

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

DATE: FRIDAY, JUNE 19, 1998  
TIME: 9:00 A.M.  
PLACE: KALANIMOKU BUILDING  
LAND BOARD CONFERENCE ROOM 132  
1151 PUNCHBOWL STREET  
HONOLULU, HAWAII

Board Member Chris Yuen called the meeting of the Board of Land and Natural Resources to order at 9:22 a.m. The following were in attendance:

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

Staff: Mr. Dean Uchida, Land Division  
Mr. Ralston Nagata, Division of State Parks  
Mr. Michael Buck, Division of Forestry and Wildlife (DOFAW)  
Mr. Paul Conry, DOFAW  
Mr. Don Hibbard, Historic Preservation  
Mr. John Hino, Division of Boating and Ocean Recreation

Others: Ms. Pamela Matsukawa, Deputy Attorney General Mr. Ted Meyers, E-2  
Mr. Peter Garcia, Department of Transportation Mr. Tom Hegarty, E-2  
Mr. David Craddick, D-27 Ms. Susan Matsuura, E-2  
Mr. Gary Zakian, D-27 Ms. Betsy Wilson, E-2  
Mr. Mark Sheehan, D-27 Mr. Manuel Rapozo, D-32  
Mr. David Kimo Frankel, D-27, E-2 Mr. Scot Muraoka, D-9  
Mr. Clarence Greff, E-2

**APPROVAL OF MINUTES**

**Briefing Minutes of March 12, 1998, Item 1, unanimously approved as submitted.  
(McCrory/Inouye).**

**Briefing Minutes of March 12, 1998, Item 2, unanimously approved as submitted  
(McCrory/Inouye).**

**Minutes of May 8, 1998 unanimously approved as submitted. (Inouye/McCrory).**

Briefing Minutes of May 15, 1998. Add to the minutes the discussion with the Attorney General with regards to the possible conflict between church and state to leasing of land at a subsidized rent for the portion of the land on which the church worship building will be located.

**Briefing Minutes unanimously approved as amended. (McCrorry/Kennison).**

**D-27 REQUEST FOR DIRECT ISSUANCE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT TO THE COUNTY OF MAUI, BOARD OF WATER SUPPLY FOR UTILITY PURPOSES, AND AN IMMEDIATE RIGHT OF ENTRY FOR SITE CONTROL PURPOSES, OVER, UNDER, ACROSS AND ON GOVERNMENT LANDS, IDENTIFIED BY TMK: 2-7-02: PORTION 16 AND 2-7-03: PORTION 60, HAIKU, MAKAWAO, MAUI**

Mr. Dean Uchida, Acting Administrator of the Land Division said this item is for the purpose of utility power to two existing wells and telephone communications lines involving approximately 21,000 feet of land with easement of 35 feet wide by 600 feet long. Staff recommendation is that the Board authorize the direct issuance of a perpetual, non-exclusive easement to the County of Maui, Board of Water Supply for utility purposes and to approve the site control right-of-entry subject to terms and conditions.

Mr. Uchida explained the letter from Mr. Isaac Hall, Attorney representing the Coalition to Protect East Maui Water Resources requesting for a contested case hearing and the Proclamation signed by the Governor declaring the water emergency on Maui.

Mr. David Craddick of Board of Water Supply displayed a map and explained that the project has been held up due to a court order for a new Environmental Impact Statement (EIS). In order to get power, the lines will have to cross state lands across the gulch approximately 100 feet above ground surface to get to the wells. Craddick said the water will pump up to the Hamakua Ditch which is 150 feet lower than the current treatment plant to supply the Upcountry water system. By doing that, the County would take water out of the ditch but still have enough water to satisfy the demands of the system. Craddick said the Governor's Proclamation gives them until September 1, 1998 to get the system operational. He explained that Maui Electric requires three months to get those lines in place and have in place the right-of-entry from A & B to do the work.

Mr. Craddick said this can only work because A & B will allow the County to dump water into the ditch for additional credit. A & B needs approximately 11 million gallons a day to keep the mill in operation and the County needs 8 million gallons a day to supply drinking water. Mr. Craddick stated that there are no pipe lines connecting Central Maui and before that can occur, the wells needs to be treated and an EIS completed.

Mr. Uchida referred to the Governor's proclamation, page 2, that reads "...the Proclamation is not intended in any way to circumvent this court's order..." and, "...some or all aspects of the infrastructure construction project necessary to deliver water from the water supply wells may constitute components of the East Maui Development Plan, it is further recognized that Maui County will have to apply to the Circuit Court of the Second Circuit for relief from or clarification of the court's order before proceeding with development of the infrastructure needed to deliver water from the water supply wells ...". He said after reading what is contained in the Proclamation and Hall's letter, there are questions that need to be addressed.

Member Christopher Yuen said that the staff submittal states exempt because it provides easement which is on the exempt list but if there is going to be construction of power lines and poles on State land, that will not be exempt. Mr. Uchida explained that the County had included it in their document and that the easement had been incorporated into the 343 Document. He said his staff declaring it exempt could be in error. Member Yuen stated that a Judge in Maui ruled it as not being adequate and dumped it.

There was discussion about whether or not an easement is required for this project. Mr. Craddick felt that the Proclamation was only for the purpose of getting the project operational and not for emergency purposes. He said an EIS in 1994 included the pipeline between 2 wells. Mr. Craddick's understanding of the Proclamation is that the County cannot do anything to the wells once the Proclamation ends in September. Mr. Uchida clarified with Mr. Craddick that the original EIS included the 2 wells and to include the wells into the potable system but came up with an alternative use to use it for irrigation purposes after finding out that the wells contained some level of pesticides. That the development components of making the 2 wells productive with the power and telephone lines were included in the EIS. Mr. Craddick concurred.

Member Yuen read from Proclamation, Page 2, "...it is further recognized that Maui County will have to apply to the Circuit Court of the Second Circuit for relief from or clarification of the court's order before proceeding with development of the infrastructure needed to deliver water from the water supply wells notwithstanding this Proclamation..." and asked whether Maui County did that. Craddick said the County has not filed anything and do not see this project as the East Maui plan.

Mr. Gary Zakian introduced himself as Deputy Corporation Council, County of Maui.

Mr. Mark Sheehan testified in behalf of Coalition to Protect East Maui Water Resources. He said the Coalition perceives this as an attempt by the Board of Water Supply to circumvent the court ruling and uses the Governor's Proclamation as an excuse to proceed with their development. Mr. Sheehan said there is no drought on Maui and the County has admitted that the drought is over by withdrawing their drought restriction. The Coalition believes that the state should not be facilitating the pumping of contaminated water.

Member Kathryn Inouye asked for clarification as to the feasibility of operating the pumps

utilizing the emergency generator. Mr. Craddick said it is possible [to use the emergency generator] but that the environmental impact of the exhaust fumes and potential fuel spills is great. He said to clarify Mr. Sheehan's statement of drought restriction being withdrawn by the County is not true. Mr. Craddick commented that there are very few intakes in the Haiku area.

There was discussion on the East Maui Plan. There was also discussion on the Proclamation, Page 2, "...that the Maui County will have to apply to the Circuit Court of the Second Circuit..." before proceeding with infrastructure to deliver any water. Mr. Zakian said the County is not delivering any water, this is just to get it operational.

Mr. Craddick clarified Member Yuen's statement regarding water going into some other area and said this water is being pumped into a reservoir that supplies the same area.

Mr. David Kimo Frankel of the Sierra Club said part of the EIS process is to find out what some of the environmental impacts are and that they should be studied. He asked the Board not to approve the submittal because of the request of the contested case hearing from Isaac Hall and felt that clearer information should be rendered. Mr. Frankel further stated that the Maui County has consistently violated environmental laws and that the County is issuing new water meters and encouraging more development with insufficient water supply.

Mr. Craddick clarified the issuance of water meters is for Hawaiian Homes which was committed to by his predecessors. He said this infrastructure is targeted for 1999 completion with 400 lots planned.

In response to Member Lynn McCrory's question, Mr. Zakian said he could provide information on the last Whereas on page 2 within a week.

Mr. Sheehan said the creative solution in which Mr. Everett Dowling has come up with a private well to meet the water needs in this development in the upper Pukulani area, is controversial and is a way to circumvent the way in which the Board of Water Supply (BWS) ordinarily conducts business to drill wells and supply water. He felt that BWS collaborated with a private developer in facilitating his development and wonders whether this type of practice will be a common occurrence.

**Motion was made at 10:20 a.m. and unanimously approved to move into executive session to consult with the Deputy Attorney General. (Kennison/McCrory).**

Member Yuen reconvened the meeting at 10:45 a.m.

In response to Member Inouye's question regarding Isaac Hall's request for a contested case hearing as to the application of the Board's action today, Deputy Attorney General (AG) Pam Matsukawa said the granting of the easement by the Board is a proprietary function of the Board as opposed to a regulatory function, there is no right to a contested case hearing with

regard to the granting of the easement.

**Motion made and unanimously approved to accept staff recommendation with an amendment that before infrastructure construction commences, the County of Maui, BWS must apply to the Circuit Court for clarification of the court order. (Kennison/McCrory).**

Member Inouye stated that a great part of Mr. Hall and Mr. Sheehan's testimony was focused on the opinion that there was not a drought condition in the Maui area but she felt that the Maui BWS should be planning for drought condition and not wait until there is an emergency situation. For this reason, she wants the planning to go forward but did have concerns about the compliance of the Proclamation and the Judge's order.

~~Member Yuen recommended that the BWS go through the process and invoke an emergency if the process is not completed before the new drought hits. Mr. Craddick concurred. Member Yuen stated his concern for the process and wanted to make sure that the court order is not being circumvented.~~

**E-2 REQUEST FOR ONE-YEAR EXTENSION FOR THREE SPECIAL USE PERMITS TO MAKE COMMERCIAL TOUR BOAT LANDING AT THE NA PALI COAST STATE PARK, KAUAI**

Member McCrory recused herself.

Mr. Ralston Nagata, Administrator of State Parks briefed the Board Members for the one-year extension request. He said the staff recommendation is that the Board extend the 3 State Parks' Special Use Permits with conditions that are applicable to commercial tour boat landings at the Na Pali Coast State Park. He amended the second sentence of the recommendation with, "Issuance of an extended Special Use Permit to each operator occur only if the respective operator has a current Commercial Use Permit to conduct operations within Na Pali ocean waters as issued by DOBOR". Mr. Nagata said there were some concerns about the hauling of rubbish but believes that every permit carries a clause to assist State Parks in the removal of rubbish and assured the Board that the clause will be stated on all 3 permits.

There was discussion regarding the cleanup of the area. Nagata said the primary area is Kalalau and the least often cleaned is Nualolo.

Member Yuen commented that he felt the Captain Zodiac operation was leaving someone at the beach to maintain a presence at the largest camp site to reserve the area. He said if that is happening, it isn't right.

Member Inouye said it would make more sense if the permits were issued concurrently and

for the Board to grant both permits simultaneously since both areas would be affected. Deputy AG Matsukawa said the boating permits for the north shore, Kauai area will not be coming to the Board for issuance. Rules will be implemented and have in fact started enforcement actions in the area. She clarified that this situation is not the same as the Kaneohe Bay situation where they would have to come to the Board for permits. Deputy AG Matsukawa said the boating program was transferred to DLNR in 1994 but that the issuance of permits would be under the basic set of rules of 1987.

There was discussion on the landings per day, the passengers per landing, and the number of people per day. Chairperson Michael Wilson asked about the restroom facilities. He said he has heard that the facilities are not maintained, that the facilities is beyond the capacity for the number of people and somewhat out of control. Mr. Nagata said that the facilities is not the best.

Mr. Clarence Greff introduced himself as the General Manager of Captain Zodiac and submitted a letter he had written to Governor Cayetano to the Board members. He said their operation is facing a serious financial situation after 25 years in the business. They abide by the rules and assist the County and the State in taking care of the Na Pali Coast and now find themselves without a permit. He said there are 7 out of 15 north shore boaters authorized by the ORMA law to have permits and they are not one of them. Mr. Greff explained that they were not issued permits but was told not to worry about it. He said letters were written to the Land Board Chairman and the Division of Boating and Ocean Recreation (DOBOR) requesting for the permits but did not receive a response. Mr. Greff said they ceased their operations approximately 2 weeks ago when they were issued citations charging that they did not have a Commercial Use Permit and that they were loading and unloading passengers at Makua. He asked the Board to renew their permits for landing and also for DOBOR to issue permits to operate from Makua or from the Hanalei Bay area. Mr. Greff said if they are not issued permits, they would have to shut down their operation. He also clarified Member Yuen's observation regarding reserving camp site was not correct.

Mr. Ted Myers, Operations of Captain Zodiac said he is familiar with the Nualolo restroom facility. He stated that the Zodiac crew have helped to maintain the area on a regular basis and that State Parks crew does maintain the facility approximately twice a month. Mr. Myers said they have had no consistent complaints about Nualolo.

There was discussion about the anchoring of boats and the maximum number of people on shore. Mr. Myers said the maximum number of people on shore should be 30. He felt that mooring pins should be used instead of anchoring the boats.

Mr. Tom Hegarty testified and requested that the Board approve his permit and understands that there is a possibility for DOBOR to issue him a temporary summer permit to enable him to operate in July, August and September. Mr. Hegarty said he volunteers to do cleanup with State archeologists on a yearly basis to clean the trails.

Member Yuen commented that the operating companies were being responsible and noted that instructions are given to snorklers to not disturb corals.

Ms. Susan Matsuura and Ms. Betsy Wilson representing the Lady Ann Cruises which operates out of Port Allen, explained that it takes approximately 1-1/2 hours to go down the coastline from Port Allen to Nualolo. Ms. Matsuura said the maximum people they allow on shore is 15 and presently carry 33 passengers on the vessel. They have not received complaints about the restroom because their passengers use the facility on board. Ms. Wilson did not feel that the use of the area could grow because the area where the boats need to moor is too small and to time the landing of boats would be difficult.

Mr. Frankel representing the Kauai Sierra Club said their objection to the issuance of a permit to Mr. Greff's application is numerous. He referred to the DOBOR rules and stated that on June 2, 1998 DLNR notified Mr. Greff of violation of the Department's rule. He also referred to April 8, 1998 letter to Mr. Greff from DOBOR stating that Mr. Greff did not have a Commercial Use Permit to conduct commercial boating activities within the Na Pali Coast ocean waters and that all commercial boaters who do not have the appropriate permits to operate is subject to enforcement action. Mr. Greff continued to operate despite the notification and the Kauai Sierra Club felt that this non-compliance clearly indicates his ineligibility for the application.

**Motion made at 1:20 p.m. and unanimously approved to move into executive session to consult with the Deputy Attorney General. (Yuen/Kennison).**

Chairperson Wilson reconvened the meeting at 1:40 p.m.

**Motion made and unanimously approved to accept staff recommendation for the one-year extension for 3 Special Use Permits to make commercial tour boat landings at the Na Pali Coast State Parks with the amended recommendation to the issuance of an extended Special Use Permit to each operator occur only if the respective operator has a current Commercial Use Permit to conduct operations within Na Pali ocean waters as issued by DOBOR. (Yuen/Inouye).**

**D-32 RESUBMITTAL, ISSUANCE OF A REVOCABLE PERMIT TO MANUEL RAPOZO AT KALOPA, HAWAII, TMK: (3) 4-4-3-47 AND 4-4-3-PORTION 3**

Mr. Uchida briefed the Board and said this item was deferred in March 1998 because of questions raised regarding the access to the subject property. He explained that the staff conducted a site visit and discovered that the road shown on the map is an old gravity railroad system. Mr. Uchida said the staff prefers to work out the road issue with the County rather than deal with individual tenants at this time. The staff recommendation is that the Board authorize the issuance of a new revocable permit to Mr. Manuel Rapozo covering State lands subject to terms and conditions.

Mr. Uchida explained that Department of Hawaiian Home Lands (DHHL) is entitled to 30% of the land revenue which was in sugar cane production and 20% to go to the Office of Hawaiian Affairs (OHA).

Member Yuen's concern was to make the new tenant aware of the legal access to the property along the gravel road and the legal physical access. There was discussion about the roads for legal access and an non-exclusive easement into properties. Mr. Uchida asked whether the gravity road could be used as a legal access to the property and Member Yuen felt that it be best, otherwise, the State would be stuck with the 20 acres that cannot be leased out. Mr. Uchida's reason for the request of the revocable permit is to allow the Land Division to resolve the access road issues with the County. He said there were many internal roads throughout the fields leading to other properties when the plantation went down. Chairperson Wilson clarified that the discussions with the County would depend on the designation of the gravity road as an access point or to convince the County to designate a road that would be more beneficial.

Member Yuen asked if he understood how the revocable permit procedure worked, Mr. Manual Rapozo said yes and expressed an interest to bid on the property. He said currently there are gates there but no locks on them, it is there only to hold the cattle in.

**Motion made and unanimously approved for the issuance of the revocable permit with the understanding that the access issue be clarified so that the property can be put out to public auction. (Yuen/Kennison).**

**D-9 TIME EXTENSION REQUEST - CONSERVATION DISTRICT USE PERMIT  
0A-2857 FOR THE MAKAHA VALLEY FLOOD & DEBRIS BARRIER  
IMPROVEMENTS, MAKAHA VALLEY, WAIANAE, OAHU, TMK: 8-4-02:  
PORTION OF 14**

Mr. Uchida briefed the Board on the approval of the CDUA in March 1997 to construct a flood and debris control structure with a condition that required the work to be completed within one year but that in February 1998, the applicant requested additional time to initiate construction. Liability issues regarding the drainage and flooding of the property were being negotiated.

Mr. Uchida said the staff recommendation is that the Board approve an extension of a 2 year time frame to complete and improve the Makaha Valley Flood and Debris barrier project subject to terms and conditions.

Mr. Scot Muraoka representing the Board of Water Supply introduced Mark Morita, Deputy Corporation Counsel.

In response to Member Inouye's question on what the interim plans were, Mr. Morita said



there has been no action from the BWS for any type of structure or construction on the Conservation District lands. He said the homeowners have enlarged the trench on their property to divert the stream. Member Inouye's concern was the State's no action for further liability and future damage and asked why there are no intermediate emergency measures in place. Mr. Muraoka said the intermediate measure is the ----- structure. He felt that the resolution between the homeowners association and the BWS is not closed. There was discussion on whether or not the requested time frame extension would be sufficient. Mr. Morita said the designs are complete and that construction could begin immediately after the legal issues are resolved.

Mr. Morita briefed the Board that the developer owned the entire Makaha Valley and constructed the Tower. The design was to include a drainage ditch which the developer constructed to divert the two streams. BWS 20 years later, purchased the lands mauka of the Towers to protect the watershed to prevent further development and to protect the water sources. Thirty years after the construction of these buildings, flood waters in 1996 and 1997 exceeded the capacity of the drainage ditch and the streams were over run and water went through the structure. BWS did not have any liability for the floods because BWS did not construct the structure and did not alter the natural stream course. The developer's diversion of the stream was inadequate to handle the flood waters. BWS was willing to put in some type of mitigative measures to assist the residences but by doing so, BWS would then be the diverter of the stream and thus be altering the natural course of the stream. In exchange for this aide, BWS asked that the Makaha Valley Towers waive the liability which may be associated with the design and construction of the mitigative measure. The association is not willing to release any part of the liability that the BWS might subject itself to by aiding them. Muraoka said the estimated time for construction should be 6 months.

**Motion made and unanimously approved as submitted. (Inouye/McCrory).**

**D-10 TIME EXTENSION REQUEST - CONSERVATION DISTRICT USE PERMIT  
0A-2839 FOR THE MAKAHA 242 RESERVOIR NO. 2, MAKAHA, WAIANAE,  
OAHU, TMK: 8-4-02: 11 & PORTION OF 14**

Mr. Uchida said the time extension request is due to delays encountered for the design of the reservoir. The staff recommendation is that the Board approve an extension of 2 years to initiate and complete the approved Makaha 242 Reservoir No. 2 Project subject to terms and conditions. Mr. Uchida clarified that the time extension should be initiated in two years and an additional 2 years to complete.

**Motion made and unanimously approved with amendment that the Board approve an extension of two (2) years to initiate and an additional two (2) years to complete the project. (Inouye/McCrory).**

**D-14 REQUEST TO AMEND THE BOARD'S AUGUST 27, 1993 AGENDA ITEM F-6, AUTHORIZING THE CHAIRPERSON TO OFFER THE CONCEPTUAL PROPOSAL FOR REDUCTION IN RENT OF SUGAR LEASES ON OAHU, KAUAI AND MAUI TO AMFAC/JMB HAWAII, INC., AND TO AMEND THE BOARD'S DECEMBER 16, 1994 AGENDA ITEM F-10, AUTHORIZING RENT ADJUSTMENTS TO VARIOUS GENERAL LEASES AND REVOCABLE PERMITS TO SUBSIDIARIES OF AMFAC/JMB HAWAII, INC., INVOLVING SUGARCANE CULTIVATION ON KAUAI, OAHU AND MAUI IDENTIFIED BY VARIOUS LEASE NOS. AND TAX MAP KEYS**

Mr. Uchida said in August 1993 and 1994 the Board took action to adjust the rent on several leases statewide for Amfac JMB in recognition of the closure of Oahu Sugar Plantation and the expiration of the leases. He explained that when this was done, the Division failed to pick up a lease and a subsequent permit that was issued to Pioneer Mill. The staff recommendation is that the Board amend the August 1993 and December 1994 actions and to authorize the monthly rent as stated in the recommendation subject to terms and conditions.

**Motion made and unanimously approved as submitted. (Kennison/McCrory).**

**C-1 PERMISSION TO CONDUCT PUBLIC HEARINGS ON DRAFT AMENDMENT TO HAWAII ADMINISTRATIVE RULES: CHAPTER 122, "RULES REGULATING GAME BIRD HUNTING, FIELDS TRAILS AND COMMERCIAL SHOOTING PRESERVES" AND CHAPTER 123, "RULES REGULATING GAME MAMMAL HUNTING"**

Mr. Michael Buck, Administrator of Division of Forestry and Wildlife (DOFAW) introduced Paul Conry and briefed the Board. He said the staff recommendation is that the Board approve the request to conduct public hearings and that Paul Conry be the Hearing Master.

**Motion made and unanimously approved as submitted. (Inouye/Kennison).**

**C-2 REQUEST FOR THE BOARD TO ESTABLISH USE REQUIREMENTS AND FEES FOR THE 1998-1999 HAWAII WILDLIFE CONSERVATION STAMP**

Mr. Buck said the staff recommendation is that the Board establish the requirement for the use of the Hawaii Wildlife Conservation Stamp to validate the Fiscal Year 1999 Hunting License and set the hunting stamp fee at \$5.00 for resident and non-resident hunters.

**Motion made and unanimously approved as submitted. (Yuen/Kennison).**

**E-4 ACCEPTANCE OF A CONCEPTUAL PLAN FOR KEKAHA KAI STATE**

**PARK (FORMERLY KNOWN AS KONA COAST STATE PARK), HAWAII**

Mr. Ralston Nagata said staff recommendation is that the Board accept the Kekaha Kai State Park Conceptual Plan and authorize the preparation and publication of the Development Plan and EIS for the Mahai'ula Section of the Park.

Member Yuen said he hopes to still be involved with this project and complimented the well planned project. He suggested shade for the camping areas. There was discussion regarding the DOT lands. Mr. Nagata said DLNR would not be able to take those lands but would like to share use so that the land use rules can be applied.

Motion made and unanimously approved as submitted. (Yuen/McCrory).

**E-1 CANCELLATION OF REVOCABLE PERMIT NOS. S-6267, 6262, 6256, 6272, AND 6273, KAHANA VALLEY STATE PARK, KAHANA, KOOLAULOA, OAHU, TMK: 5-2-01**

Mr. Nagata said the staff recommendation is that the Board authorize the cancellation of revocable permits effective 30 days following posting or receipt of written notification of cancellation.

Motion made and unanimously approved as submitted. (Inouye/Kennison).

**E-3 APPROVAL TO ENTER INTO AN AGREEMENT WITH LIHUE PLANTATION FOR RIGHT-OF-ENTRY TO MALAE HEIAU, WAILUA RIVER STATE PARK, KAUAI**

Mr. Nagata said staff recommendation is that the Board approve the right-of-entry agreement with Lihue Plantation to access Malae Heiau.

Motion made and unanimously approved as submitted. (McCrory/Kennison).

**F-1 REQUEST FOR AWARDED OF HISTORIC PRESERVATION FEDERAL GRANT-IN-AID TO THE COUNTY OF MAUI FOR \$30,509.00**

Mr. Don Hibbard, Administrator of Historic Preservation asked that the Board authorize the Chairperson and another member of the Board to negotiate and execute a contract agreement with the County of Maui to undertake the above projects, subject to the Attorney General's approval as to form.

Motion made and unanimously approved as submitted. (Kennison/McCrory).

**J-1 PERMISSION TO ENTER INTO A MEMORANDUM OF AGREEMENT FOR CONTRIBUTED FUNDS RELATED TO THE MAINTENANCE DREDGING AND DISPOSAL AT THE HALEIWA SMALL BOAT HARBOR, ISLAND OF OAHU, HAWAII**

Mr. John Hino representing the Division of Boating and Ocean Recreation (DOBOR) presented staff recommendation that the Board authorize the Chairperson to execute the Memorandum of Agreement with the Department of the Army for contributed funds related to the maintenance, dredging and disposal at the Haleiwa Small Boat Harbor.

**Motion made and unanimously approved as submitted. (Inouye/Kennison).**

There was discussion on dredging approximately 2,400 cubic yards at the cost of \$200,000. Mr. Hino said the Army Corps would pay \$150,000 and the State's cost is \$50,000.

**J-2 AUTHORIZATION TO SELL AT PUBLIC AUCTION A LEASE FOR GOVERNMENT LANDS SITUATED AT HONOKOHAU BOAT HARBOR, ISLAND OF HAWAII, TMK: (3) 7-4-08: 3**

Mr. Hino said staff recommendation is that the Board approve the sale of the lease through public auction subject to terms and conditions. He said the 5% gross receipts or whatever is greater will be included in the lease agreement.

There was discussion about the adjustment of the annual rental. Member Inouye felt it was inconsistent. Member Yuen clarified that the annual increase will follow the annual CPI.

**Motion made and unanimously approved to drop the annual bump up adjustment and the upset rental should include some gross proceeds consideration or fixed amount gross proceeds. (Yuen/Inouye).**

**J-3 AMENDMENT TO PRIOR BOARD ACTION DATED JUNE 14, 1996 UNDER AGENDA ITEM J-5 REGARDING AUTHORIZATION TO LEASE AT PUBLIC AUCTION GOVERNMENT LANDS SITUATED AT KALIA, WAIKIKI, HONOLULU, ISLAND OF OAHU**

Mr. Hino said the staff recommendation is that the Board amend prior Board action on the adjustment of minimum annual lease rent instead of the automatic 5% increase, reopening of minimum annual rental percentage increase and percentage rental, to allow 7 years for improvement, and the deletion of the improvement bonds under terms and conditions.

There was some confusion on the statement of condition 3 and it was determined that if the

lease documents were read, condition 3 would make more sense. Member Inouye felt that the clarification of condition 3 is an important element since the lease rents will be based on some development which is unclear.

**Motion made and unanimously approved to defer item. (Inouye/Yuen).**

**K-1 ISSUANCE OF LEASE BY DIRECT NEGOTIATION, PIER 38, HONOLULU HARBOR, OAHU (FISHLAND MARKET, LTD./T.J. KRAFT, LTD.)**

Mr. Peter Garcia representing the Department of Transportation (DOT) briefed the Board. The staff recommendation is that the Board find that public interest demands the lease of public land be disposed of through negotiation with the existing tenants of Kewalo Basin and to approve the lease by direct negotiation covering the subject area for the stated purpose subject to terms and conditions. He said the negotiations for the master plan with Chevron has been completed. Mr. Garcia clarified that the 3 million dollars will be for the structure itself, paid for by the applicant.

**Motion made and unanimously approved as submitted. (Inouye/McCrory).**

**K-2 RENEWAL OF REVOCABLE PERMIT, KAHULUI AIRPORT, MAUI (SEA-LAND SERVICE)**

Mr. Garcia said staff recommendation is that the Board approve the list of non-conforming use revocable permits at various airports be continued.

**Motion made and unanimously approved as submitted. (Kennison/Inouye).**

**K-3 REPORT ON REVOCABLE PERMITS ISSUED OR RENEWED BY THE DEPARTMENT OF TRANSPORTATION FOR CONSISTENT USES**

Mr. Garcia stated that this item is a report only, no vote necessary.

**D-1 AMENDMENT TO PRIOR BOARD ACTION OF DECEMBER 12, 1987 (AGENDA ITEM F-22) GRANT OF PERPETUAL, NON-EXCLUSIVE EASEMENT FOR SEAWALL GROIN AND CONSENT TO THE ASSIGNMENT OF SAME FROM NALANI KELE AS TRUSTEE UNDER UNRECORDED TRUST AGREEMENT DATED OCTOBER 30, 1985 TO JAMES AND BETTY PIEL AND BARBARA HUTCHINGS, SUBMERGED LANDS OF KUALOA, KOOLAUPOKO, OAHU, TMK: 4-9-08: 5**

Mr. Uchida said staff recommendation is that the Board amend prior Board action to authorize the re-issuance of the grant of easement and to consent to the assignment subject to terms and conditions.

**Motion made and unanimously approved as submitted. (Inouye/Kennison).**

**D-2 LAND LICENSE REQUEST BY GAY & ROBINSON, INC. FOR REMOVAL OF CINDER FROM THE OLOKELE CINDER PIT, HANAPEPE, KAUAI, TMK: 1-8-07: POR.10**

Mr. Uchida requested the withdrawal of this item.

**Motion made and unanimously approved to withdraw item. (Inouye/Kennison).**

**D-3 REQUEST AUTHORIZATION TO SELL LEASE AT PUBLIC AUCTION FOR RECREATIONAL-RESIDENTIAL PURPOSES, LOT 48, PUU KA PELE PARK LOTS, WAIMEA (KONA), KAUAI, TMK: 1-4-2: 42**

Mr. Uchida said staff recommendation is that the Board authorize the sale at public auction of the lease with expiration date of March 31, 2006 subject to terms and conditions. He recommended adding that the rent credits shall not exceed \$10,000 unless authorized by the Chairperson as condition 4.

**Motion made and unanimously approved with amendment to add condition 4 that the rent credits shall not exceed \$10,000 unless authorized by the Chairperson. (McCrorry/Yuen).**

**D-4 AMEND PREVIOUS BOARD ACTION ON WITHDRAWAL FROM EXECUTIVE ORDER NO. 1589 AND SALE OF STATE LAND TO THE COUNTY OF HAWAII FOR ROAD WIDENING PURPOSES AT WAIAHA 1ST AND 2ND, NORTH KONA, HAWAII, TMK: (3RD DIV.) 7-5-14: 16 AND 7-5-15: 08**

Mr. Uchida said staff recommendation is that the Board amend prior Board action by changing the consideration from a "One time lump sum payment..." to gratis.

**Motion made and unanimously approved as submitted. (Yuen/McCrory).**

**D-5 ASSIGNMENT OF GENERAL LEASE NO. S-5052, LOT 4, PUU KA PELE PARK LOTS, WAIMEA (KONA), KAUAI, TMK: 1-4-2: 30**

Mr. Uchida said staff recommendation is that the Board consent to the assignments without revision to the basic rent subject to terms and conditions.

**Motion made and unanimously approved as submitted. (McCrorry/Kennison).**

**D-6 RESCIND PREVIOUS BOARD ACTION AUTHORIZING SALE OF PERPETUAL, NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT AT WAIOHINU, KAU, HAWAII. APPLICANTS: STEPHEN F. SALSBUURY AND DENISE D. SALSBUURY, TMK: 3RD/9-5-2: ROAD AREA**

Mr. Uchida said staff recommendation is that the Board rescind its prior Board action approving the direct sale of the easement subject to terms and conditions.

**Motion made and unanimously approved as submitted. (Yuen/McCrory).**

**D-7 APPROVAL OF AWARD OF CONSTRUCTION CONTRACT - JOB NO. 5-OW-K, MAUNAWILI DITCH IMPROVEMENTS, WAIMANALO IRRIGATION SYSTEM, KOOLAUPOKO, OAHU, HAWAII**

Mr. Uchida said staff recommendation is that the Board award the contract to Kori Construction, Inc. for their low bid of \$273,584.00, and authorize the Chairperson to sign the necessary documents pertaining to the project.

**Motion made and unanimously approved as submitted. (Inouye/Kennison).**

**D-8 TIME EXTENSION REQUEST AND AMENDMENT - CONSERVATION DISTRICT USE PERMIT 0A-257 FOR A CAMP AND RECREATIONAL USE (CAMP ERDMAN) AT MOKULEIA, OAHU, TMK: 6-9-4: 3 & 4**

Mr. Uchida said staff recommendation is that the Board approve request for time extension until the year 2000 to complete construction of the Master Plan Improvements at Mokuleia subject to terms and conditions.

**Motion made and unanimously approved as submitted. (Inouye/Kennison).**

**D-11 CERTIFICATION OF ELECTION AND APPOINTMENT OF SOIL AND WATER CONSERVATION DISTRICT DIRECTORS (MAUNA KEA)**

Mr. Uchida said staff recommendation is that the Board certify the election of these individuals as directors of their respective Soil and Water Conservation District for the term

ending June 30, 2001.

**Motion made and unanimously approved as submitted. (Yuen/McCrory).**

**D-12 CANCELLATION OF GOVERNOR'S EXECUTIVE ORDER 277 AND SET ASIDE TO THE HAWAII STATE PUBLIC LIBRARY SYSTEM FOR THE KAILUA-KONA LIBRARY AND TO THE DEPARTMENT OF EDUCATION FOR THE HAWAII DISTRICT OFFICE AT NORTH KONA, HAWAII, TMK: (3) 7-5-8-13**

Mr. Uchida said staff recommendation is that the Board approve and recommend to the Governor the cancellation of Governor's Executive Order 277, and the issuance of executive order setting aside subject property to the Hawaii State Public Library System and the Department of Education subject to terms and conditions.

**Motion made and unanimously approved as submitted. (Yuen/Kennison).**

**D-13 AUTHORIZATION TO NEGOTIATE OR IMPLEMENT CONDEMNATION PROCEEDINGS TO ACQUIRE PRIVATE LANDS AND SET ASIDE TO STATE OF HAWAII, DEPARTMENT OF TRANSPORTATION, HARBORS DIVISION FOR MARITIME AND MARITIME-RELATED PURPOSES AT WAIAKEA, HAWAII, TMKs: (3) 2-1-9-PORIONS OF -4 AND -8**

Mr. Uchida said staff recommendation is that the Board authorize DOT, Harbors Division to negotiate or implement condemnation proceedings to acquire the subject properties, to approve and recommend to the Governor the issuance of an executive order to set aside to DOT for maritime and maritime related purposes subject to terms and conditions.

**Motion made and unanimously approved as submitted. (Yuen/McCrory).**

**D-15 FORFEITURE OF GENERAL LEASE NO. S-5204**

Mr. Uchida said staff recommendation is that the Board authorize the cancellation of General Lease No. S-5204, authorize the retention of all sums paid under the general lease, terminate all rights and obligation of the lessee effective May 31, 1998, authorize the Attorney General's Office and/or the Department's private collection agency to collect all monies due the State, and to authorize the Chairperson to take whatever actions necessary to carry out the intent of the Board.

Member Inouye read from submittal, "...June of 1997 staff has tried to process a submittal for mutual cancellation..." and stated that staff has held off but the staff is now penalizing



the lessee who expresses to terminate as of June 1. She felt that it should be pro-rated for the first 6 months instead of charging up through September 27, 1997. There was discussion regarding the retroactive cancellation of the property and the abuse by a contractor of the lessee to haul in unfertile waste-type soil. Mr. Uchida said that this submittal is not a mutual cancellation, that it is a default. Member Inouye felt that a notice of default should have been served at the proper time and at the most, the applicant should be responsible for the first semi-annual period. Mr. Uchida could not explain why the applicant was not defaulted in March 1997 and asked that the item be deferred.

**Motion made and unanimously approved to defer item. (Inouye/McCrory).**

**D-16 DIRECT SALE OF A PORTION OF AN ABANDONED REMNANT DITCH  
RIGHT OF WAY AT HALEKOU-WAIKALUAKAI HOMESTEADS,  
KANEOHE, OAHU, TMK: 1ST/4-5-77: 59 (PORTION)**

Mr. Uchida said staff recommendation is that the Board find the subject portion of the abandoned ditch right-of-way as unsuitable for use as a separate unit due to its size and landlocked from public roads, approve the direct sale of the subject abandoned ditch right-of-way to the applicant subject to terms and conditions.

There was discussion about indemnification. Mr. Uchida said it was abandoned sometime ago and that the title was not cleared. He recommended adding condition 6 to include language waiving any liability.

**Motion made and unanimously approved with amendment to include condition 6 that the conveyance include language waiving any liability to the state for the condition of the abandoned ditch system to be consolidated with the private party. (Inouye/Yuen).**

**D-17 APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT - DSR NO.  
61137, REPAIR ACCESS ROAD TO PU'U MANAWAHUA REPEATER SITE,  
MAKAKILO, OAHU, HAWAII**

**Motion made and unanimously approved as submitted. (Inouye/Kennison).**

**D-18 APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT - JOB NO. 43-  
HW-A, WAIMEA EXPLORATORY WELL, WAIMEA, HAWAII**

Member Yuen asked for a map and was concerned about wells being dug for certain private entities.

**Motion made and unanimously approved to defer item. (Yuen/McCrory).**

**D-19 REQUEST LAND BOARD APPROVAL FOR TEMPORARY RIGHT-OF-ENTRY TO KOGA ENGINEERING AND CONSTRUCTION INC., FOR STOCKPILING PURPOSES ON GOVERNMENT LANDS SITUATE AT THE LAULIMA TRACT, AIEA, EWA, OAHU, TMK: 1ST/9-9-12: PORTION OF 04**

**Motion made and unanimously approved as submitted. (Inouye/Yuen).**

**D-20 CONSENT TO LEASE BETWEEN THE CITY AND COUNTY OF HONOLULU, A MUNICIPAL CORPORATION OF THE STATE OF HAWAII AS LESSOR AND THE STATE OF HAWAII, BY ITS BOARD OF LAND AND NATURAL RESOURCES ON BEHALF OF THE DEPARTMENT OF THE ATTORNEY GENERAL, CRIMINAL JUSTICE DIVISION AS LESSEE, AT WAIAWA AND MANANA, EWA, OAHU, TMK: 1ST/9-7-23: 01 (PORTION)**

Mr. Uchida briefed the Board and stated staff recommendation is that the Board consent to the General Lease between the City and County of Honolulu and the State of Hawaii on behalf of the Department of the Attorney General, Criminal Justice Division subject to terms and conditions.

Member Inouye questioned the effective date of the lease term of February 1, 1995.

**Motion made and unanimously approved to defer item. (Inouye/Yuen).**

**D-21 CONSENT TO SUBLESSOR'S CONSENT AND ESTOPPEL CERTIFICATE IN THE MORTGAGE OF THE SUBLEASE NO. 67, AS SUBLEASED UNDER GENERAL LEASE (MASTER LEASE) NO. S-5261 AT KAHOLALOA, SAND ISLAND, HONOLULU, OAHU, TMK: 1ST/1-5-41: 328**

Mr. Uchida briefed the Board and stated staff recommendation is that the Board consent to the Sublessor's Consent and Estoppel Certificate between Sand Island Business Association and the Sublessor and E.N. Nagao, Ltd. subject to terms and conditions.

**Motion made and unanimously approved as submitted. (Inouye/Kennison).**

**D-22 MILOLII COMMUNITY DEVELOPMENT CORPORATION'S REQUEST FOR A DIRECTLY NEGOTIATED LEASE FOR A FISH OUTLET AND ICE HOUSE FACILITY, MILOLII-HOOPULOA, SOUTH KONA, HAWAII, TMK: 8-9-04: 07**

Mr. Uchida briefed the Board and stated staff recommendation is that the Board authorize a

direct award lease to the applicant subject to terms and conditions. He added condition 8 that if the Community Development Corporation wants anything less than market, they may need to comply with the nominal lease rent policy that's been developed by the Board.

**Motion made to approve with amendment to add condition 8 that if the Community Development Corporation wants anything less than market value lease rent, they will need to comply with the Department's nominal lease rent policy and amendment to condition 5 to read, "Prior to construction of the improvements on the subject state land, the plans and specifications, which must include reasonable noise control measures, shall be submitted to the Department...". (Yuen/McCrory).**

**D-23 ~~REQUEST FOR A CONSENT TO ASSIGN A PERPETUAL, NON-EXCLUSIVE GRANT OF EASEMENT FOR ACCESS PURPOSES, ON GOVERNMENT LAND, IDENTIFIED BY TMK: 1-2-01: PORTION 03, SITUATE AT KALIAE, HANA, MAUI~~**

Mr. Uchida briefed the Board and stated staff recommendation is that the Board approve the consent to assign the subject Grant of Easement from Michael J. Boteilho to Pacific Land & Cattle, Inc. subject to terms and conditions. He also added a condition regarding the roadway gate.

**Motion made and unanimously approved to add amendment that the roadway gate adjacent to the Hana Highway shall remain unlocked unless written approval is received from DOFAW. (Kennison/McCrory).**

**D-24 SPECIAL SALES AGREEMENT TO LEINANI M. CHANG AND ANN PALI SOILEAU AT NORTH KOHALA, HAWAII, TMK: (3) 5-5-1-18**

Mr. Uchida briefed the Board and stated staff recommendation is that the Board authorize the issuance of a special sales agreement to Leinani Chang and Ann Pali Soileau, joint tenants subject to terms and conditions.

**Motion made and unanimously approved as submitted. (Yuen/McCrory).**

**D-25 REQUEST LAND BOARD APPROVAL FOR CONSTRUCTION RIGHT-OF-ENTRY TO THE BOARD OF WATER SUPPLY, CITY AND COUNTY OF HONOLULU, FOR THE INSTALLATION OF A WATER WELL AT SACRED FALLS STATE PARK, KALUANUI, KOOLAULO, OAHU, TMK: 1ST/5-3-11: 09 (PORTION)**

Mr. Uchida briefed the Board and stated staff recommendation is that the Board authorize an

immediate construction right-of-way entry to the Board of Water Supply to the subject lands at Sacred Falls State Park subject to terms and conditions.

**Motion made and unanimously approved as submitted. (Inouye/McCrory).**

**D-26 AUTHORIZATION TO ENTER INTO A RIGHT-OF-ENTRY AGREEMENT BETWEEN THE PUU O HOKU RANCH, LIMITED, GRANTOR/OWNER, AND THE STATE OF HAWAII BY ITS BOARD OF LAND AND NATURAL RESOURCES ON BEHALF OF THE AQUACULTURE DEVELOPMENT PROGRAM, GRANTEE, FOR THE RESTORATION, OPERATING, AND MANAGING OF THE KAHINAPOHAKU FISHPOND, HONOULIWAI, MOLOKAI, TMK: 5-8-01: 01**

Mr. Uchida briefed the Board and stated staff recommendation is that the Board authorize the right-of-entry agreement with Puu O Hoku Ranch, Ltd. and the State of Hawaii on behalf of the Aquaculture Development Program for the restoration, operating, and managing of the Kahinapohaku Fishpond subject to terms and conditions.

**Motion made and unanimously approved as submitted. (Kennison/Inouye).**

**D-28 RESUBMITTAL, UNAUTHORIZED COMMERCIAL USE, TERMINATION OF REVOCABLE PERMIT #S-6754 ISSUED TO HKK, INC. AND ISSUANCE OF A REVOCABLE PERMIT AT KAILUA-KONA, HAWAII, TMK: (3) 7-5-6-22**

Mr. Uchida briefed the Board and stated staff recommendation is that the Board authorize the termination of Revocable Permit effective on a date to be determined later, accept HTH Corporation's offer of \$10,000 in settlement of its unauthorized use of unencumbered State land from January 1991 to April 1997, authorize the issuance of a new revocable permit to HKK, Inc. subject to terms and conditions.

**Motion made and unanimously approved as submitted. (Yuen/Kennison).**

**D-29 TIME EXTENSION REQUEST - CONSERVATION DISTRICT USE PERMIT MA-2837 FOR BRENNAN RESIDENCE AND RELATED IMPROVEMENTS, HONOLUA, LAHAINA, MAUI, TMK: 4-2-4: 31 AND PORTION OF 32**

Mr. Uchida briefed the Board and stated staff recommendation is that the Board approve an extension of one year to initiate the approved Brennan Residence and related improvements subject to terms and conditions.

**Motion made and unanimously approved as submitted. (Kennison/Yuen).**

**D-30 TIME EXTENSION REQUEST - CONSERVATION DISTRICT USE PERMIT  
KA-2468 FOR THE KRONE RESIDENCE, HAENA, KAUAI, TMK: 5-9-2: 56**

Mr. Uchida briefed the Board and stated staff recommendation is that the Board approve a time extension to complete the approved Krone residence subject to terms and conditions.

**Motion made and unanimously approved as submitted. (McCrorry/Kennison).**

**D-31 TIME EXTENSION REQUEST - CONSERVATION DISTRICT USE PERMIT  
KA-2710 TO DRILL AN EXPLORATORY WATER WELL; IF A SUITABLE  
SOURCE IS LOCATED, THE FACILITY WILL BE OUTFITTED AND  
PLACED INTO SERVICE AS PART OF THE PRINCEVILLE POTABLE  
WATER SYSTEM, HANAIEI, KAUAI, TMK: 5-3-01: 16**

Mr. Uchida briefed the Board and stated staff recommendation is that the Board approve an extension of two years to complete the project subject to terms and conditions.

**Motion made and unanimously approved as submitted. (McCrorry/Kennison).**

**D-33 ISSUANCE OF A REVOCABLE PERMIT TO S & S DAIRY, INC. AT KAU,  
HAWAII, TMK: (3) 9-5-12-2**

Mr. Uchida briefed the Board and made an amendment to recommendation 2 to correct name to S & S Dairy.

**Motion made and unanimously approved with amendment to issue new revocable permit to S & S Dairy. (Yuen/Kennison).**

**D-34 APPROVAL FOR A LAND EXCHANGE BY AND BETWEEN THE  
DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT OF LAND  
AND NATURAL RESOURCES AT HAMAKUA, HAWAII, TMKS: (3) 4-3-5-2  
AND 4-3-5-1**

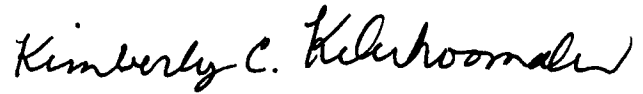
Mr. Uchida briefed the Board and stated staff recommendation is that the Board approve the land exchange by and between the Department of Agriculture and DLNR subject to terms and conditions.

**Motion made and unanimously approved as submitted. (Yuen/Kennison).**

There being no further business, Chairperson Wilson adjourned the meeting at 4:00 p.m.

All written testimony and tapes of the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present. A copy of the agenda is attached for reference.

Respectfully submitted,



Kimberly C. Kelihoomalu

Approved for submittal:



MICHAEL D. WILSON

Chairperson

Board of Land and Natural Resources