

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

DATE: FRIDAY, DECEMBER 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 9:20 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. Michael Buck, Division of Forestry and Wildlife (DOFAW)	Mr. Paul Conry, DOFAW
Mr. Dean Uchida, Land Division	Ms. Sharon Reilly, DOFAW
Mr. Don Hibbard, Historic Preservation Division	Mr. Ralston Nagata, Division of State Parks
Mr. Kai Markell, Historic Preservation Division	Mr. Clyde Hosokawa, Division of State Parks

OTHERS:

Ms. Josephine Chang, Department of the Attorney General (AG)	Mr. Peter Garcia, Department of Transportation	Mr. Art Reeser, C-1
Mr. Al Liebermann, C-1	Mr. Carroll Cox, C-1	Mr. Jeff Celik, C-1
Mr. Wayne Loo, D-18	Ms. Jobie Yamaguchi, D-13	Mr. Jim Andrews, C-1
Mrs. Ernesta Masagatani, D-13	Mrs. Fanny Auhoy, D-13	Mrs. Joanna Kaalele, D-13
Mr. Michael Lee, D-7	Mr. Bob Horcajo, D-20	Mrs. Georgiana Clark, D-13
Mr. Andrew Carvalho, D-14	Mr. Robert Chang, D-10	Ms. Rebecca Alakai, D-20
Mrs. Matsuko Matsumoto, D-12	Mr. Matsumoto, D-12	Ms. Carol Chang, D-10
Mr. Robert Diffley, D-17	Mrs. Masako Matsumura, D-8	Mr. Craig Furusho, D-16
Mr. Brian Taketa, D-21	Mr. Frank Brandt, E-3	Mr. Mel Matsumura, D-8
Dr. E. Alison Kay, E-3	Dr. David Blane, E-3	Mr. Vince Shigekuni, E-3
Mr. James Mee, F-1		Ms. Dawn Chang, AG, F-1

ITEM A-1: APPROVAL OF THE OCTOBER 22, 1999 MINUTES

Unanimously approved as submitted (Inouye/Kennison).

ITEM K-7: AMENDED AND RESTATED LEASE, HONOLULU INTERNATIONAL AIRPORT, OAHU (UNITED AIR LINES) TMK: 1-1-3-25 (TO BE DISTRIBUTED)

Mr. Peter Garcia, Property Management Officer for the Department of Transportation (DOT) briefed the Board and recommended that the Board approve the termination of DOT Lease No. DOT-A-72-29, effective as of December 7, 1999 and the issuance of the amended and restated lease between the State and United, to be effective as of December 8, 1999, with other such terms as may be prescribed by the Director of Transportation.

Unanimously approved as submitted (Inouye/Matsumoto).

ITEM C-1: REQUEST FOR APPROVAL OF THE ASSIGNMENT OF OBLIGATIONS AND LIABILITY FROM THE PEREGRINE FUND, INC. (TPF) TO THE ZOOLOGICAL SOCIETY OF SAN DIEGO (ZSSD) TO OPERATE THE ENDANGERED BIRD CAPTIVE PROPAGATION FACILITIES ON MAUI

Mr. Michael Buck, Administrator of DOFAW, presented the staff submittal that incorporated responses to some of the issues that were raised by the Board and the public at the previous Board meeting. Staff's recommendation is: 1) that the Board approve the assignment of TPF's contractual obligations and liability for obligations, as detailed in the agreement between TPF and the ZSSD, as provided under Special Condition No. 3 of State Contract No. 45860, and; 2) that the Board direct the Department to work with the U.S. Forestry and Wildlife Service to develop a plan for the continued operations of the State captive propagation facilities that meet all Federal and State contracting and procurement laws.

Mr. Al Liebermann, Co-Director of TPF Hawaii, presented a slide show and shared some of the activities that TPF has been involved with since their arrival to Hawaii.

Mr. Art Reeser, General Manager of the San Diego Zoo and Representative of ZSSD, explained that ZSSD has the managing authority for the San Diego Zoo, The Wild Animal Park, and The Center for Reproduction of Endangered Species. He went over some of the programs that are currently underway with ZSSD and TPF and stated that the ZSSD's Board of Directors is excited about the possibility of participating with the State of Hawaii and TPF to achieve the goals of this program.

Mr. Carroll Cox, President of Enviro Watch, Inc., testified in opposition to any further movement on this contract. He raised many concerns and questioned whether the State was getting the best science for the money. He requested a copy of the Agreement between TPF and ZSSD and asked that the contract be put out to bid.

Mr. Jim Andrews testified in opposition to staff's recommendation. His main concern, the management of endangered species not being kept in Hawaii.

Chairperson Johns asked that a Board briefing be held in the future regarding the overall efforts of this program.

Unanimously approved as submitted (Kennison/Kokubun)

ITEM D-18: EXTENSION OF LEASE TERM AND CONSENT TO MORTGAGE, GENERAL LEASE (GL) NO. S-5276, MR. BRENDAN BALTHAZAR, NAKULA, KAUPU, HANA, MAUI, TMK: 1-8-01: 03

Mr. Uchida presented the staff submittal and recommended that the Board authorize the extension of GL No. S-5276, consent to the mortgage between Mr. Brendan Balthazar and Farm Credit Services of Hawaii, subject to standard conditions.

Unanimously approved as submitted (Kennison/Kokubun).

ITEM D-13: ALLEGED UNAUTHORIZED CONSTRUCTION OF A STONEWALL AT SOUTH KONA, HAWAII, TMK: 8-3-006: 013, BY MRS. JOANNA KAALELE

Mr. Uchida briefed the Board and recommended: A) that the Board find that the alleged violated the provisions of Title 13-5 Hawaii Administrative Rules, and Chapter 183C, Hawaii Revised Statute, by failing to obtain the appropriate approvals for the construction of a stonewall; B) that the Board impose a fine of \$2,000, pursuant to Chapter 183C, Hawaii Revised Statutes. In addition, that the Board impose fines to cover all administrative costs totaling \$350 [\$150 DOCARE and \$200 Planning Staff]; C) that the fine shall be paid within 30 days of the date of the Board's action; D) should the alleged not remove that portion of the structure built without authorization within 60 calendar days from the date of the Board's action, fines of \$2,000 per day will begin to accrue on the 61st day, and on every day thereafter, pursuant to Chapter 183C, Hawaii Revised Statutes, until the unauthorized structure is removed; and E) that in the event of failure of the alleged to comply with item B, C and D, the matter shall be turned over to the AG for disposition, including all administrative costs. Mr. Uchida distributed a letter from the applicants stating their disagreements with the staff report.

Ms. Jobie Yamaguchi testified on behalf of her family members, Mrs. Ernesta Masagatani (mother), Mrs. Joanna Kaalele (cousin), Mrs. Fanny Auhoy, and Mrs. Georgiana Clark (aunties), 50% landowners of the subject property. She gave some background information about the property and urged the Board to consider allowing them to keep the stonewall while they work with DLNR to bring the wall into compliance.

Member Kokubun believed the alleged violation was not a willful disregard of government

regulations. He made a motion to amend staff recommendation by deleting recommendations B, C, D, and E, and replacing B with the following:

- B. That the applicant file an after-the-fact Conservation District Use Application for the wall located in the Conservation District.

Unanimously approved as amended (Kokubun/Kennison).

ITEM D-7: RESUBMITTAL – 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 LANDS (LOT 26), POR. OF HANAIEI-KALIHAIKAI & KALIHAIWAI, HANAIEI, KAUAI, TMK: 5-3-1

Mr. Uchida briefed the Board and recommended that the Board authorize the cancellation of existing Easement A, modify existing Easement B, and issue a perpetual non-exclusive access and utility easement to the Applicant, subject to standard conditions.

Mr. Michael Lee, Princeville Utilities Company, Inc., concurred with staff recommendations.

Unanimously approved as submitted (Inouye/Kokubun).

ITEM D-20: ISSUANCE OF TWO REVOCABLE PERMITS TO OLOWALU ELUA ASSOCIATES, LLC, FOR 1) THE OPERATION AND MAINTENANCE OF A PORTION OF AN EXISTING WATER TRANSPORTATION SYSTEM, AND 2) TAKING WATER FROM WITHIN THE DRAINAGE BASIN OF THE OLOWALU STREAM, OLOWALU, LAHAINA, MAUI, TMK: 4-8-01: 08 AND 4-8-03: 8

Mr. Uchida briefed the Board and recommended that the Board authorize the issuance of a revocable permit to Olowalu Elua Associates, LLC, for operation and maintenance of the existing water system, and authorize the issuance of a revocable permit to Olowalu Elua Associates, LLC, to take water from the drainage basin of The Olowalu Stream, subject to conditions.

Mr. Bob Horcajo, Project Manager for Olowalu Elua Associates, LLC., was present to answer questions.

Ms. Rebecca Alakai, Department of Hawaiian Homelands (DHHL), requested that the Board grant only a limited 3-month term to these 2 permits and direct the department's staff to bring the matter back to the Board for further consideration in March 2000 with a proposal to "jointly develop a reservation of water rights" in favor of DHHL.

Chairperson Johns asked staff to work with DHHL on the water reservation issue.

Unanimously approved as submitted (Kennison/Matsumoto).

ITEM D-14: FORFEITURE OF GL NO. S-5496, MR. ANDREW EARL CARVALHO, LESSEE, WAIMANALO, KOOLAULOA, TMK: 4-1-10: 81

Mr. Uchida briefed the Board and recommended that the Board authorize the cancellation of GL No. S-5496 for failure to post a performance bond, subject to conditions.

Mr. Andrew Carvalho, Lessee, expressed his frustration in trying to secure a performance bond. He asked the Board for some leniency being that his lease payments have never been delinquent. He suggested that his property be reduced to what he is presently using so that his lease payments can possibly be reduced.

The Board deferred this item for 60 days and asked that staff work with the lessee to try and come up with an acceptable way of dealing with the performance bond requirement.

Unanimously approved to defer for 60 days (Inouye/Kennison).

ITEM D-10: FIFTY-FIVE YEAR TERM, NON-EXCLUSIVE EASEMENT TO MR. ROBERT CHANG, MS. CAROL CHANG AND MR. RYAN CHANG FOR SEAWALL PURPOSES AT WAIALAE-IKI, OAHU, TMK: (1) 3-5-22-SEAWARD OF 2

Mr. Uchida briefed the Board and amended the Annual Rent/Method of Payment, and Rental Reopening section of the staff report to change it to a "One Time Payment."

The Board added condition B. 5. to read as follows:

5. If the wall is destroyed or damaged and the cost of repair is more than 50% of the seawall's replacement cost, then the easement shall terminate immediately and the lessee will be responsible for removal of the seawall and restoring the area to a condition acceptable to the Department.

Mr. Robert Chang testified in favor of the amended recommendations.

Unanimously approved as amended (Inouye/Kennison).

ITEM D-12: SALE OF LEASE AT PUBLIC AUCTION FOR INTENSIVE AGRICULTURE PURPOSES, ISSUANCE OF INTERIM REVOCABLE PERMIT, MS. MATSUKO MATSUMOTO, WAIMANALO AGRICULTURAL SUBDIVISION, LOT 43, TMK: 4-1-27: 04

Mr. Uchida briefed the Board and recommended that the Board authorize the sale of a lease at public auction for the property, approve the issuance of an interim revocable permit to Mrs. Matsuko Matsumoto for intensive agricultural and residential purposes, subject to conditions. He pointed out a typo on page 3, 2nd paragraph under remarks, the date should read "September 12, 1966" instead of September 12, 1996. Also, on page 6, item 4.a., the dates should read "September 12, 1996" instead of September 12, 1966.

Mrs. Matsuko Matsumoto indicated a discrepancy in condition 4.g. that should read "Credit \$800.00...", instead of "Credit \$700.00....". She also indicated that in addition to the \$800.00, \$1,560.00 was paid to the bank for an independent appraisal fee pursuant to getting the required mortgage.

The Board amended the staff recommendation as follows:

Page 3, 2nd paragraph under remarks, the date should read "September 12, 1966."

Page 6, item 4.a. was amended to read: "Permit shall commence on September 12, 1996."

Page 7, item 4. g. was amended to read: "Credit will be determined based on receipts submitted by Mrs. Matsumoto to reimburse appraisal expenses incurred during the attempted lease extension process."

Unanimously approved as amended (Inouye/Kennison).

ITEM D-16: RESUBMITTAL FOR FORFEITURE OF GL NO. S-5387, MR. FALEAGAFULU M. TUAOLO, LESSEE, WAIMANALO, KOOLAUPOKO, TMK: 4-1-10: 26

Mr. Uchida briefed the Board and recommended that the Board cancel GL No. S-5387.

Mr. Craig Furusho, representing the lessee, testified that Mr. Tuaolo is expecting funds from a fire insurance policy the week of December 20, 1999 that should help with the delinquent rental payments. On the issue of the performance bond, Mr. Tuaolo is looking into borrowing money from a family member on the mainland. He asked for some consideration in light of the possibilities available, that Mr. Tuaolo be granted until January 31, 2000 to try and cure the delinquencies.

There was some discussion by the Board. Member Inouye was concerned about the lessee using insurance proceeds to pay for the delinquent rental payments. She was also concerned on how the lessee proposes to pay off the current rental payments. Member Kokubun suggested that some type of business plan be prepared by the lessee on how he proposes to operate the agricultural business on the leasehold to pay the current rent. He asked that this business plan be required after 60 days if the lessee is able to cure the default.

The Board amended the staff recommendation to read as follows:

"That the Board allow the lessee 60 days from December 10, 1999 to pay off all rent owing for this lease. If the lease rent is not current at the end of this 60-day time period, then the Board:

1. Authorize the cancellation of GL No. S-5387 in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under GL No. S-5387 as liquidated damages;
3. Terminate all rights and obligations of the Lessee effective as of February 9, 2000 [December 31, 1999], provided that"

Unanimously approved as amended (Inouye/Kennison).

ITEM 17: LAND DONATION TO THE STATE, FOR ADDITION TO HEEIA KONA KEA SMALL BOAT HARBOR, OAHU, TMKs : (1) 4-6-06:2 AND (1) 4-6-06:45 FOR THE DLNR, DIVISION OF BOATING AND OCEAN RECREATION (DOBOR)

Mr. Uchida amended the staff report, as recommended by the AG's Office, by substituting language in staff recommendations 1.A., and 1.B., from "Warranty Deed" to "Quitclaim Deed". Staff's recommendation is that the Board approve and authorize the acquisition of the subject land, amend language under recommendation 1.A., and 1.B., upon acquisition of the property to DOBOR, and authorize the issuance of an immediate right-of-entry to DOBOR for control and management of the property, subject to conditions.

Mr. Robert Diffley, The Malama Group, testified that they are in the process of completing the Level I Hazardous Waste evaluation as conditioned for the acceptance of the subject land.

Unanimously approved as amended (Inouye/Matsumoto).

The Board recessed at 12:25 p.m. The meeting was reconvened at 12:35 p.m.

ITEM D-8: EXTENSION OF LEASE TERM, CONSENT TO MORTGAGE, AND ASSIGNMENT OF LEASE, GL NO. S-3993, MRS. MASAKO MATSUMURA, ASSIGNOR, TO MRS. MASAKO MATSUMURA, WIDOW AND MR. MEL MATSUMURA, SINGLE, AS J/T, PORTION OF KAPAA HOMESTEADS, KAWAIIHAU, KAUAI, HI, TMK: 4-6-5: 9

Mr. Uchida briefed the Board and recommended that the Board authorize the extension of GL No. S-3993; consent to the mortgage between Mrs. Masako Matsumura, and Kauai Community Federal Credit Union, subject to conditions listed. If a mortgage is not deemed necessary by the Department

of the AG to grant the extension, the lessee shall provide any other documentation that they may deem appropriate to grant the extension; and consent to the assignment of GL No. S-3993 from Mrs. Masako Matsumura and Mr. Mel Matsumura, subject to conditions.

Mr. Mel Matsumura introduced his mother Mrs. Masako Matsumura and testified in favor of staff's recommendation.

Unanimously approved as submitted (Matsumoto/Kokubun).

ITEM D-21: CONSERVATION DISTRICT USE APPLICATION FOR SUBMARINE FIBER OPTIC CABLE LANDING, SUBMERGED LAND SEAWARD OF TMK: (1) 9-2-3: POR. 3, KAHE BEACH, WAIANAE, OAHU

Mr. Uchida briefed the Board and recommended that the Board approve the application for the submarine fiber optic cable landing project at Kahe Beach, Oahu, subject to 19 specific conditions.

Mr. Brian Taketa, R.M. Towill Corporation, representing GTE Hawaiian Tel International, Inc., and Southern Cross Cables Ltd., showed samples of some of the cables that will be used for the project.

Unanimously approved as submitted (Inouye/Kennison).

ITEM E-3: ACCEPTANCE OF DIAMOND HEAD STATE MONUMENT MASTER PLAN UPDATE

Mr. Ralston Nagata, Administrator for the Division of State Parks, stated that the Diamond Head State Monument Master Plan Update is being completed by Phillips, Brandt, Reddick and Associates, Inc. (PBR Hawaii) through the concurrence of the Diamond Head Citizens Advisory Committee (CAC). The Environmental Impact Statement Preparation Notice for the Master Plan Update was published in the Office of Environmental Quality Control bulletin on September 8, 1998. The Master Plan Update retains many of the components of the 1979 Plan which include the removal of existing National Guard and Federal Aviation Administration buildings and improvements within the Crater and establishment of a more natural setting with trail network to the summit and an Interpretive Center. The natural conditions of the crater exterior and profile are also preserved. Departures within the updated plan to accommodate the amount of visitors which has unanticipatedly increased from 40,000 people a year in 1980 to over 1,000,000 people by 1996 include a people mover system within the Crater in lieu of allowing private automobiles and a more extensive trail system with scenic viewpoints. A new visitor orientation facility with parking lot is also located on the crater exterior at the soon to be acquired Cannon Club which acts as the main station for the people.

Mr. Frank Brandt, PBR Hawaii, gave a brief orientation of the subject area. Mr. Vince Shigekuni, PBR Hawaii, followed with a summarization of the 9 major points of the master plan.

Dr. E. Allison Kay, Chairperson of the CAC, testified in favor of the Board approving the Master

Plan Update.

Dr. David Blane, Director of the Office of State Planning, Department of Business, Economic Development and Tourism, submitted written testimony that included concerns relayed by the Governor. The Governor is supportive of the plan and is prepared to seek funding from the State Legislature to begin detailed design. However, he ask that the Board consider making a reduction in the size of the proposed Visitor Center, and making an amendment to the Draft Environmental Impact Statement (EIS) that supports an occasional open-air gathering area for the community.

Chairperson Johns clarified that the concerns relayed by Mr. Blane have already been raised and discussed with the CAC.

The Board accepted the Master Plan Update with the understanding that the Master Plan will be revised to consider:

1. A reduction in the size of the proposed Visitor Center; and
2. Accommodation of occasional outdoor community gatherings in the crater.

Unanimously approved as submitted (Inouye/Kennison).

**ITEM F-1: BOARD BRIEFING ON GLASS HOUSE MAPULEHU, MOLOKAI, TMK:
5-7-08: 76**

Mr. Don Hibbard, Administrator for the Historic Preservation Division briefed the Board that the property was the subject of a burial disturbance under the previous owner and those new owners had acquired the property and had a burial treatment plan before the Molokai Island Burial Council. Mr. Hibbard also said that the Molokai Island Burial Council wanted to explore condemnation or a land exchange prior to making recommendations on a proposed archaeological survey.

Ms. Dawn Chang, Deputy AG, added that the Department met with the landowner's representative to discuss the proposed land exchange and had actually looked at various parcels but that there were some unresolved issues regarding the type of land exchange as well as the pending ceded lands lawsuit. The Department was looking towards the Land Board for policy regarding land exchanges.

Mr. James Mee, Attorney for Pacific Legal Foundation, stated that the idea of a land exchange was being explored primarily due to the recommendations from the burial council and that he was representing the landowner, Nene O Molokai. Mr. Mee stated that the landowner had researched various parcels of State property but had problems, such as lack of utilities and access. Mr. Mee stated that the landowner was exploring the option of selling the State property to a third party to recover losses.

Ms. Chang added that there may be issues related to the ceded lands lawsuit which the Board may want to be aware of. The Board inquired into the value of the property as stated given the existence of burials and inquired into the timeframe for Legislative involvement in any proposed land exchange. The Board also inquired into whether the Office of Hawaiian Affairs had been approached about acquiring the parcel for its cultural and historical significance.

After brief discussion, the Board decided that the issue before the Board was premature, that the Department process outlined, and that the island burial council's input should be received first.

No Board action.

ITEM E-1: SPECIAL USE PERMIT EXTENSION FOR MR. MICHAEL. A. MEIERDIERCKS FOR RESIDENTIAL PURPOSES, KALIHI, OAHU

Mr. Nagata briefed the Board and recommended that the Board extend the Special Use Permit for a period ending December 31, 2000, subject to 5 conditions.

Unanimously approved as submitted (Inouye/Matsumoto).

ITEM E-2: PERMISSION TO SOLICIT BIDS FOR LUNCHWAGON AND DRINK DISPENSING CONTRACTORS AT SELECTED STATE PARKS

Mr. Nagata briefed the Board and recommended that the Board concur with the department's proposal to increase park revenues by entering into contracts with lunchwagon and drink dispenser operators at designated parks/locations solicited via the sealed bid process and authorize the Chairperson and another Board member to execute the contract documents on behalf of the Board.

Unanimously approved as submitted (Kokubun/Matsumoto).

ITEM K-2: FIVE YEAR EXTENSION OF COOPERATIVE AGREEMENT NO. H-89-9 ISSUED TO THE UNITED STATES DEPARTMENT OF THE INTERIOR AT KAWAIHAE HARBOR, ISLAND OF HAWAII (THE UNITED STATES DEPARTMENT OF THE INTERIOR, NATIONAL PARK SERVICE) TMK: (3)-6-1-03-25P

Mr. Peter Garcia briefed the Board and recommended that the Board consent to the five year extension of Cooperative Agreement No. H-89-9 issued to the United States Department of the Interior, National Park Service in accordance with the terms and conditions, and such terms and conditions as may be prescribed by the Director of Transportation.

Unanimously approved as submitted (Kokubun/Kennison).

ITEM K-3: ISSUANCE OF REVOCABLE PERMIT, NEAR PIER 29, HONOLULU HARBOR, OAHU (KERR PACIFIC CORPORATION) TMK: 1-5-38-2P

Mr. Garcia briefed the Board and recommended that the Board authorize the Director of Transportation to issue the applicant a revocable permit for the stated purpose, subject to terms and conditions outlined, applicable terms and conditions of the standard permit form and such terms and conditions as may be prescribed by the Director of Transportation.

Unanimously approved as submitted (Inouye/Kennison).

ITEM K-1: CONSENT TO ASSIGNMENT OF HARBOR LEASE NOS. H-93-4 AND H-98-8 AT KAUNAKAKAI HARBOR, MOLOKAI AND HONOLULU HARBOR, OAHU (YOUNG BROTHERS, LIMITED/YOUNG BROTHERS, LIMITED) TMK: (2)-3-5-01P AND TMK: (1)-5-32 (P)

Mr. Garcia briefed the Board and recommended that the Board consent to the assignment of the subject leases to the terms and conditions outlined and incorporated, and such terms and conditions as may be prescribed by the Director of Transportation.

Unanimously approved as submitted (Kennison/Matsumoto).

ITEM K-4: ISSUANCE OF REVOCABLE PERMIT, KEEHI INDUSTRIAL LOTS, NEAR PIER 60, HONOLULU, HARBOR, OAHU (CONCRETE CORING COMPANY, INC.) TMK: 1-2-23-72

Mr. Garcia briefed the Board and recommended that the Board authorize the Director of Transportation to issue the applicant a revocable permit subject to terms and conditions outlined, applicable terms and conditions of the standard permit form, and such terms as may be prescribed by the Director of Transportation.

Unanimously approved as submitted (Inouye/Kennison).

ITEM K-5: ISSUANCE OF LEASE BY DIRECT NEGOTIATION, KALAELOA BARBERS POINT HARBOR, OAHU (PHOENICIAN, LLC) TMK: 9-1-14-24P

Mr. Garcia briefed the Board and recommended that the Board approve the lease by direct negotiation, subject to terms and conditions.

The Board decided to defer this item based on a concern raised by the Deputy AG.

Unanimously approved to defer (Inouye/Matsumoto).

ITEM K-6: AUTHORIZING THE DOT TO DISPOSE OF HIGHWAY PARCEL C-4-B-1, INTERSTATE HIGHWAY, FAP NO. I-H1-1(93), MAUKA ARTERIAL JUNCTION KING-WAIALAE TO JUNCTION HARDING-KAPAHULU SECTION BY PUBLIC AUCTION TMK: (1)-2-7-29-22 & 3P

Mr. Garcia briefed the Board and recommended that the Board authorize the DOT to dispose of Parcel C-4-B-1 and sell the lot by public auction, at a fair market value for the reimbursement of the Federal Aid Project, subject to conditions.

Unanimously approved as submitted (Inouye/Matsumoto).

ITEM K-8: REPORT ON REVOCABLE PERMITS ISSUED OR RENEWED BY THE DOT FOR CONSISTENT USES

Mr. Garcia stated that this item does not require Board action.

No Board action.

ITEM D-1: DIRECT ISSUANCE OF PERPETUAL NON-EXCLUSIVE EASEMENT TO DOT, HIGHWAYS DIVISION FOR UTILITY EASEMENT 1, KUHIO HIGHWAY, WAIAKEA BRIDGE WIDENING, FAP NO. BR-STP-056-1 (35), KAPAA, KAUAI, TMK: 4-5-06: 60

Mr. Uchida briefed the Board and recommended that the Board authorize the issuance of a perpetual non-exclusive easement for utility purposes and authorize issuance of an immediate construction right-of-entry to the DOT, Highways Division, subject to standard conditions.

Unanimously approved as submitted (Kennison/Matsumoto).

ITEM D-2: AMEND PRIOR BOARD ACTION OF MAY 14, 1999 (ITEM D-3), SET ASIDE OF STATE LANDS TO THE COUNTY OF KAUAI FOR PUBLIC PARK AND RECREATIONAL PURPOSES, POR. KAPAA RICE & KULA LOTS, AND POR. KAPAA HOMESTEADS, SERIES 4, KAPAA, KAUAI, TMKs: 4-5-13: 2 & 28; 4-6-14: 34, 36, 90; AND 4-5-15: POR. 36; AND ISSUANCE OF TEMPORARY REVOCABLE PERMIT TO ALOHA LUMBER CO., INC., FOR CONSTRUCTION MATERIALS STORAGE, TMK: 4-5-15: POR. 36

Mr. Uchida briefed the Board and recommended that the Board amend Land Board action of May 14, 1999, by including the .537 acre area originally excluded, and authorize the issuance of a revocable permit to Aloha Lumber Company, subject to standard conditions.

Unanimously approved as submitted (Inouye/Kennison).

ITEM D-3: CONSENT TO ASSIGN GL NO. S-5381, MR. JOSEPH S. BRUN, ASSIGNOR, TO MR. TONY TROY BRUN, UNMARRIED, ASSIGNEE, GOVERNMENT LANDS IN WELIWELI, KOLOA, KAUAI, HAWAII, TMK: 2-8-22: 6

Mr. Uchida briefed the Board and recommended that the Board consent to the assignment of GL No. S-5381 from Mr. Joseph S. Brun, to Mr. Tony Troy Brun, subject to 3 conditions.

Unanimously approved as submitted (Inouye/Kennison).

ITEM D-4: RESCIND PRIOR BOARD ACTION FOR THE DIRECT SALE OF A DITCH RIGHT-OF-WAY REMNANT TO MR. ISAMI AND MRS. KIYOKO SHIMOKAWA AT WAIMANALO, OAHU, TMK: (1) 4-1-25: PORTION 52

Mr. Uchida requested that this item be withdrawn.

Unanimously approved to withdraw (Matsumoto/Kennison).

ITEM D-5: APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT – JOB NO. 500-B-K54-A, STREAM CHANNEL MAINTENANCE AT VARIOUS LOCATIONS, KAUAI, HAWAII

Mr. Uchida briefed the Board and recommended that the Board authorize the Chairperson to proceed with awarding the contract for Job No. 500-B-K54-A, Stream Channel Maintenance at Various Locations, Kauai, Hawaii for \$235,710.00, and to sign the necessary documents pertaining to the project.

Unanimously approved as submitted (Matsumoto/Kennison).

ITEM D-6: APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT – JOB NO. 84-OP-J1, WAHIAWA FRESHWATER PARK, LIGHTED JOGGING/BIKING PATH, OAHU, HAWAII

Mr. Uchida briefed the Board and recommended that the Board award the contract to Road Builders Corporation for their low bid of \$161,000.00, and authorize the Chairperson to sign the necessary documents to implement the project.

Unanimously approved as submitted (Inouye/Matsumoto).

ITEM D-9: AMEND PREVIOUS BOARD ACTION OF FORFEITURE OF GL NO. S-3999, DIVACO COOPERATIVE, LESSEE, LOTS 8 & 9, HILO INDUSTRIAL DEVELOPMENT, POHAKU STREET, WAIAKEA, SOUTH HILO, TMK: 3RD/2-2-58: 29 & 30

Mr. Uchida briefed the Board and recommended that the Board, amend its previous board action by granting an extension of time until February 15, 2000, a copy of the environmental report shall be provided to the department, and should the Bank of America or the Lessee fail to cure all defaults under the lease by February 15, 2000, proceed with the cancellation of GL No. S-3999.

Unanimously approved as submitted (Kokubun/Matsumoto).

ITEM D-11: FIFTY-FIVE YEAR TERM, NON-EXCLUSIVE EASEMENT TO MS. TAMMY AND MR. KEITH ISHIBASHI FOR SEAWALL PURPOSES AT KANEOHE, OAHU, TMK: (1) 4-6-22-SEAWARD OF 23

Mr. Uchida requested amending the Annual Rent/Method of Payment, and Rental Reopening section of the submittal to change it to a "One Time Payment". He also added condition B.5. to read as follows:

5. If the wall is destroyed or damaged and the cost of repair is more than 50% of the seawall's replacement cost, then the easement shall terminate immediately and the lessee will be responsible for removal of the seawall and restoring the area to a condition acceptable to the Department.

Unanimously approved as amended (Inouye/Kennison).

ITEM D-15: RESUBMITTAL FOR FORFEITURE OF GL NO. S-3773, MR. MAURICE M. & MRS. WINONA H.Y. MATSUZAKI, LESSEE, WAIMANALO, KOOLAULO, TMK: 4-1-27: 11

Mr. Uchida stated that a letter was received from the lessee including a letter from Bankoh Insurance Agency stating that they got their financial information required to pursue the placement of the performance bond. The lessee's are asking for 30 or 60 day extension on the default.

The Board amended the staff recommend to read as follows:

"That the Board allows the lessee 60 days from December 10, 1999, to secure a performance bond for this lease. If the bond is not obtained within this 60 day time period, then the Board:

1. Authorize the cancellation of GL No. S-3773 in the manner specific by law;
2. Authorize the retention of all sums heretofore paid or pledged under GL No. S-3773 as

liquidated damages;

3. Terminate all rights and obligations of the lessee effective as of February 9, 2000 [December 31, 1999], provided that....”

Unanimously approved as amended (Kennison/Inouye).

ITEM D-19: AMENDMENT TO PRIOR BOARD ACTION FOR ISSUANCE OF A GOVERNOR'S EXECUTIVE ORDER TO CANCEL GOVERNOR'S EXECUTIVE ORDER NO. 1432 AND RE-SET ASIDE ALONG WITH ADDITIONAL UNENCUMBERED LAND TO THE DEPT. OF ACCOUNTING AND GENERAL SERVICES, FOR GOVERNMENT BUILDINGS AND FACILITIES AND ADDITION TO WASHINGTON PLACE AT HONOLULU, OAHU, TMK: 2-1-18: 46 & 47

Mr. Uchida briefed the Board and recommended that the Board authorize the Department of Accounting and General Services Survey Division to process the resubdivision and consolidation of Lot 2, and authorize the issuance of a Governor's Executive Order for a set aside as an addition to Washington Place, subject to standard conditions.

Unanimously approved as submitted (Inouye/Kennison).

ITEM D-22: REQUEST TO WRITE-OFF UNCOLLECTIBLE ACCOUNTS, ROE 562 FOR UNITED ENVIRONMENTAL SERVICES, OAHU AND GL 5077 FOR MR. JAMES HOYLE, KAUAI

Mr. Uchida presented the staff submittal recommending that the Board approve of and recommend to the AG that the accounts have been deemed uncollectible.

Unanimously approved as submitted (Inouye/Kennison).

ITEM D-23: ISSUANCE OF REVOCABLE PERMIT TO MR. DOMINICK AND MRS. PATRICIA MARINO, KULA, MAKAWAO, MAUI, TMK: (2) 2-3-07: 28

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

Unanimously approved as submitted (Kennison/Inouye).

ITEM D-24: CONSERVATION DISTRICT USE APPLICATION FOR THE CONSTRUCTION OF RUBBLEMOUND REVETMENT AT LAUNIUPOKO, LAHAINA, MAUI, TMK: 4-7-01: 17

Mr. Uchida requested that this item be withdrawn in order for the applicant to secure the Special Management Area permit from the County.

Unanimously approved to withdraw (Kennison/Kokubun).

ITEM D-25: STATUS OF MEDIATION PROCESS REGARDING INTERVENTION ON THE DOT, HIGHWAYS DIVISION'S REQUEST TO RETAIN H-3 CONSTRUCTION ACCESS ROAD, HALAWA VALLEY, OAHU

Mr. Uchida requested that this item be withdrawn based on advice from the Department of AG that matters regarding the H-3 Contested Case Hearing must conform with Chapter 91, Hawaii Revised Statute.

Unanimously approved to withdraw (Kennison/Kokubun).

There being no further business, Chairperson Johns adjourned the meeting at 2:30 p.m.

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

Respectfully submitted,



Kimberly C. Kelihoomalau

Approval for submittal:



TIMOTHY E. JOHNS
Chairperson

Board of Land and Natural Resources