

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

**DATE:** FRIDAY, OCTOBER 27, 2000  
**TIME:** 9:00 A.M.  
**PLACE:** KAUAI VETERANS CENTER  
3215 KAPULE HIGHWAY, SUITE 1  
LIHUE, KAUAI, HI 96766

Chairperson Timothy Johns called the meeting of the Board of Land and Natural Resources to order at 9:10 a.m. The following were in attendance:

**MEMBERS:**

Mr. Timothy Johns  
Ms. Lynn McCrory  
Mr. Russell Kokubun

Mr. William Kennison  
Ms. Kathryn Inouye

**STAFF:**

Mr. Dean Uchida, Land Division  
Mr. Howard Gehring, Division of Boating  
and Ocean Recreation (DOBOR)  
Mr. Randy Honjo, DOBOR

Mr. Sam Lee, Land Division  
Mr. Mike Laureta, Land Division  
Mr. Carol She', DOBOR

**OTHERS:**

Mr. Allan Kawada, Department of the  
Attorney General  
Mr. Presley Pang, D-10  
Mr. Paul Elia, D-24  
Ms. Stacy Crivello, D-24  
Mr. Steven Lim, D-23  
Mr. Max Graham, D-15  
Ms. Hana Neerings, D-1  
Mr. Kenneth Gray, D-29 & 30  
Mr. Ronald Kouchi, D-29 & 30  
Mr. Scott Zenger, D-29 & 30  
Mr. Joseph Manini, Sr., D-29 & 30

Mr. Peter Garcia, Department of  
Transportation (DOT)  
Ms. Teresa McHugh, D-9  
Mr. Ed Misaki, D-24  
Mr. Kalani Fronda, D-24  
Mr. Craig Furusho, D-25  
Ms. Judy Naumu-Stewart, D-15, 29, 30 & J-1  
Mr. Steven Kai, D-29 & 30  
Mr. Alan Kenneth, D-29 & 30  
Ms. Cheyrl Connett, D-29 & 30  
Mr. Wally Johnson, D-29 & 30  
Mr. Noel Akamu, D-29 & 30

Mr. Rob Ferreira, D-29 & 30  
Mr. Edward Tschupp, D-29 & 30  
Ms. Amy Audrey, D-29 & 30  
Mr. Jeff Chandler, D-29, 30 & J-1  
Mr. Raymond Chuan, J-1  
Mr. Brian Lansing, J-1  
Mrs. Stephanie Butler, J-1  
Ms. Makaala Kaaumoana, J-1  
Ms. Barbara Bennett, J-1  
Ms. Portia Cochran, J-1  
Mr. Eric Butler, J-1  
Mr. Michael Kuboi, J-1  
Mr. Peter Somers, D-14  
Mr. Dan Yasui, D-7

Mr. Ernie Dias, D-29 & 30  
Mr. Greg Holsten, D-29 & 30  
Ms. Lluwella Zablan, D-29 & 30  
Mr. Jim Coon, J-1  
Mr. Michael Sheehan, J-1  
Mr. John White, J-1  
Mr. Robert Butler, J-1  
Mr. Ralph Young, J-1  
Mr. Dave Taylor, J-1  
Ms. Amy Marvin, J-1  
Mrs. Linda Chandler, J-1  
Mr. Keith Douglas, D-13  
Mr. Mark Jeffers, D-2

**ITEM A-2: APPROVAL OF THE SEPTEMBER 8, 2000 MINUTES**

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

**ITEM K-4: RESUBMITTAL: ISSUANCE OF AN IN-BOND (DUTY-FREE) CONCESSION AT HONOLULU INTERNATIONAL AIRPORT, OAHU, KAHULUI AIRPORT, MAUI, HILO AND KONA INTERNATIONAL AIRPORTS, ISLAND OF HAWAII, AND LIHUE AIRPORT, KAUAI, TMKS: (1)-1-1-03P, (2)-3-8-01-19P, (3)-2-1-12-9P, (3)-7-3-43-1P, (4)-3-5-01-8P (TO BE DISTRIBUTED)**

Mr. Peter Garcia, Property Management Officer for DOT, recommended that the Board authorize the proposed amendments and for the DOT to proceed to call, as amended, for sealed tenders, subject to (1) such other terms and conditions as may be required by the Director of Transportation and (2) the review and approval of the Department of Attorney General.

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

**ITEM K-1: ISSUANCE OF A LEASE TO FEDERAL AVIATION ADMINISTRATION FOR AN INSTRUMENT LANDING SYSTEM AT KONA INTERNATIONAL AIRPORT AT KEAHOE, ISLAND OF HAWAII, TMK: (3)-7-3-43**

Mr. Garcia briefed the Board and recommended that the Board approve the lease to Federal Aviation Administration.

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

**ITEM K-2: CONSENT TO SUBLEASE, HONOLULU INTERNATIONAL AIRPORT, OAHU (JAPAN AIR LINES COMPANY, LTD./IASCO), TMK: (1)-1-1-03-66P**

Mr. Garcia briefed the Board and recommended that the Board consent to the sublease between Japan Air Lines Company, Ltd., and IASCO, based on standard conditions.

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

**ITEM K-3: REPORT ON REVOCABLE PERMITS ISSUED OR RENEWED BY DOT FOR CONSISTENT USES**

Mr. Garcia indicated that this is a report and need not be acted upon by the Board.

**No action.**

**ITEM D-10: LEASE PURCHASE OF THE NO. 1 CAPITOL DISTRICT PROPERTY (FORMER HEMMETER HEADQUARTERS) AND EVENTUAL SET ASIDE OF SAME TO THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES (DAGS), HONOLULU, OAHU, TMK: 2-1-17:1**

Mr. Dean Uchida, Administrator for the Land Division, briefed the Board and recommended that the Board authorize the Chairperson to acquire and set aside the property to DAGS for State office space, subject to standard conditions.

Mr. Presley Pang, Department of Attorney General, Legal Advisor for DAGS, testified in favor of staff's recommendation.

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

**ITEM D-9: CONSERVATION DISTRICT USE APPLICATION (CDUA) NO. KA-3001 FOR THE SUBDIVISION OF PRIVATE LAND AT LUMAHAI BEACH, WAIKOKO, HALELEA, KAUAI**

Mr. Uchida briefed the Board and recommended that the Board approve this application for the subdivision of land at Lumahai Beach, subject to 8 conditions.

Ms. Teresa McHugh, The Trust for Public Land, testified in favor of staff's recommendation.

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

**ITEM D-24: CDUA NO. MO-2986 AND MANAGEMENT PLAN FOR 5.5 MILES OF FENCING, LANDSCAPING AND WATERSHED ECOSYSTEM RESEARCH AND MONITORING AT KAMALO, KAPUALEI AND KAAPAHU, MOLOKAI**

Mr. Uchida briefed the Board and recommended that the Board approve this application and management plan for 5.5 miles of fencing, landscaping and watershed ecosystem research on Molokai, subject to 21 conditions.

Mr. Paul Elia, Applicant, was present to answer questions.

Mr. Ed Misaki, Director of The Nature Conservancy, gave some background information and testified in favor of this project.

Ms. Stacy Crivello, President of Keapuni Lokahi, Enterprise Zone Board Committee, testified in support of the fencing project for the restoration of their environment and the preservation of their culture.

Mr. Kalani Fronda, Kamehameha Schools/Bishop Estate, Landowners, testified in support of the project for the following reasons: 1) highly endorsed by the Molokai Community; 2) it will assist the community in saving the watershed from further destruction of the vegetation, which also causes erosion and runoff; 3) it will be beneficial to the community by creating hunting programs and in return helping to reduce the number of feral animals that are damaging the lands and vegetation; and 4) it will allow for re-growth of the vegetation.

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

**ITEM D-23: WB KUKIO RESORTS, LLC – AMEND PRIOR BOARD APPROVAL IN PRINCIPLE AND ISSUANCE OF A CONSTRUCTION RIGHT-OF-ENTRY, KIKAUA POINT, KUKIO 1<sup>ST</sup>, NORTH KONA, HAWAII; TMK: (3) 7-2-04: PORTION OF 05**

Member Inouye recused herself.

Mr. Uchida briefed the Board and recommended that the Board amend prior action of November 22, 1991, by deleting and replacing Recommendations A and B; all references to Huehue Ranch Associates, L.P. in the subject action shall be deleted and replaced with WB Kukio Resorts, LLC; and approve the Management Plan.

Chairperson Johns noted that a letter dated October 24, 2000 was received from Mr. Ralston Nagata, Administrator of the Division of State Parks, indicating that they find the Draft Management Plan Rules and Regulations acceptable.

Mr. Steven Lim, representing WB Kukio Resorts, LLC, was present to answer questions.

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

**ITEM D-25: CONSENT TO ASSIGN GENERAL LEASE (GL) NO. S-5387, MR. FALEAGAFULU M. TUAOLO, ASSIGNOR, TO MR. JOHN CAMPBELL, ASSIGNEE, WAIMANALO, KOOLAUPOKO, OAHU, TMK: 4-1-10: 26**

Mr. Uchida amended the staff recommendation to include condition no. 5 to read as follows: "5. That the lessee pay all back real property taxes owed the City and County of Honolulu prior to completing the assignment." Staff's recommendation is that the Board consent to the assignment of GL No. S-5387 from Mr. Tualo, to Mr. Campbell, subject to 5 conditions.

Mr. Craig Furusho, Attorney for Mr. Tualo, testified in favor of staff's amended recommendation.

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

**ITEM D-15: AMEND PRIOR BOARD ACTION OF JANUARY 16, 1998 (ITEM D-36) AUTHORIZING THE GRANT OF PERPETUAL NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT, WAIOLI, HANAIEI, KAUAL, TMK: 55-8: POR. 2 AND 5-6-2: POR. 1, AND ISSUANCE OF CONSTRUCTION RIGHT-OF-ENTRY**

Mr. Uchida briefed the Board and recommended that the Board amend prior action of January 16, 1998 by permitting the variable easement width as may be necessary to permit engineering considerations not previously considered, and authorize the issuance of an immediate right-of-entry for construction purposes, subject to conditions.

Mr. Max Graham, representing the Applicants, the Kobayashi Family, gave some background information about the easement and testified in favor of staff's recommendation.

Ms. Judy Naumu-Stewart, President of the Kekaha Hawaiian Homestead Association, testified against the easement.

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

**ITEM D-3: CONSENT TO ASSIGN PERPETUAL, NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT [L.O.D. NO. S-27947], ONAU, MAKAWAO, MAUI, TMK: (2) 2-1-06: POR. 77**

Mr. Uchida briefed the Board and recommended that the Board consent to the assignment from Mr. Ronald and Mrs. Miriam Jacinthos, to Mr. Stephen Sybesma, subject to standard conditions.

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

**ITEM D-1: RESCIND PRIOR BOARD ACTION OF AUGUST 11, 2000, AGENDA ITEM D-3, FOR THE FORFEITURE OF GL NO. S-5098, LOT 83, PUU KA PELE PARK LOTS, WAIMEA (KONA), KAUAI, HAWAII, TMK: 1-4-2: 81**

Mr. Uchida briefed the Board and recommended that the Board rescind its action of August 11, 2000, subject to standard conditions.

Ms. Hana Neerings, lessee, was present to answer questions.

Member McCrory amended the staff recommendation by adding the following:

- C. That the replacement performance bond be submitted within 30-days of this action.
- D. That should any other default occur, the lease will be automatically terminated with no further action being required of the Board.

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

**ITEM D-29: ISSUANCE OF REVOCABLE PERMITS TO CONTROLLED ENVIRONMENT AQUACULTURE TECHNOLOGY, INC., NOVARTIS SEEDS, INC., PIONEER HI-BRED INTERNATIONAL, INC., GAY & ROBINSON, INC., AND MR. WALLY JOHNSON, PORTION OF GOVERNMENT LANDS OF WAIMEA (KONA), (INCLUDING HAWAIIAN HOME LANDS), KAUAI, TMK: 1-2-2: 1 AND 23, AND ISSUANCE OF IMMEDIATE RIGHT-OF-ENTRY**

**ITEM D-30: ISSUANCE OF REVOCABLE PERMIT TO A COALITION COMPRISED OF CONTROLLED ENVIRONMENT AQUACULTURE TECHNOLOGY, INC., NOVARTIS SEEDS, INC., PIONEER HI-BRED INTERNATIONAL, INC., GAY & ROBINSON, INC., AND MR. WALLY JOHNSON, FOR 1) THE OPERATION AND MAINTENANCE OF A PORTION OF AN EXISTING WATER TRANSPORTATION SYSTEM, AND 2) TAKING WATER FROM WITHIN THE KOKEE AND KEKAHA DITCHES, PORTION OF GOVERNMENT LANDS OF WAIMEA (KONA), (INCLUDING HAWAIIAN HOME LANDS), KAUAI, TMK: 1-2-2: 1 AND 23, AND ISSUANCE OF IMMEDIATE RIGHT-OF-ENTRY**

Mr. Uchida explained that staff has worked very diligently with all the various stakeholders in trying to come up with a solution to provide some transition as they move from the existing operation to some other form of agriculture. Considering the deadline of November 17, 2000 given by Amfac,

staff is confident that this is at least one way of trying to come up with some mechanism to assist in the transition. He asked for the Board's understanding in the complexity of the issues being dealt with and staff's limited tools to try and adjust these problems, and for consideration in trying to be flexible in allowing them to deal with the problems on an ongoing basis. Staff's recommendation is that the Board issue revocable permits to Controlled Environment Aquaculture Technology, Inc., Novartis Seeds, Inc., Pioneer Hi-Bred International, Inc., Gay & Robinson, Inc., and Mr. Wally Johnson, subject to conditions.

Chairperson Johns noted that written testimony was received from Amfac Land Company, Kauai Division; Chairman of the Hawaiian Homes Commission; Kauai Council Member Daryl Kaneshiro; Kauai Council Chair Ronald Kouchi; and U.S. Department of the Navy, Pacific Division.

In response to a question raised by Member McCrory regarding the Department of Hawaiian Homelands existing use of the irrigation system, Mr. Uchida indicated that there are probably other users of the system that have not been recognized. Staff is trying to address the different users and at some point come back to the Board with a more comprehensive look.

Mr. Steven Kai, Pioneer Hi-Bred International, Inc., and Mr. Kenneth Gray, Novartis Seeds, Inc., both described the coalitions plans in maintaining the irrigation system.

Mr. Alan Kenneth, Gay & Robinson, Inc., clarified some of the concerns and issues that the coalition is working out.

Mr. Ronald Kouchi, Kauai Council Chair, read through written testimony in support of Items D-29 and 30.

Ms. Cheyrl Connett, representing the U.S. Department of the Navy, Pacific Division, and Mr. Scott Zenger, representing the U.S. Department of the Navy, Pacific Missile Range Facility, were both present to answer questions. Ms. Connett explained their request with regard to the maintenance of the drainage system on a short-term basis.

Mr. Wally Johnson testified in support of this project and other projects that need to be initiated later. He urged the Board to issue the revocable permits.

Mr. Joseph Manini Sr., Taro Farmer and Hawaiian Homelands Beneficiary of Waimea, expressed his concerns about the water situation relating to Item D-30.

Mr. Noel Akamu, Land Agent for the Department of Hawaiian Homelands, indicated that they are concerned about the water, as Mr. Manini is, of being able to sustain the level and continue the use that they have been for years. Another concern is that they be a party to any long term planning that goes on.

Ms. Naumu-Stewart, Hawaiian Homelands Beneficiary, felt that the Department of Hawaiian Homelands and DLNR was in breach because Native Hawaiians were not consulted and not allowed input on this project.

Mr. Rob Ferreira testified in support of this project.

Mr. Ernie Dias, Controlled Environment Aquaculture Technology, Inc., explained the goals of the coalition and indicated that they are actively working on trying to resolve issues.

Mr. Edward Tschupp, County of Kauai, Department of Water, indicated that they have been in discussions with staff and Amfac regarding the domestic water system currently servicing customers in the Kekaha area.

A resident of Kekaha brought up issues regarding the clean-up and an environmental study that he felt still needs to be addressed by Amfac. The resident was encouraged to provide any additional information regarding liabilities during Amfac's tenure to staff because of on-going negotiations.

Mr. Greg Holsten requested that a small portion of the land be designated for people in the community who qualify or are interested.

Ms. Amy Audrey indicated her interest in developing a vineyard in Kokee, and her desire to be included in the long range planning of this project.

Ms. Lluwella Zablan was concerned about an article in the advertiser regarding agriculture loan programs.

Mr. Jeff Chandler was concerned about Native Hawaiians water rights.

The Board commended Mr. Sam Lee, Kauai District Land Agent, and Mr. Mike Laureta, Kauai Land Agent, for the amount of time, energy, and effort spent in putting this plan together.

**Items D-29 and D-30 were unanimously approved as submitted (McCrory/Kennison).**

The Board recessed at 11:45 a.m. The meeting was reconvened at 11:55 a.m.

**ITEM J-1: REQUEST THAT THE LAND BOARD ADOPT THE PROPOSED AMENDMENT TO HAWAII ADMINISTRATIVE RULES, SECTION 13-256-36, USE OF COMMERCIAL VESSELS AT THE HANAIEI RIVER MOUTH AND ANINI BEACH LAUNCHING RAMP**

Member McCrory recused herself.

Mr. Howard Gehring, Acting Administrator for DOBOR, explained that the proposed rule amendment would no longer allow commercial vessels, except for kayaks, to operate from the Hanalei River Mouth. The amendment also clarifies that this rule covers not only Hanalei River mouth but also the entire Hanalei River and Hanalei Bay ocean waters. A public hearing was held



on June 26, 2000 to receive testimony on the proposed amended rule. After reviewing the verbal and written testimony, as well as taking into consideration all previous feedback on this subject, the DOBOR has not made any substantive changes to the proposed rule amendment. Staff's recommendation is that the Board adopt the proposed amendment to the Hawaii Administrative Rules, Section 13-256-36, subject to approval by the Governor.

Mr. Jim Coon, Chairman, DLNR Subcommittee, Small Business Regulatory Review Board, submitted written testimony in opposition to the adoption of the proposed rule amendment. He requested that the Board, in the spirit of Act 168 and Administrative Directive 99-02, direct DOBOR to amend the rules to "grandfather" the five existing permit holders.

Mr. Raymond Chuan, President of the Limu Coalition, testified in support of staff's recommendation and repeated the coalition's position, that they have no objection to a phasing out period for the existing permit holders. He emphasized that this is a cultural issue and that some things should be left for the people of Kauai.

Mr. Michael Sheehan, Owner of Sheehan's Boatyard, submitted written testimony in opposition to staff's recommendation and expressed his disappointment in the State putting him out of business by depriving him of his clients. He made a verbal request for a contested case hearing. {See page 10, paragraphs 10 and 11.}

Mr. Brian Lansing, Co-owner of Whitey's Boat Cruises, testified against putting the existing permit holders out of business. He believed that they could be exempt from the new rules, or grandfathered in.

Mr. John White, Co-owner of Whitey's Boat Cruises, testified against staff's recommendation. He request the Board's consideration in letting them stay in operation.

Mrs. Stephanie Butler, Captain Sundown, testified on behalf of her husband in opposition to staff's recommendation, and presented a petition of 2000 signatures of the citizens of Kauai in favor of the existing commercial vessel operations in Hanalei. She urged the Board to not accept the staff's proposed amendments, which would effect their family, business, and livelihood.

Mr. Robert Butler, Owner of Captain Sundown, indicated that the community is not against their commercial operation, that there is no justification to wipe out their business, and that there is plenty precedent to exempt businesses like theirs when there is a decision to put a cap on the use of the resource.

Ms. Makaala Kaaumoana testified in support of staff's recommendation for the proposed rule change.

Chairperson Johns noted that written testimony was received from Mr. Roy Shimonishi of the Small Business Regulatory Review Board, in accordance with Mr. Coon's earlier testimony, and from Mr. Dennis Niles of Paul Johnson Park & Niles in opposition to the adoption of the proposed rule amendments.

Mr. Ralph Young, Owner of Hanalei Sport Fishing and Tours, felt that the proposed amendment to exterminate his long-term family business is not only illegal but unnecessary and unfair. He urged the Board to vote against staff's recommendation.

Ms. Barbara Bennett, Resident of Kauai, and Employee of the Tourist Industry for the past 25 years, testified on the increased drownings on the North Shore since the diminishing of the boating industry. She believed that the guardians of the waters, the safety net created by the State, will no longer exist if the remaining boat operations are closed down.

Mr. Dave Taylor felt that by shutting down businesses that operate within the permit guidelines and who are in good standing with the community is wrong.

Ms. Portia Cochran, daughter of Mr. and Mrs. Butler, testified in opposition to staff's recommendation, and urged the Board to do the right thing for her families future and livelihood.

Mr. Eric Butler, son of Mr. and Mrs. Butler, testified against staff's recommendation.

Ms. Naumu-Stewart testified in favor of staff's recommendation. Her concern was the pollution caused by tour boats in Hanalei.

Mrs. Linda Chandler testified in favor of staff's recommendation. Her concern was that the existing permits were not intended to be grandfathered in.

Mr. Chandler, Chair of Hui Hoomalu I Ka Aina, testified in support of staff's recommendation to approve the proposed amendments, and to finally bring closure to this issue. He believed that everyone knew things were going down and that the existing permit holders should have found other places.

Mr. Michael Kuboi testified in favor of staff's recommendation.

**A motion was made at 2:15 p.m. to move into executive session to consult with legal counsel regarding rights to a contested case hearing (Kennison/Kokubun). The meeting was reconvened at 2:30 p.m.**

The Board was advised by legal counsel that a contested case hearing is not available according to law. The rule however, can be challenged through another process described in Chapter 91, Hawaii Revised Statutes.

Member Kokubun, newest member of the Board, stated that this has been one of the toughest issues he had to face, especially when it deals with people's livelihood and how their personal lives could be effected. He made a motion to approve staff's recommendation, based on his belief that the Board has a public resource that needs to be protected. He added that there are different opinions on how the resource is being effected, and as advised by the Attorney General, there are legal remedies available for those who are not happy with the Board's decision.

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

Based on confusion regarding the possibility in the future by rulemaking process that things could be changed, Chairperson Johns indicated that any implication that there is going to be a re-opening of the issue is not correct, there are no plans for DLNR to re-open commercial motorized boating. These proposed amendments will now be forwarded to the Attorney Generals for review, and then ultimately to the Governor's for approval.

**ITEM D-13: GRANT OF TERM, NON-EXCLUSIVE EASEMENT TO MR. KEITH SCOTT AND MRS. BONNIE MAY DOUGLAS FOR WATERLINE PURPOSES, KAILUA, MAKAWAO, MAUI, TMK: (2) 2-9-11: POR. 8**

Mr. Uchida briefed the Board and recommended that the Board authorize the issuance of an easement to the Applicants, subject to standard conditions.

Mr. Keith Douglas was present to answer questions.

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

**ITEM D-14: SELL TO THE COUNTY OF KAUAI, DEPARTMENT OF PUBLIC WORKS FOR ROAD PURPOSES, PORTION MIHI ROAD, POR. KILAUEA & KAHILI, HANAIEI, KAUAI, TMK: 5-2-4 POR. 40**

Mr. Uchida briefed the Board and recommended that the Board authorize the direct sale to the County of Kauai for a portion of Mihi Road, subject to standard conditions.

Mr. Peter Somers, adjacent property owner, and representative of the Seacliff Plantation Community Association, supported the County of Kauai obtaining the land, and expressed his concern regarding the present use of the property by several telecommunication antennas.

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

**ITEM D-2: FORFEITURE OF GL NO. S-5522, THE STORYBOOK THEATRE OF HAWAII, LESSEE, LOT 21-A, HANAPEPE, WAIMEA (KONA), KAUAI, TMK: 1-9-5: 41**

Mr. Uchida briefed the Board and recommended that the Board authorize the cancellation of GL No. S-5522, subject to standard conditions.

Mr. Mark Jeffers, Executive Director of The Storybook Theatre of Hawaii, requested that this item be deferred for 6-months to allow time for them to secure the fire insurance.

Member McCrory was concerned that within 2 years, substantial repairs and renovations have not yet commenced. She amended the staff recommendation to read as follows:

“That the Board allow the lessee three (3) months from the date of this action to secure the required fire insurance, should the lessee fail to secure the required fire insurance within the three (3) month period, the Board:

1. Authorize the cancellation of GL No. S-5522 in the matter specified...”

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

**ITEM D-7: STATEWIDE CDUA FOR SMALL-SCALE BEACH NOURISHMENT PROJECTS ON HAWAIIAN BEACHES**

Mr. Uchida briefed the Board and recommended that the Board approve this statewide application to permit small-scale beach nourishment projects, subject to 30 conditions.

Mr. Dan Yasui, Alexander & Baldwin, testified in support of staff's recommendation.

Member McCrory amended staff's recommendation to include the following:

31. The application process shall include a requirement that the applicant notify all abutting property owners and community organization that may be affected by the proposed action. In addition, each of the property owners and community organizations shall be notified of the time, date and place that the Board will review the proposed application.

32. That the processing fees for Category II permits be increased to \$250.00.

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

The Board recessed at 2:55 p.m. The meeting was reconvened at 3:05 p.m.

**ITEM D-4: APPOINTMENT AND SELECTION OF A HEARING OFFICER TO CONDUCT ALL HEARINGS FOR VARIOUS PETITIONS FOR CONTESTED CASE HEARING**

Mr. Uchida briefed the Board and recommended that the Board authorize the appointment of a Hearing Officer to conduct the contested case hearings.

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

**ITEM A-1: APPROVAL OF THE AUGUST 11, 2000 MINUTES**

Member Inouye recused herself.

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

**ITEM A-3: APPROVAL OF THE SEPTEMBER 22, 2000 MINUTES**

Member McCrory recused herself.

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

**ITEM D-5: WITHDRAWAL FROM GOVERNOR'S EXECUTIVE ORDERS NO. 1757 AND 2993 AND RESET ASIDE TO WATER COMMISSION OF THE COUNTY OF HAWAII, FOR TANK SITE AND BOOSTER PUMP SITE, ONOULI 1<sup>ST</sup>, SOUTH KONA, ISLAND OF HAWAII; TMK: (3) 8-1-5: 11 & 13**

Mr. Uchida briefed the Board and recommended that the Board withdraw from executive order and set aside the subject lands and easement to the Water Commission of the County of Hawaii, subject to standard conditions.

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

**ITEM D-6: ISSUANCE OF REVOCABLE PERMIT TO MR. GEORGE SANTOS, HONOMU HOMESTEADS, SOUTH HILO, HAWAII, TMK: (3) 2-8-10: 03**

Mr. Uchida briefed the Board and recommended that the Board authorize the issuance of a revocable permit to Mr. Santos, subject to standard conditions.

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

**ITEM D-8: SET ASIDE TO DEPARTMENT OF EDUCATION FOR PUBLIC EDUCATION PURPOSES AND MANAGEMENT RIGHT-OF-ENTRY, WAIMALU, OAHU, TMK: (1) 9-8-13: 28**

Mr. Uchida briefed the Board and recommended that the Board issue an executive order setting aside the subject lands, and issue a management right-of-entry, to the Department of Education, subject to standard condition.

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

**ITEM D-11: SALE OF RIGHT-OF-WAYS TO THE COUNTY OF HAWAII, DEPARTMENT OF PUBLIC WORKS AND ISSUANCE OF A CONSTRUCTION RIGHT-OF-ENTRY, FOR ITS KAUMANA DRIVE CURVE IMPROVEMENT PROJECT AT KAUMANA AND KUKUAU 2<sup>ND</sup>, SOUTH HILO, HAWAII, TMK: (3) 2-5-06: PORTION OF 141 AND 2-5-27: PORTION OF 15**

Mr. Uchida briefed the Board and recommended that the Board authorize the sale of right-of-ways to the County of Hawaii for road purposes, subject to standard conditions.

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

**ITEM D-12: CONSENT TO ASSIGN GRANT OF EASEMENT NO. 5123, MR. CARL PICK AND MR. DONALD EOVIINO, ASSIGNORS, TO MAKALEI VENTURES LLC, ASSIGNEE, HONOLULU, OAHU, TMK; (1) 3-1-35: PORTION 23**

Mr. Uchida amended the staff recommendation by correcting the spelling of the applicant from "MakaMakalei Venture LLC", to "Makalei Venture LLC". Staff's recommendation is that the Board consent to the assignment of grant of easement, subject to standard conditions.

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

**ITEM D-16: AMEND PRIOR BOARD ACTION FOR ISSUANCE OF DEED TO CITY AND COUNTY OF HONOLULU FOR ROADWAY WIDENING PURPOSES AT KALIHI-KAI, OAHU, TMK: (1) 1-2-26: POR. 32**

Mr. Uchida briefed the Board and recommended that the Board amend prior Board action of October 13, 2000, by withdrawing from Governor's Executive Order No. 3511.

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

**ITEM D-17: ISSUANCE OF REVOCABLE PERMIT TO MR. JERRY EGAMI FOR PASTURE PURPOSES, MOAULA, KOPU AND MAKAKA, KAU, HAWAII, TMK: (3) 9-6-02: 10, POR. OF 5 & 13**

Mr. Uchida briefed the Board and recommended that the Board authorize the issuance of revocable permit for pasture purposes and authorize the issuance of a construction right-of-entry for the purposes of installing fencing to Mr. Egami, subject to standard conditions.

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

**ITEM D-18: TERMINATION OF REVOCABLE PERMIT NO. S-5361 AND ISSUANCE OF PERPETUAL EASEMENT TO THE HARRY AND JEANETTE WEINBERG FOUNDATION FOR ROAD ACCESS PURPOSES, SITUATE KALIHI-KAI, HONOLULU, OAHU, TMK: 1-2-21: 38**

Mr. Uchida briefed the Board and recommended that the Board cancel the existing permit and authorize the issuance of a perpetual non-exclusive easement, subject to standard conditions.

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

**ITEM D-19: RESCIND PRIOR BOARD ACTION FOR CONSENT TO THE ASSIGNMENT OF GL NO. S-3811 ISSUED TO CONSOLIDATED AMUSEMENT CO., LTD. AT EWA, OAHU, TMK: (1) 9-8-13-15**

Mr. Uchida briefed the Board and recommended that the Board rescind prior Board action of June 23, 1995.

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

**ITEM D-20: AFTER-THE-FACT EXTENSION OF LEASE TERM FOR GL NO. S-4259, UNITED STATES OF AMERICA, DEPARTMENT OF THE ARMY, WAIMEA (KONA), KAUAI, HAWAII, TMK: 1-2-1:9**

Mr. Uchida briefed the Board and recommended that the Board authorize an after-the-fact lease extension to the Department of the Army, subject to standard conditions.

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

**ITEM D-21: CONSENT TO ASSIGNMENT OF GL NO. S-3169, MS. BARBA BEAVEN, ASSIGNOR, TO MR. HUGH H. WILLOCKS, TRUSTEE OF THE HUGH H. WILLOCKS REVOCABLE LIVING TRUST AND MS. MARY M. WILLOCKS, TRUSTEE OF THE MARY M. WILLOCKS REVOCABLE LIVING TRUST, ASSIGNEE, WAIAKEA, SOUTH HILO, HAWAII, TMK: (3) 2-1-7: 35**

Mr. Uchida briefed the Board and recommended that the Board consent to the assignment of the lease, subject to standard conditions.

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

**ITEM D-22: EXTENSION OF PROCESSING PERIOD – CDUA NO. OA-2979 FOR THE POUHALA MARSH HABITAT RESTORATION PROJECT, PEARL HARBOR, OAHU**

Chairperson Johns recused himself. Member Kennison presided.

Mr. Uchida briefed the Board and recommended that the Board approve an extension of 180-days to the processing period of the subject CDUA.

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

**ITEM D-26: APPOINTMENT AND SELECTION OF A HEARING OFFICER TO CONDUCT ALL HEARINGS FOR VARIOUS PETITIONS FOR A CONTESTED CASE HEARING – DOCKET NO. 01-01-OA A PETITION CONTESTING BOARD DENIAL OF CDUA OA-2926/OA-2964 FOR A SINGLE-FAMILY RESIDENCE, KANEOHE, OAHU, TMK: (1) 4-7-45: 21**

This item was a duplicate of Item D-4.

**Withdrawn (Inouye/McCrory).**

**ITEM D-27: CDUA FOR MCBEATH SINGLE FAMILY RESIDENCE AT HAENA, KAUAI**

Mr. Uchida briefed the Board and recommended that the Board approve this application to construct a single-family residence, subject to 22 conditions.

Member McCrory requested that this item be deferred because she had questions of the applicant who was not present. She also questioned whether a response was received from the Hanalei Community Association.

Member Kokubun asked that the maximum house size for the property be clarified when this item is brought back to the Board.

**Deferred (McCrory/Kennison).**

**ITEM D-28: REQUEST EXTENSION OF DEADLINE TO RESOLVE ENCROACHMENT ON STATE OWNED LANDS AT THE WAIKOLOA HOTEL, WAIKOLOA, HAWAII; TMK: OFFSHORE OF 6-9-7:1**

Mr. Uchida briefed the Board and recommended that the Board extend the 30-day deadline, up to the November 17, 2000 Board meeting, to allow the Department to conduct further negotiations with the parties.



Unanimously approved as submitted (Kokubun/Kennison).

**EXECUTIVE MEETING**

**IN THE MATTER OF THE WATER USE PERMIT APPLICATIONS, PETITIONS FOR INTERIM INSTREAM FLOW STANDARD AMENDMENTS, AND PETITIONS FOR WATER RESERVATIONS FOR THE WAIHOLE DITCH COMBINED CONTESTED CASE HEARING. SUPREME COURT NO. 21308 (AUGUST 22, 2000), DLNR'S CONTINUED PARTICIPATION AS A PARTY IN THE REMANDED CASE CURRENTLY PENDING AT THE COMMISSION ON WATER RESOURCE MANAGEMENT. THE BOARD WILL MEET IN AN EXECUTIVE MEETING UNDER SECTION 92-4, HRS, TO CONSULT WITH ITS LEGAL COUNSEL ON QUESTIONS AND ISSUES PERTAINING TO THE BOARD'S POWERS, DUTIES, PRIVILEGES, IMMUNITIES, AND LIABILITIES IN THE CASE PURSUANT TO SECTION 92-5(a)(4), HRS.**

Chairperson, recused himself. Member Kennison presided.

A motion was made at 3:20 p.m. to move into executive session (Inouye/McCrory). The meeting was reconvened at 3:25 p.m.

A motion was made to withdraw DLNR as a party to the Waiahole Ditch Contested Case Hearing. Unanimously approved (Inouye/McCrory).

There being no further business, Chairperson Johns adjourned the meeting at 3:27 p.m.

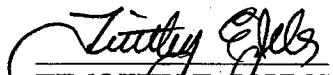
Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Kimberly C. Keliihoomalu

Approval for submittal:



TIMOTHY E. JOHNS  
Chairperson

Board of Land and Natural Resources

