

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

DATE: FRIDAY, AUGUST 28, 1998
TIME: 9:00 A.M.
PLACE: BOARD ROOM
KALANIMOKU BUILDING, ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

Chairperson Michael D. Wilson called the meeting of the Board of Land and Natural Resources to order at 9:17 a.m. The following were in attendance:

MEMBERS:

Mr. Michael Wilson	Mr. William Kennison
Mr. Colbert Matsumoto	Ms. Lynn McCrory
Ms. Kathryn Inouye (left approx 1:40 p.m.)	Mr. Russell Kokubun

STAFF:

Mr. Eric Onizuka, Division of Aquatic Resources (DAR)	Mr. Francis Oishi, DAR
Mr. Alton Miyasaka, DAR	Mr. Gary Moniz, Division of Conservation and Resource Enforcement
Mr. Dean Uchida, Land Division	Mr. Patrick Costales, Division of Forestry and Wildlife
Mr. Mason Young, Bureau of Conveyance	
Ms. Dede Mamiya, Land Division	

OTHERS:

Mr. Randy Young, Department of the Attorney General (DAG)	Mr. Peter Garcia, Department of Transportation (DOT)
Mr. Frederick Berg (K-5)	Mr. Matt Peterson (B-2)
Mr. Dave Jolly (B-2)	Mr. David Chu (B-2 & D-6)
Mr. Howard Araki (B-1)	Mr. Jason Brockington (B-1)
Mr. Bob Enderson (B-1)	Mr. Stu Simmon (B-1)
Mr. Steven Lim (D-27)	Mr. David Martin (D-17)
Mr. Stephen Brown (D-11)	Mr. Clem Lum (D-17)
Mr. George Yokoyama (D-21)	Mr. Jim Bowlin (D-12)
Mr. Henry Curtis (D-12 & D-26)	Ms. Mary Steiner (D-26)
Mr. Peter Miner (D-26)	Ms. Sally Amantiad (D-26)
Ms. Kat Brady (D-26)	Mr. Ken Murakami (D-26)
Mr. Roy Uemura (D-26)	Mr. Marc Ericksen (D-22)
Mr. JC Merrill (D-22)	Dr. Steve Dollar (D-22)
Ms. Alice Hall (D-28)	

ITEM A-1: APPROVAL OF THE MINUTES OF APRIL 24, 1998.

Unanimously approved as submitted. (Matsumoto/McCrory).

ITEM A-2: APPROVAL OF THE MINUTES OF MAY 15, 1998.

Unanimously approved as submitted. (McCrory/Kennison).

ITEM A-3: APPROVAL OF THE MINUTES OF JUNE 5, 1998.

Member Russell Kokubun indicated that on page 23, Item J-1, it states that the Board will be going into Executive Session but does not provide the action that was taken.

Unanimously approved with amendments to add the following to page 23: "Chairperson Wilson asked the Board before going into Executive Session to take two other agenda items to accommodate the people from the Neighbor Islands. (The decision is referred to on page 26.)" (Matsumoto/McCrory).

ITEM A-4: APPROVAL OF THE MINUTES OF JULY 10, 1998.

Unanimously approved with amendments: On page 1, list of attendees, change Mr. Russell Hotori and Mr. Robert Hotori to "Mr. Russell Watari and Mr. Robert Watari"; On page 19, to show continuity between statements that were made later, add to the end of the first paragraph: "Mr. Trask stated that the Miller's were looking to only use the property for agriculture purposes but wanted the utility easements also."; On page 19, paragraph's 3 and 4, change Horoti to Watari. (McCrory/Kokubun).

ITEM K-5: CONSTRUCTION RIGHT-OF-ENTRY AGREEMENT AND ISSUANCE OF LEASE BY DIRECT NEGOTIATION, KAPALAMA MILITARY RESERVATION, HONOLULU, OAHU, (HI-SPAN CORPORATION FKA HAWAII TRANSFER CO., LTD.) TMK (1)-1-2-25:11

Mr. Peter Garcia, Property Management Officer for the Department of Transportation (DOT) presented the staff submittal recommending that the Board approve the issuance of a lease by negotiation and a constriction right-of-entry agreement subject to other terms and conditions as may be prescribed by the Director of Transportation.

Unanimously approved as submitted. (Inouye/Kennison).

ITEM B-2: REQUEST APPROVAL OF A PERMIT TO TAKE OR POSSESS PINK CORAL AND GOLD CORAL FOR COMMERCIAL PURPOSES

Mr. Eric Onizuka, Program Manager for the Division of Aquatic Resources (DAR) said Item B-2 is a request for approval to issue a permit to PCH Submersibles of Seal Beach, California, to harvest pink and gold corals at Makapuu Bed, Oahu. He said the current Hawaii Administrative Rule (HAR), Chapter 13-91, establishes a quota of 4,400 pounds that can be harvested over a 2 year period by all permittees from the Makapuu Bed. He said on another existing permit application, the Department negotiated and implemented a schedule to assess a fee on the gross revenues from coral sales and DAR has been recently advised that this existing permittee would like to have their fee schedule reconsidered. Mr. Onizuka clarified that any revisions made to this fee schedule or any other permit condition, all permits (existing and future) should include these revisions to be consistent. He said there is also a controversy with Western Pacific Regional Management Council regarding the assessment of a fee primarily because they believe that the resource in question is a Federal resource and therefore are subject to Federal regulations that do not impose a fee on harvested resources. Staff's recommendation is that the Board authorize the Chairperson to issue the permit and for subsequent permits as well, for the taking and possessing of pink and gold coral from the Makapuu Bed, Oahu.

There was some discussion about the rate schedule. Member Matsumoto felt the language in the rate schedule needs to be "cleaned up" because it was not clear if the permittee will be charged if his gross revenue was below \$660,000.00. Member Kathryn Inouye said it seems that it will easier to do a percentage of revenue on each sale instead of an average. She suggested revising the language to read: "2% on gross revenues of up to \$660,000.00.

Mr. Matt Peterson, Owner of PCH Submersibles said this is his first venture using his submersible to harvest coral but has had experience in various underwater tasks. He said he is expecting to harvest approximately 500 pounds in a single 12 hour dive.

In response to Member McCrory's question regarding the permittee providing survey work, Mr. Peterson said a video will be mounted on his submersible and will run continuously so everything that the operator sees will be taped on the video. Mr. Onizuka said the existing permittee has been primarily doing survey work and clarified that Mr. Peterson's video will be a survey.

Mr. David Jolly representing American Deepwater Engineering (ADE) was concerned about ADE having to abide by the agreement for required monitoring, in particular, length of transect, depth along/of transect etc. and felt that it would be fair if the same would exist for all permittees. He questioned the difference in figures of harvested coral in which ADE's permit is based on 4,000 pounds and PCH is based on 4,400 pound. He also questioned the minimum gross revenue for PCH being \$660,000.00 as compared to ADE's which is \$600,000.00. Mr. Francis Oishi, Aquatic Biologist for DAR explained that when ADE applied for their permit it was presented that approximately 10% of the coral harvested

would not be of any value. He said he revised PCH's permit application to reflect the total quota with the understanding that ADE was subsequently going to ask the Board to reconsider the provision of their permit application. He stated that if the Board found that the proposal for PCH was an appropriate permit condition than the revised fee schedule specification would be applied to ADE's permit.

There was some discussion about the fees that the State is entitled to. Member Matsumoto asked at what point and time is each of the permittees suppose to pay the fees to the State. Mr. Oishi said under the present situation we would have to wait until the end of all the harvesting and sales are completed so that we have an idea on how much revenues were made on the total. Member Matsumoto felt that the state should always get paid closer to when the sale occurred and was concerned as to whether or not it's clear between the 2 permittees on how they are suppose to pay for the fees. Member Inouye stated that the charges should be assessed on a monthly basis or as the sales are made or shortly thereafter.

Member Inouye asked how the submission of the scientific reports will be enforced. Mr. Oishi said they plan to intensively monitor the situation with both companies and much of the information that they are asking for would be retrieved in the day to day operation. He said they also plan to gain access to the harvested material for doing basic biological survey on the harvested coral.

Mr. David Chu, Owner of Pearl & Coral Ltd., said he is a wholesaler and has been in the coral business for 32 years. He said he was very surprised that there was an item on the agenda regarding precious corals because he came to testify on another agenda item. He commented on the auction process stating that during the opening of the auction, taxes are usually paid for that period and suggested that the auction be open to the international market because he didn't think it would be successful if it involved only the local market. He also commented on the rate schedule that reads "2% on a minimum gross revenue of \$660,000.00" stating that 2% is fair, over 2% is expensive and the dollar amount is too high.

Member Inouye suggested deferring Item B-2 so that staff could either independently or together with the 2 permittees, work out the language to revise the revenue schedule and payment schedule to the State. (The decision is referred to on page 8.)

ITEM B-1: REQUEST FOR FINAL APPROVAL FOR AMENDMENTS TO HAWAII ADMINISTRATIVE RULES, CHAPTER 13-74, LICENSE AND PERMIT PROVISIONS AND FEES FOR FISHING, FISH, AND FISH PRODUCTS

Mr. Eric Onizuka presented the staff submittal and recommended that the Board approve the amendments to HAR, Chapter 13-74 relating to license and permit provisions for fishing, fish, and fish products.

There was some discussion about HAR, Section 13-74-41, Kona Crab and Lobster Closed

Season and Sales License for wholesale dealers, retail markets and hotels or restaurants and HAR, Section 13-74-42, Special Marine Animal or Product Possession and Sale License. Member Matsumoto questioned the purpose of the Special Marine Animal or Product Possession and Sale License. Mr. Gary Moniz, Acting Administrator for the Division of Conservation and Resource Enforcement (DOCARE) explained that this license specifies that the retail establishment is licensed to have specialty products that were not caught locally and that this license is needed to sell these products during the States closed season. Member Inouye asked if the same thing could be accomplished without assessing a fee or license on the retail markets and hotels or restaurants by having the distributor provide a copy of their license along with the product that is sold. She agreed that businesses should be prevented from selling local products during the states closed season but did not feel that businesses should be prevented from selling a mainland product during the states closed season. She said if the ultimate goal is to get compliance during the states closed season, than we need to be looked at how we administer it. Member Matsumoto stated that he would like to have an opportunity to review this matter more carefully before the Board acts on it and made a motion to defer this agenda item to a later meeting.

Chairperson Wilson announced that the Board has made a motion to defer this item because they are interested in giving this more thought. He stated that if anyone is here to give public testimony they are still welcome to do so.

Mr. Howard Araki introduced himself as President of Hawaii Freshwater Fishing Association and also introduced Mr. Jason Brockington, second Vice-president of Hawaii Freshwater Fishing Association. He testified in favor of the amendments but was concerned about the proposed rule change in HAR, Section 13-74-10 (4)(B) that reads: "Tourist license which is valid for only thirty days from the date of issue, \$20." He suggested modifying it to a graduated fee (i.e. 1 day - \$5, 2 days - \$10, 3 days - \$15, and 4 through 30 days - \$20).

Mr. Bob Enderson commented on HAR, Section 13-74-20 Commercial Marine Licenses. He said that he has received several phone calls within the last couple of days relating to the size and the activity of the vessel to be proportionate to the cost of the license. He felt that the crew members that contribute to the catching of the fish should not be included in the licensing requirements. He said there's a lot more to this than raising the fees because there is much more caveats that need to be examined as to who, where and when the fee is applicable.

Mr. Stu Simmons, President of Seafood Connection commented on HAR, Section 13-74-41 that relates to Kona crab and lobster closed season sales license. He said this section does not accomplish anything because there is no way for enforcement to tell, even with a paper trail, what species came from which area (Northwest Hawaiian Islands or Main Hawaiian Islands) cause the species are the same. He proposed to have the wholesalers and dealers report who they sold the lobsters to and not so much on the hotels and restaurants.

Unanimously approved to defer Item B-1 (Matsumoto/Inouye).

ITEM D-27: RESUBMITTAL - DIRECT SALE OF 2 PERPETUAL, NON-EXCLUSIVE EASEMENTS FOR ROADWAY, UTILITY AND DRIVEWAY PURPOSES AND A CONSTRUCTION AND MAINTENANCE RIGHT-OF-ENTRY OVER, UNDER AND ACROSS THE JUDD TRAIL, AT KAUMALUMALU AND PAHOEHOE 1ST, NORTH KONA, HAWAII, TMKS: (3) 7-7-04: 02 AND 7-7-08: 27

Mr. Uchida said item this is a resubmittal for a direct sale of a perpetual, non-exclusive easement for roadway, utility and driveway purposes across the Judd Trail in Kona. The Board at it's meeting of July 10, 1998 deferred staff's recommendation because: 1) the thirty day comment period on the final environmental assessment had not run its course, 2) action should be limited to those lots that have received subdivision approval from the County of Hawaii, (3) it was not known what the County of Hawaii's minimum width was for a driveway, (4) the landowner indicated that he will be placing CC&R's on the deed which will control density in the property, and that only 2 houses are allowed on a 5 acre lot in the agricultural district, staff needs to confirm this, plus obtain copies of the landowners CC&R's, and (5) we should limit easements to "driveway" easements only meaning this easement cannot be used as a feeder road to a higher density development or should an owner of the 5 acre lot seek to increase density on the property by zoning and subdivision. By letter dated July 24, 1998, Nohona Partners' attorney has responded to concerns raised by the Board. Mr. Uchida passed out a letter from the applicant that was received subsequently in preparation of the staff submittal and expands on the information that was provided by the applicant in their July 24, 1998 letter. Staff's recommendation is that the Board authorize the sale of the easement to the applicant and authorize the construction and maintenance right-of-entry and to have the applicant implement the preservation and mitigation recommendations made by the Historic Preservation Division subject to standard conditions.

Member Kokubun recused himself because of his prior involvement on this issue.

Mr. Steven Lim representing Nohona Partners stated that Mr. John Gomes was present earlier but needed to leave to catch a flight. He said in response to Member McCrory's question regarding the parking lot issue, that was implemented as part of the Board decision in the initial Nohana contracting project because the applicant was relocating the trail. In this particular case the applicant is not proposing to relocate the trail or requesting anything other than to have the Board approve the easements for driveway purposes over and across the trail. He clarified that easements over the Judd trail are going to be requested over portions that are not stated for preservation. He said one of the concerns raised at the last Land Board meeting was that in the future the property owners could come in and get a more intense development of their 5 acre lot using the driveway easement. He clarified that should the present or future property owners want to come in for more increased use on the driveway easements, they would have to come back to the Land Board for approval.

Unanimously approved as submitted (Inouye/Kennison).

ITEM D-17: RESUBMITTAL: LAND LICENSE REQUEST BY GAY & ROBINSON, INC. FOR REMOVAL OF CINDER FROM THE OLOKELE CINDER PIT, HANAPEPE, KAUAI, TMK: 1-8-07: PORTION 10

Mr. Uchida said this is a resubmittal requesting for a land license by Gay & Robinson, Inc. for the removal of cinder from the Olokele Cinder Pit in Hanapepe. Gay & Robinson proposes to use the cinder to repair cane haul roads. On June 3, 1998 the Land Board deferred action on this item after hearing testimony from Mr. David Martin with the Native Hawaiian Advisory Council (NHAC) requesting that they be allowed to obtain some of the cinder for self-help housing programs. The Board specified that NHAC should provide answers to questions as part of a resubmittal of Gay & Robinson's request. A follow-up letter reiterating the questions was sent to Mr. Martin on June 25, 1998 and staff has not heard back from him since. Gay & Robinson has requested that their original request be submitted to the Board and when Mr. Martin provides a response they would try and accommodate NHAC's needs. Staff's recommendation is that the Board authorize the issuance of a land license by negotiation to Gay & Robinson for Olokele Cinder Pits subject to standard conditions.

Mr. David Martin representing NHAC provided answers to some of the questions the Board had asked at the June 3, 1998 Land Board Meeting. He said they have no problem in allowing Gay & Robinson to go forward with their license request. He indicated that Mr. Robinson from Gay & Robinson estimated the total cinder resource remaining in the pit to be approximately 6,000 cubic yards and explained that Gay & Robinson's proposal is for a 5-year license at 1,500 cubic yards per year and to grant them this license for the full amount would deplete the resource over time. He asked that the Board provide a license no longer than 1 year to Gay & Robinson. He suggested that the Board reserve approximately 1,000 cubic yards for NHAC.

In response to Member Inouye's question regarding the allowance of a land license to NHAC even though the initial permit is for Gay & Robinson, Deputy Attorney General (AG) Randall Young advised the Board that they could only take action on the request by Gay & Robinson as that was the only action noticed, but the Board could impose conditions on Gay & Robinson's license and grant access to subsequent licenses should the Board decide to issue a license at a later date to someone else besides Gay & Robinson.

Member Inouye questioned Mr. Martin about the information he provided to the Board and how it was still lacking some of the basic information to make an accurate economic comparison of his proposed method versus conventional methods of construction (i.e. cinder blocks vs. hollow tile). Mr. Martin explained that because they are still in the "pilot phase" of the project, they felt they could not give an adequate cost comparison and believed that the feasibility study that they provided to the Board would be useful in allowing the Board to make that kind of consideration.

Mr. Clem Lum of Gay & Robinson testified in favor of staff's recommendation.

Unanimously approved as amended to add conditions: 7) The Board reserves the right to issue additional future license for cinder removal; and 8) That the cinder resource is finite and this action does not guarantee the licensee will be able to remove a maximum of 1,500 cubic yards annually. (McCrorry/Inouye).

Chairperson Wilson announced that a lunch break will be taken by the Board. The meeting was reconvened at 1:20 p.m.

ITEM B-2: REQUEST APPROVAL OF A PERMIT TO TAKE OR POSSESS PINK CORAL AND GOLD CORAL FOR COMMERCIAL PURPOSES

Mr. Onizuka stated that this is a continuation of Item B-2 that was heard earlier but delayed so that staff could work on some language to revise the revenue schedule. He said based on the amendments, as discussed with Member Inouye, staff's recommendation is that the Board approve the Chairperson to issue the permit to PCH Submersibles.

Unanimously approved with amendments to the permit as follows: 1) clarify the language and fee schedule to allow a minimum of 2% excess in of any sell of coral; 2) change the minimum gross revenue to X number of dollars; 3) add a specific provisions in the fee schedule for the timely payment of fees to the department within 30-45 days after the sale; and, 4) reissue the permits with the agreed wording. (Inouye/Matsumoto).

ITEM D-11: PUBLIC AUCTION - LAND LICENSE TO REMOVE SAND FROM KAWAIELE WILDBIRD REFUGE COVERED BY EXECUTIVE ORDER NO. 3437, KAWAIELE, MANA, KAUAI

Mr. Uchida said this is request to sell a land license at public auction to remove sand from Kawaiiele Wildbird Refuge covered by Executive Order No. 3437 in Mana, Kauai. During September of 1997, staff proposed that a land license be issued allowing the removal of 25,000 cubic yards of sand and this license would have commenced the second phase of the sanctuary. The Board deferred action on the request and raised several questions regarding trying to package the land licenses together and sell it statewide to attract a higher price and more interest from the contractors around the State. Staff has re-worked the proposal and is now asking to sell all 85,000 cubic yards at a royalty rate of \$5.60 per cubic yards with a one-time licensing fee to be bid at public auction and the royalty payments shall be made payable semi-annually in advance. He said comments have been received from the Contractors Association of Kauai and they would like to go back to the original proposal that was done earlier on smaller increments, they seem to be concerned about the inability for the

market on Kauai to absorb 85,000 cubic yards and the license royalty fees. Comments were also received from Mayor Maryanne Kusaka asking to get some of the sand reserved for the County of Kauai. Mr. Uchida suggested an idea to accommodate the Mayors concern by adding some language in the license that would allow the County of Kauai to purchase sand from the successful bidder at the going rate with a pro-rata cost. Staff's recommendation is that the Board approve public auction sale of a land license allowing for the removal of the 85,000 cubic yards subject to standard conditions.

After reviewing the written testimony received from Mayor Kusaka and the Contractors Association of Kauai, and listening to the testimony of Mr. Steve Brown from Rego Trucking, the Board asked about breaking the license up into smaller parcels. Mr. Uchida reminded the Board that approximately one year ago, staff had made that original proposal and the Board wanted one license to see if other contractors from around the state would be interested. He also relayed to the Board the information from the Kauai District Land Office that Grove Farm/Glover now controls a large sand source on Kauai that maybe the largest source of sand in the State. If Grove Farm/Glover were to be the successful bidder on the State license, they could conceivably monopolize the sand market. The Board considered selling 3 licenses. There was also some discussion about reserving sand for the County of Kauai in each of the licenses, however, Member Matsumoto pointed out that such a condition would probably affect the sale of the license. At that point, the Board considered selling 4 licenses with the smaller amount 10,000 possibly for the County to bid on at the auction.

Unanimously approved to amend staff recommendation to read: "Approve the Public Auction sale of four (4) Land Licenses allowing for the removal of +/-85,000 cubic yards of sand, 3 licenses at 25,000 cubic yards and 1 license at 10,000 cubic yards from the Kawaiele Bird Sanctuary..." (Matsumoto/McCrory).

ITEM D-21: ISSUANCE OF A REVOCABLE PERMIT TO HAWAII COUNTY ECONOMIC OPPORTUNITY COUNCIL AT WAIAKEA, HAWAII, TMK: (3) 2-1-5-SUBMERGED LANDS, SEAWARD OF PARCEL 16

Mr. Uchida presented the staff submittal recommending that the Board approve the issuance of a revocable permit to Hawaii County Economic Opportunity Council.

Mr. George Yokoyama representing the Hawaii County Economic Opportunity Council testified in support of staff's recommendation.

Unanimously approved as submitted (Kokubun/Matsumoto).

ITEM D-12: USA, DEPARTMENT OF THE NAVY, PACIFIC MISSILE RANGE FACILITY (PMRF) REQUESTS AMENDMENT TO GRANT OF EASEMENT NO. S-5352, MANA, WAIMEA, KAUAI, TMK: 1-2-02:

POR. 1 AND 24

Mr. Uchida said this is a request from the Department of Navy, Pacific Missile Range Facility (PMRF) to amend General Lease (GL) No. S-5352. Staff's recommendation is that Board amend GL No. S-5352 and allow the launching of 1 Terrier and 2 Aries missiles between October and December, 1998 subject to standard conditions.

Mr. Jim Bowlin, Commanding Officer of the PMRF on Kauai stated that the present lease agreement that PMRF and the State signed in 1993 allows PMRF to activate ground hazard area for the launching of Strategic Target System (STARS) and Vandal missiles. The amendment would allow PMRF to activate ground hazard areas for the launching of 3 smaller missiles that are not specifically identified in the lease.

Mr. Henry Curtis of Life of the Land questioned why the Board is reviewing this issue before the Final Environmental Impact Statement (FEIS) is completed. Mr. Uchida explained that the FEIS addresses a broader expansion of the easement where rockets can be used within the easement area that is specific to the 3 smaller missiles and which were addressed as a part of the Environmental Assessment (EA) that was done in 1992.

Unanimously approved as submitted (McCrorry/Inouye).

ITEM D-26: RESUBMITTAL AND REQUEST FOR CLARIFICATION ON THE DIRECT ISSUANCE OF PERPETUAL NON- EXCLUSIVE EASEMENTS TO HAWAIIAN ELECTRIC COMPANY FOR OVERHEAD ELECTRICAL TRANSMISSION PURPOSES FOR 46kV SUBTRANSMISSION LINES AND ISSUANCE OF A TEMPORARY RIGHT-OF-ENTRY FOR A STAGING AREA AT WAIALEE AND PAHIPAHIALUA, PUPUKEA AND PUAMALU, KOOLAULO, OAHU, TMK: 1ST/5-9-06: 26 (PORTION) AND 1ST/5-8-02: 02

Mr. Uchida said this is a resubmittal and request for clarification on the direct issuance of perpetual non-exclusive easement to Hawaiian Electric Company (HECO) for overhead electrical transmission purposes for 46kV subtransmission lines and issuance of a temporary right-of-entry for a staging along the North Shore of Oahu. This item was brought to the Board on February 13, 1998 and July 10, 1998 and at both times the Board raised some concerns about obtaining testimony from different community groups in the area. Mr. Uchida said he had discussions with Mr. Newfield, Chairman of the North Shore Neighborhood Board (NSNB) and was informed that HECO's easement request was taken off of their July agenda because of various administrative reasons they had in scheduling. The earliest that NSNB would be able to place the HECO matter on their agenda would be in September because the NSNB did not have a meeting scheduled for August. He said HECO is proposing to conduct a public informational meeting, hire a facilitator and incur additional costs to avoid further delay of this project. Mr. Uchida asked for clarification on whether

the proposed public informational meeting will address the concerns raised by the Board and if that was in fact the Board's intention for HECO to incur additional costs to conduct another public informational meetings. Staff's analysis indicates that there are no major changes in the proposal and that a Conservation District Use Permit (CDUP) was approved by the Board on August 26, 1996. Staff's recommendation is that the Board: I. clarify its prior decision and require HECO to conduct a public informational meeting in the North Shore Community to obtain further community input on the proposed easements, or II. authorize the direct issuance of the easements to HECO subject to terms and conditions.

Ms. Mary Steiner of the Outdoor Circle testified in opposition to staff's recommendation that the Board authorize the easements to HECO. Her main concern was the opportunity for public input at the September 22, 1998 NSNB meeting.

Mr. Henry Curtis of Life of the Land testified in opposition to staff's recommendation. His main concern was HECO's promise to come back to the NSNB to show the visual simulations.

Mr. Peter Minor, resident of the Haleiwa Senior Citizen Center submitted written testimony in support of staff's recommendation. He stated that the senior citizens rely on medical equipment/life support and are concerned about power outages.

Ms. Sally Amantiad, resident of Punaluu and Director of North Shore Seniors, submitted written testimony in favor of HECO's plans to upgrade their system for more reliable power in the North Shore area. She stated that the frequent blackouts in the area is a very real possibility of putting these people who rely on medical equipment. in extreme danger.

Ms. Kat Brady, Assistant Director of Life of the Land and Steering Committee of Ahupuaa Action Alliance testified in opposition to staff's recommendation. She explained that she arrived at the July NSNB meeting at 9:30 p.m. and they were still on the first presentation, they didn't do anything after that on the agenda and that is why they knew they wouldn't have enough time to hear HECO's presentation. She said the issue before the Board today is not the merits of the project but about HECO's promise to come to the NSNB with visual simulation. She requested that the Board defer action until after the September 22, 1998 NSNB meeting.

Mr. Ken Murakami of HECO stated that the appropriate time to go back to the NSNB and to show them visual simulations is after the easements are approved by the Board, the design drawings completed and the construction start date is determined. He said as they understand the Boards request from the July 10, 1998 Land Board meeting, they are to go back to the NSNB for comments at this juncture. He asked for clarification for that need because public input was already received during the Environmental Impact System (EIS), Special Management Area (SMA), Conservation District Use Application (CDUA) and Public Use Commission (PUC) approval processes. He said the urgency of this matter is that according to the CDUP, this project has to be completed by the year 2000, they had to

stop their order with the vendor for materials because of this delay and it's costing them money. He requested that the Board approve the right-of-entry and grant of easement for this project so that they could provide better electrical service to the people on the North Shore. He said they notified Department of Land Utilization (DLU) of the modifications to the alignment and DLU advised them that because the changes are minimal they do not have to do another EIS.

Mr. Roy Uemura of HECO displayed a diagram of the State land involved that depicts the route pavements as well as the area that the poles will be going in. He explained that in the State conservation area the pole sizes will range from 40-60 feet with the total average height of 45 feet. He said the visual simulations should take no longer than 2 months to complete.

In response to Chairperson Wilson's question, Mr. Murakami stated that they will appear at the September 22, 1998 NSNB meeting to explain where the project is at, but the visual simulations may not be ready by then.

Member Inouye felt that the applicant has gone through the process and that the visual simulation should not be subject to Board approval of an easement. She made a motion to grant the easement subject to staff's recommendation.

Member McCrory said having been through the Hauupu Ridge situation, it is very critical that HECO make an effort to appear at the September 1998 or October 1998 NSNB meeting with the visual simulations even if it doesn't make a difference in the Board decision, but did not want to find out that it was moved to December 1998 or January 1999. She felt that HECO has gone through the process and has done everything they should have done. She seconded the motion.

Member Kokubun felt that it would be appropriate to defer action on this easement subject to the meeting with the NSNB and to reschedule this item for the subsequent Land Board meeting.

Approved as submitted on staff recommendation, alternative II.

Vote: 4 in favor (Inouye/McCrory/Kennison/Matsumoto)

2 opposed (Kokubun/Wilson)

ITEM D-25: DIRECT SALE OF PERPETUAL, NON-EXCLUSIVE UTILITY EASEMENT TO HAWAIIAN ELECTRIC COMPANY, INC., AND GTE HAWAIIAN TELEPHONE COMPANY, INC., FOR ELECTRIC AND COMMUNICATION TRANSMISSION LINES ON STATE-OWNED, GOVERNMENT LAND OF SAND ISLAND PARKWAY ROAD, SITUATE AT KAHOLALOA, SAND ISLAND, HONOLULU, OAHU, TMK: 1-5-41: 2, 14, 17, 26, 27, 31, 34, 37, 61, 64, 65, 66, 77, 80, 94, 96, 100, 101, 107, 119, 121, 133, 153, 162, 171, 174, 178, 192, 248, 252, 253,

259, 261, 264, 272, 274, 277, 280, 287, 300, 303, 310, 326, 341, AND 342

Mr. Uchida presented the staff submittal recommending that the Board authorize the direct issuance of a perpetual non-exclusive easement for electric and communication transmission lines and authorize the immediate construction right-of-entry to HECO and GTE Hawaiian Telephone Company subject to standard condition.

Unanimously approved as submitted (McCrorry/Matsumoto).

ITEM D-22: CONSERVATION DISTRICT USE APPLICATION (OA-2866) FOR ARTIFICIAL REEFS (3/4 MILE OFFSHORE OF ALA MOANA BEACH, OAHU)

Mr. Uchida said this is a CDUA for artificial reefs and the applicant is Voyager Submarine Hawaii. The applicant is proposing to sink a derelict vessel at each of 2 selected sites to serve as artificial reefs to enhance the habitat and to promote coral and fish biomass growth. In addition, the installation of 6 mooring buoys is proposed. He said the application was sent around to various agencies and most of the agencies were supportive of the proposed artificial reef. He said condition no. 18 that reads: "The selected site for the artificial reefs shall not displace fisherman from traditional fishing ground." is an attempt to try and address concerns raised by the Office of Hawaiian Affairs (OHA), who indicated in their comments that they thought it was inappropriate use of ceded lands and that there was a potential conflict with users in the area. He said there was also some negative comments from Nautilus Subsea Adventures, Inc. and statements made by the Coast Guard and some of the other agencies regarding the existing Atlantis operation and how crowded that dive has become. Some of the agencies have raised questions and concerns regarding the placement of the ships, the sinking, the cleaning, and making sure it's all done properly. The applicant has intended to follow applicable laws regarding the sinking of the vessels. Staff has applied 8 criteria and has found that the proposed activities conforms with the 8 criteria establishment of rules for uses in the Conservation District Resource Subzone. Staff's recommendation is that the Board approve the artificial reef and mooring subject to 27 specific conditions.

Member McCrorry suggested including the National Marine Fisheries Service (NMFS) along with DAR to condition no. 21 because of comments raised by NMFS regarding the biological monitoring program.

Mr. Mark Ericksen of Sea Engineering, Agent for Voyager Submarine Hawaii and Mr. JC Merrill, Project Manager for Voyager Submarines Hawaii testified in support of the proposed artificial reef and mooring project.

Unanimously approved to amend condition no. 21 to read as follows: **21. "... data shall be submitted to our DAR , and the National Marine Fisheries Service. The scope,**

reporting..." (McCrorry/Matsumoto).

ITEM I-1: REQUEST FOR APPROVAL TO ENTER INTO A LICENSE AGREEMENT BETWEEN THE COUNTY OF KAUAI, DEPARTMENT OF PUBLIC WORKS, AND THE DEPARTMENT OF LAND AND NATURAL RESOURCES, DIVISION OF CONSERVATION AND RESOURCES ENFORCEMENT RELATING TO ACCESS TO THE COUNTY'S NEW 800 MHZ EMERGENCY RADIO SYSTEM

Mr. Moniz said this request is a public health and safety issue. The County of Kauai has recently converted their radio system to an 800MHZ type and with this conversion, Kauai DOCARE officers are no longer in contact with Kauai Police, Fire, and Rescue. He said Kauai DOCARE has the equipment to communicate directly with the County of Kauai, and the County of Kauai has agreed to allow DOCARE to work off of their frequency. The AG's office instructed DOCARE to enter into a license agreement with the County of Kauai. Staff's recommendation is that the Board approve the proposed licensed agreement.

Deputy AG Randy Young said on Section 6, Page 3 of the License agreement, there are a couple of references to "Owner" which should probably be "Licensor".

Member McCrorry made a motion to approve staff's recommendation subject to review by the AG's office of the language in Section 6.

Unanimously approved as submitted (McCrorry/Inouye).

ITEM D-6: FORFEITURE OF GENERAL LEASE NO. S-5165

Mr. Uchida said this is a personal forfeiture of GL No. S-5165. The lessee, Pupukea Lychee Farm, was sent a Notice of Default on March 17, 1998 for failure to keep the lease rent payments current. The notice offered a 60 day cure period to correct the default status and to date has not been cured. The lessee is currently delinquent in the amount of \$2,625.00. The lessee has experienced some vandalism and security problems on the property since they got the lease. Staff's recommendation is that the Board authorize the cancellation of this lease, and authorize the retention of all sums paid as liquidated damages, terminate all rights and obligations effective July 30, 1998 and authorize the AG's Office and/or a private collection agency to collect all monies owed to the State and also authorize the Chairperson to take actions necessary to carry out the intention of the Board.

Mr. David Chu represented Pupukea Lychee Farm on behalf of his brother, the lessee. He explained that and his brother wanted to get out of the situation because of the problems they were experiencing on the property. Mr. Chu felt that the property had a lot of potential, however, if the use is limited to agriculture the lessee would be unable to generate sufficient

revenue to cover the costs of maintaining a consistent presence on the property for security reasons. He said the property would be of higher value if the tenant were able to attract some of the tourist traffic that passes by the property.

Unanimously approved to amend staff recommendation by deleting recommendation A, B, C, D, E, and replacing it with the following: "That the Board authorize the mutual cancellation of GL S-5165 in the manner specified by law effective August 31, 1998, provided that the lessee pay all monies owed the state on GL S-5165."
(Matsumoto/Inouye).

ITEM D-28: THE DEPARTMENT OF HEALTH REQUESTS CANCELLATION OF GENERAL LEASE NO. S-3751 AND GOVERNOR'S EXECUTIVE ORDER NOS. 3491, 2816, 2731, 3622, 2493, 2991, 3373, 3061 & 2950 AND THE SUBSEQUENT TRANSFER OF SAME, TOGETHER WITH THE STATE LAND COVERED BY LAND OFFICE DEED NO. S-27974, BY DEED, SET ASIDE OR LEASE, AS APPLICABLE, TO HAWAII HEALTH SYSTEMS CORPORATION

Mr. Uchida said this is the Department of Health's request to cancel GL No. S-3751 and Governor's Executive Order Nos. 3491, 2816, 2731, 3622, 2493, 2991, 3373, 3061 & 2950 and the subsequent transfer of same, together with the State land covered by Land Office Deed No. S-27974, to the Hawaii Health Systems Corporation (HHSC). Staff's recommendation is to cancel the GL and the Governor's Executive Order and subsequent to that, approve the set aside to HHSC for Hilo Hospital Complex, New Honokaa Hospital, Honokaa Hospital, Kohala Hospital, Kau Hospital, Kauai Veteran's Memorial Hospital, Samuel Mahelona Memorial Hospital, Maluhia Hospital, Lanai Community Hospital, and Kula Sanitorium subject to the standard conditions and to convey the Maui Memorial Hospital site in fee simple subject to standard conditions.

Ms. Alice Hall of HHSC stated that she was present to answer any questions that the Board might have.

Unanimously approved as submitted (McCrorry/Inouye).

ITEM A. C-1: OLD BUSINESS - RESUBMITTAL: REQUEST APPROVAL OF CONTRACT WITH MR. KARL DALLA ROSA TO COORDINATE THE FEDERAL FUNDED FOREST STEWARDSHIP PROGRAM AND WITH MS. TERESA TRUEMAN-MADRIAGA TO COORDINATE THE FEDERAL FUNDED URBAN AND COMMUNITY FORESTRY PROGRAM FOR THE DIVISION OF FORESTRY AND WILDLIFE

Mr. Patrick Costales, Oahu District Manager for the Division of Forestry and Wildlife (DOFAW) said this item was originally on the July 10, 1998 Land Board agenda requesting approval of contract with Mr. Karl Dalla Rosa to coordinate the federal funded Forest Stewardship Program and with Ms. Teresa Trueman-Madriaga to coordinate the federal funded Urban and Community Forestry Program for DOFAW.

Unanimously approved as submitted (Kokubun/McCrory).

**ITEM H-1: AUTHORIZATION TO ENTER INTO AN AQUACULTURE
EXTENSION SERVICE CONTRACT**

Mr. John Corbin, Manager of the Aquaculture Development Program (ADP) said this is to request permission to contract with the University of Hawaii (UH), Sea Grant Extension Service, to continue the aquaculture extension specialist project to provide the aquaculture industry with expert technical assistance. Staff's recommendation is that the Board authorize the Chairperson to negotiate and subject to Governor's approval, enter into an aquaculture extension service contract with the UH.

Unanimously approved as submitted (Kokubun/Inouye).

Mr. Corbin commented that this is probably the last time he will be appearing before the Board as a DLNR Staff member and thanked the Board on behalf of ADP for all their support and encouragement for aquaculture over the years.

**ITEM G-1: REQUEST FOR APPROVAL TO CONDUCT PUBLIC HEARING ON
AMENDMENTS TO HAWAII ADMINISTRATIVE RULES, CHAPTER
13-16, CONVEYANCES, AND APPOINTMENT OF MASTERS TO
HOLD PUBLIC HEARINGS**

Mr. W. Mason Young, Acting Registrar of the Bureau of Conveyance (BOC) said this is a request for approval to conduct public hearing on amendments to HAR, Chapter 13-16, Conveyances, and appointment of masters to hold public hearings. The draft to amend and compile HAR, Chapter 13-16, Conveyances relating to the recordation of documents in the BOC has received preliminary approval as to format and substance by the Attorney General (AG) and the Legislative Reference Bureau (LRB). The proposed amendments clarify the methods for recordation of documents and acknowledgements, provide additional fees for non-conforming documents and record searches, increase costs for copies of maps to be consistent with map charges by DAGS-Survey, and delete references to Assistant Registrar for legal and technical duties which are covered by Rules of the Land Court promulgated by the Supreme Court.

Member McCrory raised several concerns involving the previous fee increase that was intended to have a computer system up and running and the additional new charges that are being proposed. She inquired as to whether the \$15.00 of the \$25.00 recording fee that BOC will be asking the Legislature for this session to be revolved into the Special Fund could be in place first and the BOC come back to get the additional new charges. Mr. Young suggested going to the public hearing for public input to see whether there are other concerns expressed that are similar to Member McCrory and then bring it back to the Board and decide if we should revisit that.

Unanimously approved as submitted (Kennison/Matsumoto).

ITEM A. D-1: OLD BUSINESS - RESUBMITTAL: SET ASIDE TO THE DIVISION OF FORESTRY AND WILDLIFE FOR POTENTIAL DEMONSTRATION FOREST PRODUCTS ALONG HAMAKUA COAST PURPOSE AT OOKALA, HAWAII, TMK: (3) 3-9-1-13 AND -18

Mr. Uchida said this is a request to set aside to DOFAW for potential demonstration forest products. Staff recommendation's is that the Board approve conditions A and B, and add condition C, that the timber resource from TMK 3-9-1: 13 and 18 shall be made available to local sawmill ventures.

Unanimously approved as amended by adding condition C to read: C. Timber resources taken from TMK 3-9-1: 13 and 18 shall be made available to local sawmill ventures. (Kokubun/Kennison).

ITEM A. D-3: OLD BUSINESS - RESUBMITTAL: CONSENT TO SUBLEASE AND ASSIGNMENT OF SUBLEASE OF GENERAL LEASE S-3935 ASSIGNED TO LORI AND ALAN NAGAKURA, TRUSTEES AT WAIAKEA, HAWAII, TMK: (3) 2-2-37-66

Mr. Uchida presented the staff submittal recommending that the Board consent to the sublease and assignment of sublease under GL No. 3935 subject to standard conditions.

Unanimously approved as submitted (Kokubun/Kennison).

ITEM A. D-4: OLD BUSINESS - RESUBMITTAL: RESCIND PRIOR BOARD ACTION FOR CONSENT TO THE ASSIGNMENT OF GENERAL LEASE S-5434 ISSUED TO HATTIE SANTOS AND CONSENT TO ASSIGNMENT AT KIKALA-KEOKEA, HAWAII, TMK: (3) 1-2-7-PORION 2

Mr. Uchida presented the staff submittal recommending that the Board rescind action of November 20, 1997 and consent to the assignment from Hattie Santos to Hattie Santos and Virginia Hendrick subject to standard conditions.

Unanimously approved as submitted (Kokubun/Kennison).

ITEM A. D-6: OLD BUSINESS - RESUBMITTAL: ISSUANCE OF A REVOCABLE PERMIT TO HUGH HILL AT SOUTH KONA, HAWAII, TMKs: (3) 8-7-1-14; 8-7-4-5, -7, -8, -9 AND -10

Mr. Uchida presented the staff submittal recommending that the Board rescind the prior Board action of December 15, 1995 covering the property and authorization to the new revocable permit to Hugh Hill subject to standard conditions.

Unanimously approved as submitted (Kokubun/Kennison).

ITEM A. D-7: OLD BUSINESS - RESUBMITTAL: SALE OF LEASE AT PUBLIC AUCTION FOR PASTURE PURPOSES AT SOUTH KONA, HAWAII, TMKs: (3) 8-7-1-14; 8-7-4-5, -7, -8, -9 AND -10

Mr. Uchida presented the staff submittal recommending that the Board authorize the sale of a lease at public auction covering the subject area for pasture purposes subject to standard conditions.

Unanimously approved as submitted (Kokubun/Kennison).

ITEM A. D-8: OLD BUSINESS - RESUBMITTAL: AMENDMENT TO PREVIOUS SUBMITTAL - PIONEER HI-BRED INTERNATIONAL, INC. ON BEHALF OF CITIZENS UTILITIES CO. REQUEST FOR CONSTRUCTION ROE AND GRANT OF DIRECT EASEMENT FOR ELECTRIC TRANSMISSION LINE AFFECTING PORTION OF GENERAL LEASE NO S-4913, KEKAHA, KAUAI

Mr. Uchida presented the staff submittal recommending that the Board amend prior action of January 14, 1994 to include the second installation in accordance with terms and conditions cited in the submittal.

Unanimously approved as submitted (McCrorry/Kennison).

ITEM A. D-9: OLD BUSINESS - RESUBMITTAL: REQUEST TO SET ASIDE HALE O LONO HARBOR AND ACCOMPANYING ACCESS ROAD BY EXECUTIVE ORDER TO THE DIVISION OF BOATING AND OCEAN RECREATION, AND AN IMMEDIATE RIGHT OF ENTRY FOR SITE CONTROL PURPOSES, TMK: 5-1-02: 12, 23 AND 30, KALUAKOI, MOLOKAI

Mr. Uchida requested deferral of Item D-9.

Unanimously approved to defer (Kennison/Kokubun).

ITEM A. D-11: OLD BUSINESS - RESUBMITTAL: CONSENT TO LICENSE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA, DEPARTMENT OF THE NAVY, LICENSOR, AND THE STATE OF HAWAII BY ITS BOARD OF LAND AND NATURAL RESOURCES ON BEHALF OF THE DEPARTMENT OF EDUCATION (DOE), AS LICENSEE, LICENSE NO. N6274298RP000111, AT WAIPIO, EWA, OAHU, TMK: 1ST/9-4-08: 24

Mr. Uchida presented the staff submittal recommending that the Board consent to a license agreement with the Department of the Navy and DLNR on behalf of Department of Education subject to standard conditions.

Unanimously approved as submitted (Kennison/Kokubun).

ITEM A. D-12: OLD BUSINESS - RESUBMITTAL: DIRECT SALE OF RECLAIMED (FILLED) LAND TO CHRISTINA AND BERTIL WERJEFELT AT KANEOHE, OAHU, TMK: 1ST/4-4-21: SEAWARD OF PARCEL 10

Mr. Uchida presented the staff submittal recommending that the Board approve the direct sale of reclaimed land subject to standard conditions.

Unanimously approved as submitted (Matsumoto/Kennison).

ITEM A. D-13: OLD BUSINESS - RESUBMITTAL: 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 presented the staff submittal recommending that the Board consent to the GL between the City & County of Honolulu (C&C) and DLNR on behalf of the AG's office subject to standard conditions.

Unanimously approved as submitted (Kokubun/Matsumoto).

**ITEM A. D-14: OLD BUSINESS - RESUBMITTAL: CONSENT TO
ASSIGNMENT OF GENERAL LEASE S-4227 ASSIGNED TO
AZABU U.S.A. (KONA) CO., LTD. AT KAHALUU, HAWAII,
TMK: (3) 7-8-13-42**

Mr. Uchida presented the staff submittal recommending that the Board consent to the assignment of GL No. 4227 between Azabu U.S.A and SWVP Keahole LLC., subject to standard conditions.

Unanimously approved as submitted (Kokubun/Kennison).

**ITEM A. K-2: OLD BUSINESS - RESUBMITTAL: APPLICATION FOR
ISSUANCE OF REVOCABLE PERMIT, NON-CONFORMING
USE, HONOLULU INTERNATIONAL AIRPORT, OAHU
(ROYAL HAWAIIAN MOVERS)**

Mr. Garcia presented the staff submittal recommending that the Board approve the application for issuance of revocable permit, non-conforming use to Royal Hawaiian Movers.

Unanimously approved as submitted (Matsumoto/Kokubun).

**ITEM A. K-3: OLD BUSINESS - RESUBMITTAL: ISSUANCE OF
REVOCABLE PERMIT, KEEHI INDUSTRIAL LOTS, KALIHI-
KAI, HARBORS DIVISION, OAHU (S.I. BUILDERS, INC.)**

Mr. Garcia presented the staff submittal recommending that the Board approve the issuance of this permit subject to terms and conditions.

Unanimously approved as submitted (Matsumoto/Kokubun).

ITEM A. K-4: OLD BUSINESS - RESUBMITTAL: ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, HILO HARBOR, ISLAND OF HAWAII (JUANITO AND EREDULIN V. JULIAN)

Mr. Garcia presented the staff submittal recommending that the Board approve the issuance of this permit subject to terms and conditions .

Unanimously approved as submitted (Matsumoto/Kokubun).

ITEM A. K-5: OLD BUSINESS - RESUBMITTAL: AMENDMENT OF REVOCABLE PERMIT, KAWAIHAE HARBOR, ISLAND OF HAWAII (GE CAPITAL MODULAR SPACE HAWAII, INC.)

Mr. Garcia presented the staff submitted recommending that the Board approve the amendment of this permit subject to terms and conditions.

Unanimously approved as submitted (Matsumoto/Kokubun).

ITEM A. K-6: OLD BUSINESS - RESUBMITTAL: AUTHORIZING THE DEPARTMENT OF TRANSPORTATION TO DISPOSE OF HIGHWAY REMNANT AND PERPETUAL EASEMENT, INTERSTATE HIGHWAY, FEDERAL AID PROJECT NO. I-H-1(11), PALAILAI INTERCHANGE TO KUNIA INTERCHANGE (HAWAIIAN ELECTRIC COMPANY, INC. AND BOARD OF WATER SUPPLY, CITY & COUNTY OF HONOLULU)

Mr. Garcia presented the staff submittal recommending that the Board authorize DOT to convey Parcel 33-A-1 by quitclaim deed to the Board of Water Supply (BWS) by Section 171-95, HRS subject to a perpetual electrical easement to be granted to HECO, in accordance with Section 171-95, HRS subject to conditions.

Unanimously approved as submitted (Matsumoto/Kokubun).

ITEM A. K-7: OLD BUSINESS - RESUBMITTAL: AUTHORIZING THE DEPARTMENT OF TRANSPORTATION TO DISPOSE OF HIGHWAY REMNANT, HANA BELT ROAD, FEDERAL AID PROJECT NO. 32-A(1) - AMENDMENT TO LAND BOARD APPROVAL DATED FEBRUARY 14, 1997, ITEM K-4 (HAIKU-OHANA ENTERPRISES, INC.)

Mr. Garcia presented the staff submittal recommending that the Board authorize DOT to

amend Land Board approval dated February 14, 1997 by amending the name of the proposed purchaser to Haiku-Ohana Enterprises, Inc.

Unanimously approved as submitted (Kokubun/Matsumoto).

ITEM A. K-8: OLD BUSINESS - RESUBMITTAL: APPLICATION FOR ISSUANCE OF REVOCABLE PERMIT, NON-CONFORMING USE, AIRPORTS DIVISION, HONOLULU INTERNATIONAL AIRPORT, OAHU (TM DESIGNERS, INC.)

Mr. Garcia presented the staff submittal recommending that the Board approve the application for issuance of revocable permit, non-conforming use to TM Designers, Inc.

Unanimously approved as submitted (Matsumoto/Kokubun).

ITEM A. K-9: OLD BUSINESS - RESUBMITTAL: ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 31A, HONOLULU HARBOR, OAHU (EQUILON ENTERPRISES LLC)

ITEM A. K-10: OLD BUSINESS - RESUBMITTAL: ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 31A, HONOLULU HARBOR, OAHU, (EQUILON ENTERPRISE LLC)

ITEM A. K-11: OLD BUSINESS - RESUBMITTAL: ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 31A, HONOLULU HARBOR, OAHU, (EQUILON ENTERPRISES LLC)

ITEM A. K-12: OLD BUSINESS - RESUBMITTAL: ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIERS 31, 31A AND 32A, HONOLULU HARBOR, OAHU, (EQUILON ENTERPRISES LLC)

ITEM A. K-13: OLD BUSINESS - RESUBMITTAL: ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIERS 24 THROUGH 29, HONOLULU HARBOR, OAHU, (EQUILON ENTERPRISES LLC)

ITEM A. K-14: OLD BUSINESS - RESUBMITTAL: ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, HILO HARBOR, ISLAND OF HAWAII (EQUILON ENTERPRISES LLC)

Mr. Garcia stated that Item's K-9, K-10, K-11, K-12, K-13 and K-14 are related to the same

company and are all issuances of revocable permits. Shell Oil and Texaco merged their corporations into a limited liability company named Equilon Enterprises LLC. Staff's recommendation is that the Board approve the transfer of the revocable permits from the old companies to the new company called Equilon Enterprises LLC.

No public testimony was presented on these agenda items.

Unanimously approved as submitted (Matsumoto/Kokubun).

**ITEM K-1: LEASE, HILO INTERNATIONAL AIRPORT, ISLAND OF HAWAII
(FEDERAL AVIATION ADMINISTRATION) TMK (3)-2-1-12-12:12P**

Mr. Garcia presented the staff submittal recommending that the Board approve the lease to the Federal Aviation Administration for the Hilo International Airport.

Unanimously approved as submitted (Kokubun/Kennison).

**ITEM K-2: MANAGEMENT AND OPERATION OF AUTOMOBILE PARKING
FACILITIES AT KAHULUI AND KAPALUA-WEST MAUI AIRPORTS,
MAUI, TMK (2)-3-8-01:19P AND (2)-4-3-01:68P**

Mr. Garcia presented the staff submittal recommending that the Board approve to advertise the Management and Operation of the Automobile Parking Facilities at Kahului and Kapalua-West Maui Airports.

Unanimously approved as submitted (Kennison/Matsumoto).

**ITEM K-3: REPORT ON REVOCABLE PERMITS RENEWED BY THE
DEPARTMENT OF TRANSPORTATION FOR CONSISTENT USES -
JUNE 1998**

**ITEM K-4: REPORT ON REVOCABLE PERMITS RENEWED BY THE
DEPARTMENT OF TRANSPORTATION FOR CONSISTENT USES -
JULY 1998**

Mr. Garcia stated that Items K-3 and K-4 are reports on Revocable Permits that have been renewed by the Airports Division for consistent purposes and these items do not require Board action.

ITEM K-6: CONSTRUCTION RIGHT-OF-ENTRY AND AMENDMENT OF LEASE

**OF EASEMENT, SAND ISLAND CONTAINER FACILITY, HONOLULU
HARBOR, OAHU, (HAWAII FUELING FACILITIES CORPORATION)
TMK (1)-1-5-41:111P**

Mr. Garcia presented the staff submittal recommending that the Board approve the issuance of the construction right-of-entry agreement and amendment of lease.

Unanimously approved as submitted (Kennison/Matsumoto).

**ITEM K-7: CONSENT TO ASSIGNMENT OF LICENSE NO. 124, KAWAIHAE
HARBOR, ISLAND OF HAWAII, (KAWAIHAE TERMINALS,
INC./TOSCO CORPORATION) TMK (3)-6-1-03:24P**

Mr. Garcia presented the staff submittal recommending that the Board approve the consent to the assignment of License No. 124, subject to the term and conditions prescribed the Director of Transportation.

Unanimously approved as submitted (Kokubun/Matsumoto).

**ITEM K-8: ISSUANCE OF REVOCABLE PERMIT, KEEHI INDUSTRIAL LOTS,
HONOLULU, OAHU (JAYAR CONSTRUCTION, INC.) TMK (1)-1-2-23**

Mr. Garcia presented the staff submittal recommending that the Board approve the issuance of revocable permit to Jayar Construction for the Keehi Industrial Lots for the storage of construction materials and equipment subject to terms and conditions.

Member Matsumoto was concerned about the adjoining property owners being impacted by the wind drift of sand, dirt and/or other loose materials that might be stock piled on this particular lot by Jayar Construction. Mr. Garcia said he was not sure how the materials were going to be stored and clarified that a condition could be added subject to Member Matsumoto's concerns.

Unanimously approved as amended (Matsumoto/Kennison).

**ITEM K-9: ISSUANCE OF REVOCABLE PERMIT, PIER 20, HONOLULU
HARBOR, OAHU (KALEO TRUCKING) TMK (1)-1-5-39:7P**

Mr. Garcia presented the staff submittal recommending that the Board approve the issuance of this permit subject to terms and conditions.

Unanimously approved as submitted (Matsumoto/Kokubun).

ITEM K-10: DEPARTMENT OF TRANSPORTATION REQUEST TO GRANT PERPETUAL, NON-EXCLUSIVE EASEMENT FOR UNDERGROUND WATER METER AT PIER 32, HONOLULU HARBOR, OAHU (BOARD OF WATER SUPPLY, CITY & COUNTY OF HONOLULU) TMK (1)-1-5-35:9P

Mr. Garcia presented the staff submittal recommending that the Board find the water meter easement area to be economic units in terms of the intended use and find that the BWS, C&C, do not have suitable land of its own for the proposed use and authorize the granting of the non-exclusive easement subject to terms and conditions.

Unanimously approved as submitted (Kokubun/Kennison).

ITEM D-1: DIRECT ISSUANCE OF PERPETUAL NON-EXCLUSIVE EASEMENT TO THE CITY AND COUNTY OF HONOLULU, DEPARTMENT OF DESIGN AND CONSTRUCTION, FOR A TWENTY-INCH IRRIGATION PIPELINE AT WAIKELE, EWA, OAHU, TMK: 1ST/9-4-11: 103 (PORTION)

Mr. Uchida presented the staff submittal recommending that the Board authorize the direct issuance of a perpetual non-exclusive easement for irrigation pipeline purposes to the C&C and also authorize issuance of an immediate construction right-of-entry to the C&C subject to standard conditions.

Unanimously approved as submitted (Kokubun/Kennison).

ITEM D-2: REQUEST FOR ISSUANCE OF A REVOCABLE PERMIT BY KAMEHAMEHA SCHOOLS/BISHOP ESTATES FOR PURPOSES OF A TEMPORARY UTILITY CORRIDOR AND AN IMMEDIATE RIGHT OF ENTRY FOR SITE CONTROL PURPOSES ON GOVERNMENT LAND, IDENTIFIED BY TMK: (2) 2-3-08: POR. 26, SITUATE AT POR. OF KULA, MAKAWAO, MAUI

Mr. Uchida presented the staff submittal recommending that the Board authorize the issuance of a revocable permit to Kamehameha Schools/Bishop Estates and authorize the immediate construction right-of-entry subject to standard conditions.

Unanimously approved as submitted (Kennison/Kokubun).

ITEM D-3: REQUEST TO AMEND THE BOARD'S OCTOBER 10, 1997 AGENDA

**ITEM D-9 APPROVAL REGARDING HAWAIIAN CEMENT'S
REQUEST FOR PARTIAL WITHDRAWAL OF GENERAL LEASE NO.
S-4197, AND ISSUANCE OF LAND LICENSE BY NEGOTIATION FOR
ROCK MINING PURPOSES ON GOVERNMENT LAND, IDENTIFIED
BY TMK: 3-8-08: PORTION 01, PULEHUNUI, WAILUKU, MAUI**

Mr. Uchida presented the staff submittal recommending that the Board amend its October 10, 1997, approval for the partial withdrawal from GL No. S-4197 and issuance of a land license to Hawaiian Cement subject to terms and conditions.

Unanimously approved as submitted (Kennison/McCrory).

**ITEM D-4: REQUEST BOARD APPROVAL FOR THE DIRECT ISSUANCE OF A
PERPETUAL NON-EXCLUSIVE EASEMENT FOR DRAINAGE
PURPOSES TO THE CITY AND COUNTY OF HONOLULU,
DEPARTMENT OF FACILITY MAINTENANCE, SAND ISLAND
INDUSTRIAL PARK SUBDIVISION, SAND ISLAND, OAHU, TMK: 1-5-
41**

Mr. Uchida presented the staff submittal recommending that the Board authorize the direct issuance for perpetual non-exclusive easements for drainage purposes to the C&C of Honolulu subject to standard conditions.

Unanimously approved as submitted (Matsumoto/Kokubun).

**ITEM D-5: WITHDRAWAL FROM THE MAUNA KEA FOREST RESERVE,
GOVERNOR'S PROCLAMATION DATED MAY 2, 1938 AT
HAMAKUA, HAWAII, TMKs: (3) 4-4-16-10 AND PORTION 5**

Mr. Uchida presented the staff submittal recommending that the Board approve the withdrawal of the property from the Mauna Kea Forest Reserve subject to standard conditions.

Unanimously approved as submitted (Kokubun/Matsumoto).

ITEM D-7: RESUBMITTAL: FORFEITURE OF GENERAL LEASE NO. S-5204

Mr. Uchida presented the staff submittal recommending that the Board authorize the cancellation of GL No. 5204 subject to standard conditions.

Unanimously approved as submitted (Kennison/McCrory).

ITEM D-8: CONSENT TO SUBLEASE OF GENERAL LEASE S-5271 ISSUED TO THE COUNTY OF HAWAII AT KONA, HAWAII, TMK: (3) 7-5-5-PORTION 7

Mr. Uchida requested withdrawal of Item D-8.

Unanimously approved to withdraw Item D-8.

ITEM D-9: REQUEST ISSUANCE OF A LAND PATENT IN CONFIRMATION OF THE AWARD ON LCA #7936 AND LCA #10120 LOCATED AT OKOE, HAWAII, TMK: (3) 8-9-2-1

Mr. Uchida presented the staff submittal recommending that the Board authorize the issuance of a land patent confirmation of the award subject to standard conditions.

Unanimously approved as submitted (Kokubun/Kennison).

ITEM D-10: AMEND PRIOR BOARD ACTION FOR THE ISSUANCE OF A REVOCABLE PERMIT TO HILO MEDICAL CENTER AT PIHONUA, HAWAII, TMK: (3) 2-3-32-PORTION 1

Mr. Uchida presented the staff submittal recommending that the Board amend prior Board action of January 30, 1998 to change applicant name to HHSC subject to standard conditions.

Unanimously approved as submitted (Kokubun/Matsumoto).

ITEM D-13: COUNTY OF HAWAII REQUESTING A CONSTRUCTION RIGHT OF ENTRY AT HILO, HAWAII, TMK: (3) 2-2-11-PORTION OF 1

Mr. Uchida presented the staff submittal recommending that the Board authorize the immediate construction right-of-entry to the County of Hawaii subject to standard conditions.

Unanimously approved as submitted (Kokubun/McCrory).

ITEM D-14: GENERAL LEASE NO. S-3729: CONSENT TO ASSIGNMENT OF LEASE FROM JEAN SHINTANI, TRUSTEE OF THE MINORU SHINTANI FAMILY REVOCABLE TRUST, ASSIGNOR, TO JEAN N. SHINTANI, TRUSTEE OF THE JEAN N. SHINTANI REVOCABLE LIVING TRUST, ASSIGNEE

Mr. Uchida presented the staff submittal recommending that the Board consent to the assignment from Jean Shintani, Trustee of the Minoru Shintani Family Revocable Trust to Jean Shintani, Trustee of the Jean Shintani Revocable Living Trust subject to standard conditions.

Unanimously approved as submitted (Kokubun/Matsumoto).

ITEM D-15: FORFEITURE OF GENERAL LEASE NO. S-4667, A.P. WATER SUPPLY, INC., LOTS 14-A AND 15-A, BLK. 48, WAIAKEA INDUSTRIAL LOTS, SOUTH HILO, HAWAII - TMK: 3RD/2-2-58: 12 AND 13

Mr. Uchida requested withdrawal of Item D-15.

Unanimously approved to withdraw (Kokubun/Kennison).

ITEM D-16: REQUEST TO APPROVE BUSINESS, COMMERCIAL, INDUSTRIAL AND RESORT APPLICATION AND QUALIFICATION QUESTIONNAIRE PROCESS FOR PROSPECTIVE BIDDERS INTERESTED IN LEASES SOLD AT PUBLIC AUCTION

Mr. Uchida said this is a request to approve business, commercial, industrial and resort application and qualification questionnaire process for prospective bidders interested in leases sold at public auction. He introduced Ms. Dede Mamiya, Assistant Land Division Administer who has worked with staff on developing the application process and the qualification questionnaires.

Ms. Mamiya briefed the Board on the revised Public Auction Bid Packet. The 2 criteria that staff focused on were Publicly Traded Corporations and Loans. She said staff's recommendation is that the Board approve the Public Auction Bid Packet for State Land Leases as detailed in Exhibit C, for the purpose of screening and evaluating the qualifications of prospective bidders for State leases sold at public auctions statewide, and, delegate to the Chairperson the authority to revise the foregoing bid packet and qualification process as he sees fit to best serve the interests of the State.

There was some discussion about Exhibit C:

Member McCrory questioned page B-6, no. 26: "What is the most lease rent that you can pay before net profit will be zero?". Ms. Mamiya said the main reason for this questions is to see how much that applicant thinks they could afford when they go and bid at public auction. She suggested adding "average over a period of time." Member McCrory suggested instead adding "initial year." She felt that in businesses, when looking at a cash

flow or projected income situation, the income will rise and profits will increase so there would be a different answer for each year. Member Matsumoto felt that because these applicants will be participating in the competitive bid process, they might feel uncomfortable about disclosing this information in order to bid appropriately. He felt that staff put that question in there for the benefit of the applicant but didn't realize that there might be ratification beyond that, that might be unintended on staff's part.

Member Matsumoto suggested changes to page B-7 to read: "For questions 30-36: 1) if applying as an individual, husband and wife, sole proprietorship, partnership or joint venture, "you" refers to all individuals involved, including all partners, and 2) if applying as a corporation[or joint venture], "you" refers to the entity and officers. He felt that "joint ventures" are a partnership, not a corporation and that officers or directors of a corporation should also disclose whether they were convicted of a crime or filed for bankruptcy, otherwise, officers or directors could set up an entity to hide behind.

Member Inouye requested that the following changes be incorporated into the Public Auction Bid Packet: 1) On page A-3, 10. "Has the Applicant received a business loan within the last 2 years,...."; 2) On page A-9, 32.a. "If Applicant intends to obtain a loan, attach preliminary loan...."; and 3) On page B-6, 29.b. and c. "If Applicant is unable to or does not intend to secure a loan [commitment]...".

Unanimously approved as amended as indicated above and to add a condition to read: "C. The results of the first use of the evaluation criteria for Business, Commercial, Industrial and Resort Applications be reported to the Board for informational purposes. (McCrorry/Matsumoto)."

ITEM D-18: AMEND PRIOR BOARD ACTION FOR 10 LEASES AT PUBLIC AUCTION FOR INTENSIVE AGRICULTURAL PURPOSES ON HAWAII

Mr. Uchida said this is a request to amend a prior Board action for 10 leases at public auction for intensive agricultural purposes on the Big Island. Staff's recommendation is that the Board amend Land Board authorization of February 13, 1998, to change Lease #1 and Lease #2 conditions to be: 1) lease term is 20 years; 2) rental reopening will be on the 10th year of the lease terms, by staff appraisal or independent appraisal, as allowed by law; and; 3) should there be a disease problem and a mutual cancellation of the lease is deemed appropriate, it shall be the responsibility of the lessee to prove to the satisfaction of the Land Board it is not a management problem. Lessee must be current with all of the terms and conditions of the lease.

Member Matsumoto was concerned about the condition in which the property would be returned to the State in the event of mutual cancellation if the crops were destroyed by the Ring Spot Virus.

Unanimously approved staff recommendation with amendments to condition 3 and 4: "3. Should there be a catastrophic disease problem..." and " 4. The property must be cleared and cleaned to DLNR's satisfaction as a condition of mutual cancellation." (Kokubun/Matsumoto).

ITEM D-19: SET ASIDE TO THE DEPARTMENT OF DEFENSE (DOD), STATE OF HAWAII, FOR ROAD RIGHT OF WAY AT GOVERNMENT LAND IN WAIMANALO, KOOLAUPOKO, OAHU, TMK: 1ST/4-1-09: 276

Mr. Uchida said this is a request to set aside for roadway purposes and immediate construction right-of-entry an existing road in Waimanalo to the Department of Defense. He relayed a message to the Land Board from a representative of the Waimanalo Neighborhood Board requesting that the Land Board defer this item because of concerns the Neighborhood Board had regarding the proposed project. The representative from the Neighborhood Board was unable to stay and had left before this matter was taken up.

Unanimously approved to defer (Kokubun/Kennison).

ITEM D-20: DIRECT SALE OF A PORTION OF AN ABANDONED RAILROAD RIGHT OF WAY AT KAPAA HOMESTEADS, 1ST SERIES, KAWAIHAU, KAUAI, TMK: 4-6-4: 22

Mr. Uchida presented the staff submittal recommending that the Board approve the direct sale of the abandoned railroad right-of-way subject to standard conditions.

Unanimously approved as submitted (McCrary/Kennison).

ITEM D-23: CERTIFICATION OF ELECTION AND APPOINTMENT OF SOIL AND WATER CONSERVATION DISTRICT DIRECTORS (WAIAKEA)

Mr. Uchida presented the staff submittal recommending that the Board appoint and certify the directors to the Waiakea Soil and Water Conservation District.

Unanimously approved as submitted (Kokubun/Matsumoto).

ITEM D-24: CERTIFICATION OF ELECTION AND APPOINTMENT OF SOIL AND WATER CONSERVATION DISTRICT DIRECTORS (PUNA, HAMAKUA)

Mr. Uchida presented the staff submittal recommending that the Board appoint and certify directors to respected Soil and Water Conservation Districts.

Unanimously approved as submitted (Kokubun/Kennison).

There being no further business, Chairperson Wilson adjourned the meeting at 5:37 p.m.

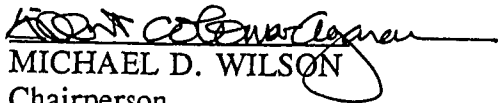
Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Kimberly C. Kelihoomalau

Approved for submittal:



MICHAEL D. WILSON

Chairperson

Board of Land and Natural Resources

