their Schedule F form. He also suggested that the Land Agents keep a sample of the business and development plan at each district office that prospective bidders could review to see what is expected of them.

There was some discussion about Member Yuen's suggestion that the Land Agents qualify applicants as bona fide farmers as step one. Member McCrory said the reason the Board accepted the screening committee was because they have different areas and levels of expertise. She stated that the Land Agents are doing an incredible job with all the information and knowledge they have but she would be more comfortable knowing that the screening committee has made that decision to qualify applicants as bona fide farmers. Member Yuen stated that the basic qualification for bona fide farmers are check-off type items. He said the Land Agents are part of the screening committee and did not feel that this would be putting more work on the Land Agents being that the Land Agent would have to sit through the screening committee meeting anyways. Mr. Uchida said applications that obviously do not have enough information to qualify will be returned. He said there are a lot of areas that are somewhat subjective about an individuals qualifications and would prefer the input of the screening committee rather than leaving the entire decision to the Land Agents. Member Yuen said if it's a matter of subjective then we should consider them cleared and through step one. Mr. Uchida said he would prefer saying that they completed the application for the committee to review rather than saying they passed step one. Member McCrory said she sees the role of a Land Agent as being a supporter for the community by helping them fill out the application and helping them understand various points but not make the decision on whether or not the person can be a successful farmer that should be left up to the experts. Member Yuen felt that the Land Agents can go through the qualifications and make a decision whether they meet the legal qualifications of a bona fide farmer. Member Matsumoto said the procedure that is laid out by the proposal seems satisfactory to him. He felt that is was not up to the Board to dictate to staff how to utilize their resources and said the Division can exercise it's sound judgement as to how much work they can undertake and what they want to delegate to the screening committee.

Member Matsumoto made a motion to approve staff submittal. Member Kennison seconded.

Member Inouye added a suggestion eliminating Page A-7, 29d and 29e. She requested that Page A-7 29a be replaced with: "Schedule F or other appropriate tax returns to verify farming income for full-time or part-time farming for the most recent two years. If the most recent years of operation will not be submitted, please explain why:" and Page A-7 29c to be replaced with: "A letter of intent or some type of document from a financial institution providing proof of financing for the applicant's business plan. If the business plan is to be self financed, and the applicant is an individual, husband and wife, sole proprietorship or partnership, attach a Personal Financial Statement for or Federal income tax return for each person to prove ability to finance proposal. If applicant is a corporation and proposes self financing, the applicant shall submit financial statements (current balance sheet and income/expense statement) for the most recent two years to prove ability to finance proposal." Member Matsumoto concurred with Member Inouye.

Member McCrory suggested adding on Page A-2, 6 section D.: "List the agricultural experience and qualification of all shareholders and officers." Member Matsumoto concurred with Member McCrory.

Chairperson Wilson suggested adding as part of the motion a requirement that there be a sample business plan made available to applicants. Member Matsumoto concurred with Chairperson Wilson.

Member Matsumoto amended his motion to include suggestions made by Board members.

Unanimously approved as amended (Matsumoto/Kennison).

Chairperson Wilson announced at 12:30 p.m. that a 15 minutes break will be taken by the Board members. The Meeting was reconvened at 12:45 p.m.

ITEM D-18: SET ASIDE TO THE COUNTY OF HAWAII FOR VETERANS CEMETERY PURPOSE AT SOUTH HILO, HAWAII, TMKS: (3) 2-3-20-2 AND -8

Mr. Uchida said this is a request for a set aside to the County of Hawaii, Department of Parks and Recreation for veterans cemetery purposes in South Hilo. Staff's recommendation is that the Board approve and recommend to the Governor to set aside these two parcels for expansion of the veterans cemetery subject to our standard conditions.

Mr. George Yoshida, Director of the County of Hawaii, Department Parks and Recreation testified in support of staff recommendation. He introduced 2 members of the Big Island Veterans Association, Mr. Louie Kaiwi and Ms. Mabel DeSilva.

Mr. Louis Kaiwi gave some background information and asked for the Boards support in granting the 2 parcels.

Unanimously approved as submitted (Yuen/McCrory).

ITEM D-26: ACCEPTANCE OF LAND DONATION FOR HISTORIC PRESERVATION SITE, KEAKEALANIWAHINE COMPLEX, HOLUALOA, NORTH KONA, HAWAII, TMK: (3) 7-7-04: 11 AND SUBSEQUENT SET ASIDE LAND TO PARKS DIVISION, DEPARTMENT OF LAND AND NATURAL RESOURCES

Mr. Uchida said this is a request for the acceptance of a land donation for historic preservation site at Keakealaniwahine Complex in North Kona on the Big Island. He said the present owner is First Hawaiian Credit Corporation and they want to give it over to the State at gratis to preserve this significant historic site. He stated that Keakealaniwahine ruled the island four generations before Kamehameha I and was the highest ranking alii of her time on the Island of Hawaii. She and her mother are the only two women known to have been recognized as rulers of the islands of Hawaii. Staff's recommendation is that the Board accept the donation subject to terms and conditions.

Ms. Patricia Tummons testified in favor of staff recommendation but was concerned about the reservation of a 60-foot wide non-exclusive easement for underground utilities that's not identified on the map. She asked if this was an easement that had been developed already or an easement to be conveyed or identified at some future point. Chairperson Wilson asked Mr. Uchida to clarify this with Ms. Tummons when he has a chance.

Unanimously approved as submitted (Yuen/Matsumoto).

ITEM D-22: CANCELLATION OF GOVERNOR'S EXECUTIVE ORDER 1547, WITHDRAWAL FROM GOVERNOR'S PROCLAMATION DATED DECEMBER 22, 1928, SET ASIDE TO THE DIVISION OF STATE PARKS FOR THE KALOPA STATE RECREATION AREA AND THE DIVISION OF FORESTRY AND WILDLIFE FOR THE KALOPA GAME MANAGEMENT AREA, KALOPA, HAWAII, TMK: 4-4-14-1

Mr. Uchida presented the staff submittal recommending that the Board cancel Governor's Executive Order 1547, authorize the withdrawal of some land from the Governor's Proclamation and authorize the set aside to the Division of State Parks for the Kalopa State Recreation Area and the Division of Forestry and Wildlife for the Kalopa Game Management Area subject to standard conditions.

Mr. Allan Takeya, Acting Park Superintendent for the Division of State Parks advised the Board that they built a camping area and they are going to have to go into a Master Plan to see what else they are going to build up there.

Unanimously approved as submitted (Yuen/McCrory)

ITEM D-7: WITHDRAWAL FROM GOVERNOR'S PROCLAMATION DATED JUNE 5, 1909, SET ASIDE TO THE DIVISION OF STATE PARKS FOR THE MAUNA KEA STATE PARK AND THE DIVISION OF CONSERVATION AND RESOURCE ENFORCEMENT FOR ADMINISTRATIVE BUILDING SITE, KAHOE, HAWAII, TMK: 4-4-16-PORION 3

Mr. Uchida said Item D-7 is similar to D-22.

Unanimously approved as submitted (Yuen Matsumoto).

ITEM K-1: RIGHT-OF-ENTRY, HONOLULU INTERNATIONAL AIRPORT, OAHU, (FEDERAL AVIATION ADMINISTRATION) TMK: 1-1-1-03: POR OF 1 (TO BE DISTRIBUTED)

Unanimously approved as submitted (Matsumoto/McCrory).

ITEM K-2: FIXED-BASE FACILITIES LEASE, KONA INTERNATIONAL AIRPORT AT KEAHOLE, ISLAND OF HAWAII, (HAWAII AIRVENTURES, INC.) TMK: 3-6-7-01:POR OF 8 (TO BE DISTRIBUTED)

Unanimously approved as submitted (Yuen/Kennison).

ITEM K-3: RIGHT-OF-ENTRY, HONOLULU INTERNATIONAL AIRPORT, OAHU (MANUIWA AIRWAYS, INC. TMK: 1-1-1-03: POR OF 1 (TO BE DISTRIBUTED)

Unanimously approved as submitted (McCrorry/Inouye).

ITEM K-4: CONSENT TO SUBLEASE - LEASE NO. DOT-A-91-21, HONOLULU INTERNATIONAL AIRPORT, OAHU (PACIFIC AVIATION SERVICES, INC.) TMK: 1-1-1-03: POR OF 1 (TO BE DISTRIBUTED)

Unanimously approved as submitted (Inouye/McCrory).

ITEM B-1: REQUEST FOR APPROVAL TO HOLD A PUBLIC HEARING TO AMEND HAWAII ADMINISTRATIVE RULES CHAPTER 13-47, RULES REGULATING THE HILO BAY, WAILOA RIVER AND WAILUKU RIVER, HAWAII FISHERIES MANAGEMENT AREA AND CHAPTER 13-63, RULES REGULATING THE WAIAKEA PUBLIC FISHING AREA, HAWAII

Dr. Robert Nishimoto, Aquatic Biologist for the Division of Aquatic Resources (DAR) said this is a request for the Board's approval to hold a public hearing to amend Hawaii Administrative Rules (HAR) Chapter 13-47 and 13-63. The main proposed amendment for Chapter 13-47 will be in section 13-47-3(2) to prevent pond operators from taking juvenile mullet or pua from the Wailoa River, where we have initiated a mullet restocking program. The restocking program cannot be successful in building up the mullet populations in Hilo Bay if the juveniles are taken by the pond operators. Other amendments would 1) add definition to clarify interpretation of the Chapter, 2) move the boundary for Wailoa River from the current Pauahi Street boundary to the highest reach of the tidal waters, since there is already considerable fishing in the waters above Pauahi Street, and 3) prohibit the snagging of fish, which is causing safety concerns when hooks accidentally snag people and increasing damage to fish that are not caught. The proposed amendments for Chapter 13-63 will be in section 13-63-2(7) to add a bag and size limit for Samoan crabs and to replace the existing section 13-63-1 Boundary with a Definitions section. The new definitions are expected to greatly clarify interpretation and assist enforcement of this chapter, as well as improve our ability to properly manage the public fishing area. Another major amendment is to expand the Waiakea public fishing area boundaries to include the Wailoa River flood control canal and the Mahohuli fish pond.

Chairperson Wilson mentioned to the Board members that Dr. Nishimoto has put together a program in Hilo Bay that has replenished the mullet population. He commended Dr. Nishimoto in working with the fishing communities in changing their aspect of DLNR.

Mr. Carl Shioji a member of the Hilo Trollers Big Island Fish Association mentioned the need for a master plan that includes a boat ramp for the boating community in the Hilo Bay area. Chairperson Wilson stated that Mr. Shioji has a fine idea but normally the Land Board discusses items that are on the agenda. He advised Mr. Shioji to contact the Boating Division and asked Ms. Unoki of the Land Division to keep in contact with Mr. Shioji regarding this issue.

Unanimously approved as amended (Yuen/McCrory).

ITEM D-1: STAFF REQUEST TO ACCEPT TRANSFER OF COUNTY OF MAUI LANDS IDENTIFIED BY TMK: 5-3-01: 03 AND 05, KAUNAKAKAI, MOLOKAI, CANCELLATION OF REVOCABLE PERMIT NO. S-6023 AND SET ASIDE OF LANDS BY EXECUTIVE ORDER TO THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM FOR SAME AND STATE LANDS IDENTIFIED BY TMK: 5-3-01: 02, 97, 99 AND 100, KAUNAKAKAI MOLOKAI, FOR THE PROPOSED MALAMA CULTURAL CENTER PROJECT AND AN AFTER-THE-FACT RIGHT OF ENTRY FOR CONSTRUCTION AND IMMEDIATE USE PURPOSES

Mr. Uchida presented the staff submittal recommending that the Board authorize the acceptance of land from the County of Maui and set aside of the area to the Department of Business Economic Development & Tourism (DBEDT) and authorize the after-the-fact right of entry to DBEDT for this site subject to our standard conditions.

Member Matsumoto was concerned about DBEDT's neglect in pursuing the necessary permits. He said this item should be deferred until somebody from DBEDT can explain why they proceeded without obtaining the proper authorization. Chairperson Wilson explained that it is essentially completed and the community is ready to try to utilize it but it appears that DBEDT just moved ahead without either understanding or taking the time to pursue the necessary permits.

Unanimously approved as submitted (Kennison/McCrory).

Chairperson Wilson asked Mr. Uchida to send DBEDT a letter that the Land Board would like to bring to their attention that this type of after-the-fact approvals should not occur again.

ITEM D-2: ISSUANCE OF LAND LICENSE TO GROVE FARM ROCK CO., IN.

KEKAHA, MAKAOA QUARRY SITE, TMK: 1-2-02: 1, KAUAI

Unanimously approved as submitted (McCrorry/Yuen).

ITEM D-3: ADOPTION OF A STRATEGIC ACTION PLAN TO BRING PIERS IN KANEOHE BAY INTO CONFORMANCE WITH STATE LAND USE LAWS

Mr. Uchida presented the staff submittal recommending that the Board affirm the strategic action plan prepared by the Land Division to implement the process for resolving the problem of illegal piers in Kaneohe Bay. He also added a condition "That the Board delegate to the Chairperson, the authority to revise the plan as he sees fit to best serve the interest of the State".

Member Matsumoto asked what is the expectation of the date of completion. Mr. Uchida said definitely longer than 6 month because the CDUA process alone takes 6 month and there is a 2 month window we are creating for people to respond to the questionnaire we are sending out.

Unanimously approved as amended (Inouye/Matsumoto).

ITEM-5: REQUEST AUTHORIZATION TO SELL LEASE AT PUBLIC AUCTION FOR PASTURE PURPOSES, LOT 62, KAPAA HOMESTEAD, FIRST SERIES, KAWAIHAU (PUNA), KAUAI, TMK: 4-6-6: 28 AND 29, AND ISSUANCE OF INTERIM REVOCABLE PERMIT TO R.J. FARIAS

Unanimously approved as submitted (McCrorry/Matsumoto).

ITEM D-8: CONSENT TO ASSIGNMENT OF SUBLEASE AND SUB-SUBLEASE OF GENERAL LEASE S-3723 ASSIGNED TO CONSTRUCTORS HAWAII, INC. AT WAIAKEA, HAWAII, TMK: (3) 2-2-32-11, -85 AND -86

Unanimously approved as submitted (Yuen/Kennison).

ITEM D-13: AMENDMENT TO PREVIOUS SUBMITTAL - ASSIGNMENT OF GENERAL LEASE NO. S-5076, LOT 46, PUU KA PELE PARK LOTS, WAIMEA, KAUAI

Unanimously approved as submitted (McCrorry/Inouye).

ITEM D-14: SET ASIDE TO THE DIVISION OF FORESTRY AND WILDLIFE FOR PUUWAAWAA FOREST BIRD SANCTUARY PURPOSE AT NORTH KONA, HAWAII, TMK: (3) 7-1-1-PORION 1

Unanimously approved as submitted (Yuen/Matsumoto).

ITEM D-15: AMENDMENT TO PREVIOUS BOARD APPROVAL - ONE (1) YEAR HOLDOVER FOR GENERAL LEASE NO. S-4875 TO KOKEE VENTURES, INC., WAIMEA

Unanimously approved as submitted (McCrary/Matsumoto).

ITEM D-16: ISSUANCE OF REVOCABLE PERMIT TO TOM SUMMERS, POR. OF KAPAA TOWN LOTS, 2ND SERIES, KAWAIHAU, KAUAI, TMKs: 4-5-8: 4, 5, AND 6

Unanimously approved as submitted (McCrary/Inouye).

ITEM D-17: REQUEST AUTHORIZATION TO SELL LEASE AT PUBLIC AUCTION FOR RECREATIONAL-RESIDENTIAL PURPOSES, LOT 47, PUU KA PELE PARK LOTS, WAIMEA (KONA), KAUAI, TMK: 1-4-2: 34

Unanimously approved as submitted (McCrary/Matsumoto).

ITEM D-19: ISSUANCE OF A REVOCABLE PERMIT TO MANU O KE KAI CANOE CLUB, TRAINING AREA AND STORAGE SITE AT ANAHULU BRIDGE SITE SITUATE KAWAIILOA, WAIALUA, OAHU, TMK: 6-2-03: 10

Mr. Uchida stated that the applicant has some concerns about the rent and would like to request withdrawal.

Unanimously approved to withdraw (McCrary/Kennison).

ITEM D-20: 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)

Mr. Uchida said this is a request for consent to sublease between Hawaii Planning Mill and Budget Rent a Car. He said Member Inouye raised some questions regarding the calculations of the sandwich profit. He requested that the Board approve this item with the understanding that the staff appraiser will take another look at the calculations and if it is a mathematical error which still results in no sandwich we will continue processing however if errors are found that result in a sandwich we will bring the matter back to the Board for their consideration.

Unanimously approved as submitted (Yuen/Inouye).

ITEM D-21: CONSENT TO THE ISSUANCE OF A REVOCABLE PERMIT BY DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM TO TOUCHSTONE TELEVISION FOR USE OF THE DIAMOND HEAD FILM FACILITY SITUATE KAPAHULU, WAIKIKI, HONOLULU, OAHU, TMK: 3-1-042: 9 (POR.)

Unanimously approved as submitted (McCroory/Matsumoto).

ITEM D-23: AMEND GENERAL LEASE S-4316 ASSIGNED TO THE NAKANO CO., LTD. AT WAIAKEA, HAWAII, TMK: (3) 2-1-1-12

Mr. Uchida said this is a request to amend General Lease S-4316. This is a golf course lease and the lessee is asking that they be allowed to put in a tennis court as part of this facility. Staff's recommendation is that the Board deny the applicants request to amend the character of use to allow the construction of two tennis courts. He said staff feels that tennis courts is not a use related to golf course and allied facilities.

Member Inouye asked if the character of use can be amended. Mr. Uchida said in the Kahua Ranch case the Supreme Court opined that parties cannot change the lease once it's sold at public auction. Deputy Attorney General Linnel Nishioka said the Kahua Ranch case is pretty strict about what can be done and changed. She did not think a tennis court was an allowable use and compatible with golf course use. She said if the Board wants she can write something formal.

Ms. Patricia Tummons testified in favor of staff recommendation and shared with the Board the history of this lease that she had researched.

Unanimously approved as submitted (Yuen/Inouye).

There being no further business, Chairperson Wilson adjourned the meeting at 1:40 p.m.

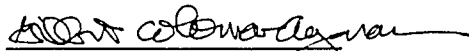
Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Kimberly C. Kelihoomalu

Approved for submittal:



for MICHAEL D. WILSON

Chairperson

Board of Land and Natural Resources