

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

DATE: FRIDAY, SEPTEMBER 24, 1999  
TIME: 9:00 A.M.  
PLACE: NATURAL ENERGY LABORATORY  
OF HAWAII AUTHORITY  
73-4460 QUEEN KAAHUMANU HWY., #101  
KAILUA-KONA, HAWAII 96740

Chairperson Timothy Johns called the meeting of the Board of Land and Natural Resources to order at 9:05 a.m. The following were in attendance:

**MEMBERS:**

Mr. Timothy Johns	Mr. William Kennison
Mr. Colbert Matsumoto	Ms. Kathryn Inouye
Mr. Russell Kokubun	

**STAFF:**

Mr. Dean Uchida, Land Division	Mr. Bill Devick, Division of Aquatic Resources (DAR)
Mr. Scott Shero-Amba, Division of Conservation and Resource Enforcement (DOCARE)	Mr. Bill Walsh, DAR

**OTHERS:**

Ms. Linden Joesting, Department of the Attorney General	Mr. Wesley Afelin, D-9
Ms. Florence Kalilikane, D-9	Ms. Meg Afelin, D-9
Mr. Bryan Kam, D-8 & D-11	Mr. Raymond Kalilikane, D-9
Mr. Richard Watanabe, B-1	Mr. Keith Aotaki, D-8 & D-11
Ms. Tina Owens, B-1	Mr. Stanley Huihui, Sr., B-1
Mr. Duane Erway, B-1	Ms. Janice Kerr, B-1
Mr. Jody Bright, B-1	Ms. Lisa Choquette, B-1
Mr. Pete Basabe, B-1	Senator Andrew Levin, B-1
Mr. Rick Decker, B-1	Representative Paul Whalen
Mr. Edward Ahuna, B-1	Mr. Paul Warren, B-1
Mr. Dick Dresie, B-1	Ms. Sara Peck, B-1
Ms. Lisa Diaz, B-1	Mr. Kelly Greenwell, B-1
	Mr. Leon Hallacher, B-1

**ITEM A-1: JULY 23, 1999**

Member Matsumoto made the following revisions:

- 1) Item D-12, page 6, 3<sup>rd</sup> paragraph, revise to read: "Member Matsumoto wanted to be sure that better management practices be appropriately followed on the lease lands because of recent news reports regarding the drought conditions on Parker Ranch lands [the Parker Ranch situation where they over grazed in a drought situation]."
- 2) Item J-1, page 9, 4<sup>th</sup> paragraph, revise to read: "Member Matsumoto felt that the applicant should have cleared up the citations in a more timely manner and requested that it be taken care[d] of right away. He suggested, and the Board agreed, to have an executive session at the end of the agenda to consult with legal counsel[cil] on this matter."

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

**ITEM D-9: ISSUANCE OF AN INTERIM REVOCABLE PERMIT TO MR. & MRS. WESLEY AFELIN, AND CANCELLATION OF REVOCABLE PERMIT NO. 301, PORTION OF UALAPUE AND KAPUALEI, MOLOKAI, TMK: 5-6-03: 12**

Mr. Dean Uchida, Administrator of the Land Division, briefed the Board and recommended that the Board authorize the cancellation of revocable permit no. 301 with Mrs. Gloriana Sagario and the issuance of a new revocable permit to Mr. & Mrs. Afelin, on an interim basis.

Mrs. Meg Afelin, spouse of Mrs. Sagario's grandson, gave some background information about the sentimental value of the property and urged the Board to grant the revocable permit on an interim basis. She testified that access to the subject property has been granted by 2 neighboring landowners, the Kalipi's and Manuwai Corporation.

Mrs. Florence Kalilikane testified that a letter was sent to the former Chairperson dated October 7, 1987, expressing their interest, should the parcel become available, in leasing State land that was leased by Mrs. Sagario. The former Acting Land Management Administrator responded in a letter dated October 22, 1987 informing them that their application would be on file for future consideration. She also testified that the disturbance of traffic to the subject property on the existing roadway is a big problem.

Member Kennison explained that condition no. 4 states: "That access to the subject project shall not be from the existing roadway (Kalilikane property)." If the Board approves staff recommendation, no one should be using the Kalilikane property for access. He said staff is presently doing research to determine if there is legal access to the subject property, if no legal access is found then will try to acquire access. In the event a legal access is acquired, the State's intent is to try and put the subject property out to public auction. He further explained that staff is recommending that this permit be issued on an interim basis so that these matters can be sorted out.

Mr. Raymond Kalilikane requested copies of documents and/or drawings of the adjoining property owners permission to access.

Member Matsumoto indicated that he was uncomfortable with staff's position recommending the issuance of a revocable permit to people based solely on the historical family use of the property and the decision making on the use of public lands should not be based on that. He preferred that the property be put out to long-term lease or a potential sale, however, since this is an interim measure and the applicant is cognizant of the fact that they will be forced to move out when an auction is conducted and give up all improvements, he would support staff's recommendation. He asked staff to act expediently to resolve the issue of whether or not this property could be put on a long term lease or sale, and that a public auction be conducted at the earliest practicable date. Member Kennison indicated that he had the same concerns, however, because of the unusual situation and the fact that this permit was for an interim use, he would support the interim permit until the long-term lease issues are resolved

The Board amended the staff recommendation by adding condition no. 5 to read as follows:

5. That within 6 months of this action, the staff report back to the Board on the progress of securing access to provide for a long-term disposition of this property.

Member Matsumoto asked that notices be provided to all interested parties.

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

**ITEM D-8: REQUEST TO CANCEL REVOCABLE PERMIT NO. S-6611 AND ISSUANCE OF REVOCABLE PERMIT TO RAYCOM NATIONAL, INC., PAPAANUI, HALEAKALA, MAKAWAO, MAUI, TMK: 2-2-07: PORTION 05**

**ITEM D-11: CONSENT TO ASSIGN GENERAL LEASE (GL) NO. S-5265; CONSENT TO ASSIGN SUBLEASE INTEREST; KING BROADCASTING COMPANY, ASSIGNOR, TO RAYCOM MEDIA, INC., AND ITS WHOLLY-OWNED SUBSIDIARY RAYCOM NATIONAL, INC., ASSIGNEE, HUMUULA, NORTH HILO, HAWAII, TMK: (3) 3-8-01: POR. 01**

Mr. Uchida presented the staff submittal for Item D-8 and Item D-11. Staff recommendation for Item D-8 is that the Board authorize the cancellation of revocable permit no. S-6611 with King Broadcasting Company and the issuance of a revocable permit to Raycom National, Inc. for a telecommunication site at Haleakala, Maui. Staff recommendation for Item D-11 is that the Board consent to the assignment of GL No. S-5265, and consent to the assignment of sublease interest from King Broadcasting Company to Raycom Media, Inc.

Mr. Bryan Kam and Mr. Keith Aotaki, King Broadcasting Company, were both present to answer

questions.

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

**ITEM D-1: DIRECT SALE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT TO GTE HAWAIIAN TELEPHONE COMPANY, INC., WAIANAE-UKA, WAHIAWA, OAHU, TMK: 7-3-13: 08**

Mr. Uchida presented the staff submittal recommending that the Board authorize the direct sale of a perpetual, non-exclusive easement to GTE Hawaiian Telephone Company, Inc., and cancel the existing revocable permit no. 1918, subject to standard conditions.

**Unanimously approved submitted (Inouye/Matsumoto).**

**ITEM D-2: AMEND PRIOR BOARD ACTION OF AUGUST 27, 1999 (ITEM D-8), ASSIGNMENT OF GL NO. S-5082, LOT 53, WARD HOLMES AS SUCCESSOR TRUSTEE, ASSIGNOR, TO MS. LISA WOOD, ASSIGNEE, PUU KA PELE PARK LOTS, WAIMEA (KONA), KAUAI, TMK: 1-4-2: 53**

Mr. Uchida presented the staff submittal recommending that the Board amend the Land Board action of August 27, 1999, Item D-8, subject to standard conditions.

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

**ITEM D-3: RESCIND PRIOR BOARD ACTION OF MAY 14, 1999 (AGENDA ITEM D-5); CONSENT TO LICENSE BETWEEN STATE OF HAWAII, DLNR AND THE UNITED STATES OF AMERICA (U.S.A.) BY AND THROUGH THE U.S. GEOLOGICAL SURVEY, U.S. DEPARTMENT OF THE INTERIOR; AUTHORIZATION OF CONSTRUCTION RIGHT OF ENTRY, HANAIEI HOMESTEADS, HANAIEI, KAUAI, TMK: 5-4-2: POR. 16 AND 31**

Mr. Uchida presented the staff submittal recommending that the Board consent to the license between the State of Hawaii, DLNR, and the U.S.A., by and through the U.S. Geological Survey, U.S. Department of the Interior, and obtain Governor's concurrence, subject to standard terms and conditions.

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

**ITEM D-4: AMEND PREVIOUS BOARD ACTION FOR ISSUANCE OF A REVOCABLE PERMIT NO. S-7088 TO MR. JEFFREY S. LINDNER, MOLOAA FOREST PRESERVE, PAPAA, MOLOAA, KAWAIIHAU, KAUAI, TMK: 4-9-1:POR.1**

Mr. Uchida gave some background information on this item and recommended that the Board amend prior Land Board action of August 8, 1997, Item D-11, to allow for the long term disposition to occur within 1-year from the receipt of the last government agency declaration. He distributed suggested language from the Applicant's Attorney that clarifies specific dates rather than keeping it open as staff has recommended. Mr. Uchida preferred the wording suggested by staff as it left the time frame somewhat flexible.

Member Inouye felt that it was appropriate to have a time frame specified and proposed that the permit be extended to 6-months, from April 30, 2000.

The Board amended staff recommending A. 10. To read as follows: "...a public auction sale of the water license will be conducted by October 30, 2000."

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

**ITEM D-5: EXTENSION OF 180-DAY PROCESSING PERIOD – CONSERVATION DISTRICT USE APPLICATION NO. MA-2917 FOR SCHATZ SINGLE-FAMILY RESIDENCE AND RELATED IMPROVEMENTS, NEAR LA PEROUSE BAY, MAUI, TMK: 2-1-04: 46 & 48**

Mr. Uchida presented the staff submittal recommending that the Board approve an extension of 180 days for the processing period of the subject Conservation District Use Application.

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

**ITEM D-6: CONSENT TO ASSIGN GL NO. S-5034, MR. & MRS. DAVID BOYNTON, ASSIGNORS, TO MS. MARY C. SUMMERS, ASSIGNEE, LOT 71, KOKEE CAMP SITE LOTS, WAIMEA (KONA), KAUAI, HAWAII, TMK: 1-4-4: 62**

Mr. Uchida presented the staff submittal recommending that the Board consent to the assignment of GL No. S-5034 from Mr. & Mrs. Boynton, to Ms. Summers, subject to conditions.

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

**ITEM D-7: REQUEST TO RESCIND PRIOR BOARD ACTIONS FOR ISSUANCE OF VARIOUS REVOCABLE PERMITS ON THE ISLAND OF MAUI**

Mr. Uchida presented the staff submittal recommending that the Board rescind the actions of August 28, 1998, Item D-2, January 16, 1998, Item D-9, and January 16, 1998, Item D-10.

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

**ITEM D-10: AFTER-THE-FACT CONSENT TO ASSIGN GL NO. S-3861, MR. THOMAS A. LAU, COMMISSIONER, ASSIGNOR, TO MR. & MRS. CHRISTIAN MEUNIER, ASSIGNEE, AND MR. & MRS. MEUNIER, ASSIGNOR, TO MRS. CANDY MEUNIER AND MS. TIFFANY FORTIN, ASSIGNEE, AT WAIMANALO, HAWAII, TMK: (1) 4-1-27: 16**

Mr. Uchida briefed the Board and recommended that the Board consent to the assignment of GL No. S-3861 from Mr. Lau, Commissioner, as Assignor, to Mr. & Mrs. Meunier, as Assignee, and Mr. & Mrs. Meunier, as Assignor, to Mrs. Meunier and Ms. Fortin, as Assignee, authorize the retention of all sums paid by Mr. Noland George, and require that the existing Lessee submit a performance bond, subject to conditions.

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

**ITEM D-12: CONSENT TO SUBLEASE, GL NO. S-4588, GTE HAWAIIAN TELEPHONE COMPANY INCORPORATED, A HAWAII CORPORATION, LESSEE, TO GTE MEDIA VENTURES INCORPORATED, SUBLESSEE, KALAWAHINE, HONOLULU, TMK: 2-5-19: 13**

Mr. Uchida presented the staff submittal recommending that the Board consent to the sublease under GL No. S-4588 between GTE Hawaiian Telephone Company Incorporated and GTE Media Ventures, subject to 4 conditions.

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

The Board recessed at 10:15 a.m. The meeting was reconvened at 10:32 a.m.

**ITEM B-1: REQUEST FOR ADOPTION OF HAWAII ADMINISTRATIVE RULES, CHAPTER 13-60.3, WEST HAWAII REGIONAL FISHERIES MANAGEMENT AREA, HAWAII**

Chairperson Johns noted that the Board has received copies of an article that was printed in the West Hawaii Today. He indicated that at the end of the article it makes reference to Act 306 that reads: "Initially, no other uses will be prohibited in these areas, but the law requires the council in the near future to place off-limits a portion of the Fish Replenishing Areas (FRA) to all fisherman." He explained that the issue in front of the Board is regarding aquarium fish collecting and not what was referenced in the article.

Mr. Bill Devick, Administrator of the Division of Aquatic Resources (DAR) briefed the Board and recommended that the Board adopt the proposed Hawaii Administrative Rules, Chapter 13-60.3, West Hawaii Fisheries Management Area, Hawaii.

Dr. Bill Walsh, Aquatic Biologist for DAR, explained the rules in greater detail and gave an in depth analysis of the public testimony that was presented in various forms.

Mr. Richard Watanabe, recreational fisherman, submitted written testimony and testified against the proposed rules.

Mr. Stanley Huihui Sr., testified against the proposed rules.

Ms. Tina Owens, Lost Fish Coalition, testified in support of the proposed rules.

Ms. Janice Kerr, Lost Fish Coalition, testified in support of the proposed rules.

Mr. Duane Erway, President of Plan-to-Protect, testified in support of the proposed rules. He read through testimony from the President of the Puako Community Association also in support of the proposed rules.

Ms. Lisa Choquette, Co-Owner of Dive Makai Charters, Member of the West Hawaii Reef Fish Working Group and Member of the West Hawaii Fisheries Council (WHFC), testified in support of the proposed rules.

Mr. Jody Bright, President of Hawaii Conservation Association, testified in support of the proposed rules.

Senator Andrew Lewin testified in support of the proposed rules. He requested, for enforcement purposes, that a minor amendment be included in the proposed rules that would prohibit the possession of collection gear within the FRAs. He stated that this would be desirable, but not absolutely necessary and if this amendment would lead to any further delay of the rules, that the rules be passed as is.

Mr. Pete Basabe, Hawaii Tropical Fish Association, testified in partial support of the proposed rules. He said the Association supports the 35% off-limit coastline areas, however, raised concerns regarding safety and the prohibition of gear within the FRAs.

A spokesperson testified on behalf of Representative Paul Whalen in support of the proposed rules.

Mr. Rick Decker, President of Kona Underwater Photographic Society, testified in support of the proposed rules.

Mr. Paul Warren, Owner of Hualalai Water Sports, Member of the West Hawaii Reef Fish Working Group, and Member of the WHFC, testified in support of the proposed rules.

Mr. Edward Ahuna testified in support of the proposed rules.

Ms. Sara Peck, Individual, testified in support of the proposed rules.

Mr. Dick Dresie, Kona Reefers Dive Club, submitted written testimony and testified in support of the proposed rules.

Mr. Kelly Greenwell, testified in support of the proposed rules.

Ms. Lisa Diaz, testified in support of the proposed rules.

Mr. Leon Hallacher, Professor of Biology for the University of Hawaii at Hilo, testified in support of the proposed rules. He briefed the Board on studies that were conducted in the West Hawaii area.

Mr. Scott Schero-Amba, Officer for DOCARE, commented on Section 13-60.3-3(g). that reads: "...Persons possessing said permit and any marine life taken with said gear, may transit through or anchor overnight within a designated area; provided that no fine meshed trap or fine meshed net may be in the water during such time." He said DOCARE's position is that there would be no problem in the person transiting through an FRA with collection gear, but if they were allowed to stop in an FRA with collection gear, it would be difficult for DOCARE to monitor if any harvest was done there. He said the WHFC also took a position in support of that. Dr Walsh explained that the request for Board approval on the rules has the gear provision in it but the rule itself does not because of an administrative miscue. He said the feeling of West Hawaii DAR would be to not push it at this point but to get the rules passed and then put it on as an amended approach to that respect.

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

There being no further business, Chairperson Johns adjourned the meeting at 12:45 p.m.

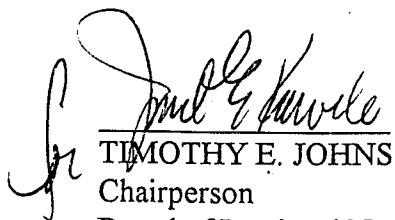
Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Kimberly C. Keliioomalu

Approval for submittal:



TIMOTHY E. JOHNS  
Chairperson

Board of Land and Natural Resources