

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

DATE: FRIDAY, AUGUST 27, 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 9:21 a.m. The following were in attendance:

**MEMBERS:**

Mr. Timothy Johns	Mr. William Kennison
Mr. Colbert Matsumoto (excused at 12:15 p.m.)	Ms. Lynn McCrory
Mr. Russell Kokubun	

**STAFF:**

Mr. Michael Buck, Division of Forestry & Wildlife (DOFAW)  
Mr. John Bedish, DOFAW  
Ms. Sharon Reilly, DOFAW  
Mr. Dean Uchida, Land Division  
Mr. Sam Lemmo, Land Division  
Mr. Bill Devick, Division of Aquatic Resources (DAR)  
Mr. Alton Miyasaka, DAR  
Mr. John Hino, Division of Boating and Ocean Recreation

**OTHERS:**

Ms. Pam Matsukawa, Department of the Attorney General	Mr. David Shimokawa, Department of Transportation (DOT)
Mr. John Dooling, DOT	Mr. Kirby Shaw, C-1
Mr. George Peabody, C-1, D-24	Mr. Carrol Cox, C-2
Ms. Joyce Kainoa, C-2, D-18	Ms. Kanani Brown, D-7
Mr. John Bay, D-27	Mr. Alfred Galimba, D-16
Ms. Ellen Vincent, D-14	Mr. Gregory Mooers, D-20
Mr. Louis Santiago, D-12	Mr. George Lindsey, D-21
Ms. Chandi Heffner, D-21	Mr. John Foti, D-29
Dr. Chip Fletcher, D-25	

**ITEM A-1: MINUTES OF JULY 9, 1999**

Member Matsumoto amended page 4, 3rd paragraph, Item D-14 to read: "... He said another thing that needs to be reflected and addressed is that he specifically made a request for a legal opinion regarding whether the State will assume new legal duties and liabilities as a result of undertaking this project because [the history of ] historically the project has always been undertaken privately by the association. He asked that the legal exposure that the State would be assuming should be evaluated and an opinion be provided to the Board so that the Board would be able to, in an informed manner, make the decision as to whether or not the State should undertake that responsibility."

Chairperson Johns asked staff to track the legal opinion request that was sent over to the Attorney General's Office to make sure that it is exactly what Member Matsumoto described.

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

**ITEM C-1: APPROVAL OF PROPOSED SPECIAL PERMITS TO ALLOW A DISABLED PERSON TO HUNT FROM A VEHICLE AND TO USE A CROSSBOW**

Mr. Michael Buck, Administrator of DOFAW briefed the Board and recommended that the Board approve the issuance of the disabled hunter permits to Mr. Michael Dennison, and that the Board delegate the authority to issue future disabled hunter permits to the Administrator of DOFAW.

Chairperson Johns noted that a fax was received from Ms. Andrea Baer against the proposed staff recommendation of allowing hunting from an all terrain vehicle.

Mr. Kirby Shaw, Commission on Persons with Disabilities explained that the eligibility criteria for the "Special interim permit allowing disabled hunters to hunt and take game from a vehicle on public hunting areas" are broad enough so as not to discriminate against any person with a particular type of disability, but at the same time it's like a screen to say only certain people will meet particular criteria's to be able to hunt from a vehicle. The eligibility criteria for the "Special interim permit allowing disabled hunters to hunt and take game with a cross bow on public hunting areas" is more restricted because the person is unable to use the allowable hunting equipment, then and only then, after a physician certifies that, will the person be able to use a crossbow.

Mr. George Peabody, Molokai Advertiser-News testified in opposition to staff's proposed recommendation of allowing hunting with a crossbow.

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

**ITEM C-2: REQUEST FOR APPROVAL OF A CONTRACT WITH THE PEREGRINE FUND TO PROVIDE SERVICES TO OPERATE ENDANGERED BIRD CAPTIVE PROPAGATION FACILITIES ON MAUI AND CONDUCT**

## RELATED FOREST BIRD PROPAGATION PROJECTS THROUGHOUT THE STATE

Mr. Buck briefed the Board and recommended that the Board authorize the Chairperson to execute the subject Contract for Services in the amount of \$300,000 with the Peregrine Fund pending modification and approval as to form by the Attorney General's Office.

Mr. Carroll Cox, EnviroWatch, Inc., testified in opposition to the granting of the contract to the Peregrine Fund, and the Peregrine Fund's proposed partnership with the San Diego Zoo. He explained the problems he has had with staff and the Peregrine Fund in obtaining information regarding the conditions and financial arrangements relating to grants awarded to the Peregrine Fund for the recovery program. He shared specific questions that he thought should be answered before this matter is given consideration. He asked the Board to defer action on this matter until staff, the Peregrine Fund, the United States Fish & Wildlife Service, and the San Diego Zoo, provide to the Board and the public a clear and complete record of the conditions and financial arrangements related to the previous grant(s) and future grant(s). (Written testimony received)

Mr. Buck stated that there are some constituents that don't think the Peregrine Fund is as open as they should be and they want access to all the records because there is public monies being spent versus the private sector coming in. He said the nub of the issue is that the Peregrine Fund has been very successful in producing captive birds and they have been enormously successful utilizing less money than the department has ever had and also freeing up some resources so staff can deal with habitat management issue. He said he would provide a copy, to Mr. Cox, of the Peregrine Fund's annual progress report that identifies specific goals that are sought to be obtained each year.

Chairperson Johns agreed with staff in the success of the Peregrine Fund and how DOFAW is light years ahead of where they were 8 years ago. He also stated that there were 2 policy issues that were raised by Mr. Cox that need to be addressed, openness and financial inquiries. He said many of the questions that were raised by Mr. Cox may be legitimate and could be easily answered.

Ms. Joyce Kainoa expressed her concern about cooperation and accountability to the general public when public funds are being used. She asked the Board to take care of Mr. Cox's situation because people from the public should be able to get information they need from any State agency.

The Board amended staff submittal, page 2, 1st paragraph, last sentence, to read: "...This special condition would allow the Peregrine Fund to assign certain obligations and liabilities to an assignee with the [state's] Board's approval."

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

**ITEM D-7: FORFEITURE OF GENERAL LEASE (GL) NO. S-3949, BIG ISLAND FLORAL, INC., LESSEE, LOTS 14 AND 16, KEONEPOKO HOMESTEAD LOTS, PUNA, HAWAII, TMK: 3<sup>RD</sup>/1-5-07: 17, 18, 62, 63, 64, 65 & 66**

Mr. Dean Uchida, Administrator of the Land Division presented the staff submittal recommending that the Board authorize the cancellation of GL No. S-3949 to Big Island Floral of Puna, Hawaii.

Mr. Kanani Brown, President of Big Island Floral, Inc., presented a check of \$3,065 to staff as a partial payment on the delinquent rent. He said he is expecting another check for \$4,000 by next week and will also give that to staff for payment. He apologized for the lateness in paying the delinquent amount and explained some of the hardships that he has gone through. Mr. Brown is now using the Internet to market his products and has recently found success raising approximately \$2,400 over the last 2 weeks in new sales.

The Board amended the staff recommendation by replacing it with the following:

1. The lessee has until November 1, 1999 to cure all default under this lease;
2. Should the lessee fail to cure all defaults under this lease by November 1, 1999, the Board authorize the cancellation of GL No. S-3949 in the manner specific by law;
  - a) Authorize the retention of all sums heretofore paid or pledged under GL No. S-3949 as liquidated damages;
  - b) Terminate all rights and obligations of the Lessee effective November 1, 1999 provided that any and all obligations of the Lessee which have accrued up to said effective date shall endure past such termination date until duly fulfilled; and
  - c) Authorize the Department of Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawaii under GL No. S-3949.

Unanimously approved as submitted (Kokubun/Matsumoto).

**ITEM D-27: ISSUANCE OF A REVOCABLE PERMIT TO WOOD VALLEY WATER & FARM COOPERATIVE, KAU, HAWAII, TMK: 9-7-01: POR. 1**

Mr. Uchida briefed the Board and recommended that the Board authorize the issuance of a revocable permit to Wood Valley Farm Cooperative, covering water transported through the Weda tunnel water system for agricultural irrigation purposes, subject to 9 conditions.

Member Kokubun asked that condition no. 5 that reads: "The applicant shall install a meter and provide monthly gallonage reports to the Department;" include some estimate of water used by individual users.

Mr. John Bay, representative of the Wood Valley Water & Farm Cooperative (Co-op), made 2 clarifications to the staff report: 1) Page 2, Remarks section, 1<sup>st</sup> paragraph that reads: "... The Weda system would serve as the Co-op's primary source of agricultural irrigation water. The Noguchi system would act as a secondary source of water during times of drought conditions." Mr. Bay felt that it was a premature statement because at this point the Noguchi tunnel is the only system that water is coming out of and no one knows for sure what a restored Weda tunnel will provide in terms of water. 2) Staff recommendation, condition no. 6 that reads: "The applicant shall not

oppose the establishment of an irrigation system or project under Chapters 167 and/or 168, Hawaii Revised Statutes, as amended." He said the Co-op would be supportive of that condition, however, Chapter 167 has a fairly comprehensive scheme for just how irrigation districts get established. He said at this point he was not sure that it's appropriate for the Board to approve that condition because it would potentially circumscribe some of the landowners rights that are set forth in Chapter 167 with regard to the irrigation district.

The Board amended that staff recommendation by deleting in its entirety, condition no. 6, and adding the following language to condition no. 5:

5. The application shall install a meter and provide monthly gallonage reports to the Department [:] with some estimate of water used by individual users.

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

**ITEM D-16: GL NO. S-5532 – KUAHIWI CONTRACTORS, INC., REQUEST FOR EXTENSION OF TIME TO OBTAIN FINANCING FOR THE CONSTRUCTION OF A DAIRY IN CONNECTION WITH A DIRECT LEASE, HIONAA-KAALAIKI, KAU, HAWAII, TMK: 3<sup>RD</sup>/9-5-15: 03**

Mr. Uchida presented the staff submittal recommending that the Board authorize an extension of 1 year to the financing requirements of the lease; authorize an extension of 1 year to the construction or improvement requirement in the lease; require lessee to submit an overall conservation plan approved by the appropriate Soil and Water Conservation District within 6 months of this approval; and such other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State.

Mr. Alfred Galimba, President of Kuahiwi Contractors, indicated that after the August 9, 1997 amendment to withdraw lands from the lease for the Division of Forestry and Wildlife's (DOFAW) access purposes, he spent approximately \$32,000 to fence the easement area and improve the access road for the Department.

Chairperson Johns asked staff to follow up with DOFAW to see about reimbursing Mr. Galimba for his expenses considering that the access easement through his lease was for DOFAW's access purposes.

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

**ITEM D-14: FORFEITURE OF GL NO. S-4450 TO MR. ANTONE C. VINCENT AND MS. EMILY P. VINCENT, LESSEE, LOT 19, PANAEWA FARM LOTS, 2<sup>ND</sup> SERIES, WAIAKEA, SOUTH HILO, HAWAII, TMK: 3<sup>RD</sup>/2-4-49: 03**

Mr. Uchida presented the staff submittal recommending that the Board authorize the cancellation of

GL No. S-4450 in the manner specified by law; authorize the retention of all sums heretofore paid under GL No. S-4450; terminate all rights and obligations of the lessee effective immediately; authorize the Attorney General's Office and/or the Department's private collection agency to collect all monies due the State under GL No. S-4450; and such other terms and conditions as may be prescribed by the Chairperson to protect the State's interest.

Ms. Emily Vincent, Lessee, testified in opposition to staff's recommendation.

The Board amended the staff recommendation by deleting it and replacing it with the following:

- A. Allow the lessee 4-months, until December 27, 1999, to pay off all of the retro-rent, and obtain the necessary increase in the Performance Bond amount.
- B. Should the lessee fail to comply with "A" by December 27, 1999, the Board authorize the cancellation of GL No. S-4450 in the manner specific by law;
  - 1) Authorize the retention of all sums heretofore paid or pledged under GL No. S-4450 as liquidated damages;
  - 2) Terminate all rights and obligations of the Lessee effective December 27, 1999 provided that any and all obligations of the Lessee which have accrued up to said effective date shall endure past such termination date until duly fulfilled; and
  - 3) Authorize the Department of the Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawaii under GL No. S-4450.

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

**ITEM D-20: CONSERVATION DISTRICT USE PERMIT (CDUP) APPLICATION HA-2922 FOR THE BRAND SINGLE-FAMILY RESIDENCE AND ASSOCIATED IMPROVEMENTS, HONALO, NORTH KONA, HAWAII, TMK: 7-9-05: 13**

Mr. Uchida presented the staff submittal recommending that the Board approve this application for the construction of a single family residence, including a swimming pool and deck, an individual wastewater system, and landscaping improvements, subject to 26 conditions.

Mr. Gregory Mooers, Applicant, was present to answer any questions that the Board might have.

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

**ITEM D-24: ALLEGED UNAUTHORIZED CONSTRUCTION OF A SHORELINE STRUCTURE AT WAIALUA, MOLOKAI, TMK: SEAWARD OF 5-7-001: 001**

Mr. Uchida presented the staff submittal recommending that the Board: A) find that the alleged violated the provisions of Title 13-5 Hawaii Administrative Rules (HAR), and Chapter 183C, Hawaii

Revised Statutes (HRS) by failing to obtain the appropriate approvals for the construction of a shoreline structure; B) impose a fine of \$2,000 pursuant to Chapter 183C, HRS. In addition, that the Board impose fines to cover all administrative costs totaling \$500 (\$300 Division of Conservation and Resource Enforcement and \$200 Planning Staff).; C) that the fine and administrative costs shall be paid within 30 days of the date of the Board's action; D) that the alleged shall remove the shoreline structure within 60 calendar days of the date of the Board's action; E) should the alleged not remove the structure within 60 calendar days from the date of the Board's action, fines of \$2,000 per day will begin to accrue on the 61<sup>st</sup> day, and on every day thereafter, pursuant to Chapter 183C, HRS, until the unauthorized structure is removed; and F) that in the event of failure of the alleged to comply with items C, D and E, in addition to a \$2,000 per day fine, the matter shall be turned over to the Attorney General for disposition, including all administrative costs.

Mr. George Peabody, testified in opposition to staff's recommendation. He stated that staff's conclusions and recommendations are unjustified because they are unsupported by any evidence of damage caused to resources of the public domain. He said the shoreline structure is constructed on his own private property fronting the public beach to both restore and protect his property. He asked the Board to require that no action be taken against him in this case, or anyone else who constructs shoreline protection in an emergency situation on their own property, until the science is done for each specific site and proof found of adverse impact to the public domain. (Written testimony received).

Mr. Sam Lemmo, Staff Planner for the Land Division, testified that Mr. Peabody did E-mail him some photographs of the property before the work was done.

Member Kennison agreed with staff's recommendation. He asked staff to help Mr. Peabody in other measures of methods that need to be done to restore the beach and protect his property.

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

Mr. Peabody made an appeal for a contested case hearing. He was reminded that he also needs to follow-up in writing regarding this request for a contested case hearing.

**ITEM D-12: AMENDMENT OF PREVIOUS BOARD ACTION AND CONSENT TO AGREEMENT OF SALE, GL NO. S-5001, RUS SHO DEN, INC., A HAWAII CORPORATION, AS SELLER, TO PUBTIME, INC., A HAWAII CORPORATION, AS BUYER, WAIAKEA, SOUTH HILO, HAWAII, TMK: 3<sup>RD</sup>/2-2-32: 10**

Mr. Uchida briefed the Board and requested that the Board approve and amend staff recommendation by adding condition no. 9 to read as follows: "Regular payments on the Special Installment Agreement (SIA) are to be made until such time as the SIA is fully paid."

Mr. Louis Santiago, President of Pubtime Inc., stated that the staff report appears to be in order with the exception that there was no agreement on a balloon payment. There was an amendment between

Mr. Santiago and the seller that it was going to be an agreement of sale for 4 years. He said the only problem with this sale is that the seller did not provide him with a lease document. He requested that staff provide him a copy of the current lease document on file. He was unaware of the sellers SIA to pay off back rent.

The Board deferred action on this item based on the following: To allow staff to rework the submittal based on a new agreement of sale between the parties. Under the new agreement of sale, there is no balloon payment. Rather, the \$75,000 is amortized over a 48-month period. Address the need for the new buyer to assume the SIA as a part of the assignment. Allow the new buyer the opportunity to review the lease document.

**Unanimously approved to defer (Kokubun/Kennison).**

Member Matsumoto was excused at 12:15 p.m.

**ITEM D-21: ALLEGED UNAUTHORIZED ROAD IMPROVEMENT AT NORTH KOHALA, HAWAII, TMK: 5-8-001: 009**

Mr. Uchida presented the staff submittal recommending that the Board: A) find that the alleged violated the provisions of Title 3-5, HAR, and Chapter 183C, HRS by failing to obtain the appropriate approvals for the subject road improvements; B) impose a fine of \$2,000 pursuant to Chapter 183C, HRS. In addition, that the Board impose fines to cover all administrative costs totaling \$800 (\$500 DOCARE and \$300 Planning Staff); C) that upon payment of the fine by the alleged within 30 days of the date of the Board's action, the alleged shall submit a Conservation District Use Application within 90 days of the date of the Board's action for the uses to determine their final disposition. Additional land use elements may also be included in the application. If damage to archaeological/cultural resources is discovered during the application process, the Department and Board may levy additional fines and requirements on the applicant; and D) that in the event of failure of the alleged to comply with items B and C, the matter shall be turned over to the Attorney General's Office for disposition, including all administrative costs.

Chairperson Johns noted that a letter was received from Hui Lihikai-Citizens for the Protection of the North Kohala Coastline that addressed concerns on public access and failure in their attempts to try and open up a dialogue with Ms. Heffner.

Mr. George Lindsey, Attorney for Ms. Chandi Heffner, testified that his client intends to comply with all requirements of the law and is open to working this out with staff and the community. Ms. Heffner was under the impressions that the construction was being conducted on her agriculture land and there was no attempt on her part to circumvent the law. As soon as Ms. Heffner heard that she might be in violation she ordered all construction to be stopped immediately. She was not fully informed as to what trees staff is referring to in the staff report because some of the trees were located on her agricultural land. She was also not aware of any trees over 6 inches at the base that were destroyed in doing the road work. She agrees that she should be responsible for staff costs of \$800, however, does not feel that she should garner the maximum penalty of \$2,000 because this was



not a flagrant act. She has not seen any maps that confirm that the conservation boundary line is on the mauka side of the road. Ms. Heffner is requesting that the last sentence in staff recommendation C be deleted because there was no damage done to archeological sites by anyone working for her.

The Board amended the staff recommendation B to reduce the fine from \$2,000 to \$500 (plus \$800 administrative costs). The Board also deleted the last sentence in staff recommendation C that made reference to possible archaeological sites being damaged. The Board added a condition E that reads as follows:

- E. If, when the CDUA is filed for this project, the road is found to be entirely outside of the conservation district, this matter will be brought back to the Board and the violation will be rescinded.

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

**ITEM D-18: RESCIND PRIOR BOARD ACTION OF MARCH 12, 1999 (AGENDA ITEM D-14), FORFEITURE OF GL NO. S-4884, MS. LOUISE MAU AI AND MS. VELMA KEAHO QUEN TAI KUKUALANI FOSTER, LESSEES, MAUNALAHA HOMESITES, LOTS 1 & 29, OPU, MAKIKI, HONOLULU, OAHU, TMK: 2-5-24: 17**

Mr. Uchida presented the staff submittal recommending that the Board rescind its actions of March 12, 1999, forfeiture of GL No. S-4884.

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

**ITEM D-29: DIRECT SALE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT TO SCHOOL STREET ASSOCIATES FOR ROADWAY AND UTILITY PURPOSES OVER AND ACROSS LANDS SITUATED AT KALIHI, HONOLULU, OAHU, TMK: 1-3-002: PORTION OF 3**

Mr. Uchida presented the staff submittal recommending that the Board authorize the direct sale of a perpetual, non-exclusive easement to School Street Associates for roadway and utility purposes, subject to 4 conditions.

Mr. John Foti of School Street Associates was present to answer questions.

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

**ITEM D-5: DIRECT ISSUANCE OF PERPETUAL NON-EXCLUSIVE EASEMENT TO THE BOARD OF WATER SUPPLY, CITY AND COUNTY OF HONOLULU FOR WATER LINE EASEMENT, WAIMANALO, KOOLAUPOKO, OAHU,**

**TMK: 4-1-08: 91 (PORTION)**

Mr. Uchida presented the staff submittal recommending that the Board authorize the issuance of a perpetual non-exclusive easement to the Board of Water Supply and authorize an immediate construction right-of-entry to the Board of Water Supply, subject to conditions listed.

Chairperson Johns amended staff recommendation by deleting the word "construction" from the first line in recommendation B.

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

**ITEM K-1: EXTENSION OF LEASE, HONOLULU INTERNATIONAL AIRPORT, OAHU (UNITED STATES OF AMERICA THROUGH ITS GENERAL SERVICES ADMINISTRATION) TMK (1)-1-1-03-66**

Mr. David Shimokawa, representing the Department of Transportation (DOT), presented DOT's submittal recommending that the Board approve the extension of lease to the United States of America through its General Services Administration.

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

**ITEM K-2: RIGHT-OF-ENTRY, LIHUE AIRPORT, KAUAI (KAUAI ELECTRIC, DIVISION OF CITIZENS UTILITIES CO.) TMK (4)-3-5-01-08P, -09P, -76, -77, -80, -144, -145, -149 AND -158P AND (4)-3-7-02-1**

Mr. Shimokawa presented DOT's submittal recommending that the Board approve the right-of-entry and grant of easement to Kauai Electric.

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

**ITEM K-3: AUTHORIZATION TO NEGOTIATE FOR ACQUISITION OF PRIVATELY OWNED LANDS FOR THE CONSTRUCTION OF THE CENTRALIZED DISTRICT OFFICE AND BASEYARD COMPLEX, LIHUE, KAUAI AND SUBSEQUENT SET ASIDE BY GOVERNOR'S EXECUTIVE ORDER TO THE DOT'S HIGHWAYS DIVISION, TMK 3-3-12-24, -25, AND -27 AND 3-3-13-12**

Mr. Shimokawa presented DOT's submittal recommending that the Board approve of and authorize the fee simple acquisition of the privately-owned lands for the centralized district office and baseyard complex, Lihue, Kauai.

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

**ITEM K-4: ISSUANCE OF LEASE BY DIRECT NEGOTIATION, PIER 42, HONOLULU HARBOR, OAHU (ISLAND MOVERS, INC.) TMK 1-2-25-12**

Mr. Shimokawa presented DOT's submittal recommending that the Board approve the lease by direct negotiation, subject to terms and conditions.

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

**ITEM K-5: ISSUANCE OF REVOCABLE PERMIT, FORMER KIPA LOTS, KALIHIKAI, HONOLULU, OAHU (R.T. OZAKI ROOFING, INC.) TMK 1-2-23-42**

Mr. Shimokawa presented DOT's submittal recommending that the Board authorize the Director of Transportation to issue R.T. Ozaki Roofing, Inc. a revocable permit, subject to terms and conditions.

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

**ITEM K-6: ISSUANCE OF REVOCABLE PERMIT, PIER 1, WAREHOUSE, HILO HARBOR, ISLAND OF HAWAII (ALOHA MAI!, LTD.) TMK (3)-2-1-09**

Mr. Shimokawa presented DOT's submittal recommending that the Board authorize the Director of Transportation to issue Aloha Mai!, Ltd. a revocable permit, subject to terms and conditions.

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

**ITEM D-1: RESCIND PRIOR BOARD ACTION FOR ISSUANCE OF REVOCABLE PERMITS ON OAHU**

Mr. Uchida presented the staff submittal recommending that the Board rescind Board authorization of March 28, 1987, Item F-5; September 22, 1989, Item F-1-b; March 23, 1990, Item F-1-f; November 18, 1994, Item F-1-B.

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

**ITEM D-2: APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT – JOB NO. 16-HC-C, KAHALUU DEEP MONITOR WELL, NORTH KONA, HAWAII**

Mr. Uchida presented the staff submittal recommending that the Board award the contract for Job No. 16-HC-C, Kahaluu Deep Monitor Well to Wai'eli Drilling & Development for \$200,095 and authorize the Chairperson to sign the necessary documents to implement the project.

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

**ITEM D-3: APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT – JOB NO. 16-HC-B, KALAOA (KEOPU) DEEP MONITOR WELL, NORTH KONA, HAWAII**

Mr. Uchida presented the staff submittal recommending that the Board award the contract for Job No. 16-HC-B, Kalaoa (Keopu) Deep Monitor Well to Beylik Drilling, Inc. for \$357,000 and authorize the Chairperson to sign the necessary documents to implement the project.

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

**ITEM D-4: WITHDRAWAL FROM GOVERNOR'S EXECUTIVE ORDER NO. 2895 TO THE COUNTY OF KAUAI; SET ASIDE TO THE STATE DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION FOR TRAFFIC SIGNAL MODERNIZATION AND A CONSTRUCTION RIGHT-OF-ENTRY, KALAHEO, KOLOA, KAUAI, TMK: 2-3-3: POR. 8**

Mr. Uchida presented the staff submittal recommending that the Board approve of and recommend to the Governor withdrawal of approximately 657 square feet from Governor's Executive Order No. 2895; approve and recommend to the Governor issuance of an executive order setting aside the subject land to DOT, Highways Division; and authorize the issuance of a management and construction right-of-entry to DOT, Highways Division, subject to conditions.

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

**ITEM D-6: RENEWAL OF REVOCABLE PERMIT S-7103 TO MID-PACIFIC FISHERY HAWAII, WAIAKEA, SOUTH HILO, HAWAII, TMK: (3) 2-1-12: 041**

Mr. Uchida presented the staff submittal recommending that the Board amend Item D-11 of the June 25, 1999 Land Board agenda to reflect the correct land area and monthly rent for Revocable Permit S-7103; approve the continuation of this revocable permit to Mid-Pacific Hawaii Fishery on a month-to-month basis for another year; and approve the rent as recommended, effective September 1, 1999.

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

**ITEM D-8: CONSENT TO ASSIGN GL NO. S-5061, WARD HOLMES, ASSIGNOR, TO MS. LISA WOOD, ASSIGNEE, LOT 16, PUU KA PELE PARK LOTS, WAIMEA (KONA), KAUAI, TMK: 1-4-2: 21**

Mr. Uchida presented the staff submittal recommending that the Board consent to the assignment of GL No. S-5082 from Ward Holmes to Ms. Lisa Wood, subject to conditions.

Unanimously approved as submitted (McCrorry/Kennison).

**ITEM D-9: ONE-YEAR HOLDOVER OF LEASE TERM, LIHUE PLANTATION CO., LTD., GL NO. S-4413, KAPAA, KAUAI**

Mr. Uchida presented the staff submittal recommending that the Board authorize the one year holdover of the term of GL No. S-4413 in the manner specific by law, with the understanding that all of the terms, conditions and rents applicable to the general lease will apply; and authorize issuance of a revocable permit after October 31, 2000, if necessary, under the same terms and conditions as for GL No. S-4413.

Unanimously approved as submitted (McCrorry/Kennison).

**ITEM D-10: GL NO. S-3622: CONSENT TO ASSIGNMENT OF LEASE FROM SATORU AMANO DBA AMANO FISHCAKE FACTORY, ASSIGNOR, TO HIROSHI MATSUBARA AND NAOE MATSUBARA, ASSIGNEES; CONSENT TO PURCHASE MONEY MORTGAGE FROM HIROSHI MATSUBARA AND NAOE MATSUBARA, MORTGAGORS, TO SATORU AMANO AND SAKAYE AMANO, MORTGAGEES; CONSENT TO ASSIGNMENT OF INTEREST IN PURCHASE MONEY MORTGAGE FROM SATORU AMANO, ASSIGNOR, TO SATORU AMANO, TRUSTEE OF THE SATORU AMANO REVOCABLE LIVING TRUST DATED DECEMBER 21, 1998, WAIAKEA, SOUTH HILO, HAWAII, TMK: 3<sup>RD</sup>/2-2-50: 95**

Mr. Uchida presented the staff submittal recommending that the Board consent to the assignment of GL No. S-3622; consent to the purchase money mortgage; and consent to assignment of interest in the purchase money mortgage, subject to conditions.

Unanimously approved as submitted (Kokubun/Kennison).

**ITEM D-11: AMENDMENT TO PRIOR ACTION OF MARCH 12, 1999, AGENDA ITEM D-10, GRANT OF PERPETUAL, NON-EXCLUSIVE EASEMENT A TO CITY AND COUNTY OF HONOLULU/DEPARTMENT OF FACILITIES MAINTENANCE FOR PEDESTRIAN BRIDGE AND UTILITY PURPOSES AND GRANT OF PERPETUAL, NON-EXCLUSIVE EASEMENT B TO CITY AND COUNTY OF HONOLULU/DEPARTMENT OF FACILITIES MAINTENANCE FOR UTILITY PURPOSES AND ISSUANCE OF IMMEDIATE CONSTRUCTION RIGHT-OF-ENTRY TO DEPARTMENT OF TRANSPORTATION FOR STATE LANDS SITUATE ALA WAI KAI**

**TRACT, KALIA, WAIKIKI, HONOLULU, OAHU, TMK: 2-3-035: 11  
(PORTION)**

Mr. Uchida presented the staff submittal recommending that the Board amend prior action of March 12, 1999, subject to conditions.

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

**ITEM D-13: ANNUAL REVIEW OF REVOCABLE PERMITS ON THE ISLAND OF  
OAHU**

Mr. Uchida requested that the Board amend staff's recommendation by deleting 5 permits listed on the worksheet/spreadsheet: Revocable Permit No.'s: S-4813 (Hoomanawanui), S-4990 (Teixiera), S-5761 (Abreu), S-6819 (Le Jardin Academy) and S-6909 (Costa).

Chairperson Johns said he has approximately 10 permits that he would like Staff appraiser to review again as the rents appear to be inconsistent.

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

**ITEM D-15: FORFEITURE OF GL NO. S-3631, A & A HAWAII, INC., LESSEE, LOT 11,  
KANOELEHUEA INDUSTRIAL LOTS, WAIAKEA, SOUTH HILO,  
HAWAII, TMK: 3<sup>RD</sup>/2-2-50: 79**

Mr. Uchida said this is a request to forfeit GL No. S-3631 to A & A Hawaii, Inc. He indicated that he received a fax from the Lessee's insurance company indicating that they got their performance bond. The lessee is still in default because of no fire insurance.

The Board deleted staff recommendation and replaced it with the following:

- A. Allow the lessee 30 days, until September 26, 1999, to pay/obtain the required fire insurance.
- B. Should the lessee fail to comply with "A" by September 26, 1999, or should the lessee default on any of the lease provisions in the future, the Board authorize the cancellation of GL No. S-3631 in the manner specified by law;
  - 1) Authorize the retention of all sums heretofore paid or pledged under GL No. S-3631 as liquidated damages;
  - 2) Terminate all rights and obligations of the Lessee on a date to be determined, provided that any and all obligations of the Lessee which have accrued up to said effective date shall endure past such termination date until duly fulfilled; and,
  - 3) Authorize the Department of the Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawaii under GL No. S-3631.

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

**ITEM D-17: CONSERVATION DISTRICT USE APPLICATION (HA-2907) TO DRILL THE EXPLORATORY KEOPU WELL I IN NORTH KONA, HAWAII, TMK: 3<sup>RD</sup>/7-5-13: POR. OF 22**

Mr. Uchida briefed the Board and requested that the Board, based on comments from the Division of State Parks, amend staff recommendation by adding a condition that reads as follows:

12. The applicant prepare a plan, approved by the Division of Historic Preservation, to protect archaeological features that may be impacted by this project.

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

**ITEM D-19: ALLEGED UNAUTHORIZED CONSTRUCTION OF A STONEWALL AT SOUTH KONA, HAWAII, TMK: 8-3-006: 013**

Mr. Uchida requested that this item be withdrawn. The applicant indicated that they will be removing the encroachment.

**Unanimously approved to withdraw (Kokubun/Kennison).**

**ITEM D-22: RESCIND PRIOR BOARD ACTION FOR DIRECT AWARD OF A NON-EXCLUSIVE TERM EASEMENT TO MR. JEFFREY L. AND MS. DEBORAH A. PAWLOSKI AT WAIMANALO, OAHU, TMK: 1<sup>ST</sup>/4-1-10: PORTION 79**

Mr. Uchida presented the staff submittal recommending that the Board rescind Land Board action of July 22, 1994.

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

**ITEM D-23: RESCISSION OF PRIOR BOARD ACTION FOR THE ISSUANCE OF A REVOCABLE PERMIT TO Q PRODUCE CORPORATION, SITUATE KOIUIU, LELEO & KUWILI, HONOLULU, OAHU, TMK: 1-5-07: 14 (POR)**

Mr. Uchida presented the staff submittal recommending that the Board rescind its prior action of January 26, 1996.

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

**ITEM D-26: SALE OF ABANDONED DITCH AS REMNANT TO MS. JEANETTE L. WONG, KANEOHE, KOOLAUPOKO, OAHU, TMK: 4-5-43: 44, 03**

Mr. Uchida requested that this item be withdrawn.

Unanimously approved to withdraw (Kokubun/Kenison)

**ITEM D-28: CERTIFICATION OF ELECTION AND APPOINTMENT OF SOIL AND WATER CONSERVATION DISTRICT DIRECTORS**

Mr. Uchida presented the staff submittal recommending that the Board certify and appoint the respective soil and water conservation district directors.

Unanimously approved as submitted (McCrary/Kokubun).

**ITEM D-30: ISSUANCE OF REVOCABLE PERMIT TO PALEKOI RANCH, INC., HAMAKUA, HAWAII, TMK: 3<sup>RD</sup>/4-5-01: 7 & 13**

Mr. Uchida presented the staff submittal recommending that the Board authorize the issuance of a revocable permit to Palekoi Ranch, Inc.

Chairperson Johns noted that a letter was received from Mr. Warren Iwasa, Acting Executive Director of Agribusiness Development Corporation, expressing their interest in leasing the 2 parcels identified in this item.

Unanimously approved as submitted (Kokubun/Kennison).

**ITEM D-25: ADOPTION OF REVISIONS TO THE COASTAL EROSION MANAGEMENT PLAN (COEMAP), APPROVAL OF APRIL 8, 1999 MINUTES, APPROVAL OF 1999-2000 WORK PLAN AND APPROVAL OF PROCEDURES FOR MANAGING SHORELINE ENCROACHMENTS**

Mr. Lemmo briefed the Board and recommended that the Board adopt the revised policies and recommendations of the Hawaii Coastal Erosion Management Plan as the strategic framework to guide the State's efforts towards coastal and beach erosion problem management; approve minutes of the April 8, 1999 briefing; approve the proposed work plan for 1999-2000 with the provision that the Land Division can adjust the plan based on newly evolving needs; and authorize procedures to manage encroachments and the remittance of fines and revenues from existing unauthorized shoreline structures to be placed in the Special Beach Restoration Fund, pursuant to procedures as set forth in this report.



Unanimously approved as submitted (Kokubun/Kennison).

The Board recessed at 2:05 p.m. The meeting was reconvened at 2:15 p.m.

**ITEM B-1: REQUEST FOR APPROVAL TO ENTER INTO AN AGREEMENT WITH THE UNIVERSITY OF HAWAII**

Mr. Bill Devick, Administrator for the Division of Aquatic Resources presented the staff submittal recommending that the Board authorize the Chairperson to negotiate and, subject to necessary approvals, execute the agreement with the University of Hawaii.

Unanimously approved as submitted (Kokubun/Kennison).

**ITEM B-2: REQUEST FOR APPROVAL TO HOLD PUBLIC MEETINGS AND HEARINGS ON AMENDMENT TO HAR, CHAPTER 13-74, LICENSE AND PERMIT PROVISIONS AND FEES FOR FISHING, FISH AND FISH PRODUCTS**

Mr. Devick briefed the Board and recommended that the Board approve the holding of public meeting and hearings for the amendment of the HAR, Chapter 13-74 relating to license and permit provision for fishing, fish and fish products. The proposed amendment is to temporarily reduce the current fees for retailers from \$50 to \$10, until an alternative can be developed.

Unanimously approved as submitted (Kokubun/Kennison).

**ITEM B-3: REQUEST FOR APPROVAL TO HOLD A PUBLIC HEARING TO AMEND HAR, CHAPTER 13-30, MANELE-HULOPOE MARINE LIFE CONSERVATION DISTRICT, LANAI AND CHAPTER 13-53, MANELE HARBOR FISHERIES MANAGEMENT AREA, LANAI**

Mr. Devick presented the staff submittal recommending that the Board approve the holding of a public hearing for the amendments to HAR, Chapter 13-30 relating to the Manele-Hulopoe Marine Life Conservation District, Lanai and Chapter 13-53, Manele Harbor Fisheries Management Area.

Unanimously approved as submitted (Kennison/Kokubun).

**ITEM J-1: ISSUANCE OF REVOCABLE PERMIT TO BAYWATCH PRODUCTION COMPANY FOR THE USE OF GOVERNMENT LAND FOR STORAGE AND MAINTENANCE PURPOSES, SITUATED AT THE HALEIWA SMALL BOAT HARBOR, ISLAND OF OAHU, TAX MAP KEY: 6-6-01-02**

Mr. John Hino, Property Manager for the Division of Boating and Ocean Recreation (DOBOR), requested that the rent portion of the staff submittal be amended. The Department of Business, Economic Development & Tourism had originally requested that the fee for this permit be waived, citing the fact that this area has never generated income, and of the fact that the production company will be reverting the improvements (floating dock & fenced baseyard) back to the State which amounts to approximately \$140,000. These improvements can easily be used by DOBOR. Mr. Hino amended the staff submittal by restating the recommendation for the rent as follows: "The Office of Hawaiian Affairs (OHA) has stated that improvements would not suffice in fulfilling our obligations. We recommend that the rent be \$270 per month, which would represent our fiscal obligation of 20% of gross proceeds. \$270 represents 20% of what would normally be charged for storage space of this size and use according to this Division's HAR. OHA has also stated that if Baywatch wanted to have the rent waived they can make a formal request directly."

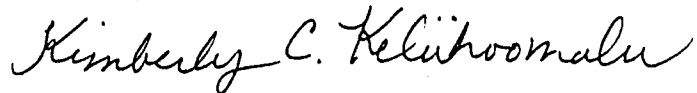
The Board decided to accept the original staff recommendation, subject to the Attorney General's review on whether the departments 20% fiscal obligation to OHA is required even if the permit fee is waived.

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

There being no further business, Chairperson Johns adjourned the meeting at 2:31 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. Kelihoomalua

Approval for submittal:



TIMOTHY E. JOHNS  
Chairperson

Board of Land and Natural Resources