

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

DATE: FRIDAY, OCTOBER 22, 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 9:22 a.m. The following were in attendance:

**MEMBERS:**

Mr. Timothy Johns  
Mr. Colbert Matsumoto  
Ms. Kathryn Inouye

Mr. William Kennison  
Ms. Lynn McCrory

**STAFF:**

Mr. Howard Gehring, Division of Boating  
and Ocean Recreation (DOBOR)  
Mr. John Hino, DOBOR  
Mr. Curt Cottrell, Division of Forestry  
and Wildlife

Mr. Dean Uchida, Land Division  
Ms. Dede Mamiya, Land Division  
Mr. Tom Eisen, Land Division  
Ms. Charlene Unoki, Land Division

**OTHERS:**

Mr. Alan Kawada, Department of the  
Attorney General  
Mr. Steven Lim, D-19 & D-11  
Ms. Karen Sherwood, D-12  
Mr. Mark Shklov, J-2  
Mr. Kenneth Nakamura, D-15  
Ms. Yaeko Miyata, D-15  
Mr. Brian Takeda, D-21  
Ms. Reese Liggett, D-4  
Mr. Bill Paty, D-20  
Mr. Aaron Kamau, D-20  
Dr. Richard Matsushita, D-20  
Mr. Keichi Ikeda, D-25  
Ms. Peggy Ratliff, D-25  
Ms. Linda Chinn, D-25  
Mr. Warren Lee, D-25

Mr. Peter Garcia, Department of  
Transportation  
Mr. Jon Gomes, D-19  
Mr. Michael Loo, D-22  
Mr. Yoshi Muraoka, J-2  
Ms. Claire Nakamura, D-15  
Ms. Gail Miyata, D-15  
Mr. Bill Blaisdell, D-10  
Mr. Jeffrey Fujimoto, D-6  
Mr. Al Sakai, D-20  
Mr. John Howell, D-20  
Mr. Michael Matsukawa, D-25  
Mr. Mahi Cooper, D-25  
Mr. Albert Hee, D-25  
Mr. Ben Kudo, D-25  
Mr. Conrad Shiroma, D-24

**ITEM D-19: DIRECT SALE OF EIGHT (8) PERPETUAL, NON-EXCLUSIVE EASEMENTS TO NOHONA PARTNERS, INC., FOR ROADWAY, UTILITY AND DRIVEWAY ACCESS PURPOSES, AND A CONSTRUCTION AND MAINTENANCE RIGHT-OF-ENTRY OVER, UNDER AND ACROSS THE JUDD TRIAL, AT KAUMALUMALU AND PAHOEHOE 1<sup>ST</sup>, NORTH KONA, HAWAII, TMKs: (3) 7-7-4: PORTION OF 02 AND (3) 7-7-8: PORTION OF 27**

Mr. Dean Uchida, Administrator for the Land Division presented the staff submittal recommending that the Board authorize the issuance of the easements to Nohona Partners, Inc., and also authorize the construction and maintenance right-of-entry, subject to terms and conditions.

Mr. Steven Lim, Attorney for the Applicant, introduced Mr. Jon Gomes, President of Nohona Partners, Inc. Mr. Lim stated that this is the second half of their application for 8 of the remaining easements for the Judd Trail crossings.

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

**ITEM D-12: CONSERVATION DISTRICT USE PERMIT APPLICATION KA-2933 FOR THE OLANOLAN-SHERWOOD SINGLE FAMILY RESIDENCE AND ASSOCIATED IMPROVEMENTS AT HAENA, KAUAI, TMK: 5-9-5-01**

Mr. Uchida briefed the Board and recommended that the Board approve this application for the construction of a single family residence and associated improvements, subject to 20 conditions.

Ms. Karen Sherwood, Applicant, was present to answer questions.

Member McCrory requested that a timeframe be added to the staff proposed conditions that the applicant prepare a cultural assessment report. She amended conditions 14 and 18 to read as follows:

- “14. Any work or construction to be done on the land shall be initiated within one (1) year of the approval of the cultural assessment report [such use], and all work and construction shall be completed within three (3) years of the approval of the cultural assessment report [such use];
18. That within one (1) year of this date, t[T]he applicant shall prepare a cultural assessment report acceptable to the department prior.....”

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

**ITEM D-11: CANCELLATION OF REVOCABLE PERMIT NO. S-5930 TO HUEHUE RANCH ASSOCIATES, L.P. AND ISSUANCE OF A NEW REVOCABLE PERMIT TO WB KUKIO RESORTS, LLC, A DELAWARE CORPORATION, NORTH KONA, HAWAII, TMK: 3<sup>RD</sup>/7-2-04: 4 & 3<sup>RD</sup>/7-2-06: 17**

Member Inouye recused herself from this item.

Mr. Uchida presented the staff submittal recommending that the Board authorize the issuance of a revocable permit to WB Kukio Resorts, LLC, for pasture purposes, subject to standard conditions.

Mr. Steven Lim, Attorney for the Applicant, gave some background information and asked for the Board's favorable consideration.

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

**ITEM D-22: CANCELLATION OF EASEMENT A (WATERLINE) AND MODIFICATION OF EASEMENT B (WATER TANK SITE); GRANT OF PERPETUAL, NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT AFFECTING A PORTION OF STATE-OWNED LAND (LOT 26), POR. OF HANAIEI-KALIIHIKAI & KALIIHWAI, HANAIEI, KAUAI, TMK: 5-3-1**

Mr. Uchida presented the staff submittal recommending that the Board authorize the cancellation of existing Easement A, modification of existing Easement B, and the issuance of a perpetual non-exclusive access and utility easement to Princeville Utilities Company, Inc., subject to standard conditions.

Mr. Michael Loo, Vice-President of Princeville Utilities Company, Inc., concurred with staff recommendation except for the fee in which he asked for gratis consideration. He explained that they conveyed the 56-foot roadway to the State for an expansion of the 30-foot jeep trail. The full width of the 56-foot roadway will not be used as their requirement is for a 12-foot wide easement and approximately 10-foot wide waterline easement. He indicated that a hard surface road will be installed when the well and pipeline go in which will give the State an improved access to the area which is currently eroded.

The Board decided to defer this item based on questions raised by the applicant.

**Unanimously approved to defer (McCrary/Inouye).**

**ITEM J-2: LEASE EXTENSION FOR GENERAL LEASE H-70-14 ISSUED TO KEEHI MARINE INC., DBA KEEHI MARINE CENTER, KALIIHI KAI, HONOLULU, ISLAND OF OAHU**

Mr. Howard Gehring, Acting Administrator for DOBOR, briefed the Board and recommended that the Board grant a ten (10) year extension of Lease H-70-14 expiring January 30, 2027, under terms and conditions previously listed, which are by this reference incorporated herein, and are subject further to the following: 1) All other terms and conditions within Lease H-70-14 are to remain the same.; 2) An additional rental reopening date to compensate for the additional ten years. Present lease terms have rental reopenings every ten years hence additional rental reopening date would be in 2016.; and 3) Other terms and conditions as may be required by the Chairperson of the Board of Land and Natural Resources.

There was some discussion about Section 171-36(b), Hawaii Revised Statutes (HRS). Mr. John Hino, Property Manager for DOBOR read the statute: "The board, from time to time, upon the issuance or during the term of any intensive agricultural, aquaculture, commercial, mariculture, or special livestock lease may; (1) modify or eliminate any of the foregoing restrictions; (2) extend or modify the fixed rental period of the lease; or (3) extend the term of the lease to the extent necessary to qualify the lease for mortgage lending or guaranty purposes with the...." Chairperson Johns asked if this was based on a mortgage being issued. Mr. Hino stated that the Board has the power to extend the lease because the statute does not stipulate a mortgage attached to an extension. Mr. Mark Shklov, Attorney for the Applicant felt that as the statute reads, it doesn't have to be based on any loan or mortgage requirement. Because of the confusion as to what provision under the statute the extension would qualify under, the Board decided to postpone this item until later on the agenda to allow Mr. Shklov and the Deputy Attorney General time to discuss this matter.

Item J-2 is continued on page 6.

**ITEM D-15: CONSENT TO ASSIGN GENERAL LEASE (GL) NO. S-5355, MR. NORMAN AND MRS. YAEKO MIYATA, ASSIGNOR, TO MS. CLAIRE NAKAMURA, ASSIGNEE; CONSENT TO MORTGAGE; RESCIND PRIOR LAND BOARD ACTIONS, WAIMANALO, OAHU, TMK: (1) 4-1-10: 46**

Mr. Uchida briefed the Board and recommended that the Board rescind Land Board action of July 12, 1996, Item D-17 and February 13, 1998, Item D-11; consent to the assignment of GL No. S-5355, from Mr. and Mrs. Miyata, to Ms. Nakamura; and consent to the mortgage between Ms. Nakamura and Accredited Home Lenders, Inc., subject to standard conditions.

Mr. Kenneth Nakamura, on behalf of his daughter Ms. Nakamura, testified in favor of staff's recommendation.

Ms. Gail Miyata, on behalf of her mother Mrs. Miyata, testified that the property is presently in escrow and is waiting for the Board to approve the assignment.

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

**ITEM D-21: DIRECT SALE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT TO AT&T CORP. FOR A SUBMARINE FIBER OPTIC CABLE LINE AND A MANAGEMENT AND CONSTRUCTION RIGHT-OF-ENTRY AT MAKAHA, OAHU, TMK: (1) 8-4-1-SEAWARD OF 12**

Mr. Uchida presented the staff submittal recommending that the Board authorize the issuance of a direct sale of the easement to AT&T Corp., and authorize a management and construction right-of-entry, subject to conditions.

Mr. Brian Takeda of R.M. Towill Corp., representing AT&T Corp., was present to answer questions.

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

**ITEM D-10: AFTER-THE-FACT CONSENT TO ASSIGN GL NO. S-5160, WEST BEACH ESTATES, ASSIGNOR, TO KO OLINA INTANGIBLES, LLC, ASSIGNEE, HONOULIULI, OAHU, TMK: (1) 9-1-15-SEAWARD OF 3 AND 10**

Mr. Uchida presented the staff submittal recommending that the Board consent to the assignment of GL No. S-5160 from West Beach Estates, to Ko Olina Intangibles, LLC, subject to standard conditions.

Mr. Bill Blaisdell, Ko Olina Intangibles, LLC, explained that the lease is primarily to handle the construction of the channels for the lagoons and the maintenance of the rift raft outside the lagoons on State lands.

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

**ITEM D-4: LAND DONATION TO THE STATE, FOR A PUBLIC ACCESS ROADWAY LOT, SITUATE AT WAIALAE-IKI, HONOLULU, OAHU – TMK: (1) 3-5-24: POR. 1 AND SET ASIDE OF SAID ACQUIRED LAND, TO THE DEPARTMENT OF LAND AND NATURAL RESOURCES, DIVISION OF FORESTRY AND WILDLIFE (DOFAW), ON BEHALF OF THE NA ALA HELE TRAILS AND ACCESS PROGRAM**

Mr. Uchida briefed the Board and recommended that the Board approve of and authorize the acquisition of the subject land donation; upon acquisition of the property, approve of and recommend to the Governor the issuance of an executive order setting aside the subject land for public access purposes to be under the control and management of DOFAW, on behalf of the Na Ala Hele Trails and Access program; and authorize the issuance of an immediate right-of-entry to DOFAW, on behalf of the Na Ala Hele Trails and Access program, for the purposes of management and access, subject to conditions.

Mr. Curt Cottrell, Na Ala Hele Program Manager, explained that in addition to the 8 public parking stalls being provided by the developer, which is to be the primary parking area for Wiliwilinui Trail, an overflow parking area will be provided should the 8 stalls essentially be filled.

Ms. Reese Liggett testified in support of staff's recommendation.

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

**ITEM D-6: EXTENSION OF THE 180-DAY PROCEEDING PERIOD – CONSERVATION DISTRICT USE APPLICATION (CDUA) OA-1405 TO CHANGE A CONDITION FOR THE RETENTION OF THE H-3 FREEWAY CONSTRUCTION ACCESS ROAD, HALAWA VALLEY, OAHU**

Mr. Uchida presented the staff submittal recommending that the Board approve an extension of 180-days to the processing period of the subject CDUA, such that the new 180-day expiration deadline is May 20, 2000.

Mr. Jeffrey Fujimoto, Department of Transportation (DOT), Highways Division, testified in support of staff's recommendation.

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

**ITEM J-2: CONTINUATION FROM PAGE 4.**

A motion was made at 10:27 a.m. to move into executive session to consult with legal counsel regarding Item J-2.

**Unanimously approved to move into executive session (Matsumoto/Kennison).**

The meeting was reconvened at 10:47 a.m.

Based on advice from legal counsel, the Board decided to defer this item. Mr. Shklov agreed with the Board's decision as it will allow more time to discuss the clause with the Deputy Attorney General.

**Unanimously approved to defer (Inouye/McCrory).**

**ITEM J-1: ISSUANCE OF REVOCABLE PERMIT TO EXCELLENCE CHARTERS, LOCATED AT THE MAALAEA SMALL BOAT HARBOR, ISLAND OF MAUI**

Mr. Gehring presented the staff submittal recommending that the Board approve the issuance of a revocable permit to Excellence Charters, subject to conditions.

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

**ITEM D-20: REVISION TO THE POLICY REGARDING THE LEASING OF STATE LANDS BY NON-PROFITS**

Mr. Uchida recalled that the Board, at its meeting of May 28, 1999, deferred Item D-9 "Reconsideration of Rent Pursuant to the Non-Profit Leasing Policy, GL No. S-4560, Easter Seals Society of Hawaii, Lessee, and Amendment to the Policy Regarding the Leasing of State Lands by Non-Profits" and asked staff to revisit portions of the policy. Mr. Uchida introduced Ms. Dede Mamiya, Assistant Administrator of the Land Division. Ms. Mamiya briefed the Board and recommended the following deletions to the staff submittal: 1) Page 7, II.A.2.a.i., that reads: "If POS funds are made available for the non-profit's services, then fair market rent shall be charged, subject to II.A.2.d. below."; and 2) Page 8, II.A.2.d., second sentence that reads: "Such an off-set may be applied from the point in time when the improvement funds were expended."

Member McCrory suggested the following amendments: 1) Page 8, II.A.3. "In determining a non-profit's public benefit rating, staff shall utilize the services of a group of State Departments ..."; and 2) Page 4, incorporate Assumption No. 4. into the policy.

Mr. Bill Paty, Council Chairperson of the Properties Committee for the Boy Scouts of America Aloha Council, introduced Mr. Al Sakai, Director of Support Services, and Mr. Aaron Kamau, Campaign and Properties Director. Mr. Kamau gave some background information on the Learning for Life Program. Mr. Paty suggested, in addition to State Departments determining the public benefit rating, a community council or peer group that deals with the types of programs that the non-profits are involved in, especially in subjective programs like the scouts. He felt it essential that something practical and workable be developed.

Mr. John Howell, President and CEO of Easter Seals testified in favor of the pursuit of trying to find something that is fair, consistent and equitable for all non-profits. He was concerned, since they have a couple of programs that are involved in the POS funds, that they will automatically be hit with the fair market rent. He supported the selection of people from the government in determining the public benefit rating.

Dr. Richard Matsushita, Pastor of the Trinity United Methodist Church shared his concern about not being able to come up with the necessary funding should they be effected by this new hike.

The Board, after lengthy discussion, amended the staff submittal as follows:

Page 1, changed the Subject to read: "Revision to the Guidelines [Policy]Regarding the Leasing of State Lands by Non-Profits"

Page 5, changed first paragraph to read: “In brief summary, staff recommends that rents for new leases will be put through the same process outlined in Section II.A., of the Guidelines [charging all new non-profit leases fair market rent].....”

Page 7, changed Policy for new leases under Section I.F. Rent to read: “Rent determination for new leases will be put through the same process outlined in Section II, A. of the Guidelines[ shall be at the fair market rent].”

Page 7, delete all of Section II.A.2.a.i. that reads: “[If POS funds are available for the non-profit’s services, then fair market rent shall be charged, subject to section II.A.2.d. below.]”

Page 8, amended Section II.A.2.d. to read as follows:

d. Determine any off-set:

Base rent may be off-set on a dollar-for-dollar basis, based on documented improvements made to the leased property, subject to Land Division review and approval. [Such an off-set may be applied from the point in time when the improvement funds were expended.]

Page 8, amended Section II.A.3. to read as follows:

3. In determining a non-profit’s public benefit rating, staff shall utilize the services from a group of State Departments/Agencies[of experts in the non-profit field, including ....].

Page 8, added Section II.A.5. to read as follows:

“5. The determination on the amount of rent is to be done by the Board taking into consideration information provided by the applicant through this process.”

Page 9, amended the recommendation section as follows:

2. Approve the above stated revised guidelines [policy] regarding the leasing of public lands under the jurisdiction of the Land Division to non-profits; [and]
3. Authorize the Chairperson and staff to take any action necessary to implement the above state revised guidelines [policy]; and
4. Subject to review by the Department of the Attorney General.

Unanimously approved as amended (McCrorry/Inouye).

**ITEM D-25: REQUEST FOR DECLARATORY RULING REGARDING Cдуа HA-487A BY KEAHOLE DEFENSE COALITION, INC. (KDC)**



Mr. Uchida briefed the Board and recommended that the Board, in the matter of the hearing requested by the subject Petitioner, staff and counsel believe that, due to the voluminous material contained within the numerous briefs and other documents submitted by both sides in conjunction with this Petitions, no new information is likely to be produced during the course of any such hearings. Since Section 13-1-27(e), Hawaii Administrative Rules (HAR), which provides for Petitions to the Board for declaratory rulings, specifically indicates that the Board may issue declaratory ruling without notice or hearing, staff recommends that no hearing be held regarding this Petition. Staff further recommends that the Board issue a declaratory order, incorporating the preceding analysis, finding that: A) All 15 of the conditions contained in Section 13-2-21, HAR, are "not incompatible" with Section 183-41, HRS, and thus, all of those conditions apply to Hawaii Electric Light Company's (HELCO) uses that were entitled by default; B) All of the conditions in HELCO's pre-existing conditional use permits apply to HELCO's default entitlement to the proposed expansion; and C) The effect of HELCO's clean air violations is two-fold: 1. Presently, no revocation of HELCO's land use approvals or entitlement will occur; and 2. DLNR staff will continue to maintain dialogue and correspondence with the Department of Health and other appropriate agencies so that staff can continue monitoring the status of HELCO's efforts to resolve existing violations and to remain in compliance with clean air and other environmental regulations.

A motion was made at 12:30 p.m. to move into executive session to consult with legal counsel regarding Item D-25.

**Unanimously approved to move into executive session (Matsumoto/Kennison).**

The meeting was reconvened at 1:45 p.m.

Chairperson Johns clarified that the Board will be limiting testimony to the issues contained in staff recommendation A and B, and that the Board will not be addressing the issues in staff recommendation C. He noted that written testimony was received from Mr. Michael Matsukawa, Mr. Albert Hee, Mr. Keichi Ikeda and Ms. Peggy Ratliff.

Mr. Michael Matsukawa, Attorney for the Petitioners from KDC, gave some background information about this project and the legal disputes involved. He felt that staff's recommendation in trying to tie together the conditions that apply and whether HELCO has satisfied them was improper. He shared photographs that werer taken of the site on April 1998 and August 1998.

Mr. Albert Hee, President of Waimana Enterprises, Inc., stated that he doesn't have anything else to offer other than what's in his written testimony and offered to answer any questions.

Mr. Keichi Ikeda, Director of KDC appealed to the Board to clarify whether all the conditions under Section 183-41, HRS apply. He felt that staff only concentrated on Section 183-41A, HRS, and questioned whether the expansion of the power plant in the conservation district still conforms with Section 183-41C of the HRS.

Ms. Peggy Ratliff, Director of KDC, submitted additional written testimony. She felt that all the conditions contained in Section 183-41, HRS, should apply.

Mr. Mahi Cooper, submitted written testimony and testified that he is the nearest resident living next to the power facility. He educated the Board on the location of his residence and what he has to go through on a daily basis with the noise and exhaust fumes from the power facility. He clarified that there is no open space between his and HELCO's property to be used as a buffer zone.

Ms. Linda Chinn submitted written testimony on behalf of Mr. Raynard Soon, Chairman of the Hawaiian Homes Commission, urging the Board to accept staff recommendation that all conditions that are set forth are applicable, and to reject the rest of the analysis of the staff report.

Mr. Ben Kudo representing HELCO introduced Mr. Warren Lee, President of HELCO. He submitted written testimony and testified in favor of staff recommendation A. He believed that if the Board approved staff recommendation B, it would result in further confusion, conflict and probably more litigation.

The Board amended the staff recommendation to read as follows:

Staff further recommends that the Board of Land and Natural Resources (Board) issue a declaratory order[, incorporating the preceding analysis] finding that:

- A. All 15 of the conditions contained in Section 13-2-21, HAR, [are "not incompatible" with Section 183-41, HRS, and thus, all of those conditions] apply to HELCO's uses that were entitled by default; the Board further determines that said conditions are not inconsistent with Section 183-41, HRS.
- B. All of the conditions in HELCO's pre-existing conditional use permits [apply to HELCO's default entitlement to the proposed expansion; and ]remain intact with regard to the specific permits, and unaltered by this ruling.
- C. [Delete all of C.]

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

**ITEM D-24: DIRECT SALE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT TO THE CITY AND COUNTY OF HONOLULU FOR UNDERGROUND UTILITY PURPOSES AND A CONSTRUCTION RIGHT-OF-ENTRY AT HALEIWA, OAHU, TMKS: (1) 6-2-3: 10, 6-6-1: 25 AND 6-6-2: 5**

Mr. Uchida presented the staff submittal recommending that the Board authorize the direct sale of a perpetual, non-exclusive easement to the City and County of Honolulu, for underground utility purposes, and authorize a construction right-of-entry, subject to standard conditions.

Mr. Conrad Shiroma, representing the City and County of Honolulu, was present to answer questions.

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

**ITEM D-26: BOARD BRIEFING BY LEGAL COUNSEL RYAN V. BORDEN/MEADOW GOLD DAIRIES, INC., ET. AL., CIVIL NO. 97-2689-07, FIRST CIRCUIT COURT; ESSEX INSURANCE COMPANY V. UNISYN BIOWASTE TECHNOLOGY, ET. AL., CIVIL NO. 98-0219-01, FIRST CIRCUIT COURT; RYAN V. STATE OF HAWAII, ET. AL., CIVIL NO. 98-0338-01, FIRST CIRCUIT COURT, STATE OF HAWAII, REGARDING SETTLEMENT OFFER (CHAPTER 91 PROCEEDING)**

A motion was made at 2:45 p.m. to move into executive session for a briefing by legal counsel regarding Item D-26.

**Unanimously approved to move into executive session (Inouye/McCrory).**

The meeting was reconvened at 3:00 p.m. No action required.

**ITEM D-1: SET ASIDE TO DOT, HIGHWAYS DIVISION FOR ROCKFALL PROTECTION PURPOSES, UKUMEHAME, LAHAINA, MAUI, TMK: (2) 4-8-01: POR. 01**

Mr. Uchida presented the staff submittal recommending that the Board approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the DOT, subject to standard conditions.

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

**ITEM D-2: SET ASIDE TO THE DEPARTMENT OF HEALTH FOR GROUP HOME PURPOSES, MAKAULA-OOMA-ST, NORTH KONA, HAWAII, TMK: 3<sup>RD</sup>/7-3-10: POR. OF 2**

Mr. Uchida presented the staff submittal recommending that the Board approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the Department of Health, subject to 6 conditions.

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

**ITEM D-3: AMEND PRIOR BOARD ACTION FOR TERM EASEMENT TO GTE HAWAIIAN TELEPHONE CO. AT SAND ISLAND, OAHU, TMK: (1) 1-5-41: PORTION 77**

Mr. Uchida presented the staff submittal recommending that the Board amend Land Board consent of September 29, 1995, and allow for the direct sale of a perpetual non-exclusive easement to GTE Hawaiian Telephone Co., subject to conditions.

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

**ITEM D-5: AMEND PRIOR BOARD ACTION FOR TERM EASEMENT TO GTE HAWAIIAN TELEPHONE CO., AT KEAWAULA, WAIANAE, KUAOKALA, KAENA, MOKULEIA, AND WAIALUA, OAHU, TMKS: (1) 8-1-1: PORTION 14; 6-9-3: PORTION 2 AND 5; 6-9-1: PORTION 4; 6-9-4: PORTION 9; AND 6-9-5: PORTION 7**

Mr. Uchida presented the staff submittal recommending that the Board amend Land Board consent of November 18, 1994, and authorize the direct sale of a perpetual, non-exclusive easement to GTE Hawaiian Telephone Co., subject to 4 conditions.

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

**ITEM D-7: AUTHORIZATION TO EXECUTE RIGHT-OF-ENTRY WITH HASEKO (HAWAII), INC.**

Mr. Uchida presented the staff submittal recommending that the Board authorize the Chairperson to execute the right-of-entry document with Haseko (Hawaii), Inc., subject to the Attorney General's approval as to form.

Member McCrory recused herself from this item.

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

**ITEM D-8: RESCIND PRIOR BOARD ACTION FOR SET ASIDE TO THE DEPARTMENT OF LAND AND NATURAL RESOURCES AND THE BOARD OF WATER SUPPLY FOR BASEYARD PURPOSES AT SAND ISLAND, OAHU, TMK: (1) 1-5-41: 130**

Mr. Uchida presented the staff submittal recommending that the Board rescind Land Board approval of May 13, 1994, subject to terms and conditions.

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

**ITEM D-9: AFTER-THE-FACT CONSENT TO ASSIGN GL NO. S-3775, THOMAS E. HAYES, TRUSTEE, ASSIGNOR, TO STATE OF CALIFORNIA, STATE AND CONSUMER SERVICES AGENCY, DEPARTMENT OF GENERAL SERVICES, OFFICE OF REAL ESTATE AND DESIGN SERVICES, ASSIGNEE; AMEND THE LEASE CHARACTER OF USE; CONSENT TO SUBLEASE TO 41-650 CORPS, SUBLESSEE; RESCIND PRIOR LAND BOARD ACTIONS, WAIMANALO, OAHU, TMK: (1) 4-1-27: 9**

Mr. Uchida presented the staff submittal and requested that staff recommendation A. be amended to read: "Rescind Land Board consent to sublease to State of California approved on [action of] May 27, 1994, Item F-10, section C, and January 30, 1998, Item D-11."

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

**ITEM D-13: AUTHORIZATION TO EXECUTE RIGHT-OF-ENTRY WITH OPTION TO PURCHASE WITH AMFAC LAND COMPANY, LIMITED**

Mr. Uchida presented the staff submittal recommending that the Board authorize the Chairperson to execute the right-of-entry with option to purchase with Amfac Land Company, subject to the Attorney General's approval as to form.

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

**ITEM D-14: FORFEITURE OF GL NO. S-5387, FALEAGAFULU M. TUAOLO, LESSEE, WAIMANALO, KOOLAUPOKO, OAHU, TMK: 4-1-10: 26**

Mr. Uchida requested that Item D-14 be deferred for 30 days.

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

**ITEM D-16: WITHDRAWAL FROM GOVERNOR'S EXECUTIVE ORDER NO. 2089 AND SET ASIDE TO CITY AND COUNTY OF HONOLULU, POLICE DEPARTMENT FOR THE WAIKIKI POLICE SUB-STATION EXPANSION, KUHIO BEACH, KAPUNI & ULUNI, WAIKIKI, HONOLULU OAHU, TMK: 2-6-01: 15**

Mr. Uchida presented the staff submittal and requested that an additional condition be added to staff recommendation to read: "3. Authorize the issuance of a construction right-of-entry to Department of Design and Construction, City and County of Honolulu and/or its agent(s) for the purpose of designing and constructing the Waikiki Police Sub-Station subject to the following: a. The standard terms and conditions of the most current right-of-entry form, as may be amended from time to time; b. The right-of-entry shall commence upon the approval of this submittal and expire on the construction completion date or with the issuance of the subject"

executive order, whichever comes first; c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State."

Unanimously approved as amended (Inouye/McCrory).

**ITEM D-17: RESCIND PRIOR BOARD ACTION FOR ISSUANCE OF A REVOCABLE PERMIT TO MR. ROBERT REED AND MR. THOMAS CARPENTER AT KANEOHE, OAHU, TMK: (1) 4-4-37-SEAWARD OF 4**

Mr. Uchida presented the staff submittal recommending that the Board rescind Land Board approval of September 26, 1986, Item F-1-d, subject to conditions.

Unanimously approved as submitted (Inouye/Kennison).

**ITEM D-18: ACCEPTANCE OF LAND FROM THE UNITED STATES OF AMERICA, AND SUBSEQUENT ISSUANCE OF QUITCLAIM DEED TO THE CITY & COUNTY OF HONOLULU FOR SAID LAND, IDENTIFIED AS PARCELS A AND B, PORTIONS OF GOVERNMENT LANDS OF IOLEKAA AND KEAAHALA, WAIAHOLE FOREST RESERVE, KOOLAUPOKO, OAHU, TMK: (1) 4-6-15: 6 AND 7**

Mr. Uchida presented the staff submittal recommending that the Board accept the return of Parcels A and B from the United States of America; approve of and recommend to the Governor issuance of an executive order canceling Executive Order No. 1058; authorize the issuance of a quitclaim deed to the City and County of Honolulu for Parcels A and B; and authorize the issuance of an immediate right-of-entry to the City and County of Honolulu for Parcels A and B for the purposes of management and access, subject to conditions.

Unanimously approved as submitted (Inouye/Kennison).

**ITEM D-23: CONSENT TO ASSIGN GL NO. S-4997, MR. AUTHUR AND MRS. LENA PALAMA, AND MR. DARYL AND MRS. JANE KANESHIRO, ASSIGNORS, TO MR. JAMES AND MRS. CYNTHIA WILSON, ASSIGNEE, LOT 43, KOKEE CAMP SITE LOTS, WAIMEA (KONA), KAUAI, HAWAII, TMK: 1-4-4: 8**

Mr. Uchida presented the staff submittal recommending that the Board consent to the assignment of GL NO. S-4997, subject to standard conditions.

Unanimously approved as submitted (McCrory/Inouye).

**ITEM A-1: AUGUST 27, 1999**

Deferred - lack of quorum.

**ITEM K-1: REQUESTING LAND BOARD APPROVAL IN CONCEPT OF A UNILATERAL AGREEMENT AND DECLARATION FOR CONDITIONAL ZONING, AND DELEGATION OF AUTHORITY TO THE DIRECTOR OF TRANSPORTATION TO ENTER IN TO THE AGREEMENT FOR THE CHANGE OF ZONING OF STATE-OWNED LAND AT KALAELOA BARBERS POINT DEEP-DRAFT HARBOR, TMK: (1)-9-1-14**

Mr. Peter Garcia, Property Management Officer for the DOT, briefed the Board and recommended that the Board approve in concept the Unilateral Agreement and Declaration for Conditional Zoning for the zoning change of the subject land, and authorize the Director of Transportation to enter into this unilateral agreement and declaration subject to terms and conditions.

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

There being no further business, Chairperson Johns adjourned the meeting at 3:17 p.m.

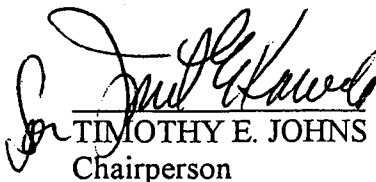
Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Kimberly C. Kelihoomalu

Approval for submittal:



TIMOTHY E. JOHNS  
Chairperson

Board of Land and Natural Resources

