

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

DATE: THURSDAY, JUNE 10, 1999  
TIME: 9:00 A.M.  
PLACE: KALANIMOKU BUILDING  
LAND BOARD CONFERENCE ROOM 132  
1151 PUNCHBOWL STREET  
HONOLULU, HAWAII

Chairperson Timothy Johns called the meeting of the Board of Land and Natural Resources to order at 9:02 a.m. The following were in attendance:

**MEMBERS:**

Mr. Timothy Johns  
Ms. Lynn McCrory

Mr. William Kennison  
Mr. Russell Kokubun

**STAFF:**

Mr. Dean Uchida, Land Division

Mr. Ralston Nagata, Division of State Park

**OTHERS:**

Ms. Dawn Chang, Department of the  
Attorney General  
Ms. Meredith Ching, D-12  
Mr. Steve Holiday, D-12  
Mr. Paul Bienfang, D-8  
Mr. Al Lono Lyman, D-7  
Mr. Clancy Greff, E-3  
Ms. Susan Matsuura, E-3  
Ms. Diane Ley, E-2

Mr. Peter Garcia, Department of  
Transportation  
Mr. Garret Hew, D-12  
Ms. Rebecca Alakai, D-12  
Ms. Lorna Nishimitsu, D-14  
Mr. Barry Usagawa, D-7  
Mr. Tom Hegarty, E-3  
Ms. Betsy Wilson, E-3  
Mr. Daniel Brennan, D-11

**ITEM A-1: MINUTES OF APRIL 23, 1999**

Deferred - lack of quorum.

**ITEM D-12: ISSUANCE OF WATER PERMITS TO EAST MAUI IRRIGATION COMPANY LTD., AND A&B HAWAII INC., FOR THE HONOMANU, KEANAE, HUELO AND NAHIKU LICENSE AREAS, HANA, MAUI, VARIOUS TAX MAP KEYS**

Mr. Dean Uchida, Administrator of the Land Division briefed the Board and recommended that the Board authorize the issuance of 4 water permits to East Maui Irrigation Company Ltd., and A&B Hawaii Inc., subject to conditions listed. He noted that concerns raised by the Department of Hawaiian Homelands (DHHL), in a letter dated May 28, 1999 (Exhibit F), have been incorporated into condition no. 6 of the staff submittal.

Ms. Meredith Ching representing A&B Hawaii Inc., introduced Mr. Garrett Hew, East Maui Irrigation Company Ltd., and Mr. Steve Holiday, General Manager of Hawaii Commercial and Sugar Company (HCNS). She expressed the importance of the water permits for the continued existence of HCNS, and to the County of Maui who takes a portion of the water collected to meet the needs of approximately 20,000 upcountry residents and farmers. She said they will continue to recognize the need to protect the watershed, and to see that the water is used wisely and is put to good use.

Ms. Rebecca Alakai, representing DHHL, raised 2 concerns: 1) DHHL recently acquired 250 acres of land and would like to start the process of water reservation in favor of DHHL, pursuant to 171-58, Hawaii Revised Statute, and 2) evaluation of the water permits in terms of the 30% DHHL entitlement. In response to Ms. Alakai's concerns, Mr. Uchida indicated that they are in compliance with the law, based on discussions with the Attorney General. He stated that the Department currently receives approximately \$12,000.00 a month from East Maui Irrigation Company Ltd./A&B Hawaii Inc., for the water permits of which DHHL gets 30% of.

**Unanimously approved as submitted (Kennison/McCrory).**

**ITEM D-13: TIME EXTENSION REQUEST FOR CONSERVATION DISTRICT USE PERMIT NO. MA-2837 FOR THE BRENNAN RESIDENCE AND RELATED IMPROVEMENT AT HONOLUA, LAHAINA, MAUI, TMK" 4-2-04: 31 AND POR. 32**

Mr. Uchida presented the staff submittal recommending that the Board approve an extension for 1-year to initiate construction on the Brennan residence and related improvements.

**Unanimously approved as submitted (Kennison/McCrory).**

**ITEM D-8: GRANT OF TERM, NON-EXCLUSIVE ACCESS AND DRAINAGE EASEMENT AFFECTING A PORTION OF STATE-OWNED LANDS, POR. OF KEKAHA, WAIMEA, KAUAI, TMK: 1-2-2: POR. 1**

Mr. Uchida presented the staff submittal and recommended that the Board authorize the issuance of a term non-exclusive access and drainage easement for salt water effluent discharge purposes to CEATECH USA, Inc., subject to 9 conditions.

Member McCrory asked how the pro-rata share of the maintenance was to be determined. Mr. Paul Bienfang representing CEATECH USA, Inc., said they are willing to share with the upkeep of the canal and the ditch. He indicated that the determination could be made on a relative flow basis. Mr. Uchida said the pro-rata share would be based on the use and while some of the more routine maintenance cost can be identified in advance, emergency repairs and deferred maintenance would need to be negotiated among the parties.

**Unanimously approved as submitted (McCrory/Kennison).**

**ITEM D-14: REQUEST FOR A TIME EXTENSION ON CONSERVATION DISTRICT USE PERMIT NO. KA-2843 FOR THE CONSTRUCTION OF A VACATION RESIDENCE AT NIUMALU, KAUAI, TMK: 3-2-01: 01**

Mr. Uchida presented the staff submittal recommending that the Board approve this request for a 1-year extension to initiate construction on the single family residence.

Ms. Lorna Nishimitsu representing Mr. Walton Hong was present to answer any questions.

**Unanimously approved as submitted (McCrory/Kennison)**

**ITEM D-4: CONSENT TO ASSIGN HOMESTEAD LEASE NO. 56, LOUISE E. KANEAKUA, ASSIGNOR, TO JAMES N. P. KANEAKUA, ASSIGNEES, KAPAA, KAUAI, TMK: 4-5-09: 13**

Mr. Uchida requested that this item be withdrawn.

**Unanimously approved to withdraw Item D-4 (McCrory/Kennison).**

**ITEM D-7: CONSERVATION DISTRICT USE PERMIT APPLICATION NO. OA-2914 FOR THE INSTALLATION OF A PRODUCTION WELL WITHIN KAPAKAHI GULCH, WAIALAE, OAHU, TMK: (1) 3-5-34: 01**

Mr. Uchida briefed the Board and requested that the Board amend condition nos. 11 and 13 of the staff report as requested by the applicant. He distributed to the Board, an explanation of the applicant's request and staff's analysis. The proposed amendment to condition no. 11 was to extend the deadline for initiation of construction work to 2-years and completion of construction within 4-years, rather than 1-year to initiate and 3-years to complete construction. The proposed amendment to condition no. 13 was to have it deleted, because this condition limited the applicant's pumping activities from 9:00 a.m. to 5:30 p.m. The applicant requested that they be

held by the Department of Health requirements to comply with certain noise tolerant levels for different periods of the day instead of a more restrictive requirement that was put on to the conservation district use application. Staff's recommendation is that the Board approve the installation of the Kapakahi Well, with the amendments to condition nos. 11 and 13.

Chairperson Johns asked if condition 13 was based on results from a public hearing or put in as a matter of course by staff. Mr. Al Lono Lyman, representing CH2M Hill said his understanding is that it was a staff generated condition. He clarified that the pump used for pump testing would be electric operated and submersible, as opposed to the typical noisy gas operated pumps. He was confident that by being submersible it will be further quieted and that they will meet all of Department of Health requirements relating to noise in the conservation district.

Mr. Barry Usagawa, representing the Board of Water Supply testified in favor of staff's recommendation and gave some background information about their workings with DLNR and Bishop Estate over the years on this particular project.

The Board amended condition no. 11 to read: "Any work to be done on the land shall be initiated within 2-years of the approval of such use, and all work shall be completed within 4-years of the approval of such use.", and deleted condition no. 13.

**Unanimously approved as amended (Kokubun/Kennison).**

**ITEM E-3: REQUEST FOR ONE-YEAR EXTENSION FOR THREE SPECIAL USE PERMITS TO MAKE COMMERCIAL TOUR BOAT LANDINGS AT NA PALI STATE PARK, KAUAI**

Mr. Ralston Nagata, Administrator for the Division of State Parks briefed the Board and rescinded a statement in the staff submittal that read "Mr. Hegarty's permit will be revised to a six and fifteen passenger vessels."

Mr. Clancy Greff explained the problems that he's encountered with his Conservation District Use Application and clarified that he is one of the permittees requesting a special use permit.

Mr. Tom Hegarty testified that he has 2-15 passenger vessels that carry, besides the passengers, a captain and a crewmember on each. He said he has no problem in changing the name on his permit to the corporate name holding the Division of Boating and Ocean Recreation (DOBOR) permit.

Ms. Susan Matsuura, Secretary of Lady Ann Cruises and Ms. Betsy Wilson, President of Lady Ann Cruises introduced themselves. Ms. Wilson testified that they have a 44 and a 29 passenger vessel and between the 2 vessels, only 30 passengers are allowed to go on the beach and 15 on the trail at one time, the rest of the passengers snorkel offshore. She said they have 1 personnel that goes ashore for every 15 passengers unless there is a instance where somebody needs special care.

Member McCrory suggested that the permittees agree to: picking up 1 bag of garbage per day, bringing in dried leaves to facilitate the composting cycle of the toilets, supplying toilet paper and contributing to the installation and maintenance of the composting toilets. The permittees agreed.

The Board amended staff recommendation by adding the following conditions:

- 1) Permit extensions only for 6 months, to December 31, 1999.
- 2) Permittees, to the extent they are successful in receiving DOBOR's permit and operate this summer season, shall contribute to the purchase and maintenance of 2 composting toilets.
- 3) Permittees shall remove at least the required amount of trash from each allowed landing area, when leaving the area after each daily landing.
- 4) Permittees shall provide and stock the composting toilets at each allowed landing area with toilet paper upon arrival at the landing area.
- 5) Permittees, upon arrival at the landing area, as may be necessary, shall gather and stockpile sufficient amounts of dried leaves in trash bags deposited next to composting toilets to facilitate the composting cycle. However, no more than three bags of leaves should be stockpiled at a given time.
- 6) "Tom Hegarty's" permit shall be issued under the corresponding corporate name holding the DOBOR permit.
- 7) The current Hegarty permit shall be for 2-15 passenger vessels.
- 8) Permittees shall assist (financially, transportation, manpower, etc.) the State Parks Division in installing the available composting toilet unit for Nualolo. The installation is to be completed by July 10, 1999. Should this not be feasible, at least repair the existing onsite composting toilet by July 10, 1999.

One of the composting toilets, mentioned in No. 2 above, shall have been acquired by the affected Permittees before December 31, 1999 and intended for Nualolo installation, as soon as practical for the summer 2000 season. The other composting toilet's location and timetable shall be determined at the Board meeting convened to consider extensions for calendar year 2000.

**Unanimously approved as amended (McCrory/Kennison).**

**ITEM E-2: REQUEST FROM THE BIG ISLAND FARM BUREAU TO USE THE OLD KONA AIRPORT STATE RECREATION AREA IN KAILUA-KONA, HAWAII, FOR A BIG ISLAND FARM FAIR**

Mr. Nagata said this is a request from the Big Island Farm Bureau to hold their annual Farm Fair at the Old Kona Airport State Recreation Area. Staff's recommendation is that there be no on-site exchange of monies, however, if the first amendment rules, which are still in process are adopted prior to the beginning of the carnival, then they be allowed to do so.

Member McCroy suggested that condition no. 1 be deleted to allow the Big Island Farm Bureau to exchange monies for this particular event only.

Ms. Diane Ley, Administrative Assistant with the Big Island Farm Bureau agreed to the deletion of condition no. 1.

**Unanimously approved as amended (Kokubun/McCrory).**

**ITEM D-11: DIRECT ISSUANCE OF A TERM LEASE TO SUBMARINES HAWAII, INC. DBA VOYAGER SUBMARINES HAWAII FOR A NON-EXCLUSIVE EASEMENT COVERING STATE OFFSHORE WATERS AND SUBMERGED LANDS FOR A DIVE SITE FOR COMMERCIAL TOURS, A CONSTRUCTION AND A MANAGEMENT RIGHT-OF-ENTRY LOCATED SEAWARD OF ALA MOANA BEACH, OAHU, TMK: (1) 2-3-37: SEAWARD OF PARCEL 1**

Mr. Uchida amended the title to Item D-11 by changing "direct issuance of a term lease" to "direct issuance of a term easement". Staff's recommendation is that the Board authorize the direct issuance of a term easement to Submarines Hawaii, Inc. dba Voyager Submarines Hawaii, and to authorize a construction and management right-of-entry, subject to conditions.

Mr. Daniel Brennan representing Voyager Submarines Hawaii testified that the construction right-of-entry is to put the vessel on the bottom of the ocean.

**Unanimously approved as submitted (Kennison/Kokubun).**

**ITEM K-1: RIGHT OF ENTRY, HONOLULU INTERNATIONAL AIRPORT, OAHU (FEDERAL AVIATION ADMINISTRATION) TMK: (1)-1-1-031P**

Mr. Peter Garcia, Property Management Officer for the Department of Transportation briefed the Board and recommended that the Board approve the extension of the right-of-entry for the Federal Aviation Administration.

**Unanimously approved as submitted (Kokubun/Kennison).**

**ITEM K-2: ISSUANCE OF CONSTRUCTION RIGHT OF ENTRY AND LEASE BY DIRECT NEGOTIATION, KAWAIHAE HARBOR, ISLAND OF HAWAII (YOUNG BROTHERS, LTD.) TMK: (3)-6-1-3-24P**

Mr. Garcia briefed the Board and recommended that the Board approve the issuance to Young Brothers, Ltd., of a construction right-of-entry agreement and a 35-year lease via direct negotiations to cover the premises subject to the terms and conditions as may be imposed by the Director of Transportation.

**Unanimously approved as submitted (Kokubun/Kennison).**

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

Mr. Garcia said Item K-3 is a report and does not require any action by the Board.

**ITEM D-1: FORFEITURE OF REVOCABLE PERMIT NO. S-6699, ZELDA KAPUNI, TMK: (2) 5-6-03: 04, UALAPUE LOTS, UALAPUE-KAPUALEI, MOLOKAI**

Mr. Uchida presented the staff submittal recommending that the Board authorize the cancellation of Revocable Permit No. S-6699, subject to conditions.

**Unanimously approved as submitted (Kokubun/McCrory).**

**ITEM D-2: CONSENT TO SUBLEASING GENERAL LEASE NO. S-4275, DENNY'S REPAIR & SERVICE, INC. TO CATAMARAN KAHANU, SUBLESSEE, LOT 83, HANAPEPE TOWN LOTS, 1<sup>ST</sup> SERIES, HANAPEPE, WAIMEA (KONA), KAUAI, TMK: 1-9-5: 9**

Mr. Uchida presented the staff submittal recommending that the Board consent to the sublease under General Lease No. S-4275 between Denny's Repair & Service, Inc., and Catamaran Kahanu, subject to standard conditions.

**Unanimously approved as submitted (McCrory/Kennison).**

**ITEM D-3: ISSUANCE OF LAND PATENT IN CONFIRMATION OF LAND COMMISSION AWARD NO. 5170, TMK: 4-8-4: 3, ANAHOLA, KAUAI**

Mr. Uchida presented the staff submittal recommending that the Board authorize the issuance of a Land Patent in confirmation of Land Commission No. 5170, subject to 4 conditions.

**Unanimously approved as submitted (McCrory/Kennison).**

**ITEM D-5: TIM BRADLEY REQUEST TO ASSIGN PERPETUAL, NON-EXCLUSIVE EASEMENT FOR ACCESS AND UTILITY PURPOSES, LAWAI, KOLOA, KAUAI, TMK: 2-5-2: POR. 17**

Mr. Uchida presented the staff submittal recommending that the Board consent to the assignment of Land Office Deed No. S-28317 from Mr. Tim Bradley to Mr. Zacheriah Brank Harmony and Ms. Yojana Grace, subject to 3 conditions

**Unanimously approved as submitted (McCrorry/Kennison).**

**ITEM D-6: FORFEITURE OF GENERAL LEASE NO. S-5539, WILLIAM T. S. WONG, LESSEE, PUUEPA 2 AND KOKOIKI, NORTH KOHALA, HAWAII, TMK: 3<sup>RD</sup>/5-5-04: 51**

Mr. Uchida requested that Item D-6 be withdrawn.

**Unanimously approved to withdraw Item D-6 (Kokubun/Kennison).**

**ITEM D-9: ISSUANCE OF A QUITCLAIM DEED TO THE COUNTY OF MAUI, TMK: 5-6-02: PORTION 06, UALAPUE, KONA, MOLOKAI**

Mr. Uchida presented the staff submittal recommending that the Board authorize the issuance of a quitclaim deed to the County of Maui, Department of Public Works and Waste Management for roadway purposes and authorize the withdrawal of 0.111 acres, from Homestead Lease No. 59, subject to conditions listed.

**Unanimously approved as submitted (Kennison/Kokubun).**

**ITEM D-10: RESULTS OF THE PUBLIC AUCTION SALES OF STATE OF HAWAII GENERAL LEASES ON THE ISLAND OF OAHU, MAUI, HAWAII, AND KAUAI, HELD ON MAY 24, 25, 26, AND 27, 1999 RESPECTIVELY**

Mr. Uchida said Item D-10 is a report and does not require any action by the Board.

**ITEM D-15: CERTIFICATION OF ELECTION (EAST KAUAI) AND APPOINTMENT (MAUNA KEA) OF SOIL AND WATER CONSERVATION DISTRICT DIRECTORS**

Mr. Uchida presented the staff submittal recommending that the Board appoint Ms. Jeanine Lum, Mr. Neil Nakamura and Mr. Patrick Sugai and certify the elections of Mr. Jeffrey Rivera, Mr. Ted Inouye, and Mr. Garret Hew, as directors of their respective Soil and Water Conservation Districts, for the term ending June 30, 2002.

**Unanimously approved as submitted (McCrorry/Kokubun).**



**ITEM E-1: APPROVAL FOR AWARD OF CONSTRUCTION PERMIT AT  
WAIANAPANAPA STATE PARK, CARETAKER'S FACILITY, HANA,  
MAUI, HAWAII**

Mr. Nagata presented the staff submittal recommending that the Board award the construction project at Waianapanapa State Park caretaker's facility to Network Enterprises, Inc. for \$101,250.00, subject to release of construction funds by the Governor, and authorize the Chairperson to sign the necessary documents to implement the project.

**Unanimously approved as submitted (Kennison/Kokubun).**

There being no further business, Chairperson Johns adjourned the meeting at 10:39 a.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. Keliioomalu

Approval for submittal:

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TIMOTHY E. JOHNS  
Chairperson  
Board of Land and Natural Resources

