

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

DATE: FRIDAY, DECEMBER 15, 2000  
TIME: 9:00 A.M.  
PLACE: HAWAII COUNTY ECONOMIC  
OPPORTUNITY COUNCIL  
47 RAINBOW DRIVE, BUILDING A  
HILO, HI 96720

Chairperson Timothy Johns called the meeting of the Board of Land and Natural Resources to order at 9:15 a.m. The following were in attendance:

**MEMBERS:**

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

**STAFF:**

Mr. Dean Uchida, Land Division	Mr. Howard Gehring, Division of Boating and Ocean Recreation
Mr. Ralston Nagata, Division of State Parks	
Ms. Athline Clark, Division of Aquatic Resources	

**OTHERS:**

Mr. Edsel Yamada, Department of the Attorney General	Mr. Peter Garcia, Department of Transportation	Mr. Richard Takase, D-20
Mr. Everett Kaneshige, D-18	Mr. Randy Vitousek, D-1	Ms. Teresa McHugh, D-32
Ms. Malama Solomon, D-26	Ms. Jill Andrade, D-26	Mr. Alfredo Lee, D-26
Mr. Bob Shioji, D-26	Mr. Walker Sanders, D-26	Mr. Woody Ramos, D-26
Mr. Dave Shibuya, D-12	Mr. Craig Chapman, E-4	Mr. Alfred Galimba, D-24
Mr. Matt Carter, D-28	Mr. Sunny Takeishi, D-28	Mr. Walter Heen, D-28
Mr. Ed Stevens, D-28	Mr. Noboru Kobayashi, D-28	Mr. Kurt Wakimoto, D-28
Mr. Rob Pacheco, D-28	Mr. Doug Arnott, D-28	Mr. Ron Koehler, D-28
Mr. Buck Pelkey, D-28	Mr. Henry Ferguson, D-28&19	Mr. Seth Blume, D-28
Ms. Ronnie Grover, E-3	Mr. Clarence Greff, E-3	Mr. Tom Haggerty, E-3
Mr. Carl Christensen, D-19	Mr. Mervin Napeahi, D-19	Ms. Leimana Damate, D-19
Mr. Keith Avery, D-22	Mr. Patrick McIntire, D-31	Mr. Kanani Brown, D-23
Mr. Randolph Cabral D-3	Mr. George Bellencourt, D-29	Ms. Kim Starr, D-31
Mr. William Kalawaianui, D-1, D-9, D-13, D-15, D-17, D-19, D-22, D-28, D-29, K-1 & K-5		Mr. Christopher Norrie, D-13

Chairperson Johns recognized former Hawaii Member Russell Kokubun who has served on the Land Board for the past 2 years. Member Kokubun had recently been appointed by the Governor to the State Senate to fill the vacancy for the 3<sup>rd</sup> Senatorial District, his support and knowledge on the Board will be missed.

Member Matsumoto indicated that this would be the last Land Board meeting Chairperson Johns will be presiding over. On behalf of the rest of the Members, he acknowledged Chairperson Johns, who has also served on the Land Board over the course of the past 2 years, for providing the Board and the Department with excellent leadership and guidance.

**ITEM A-1: APPROVAL OF THE OCTOBER 27, 2000 MINUTES**

**Deferred – no quorum.**

**ITEM D-20: CONSENT TO SECURITY AGREEMENT AND APPROVAL OF SUBORDINATION/ESTOPPEL AGREEMENT, GENERAL LEASE (GL) NO. S-4212, WESTERN APARTMENT SUPPLY & MAINTENANCE CO., DBA MAUI OCEANFRONT INN, ASSIGNEE, KIHAI, WAILUKU, MAUI, TMK: (2) 3-9-04: 29**

Mr. Dean Uchida, Administrator of the Land Division, briefed the Board and recommended that the Board consent to the security agreement, and authorize the execution of a subordination agreement and estoppel certificate, subject to conditions.

Mr. Richard Takase, representing Western Apartment Supply & Maintenance Co., gave the Board an update on this issue and testified in favor of staff's recommendation.

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

**ITEM D-32: REQUEST FOR AUTHORIZATION TO ACQUIRE PRIVATE LAND AND SET ASIDE TO THE DEPARTMENT OF LAND AND NATURAL RESOURCES FOR EAST LUMAHAI BEACH PRESERVE, SITUATE AT WAIKOKO, HALELEA, KAUAI, TMK: (4) 5-6-03: 2**

Mr. Uchida briefed the Board and recommended that the Board approve of and authorize the fee simple acquisition of the land, subject to standard conditions.

Ms. Teresa McHugh, representing The Trust for Public Land, gave some background information and indicated that she was present to answer questions.

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

**ITEM D-18: AFTER-THE-FACT GRANT OF A PERPETUAL, NON-EXCLUSIVE EASEMENT TO GST TELECOM HAWAII, INC. AND TIME WARNER TELECOM OF HAWAII, L.P. DBA OCEANIC COMMUNICATION FOR INSTALLING AND MAINTAINING A STATEWIDE SUBMARINE FIBER OPTIC TELECOMMUNICATION CABLE OVER, UNDER, ACROSS AND ON FAST AND SUBMERGED GOVERNMENT LANDS**

Mr. Uchida indicated that there was a request by the Director of the Department of Commerce and Consumer Affairs to defer this item until they have an opportunity to discuss the terms and conditions regarding this easement with the Applicant, the Department of Accounting and General Services, Information and Communication Services Division, and the Governor's Office.

Mr. Everett Kaneshige, representing GST Telecom Hawaii, Inc., indicated that they had not been contacted by the Department of Commerce and Consumer Affairs on any matters, and was concerned on the lateness of the deferral request. He stated that any consideration given to expedite this matter would be really appreciated.

Chairperson Johns asked that this item be put on the next Land Board agenda.

**Deferred (Inouye/Matsumoto).**

**ITEM D-1: AUTHORIZE FINAL APPROVAL FOR LAND EXCHANGE BETWEEN THE STATE OF HAWAII AND MR. EARL E. & MRS. DORIS J. BAKKEN, FOR SIX ACRES OF VACANT STATE-OWNED TMK: (3) 7-1-02: POR. 8 [ABUTTING BAKKEN RESIDENCE TMK: (3) 7-1-02: 3] AND BAKKEN-OWNED PROPERTY TMK: (3) 7-1-02:2 [THREE ACRES FORMERLY OWNED BY LORETTA LYNN], PUUWAAWAA, NORTH KONA, HAWAII, AND SET ASIDE TO THE DIVISION OF STATE PARKS**

Mr. Uchida briefed the Board and recommended that the Board approve the land exchange, subject to conditions.

Mr. Randy Vitousek, representing Mr. and Mrs. Bakken, agreed to the conditions as recommended by staff.

Chairperson Johns asked that before the plans are approved to remove the structure on the former Lynn property, that the Chairperson be given an opportunity to review whether or not another user could possibly use the structure.

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

**ITEM D-26: TRANSFER OF LAND PATENT GRANT TO AGRIBUSINESS DEVELOPMENT CORPORATION (ADC) AND ISSUANCE OF A MANAGEMENT AND CONSTRUCTION RIGHT-OF-ENTRY, HAMAKUA, HAWAII, TMKs: 3<sup>RD</sup>/4-5-01: 7 & 13 AND 3<sup>RD</sup>/4-6-02: 01 & 07**

Mr. Uchida briefed the Board and recommended that the Board authorize the transfer of land patent grant and issuance of a management and construction right-of-entry, subject to standard conditions.

Mr. Alfredo Lee, Executive Director of ADC, requested that the word "transfer" under staff recommendation no. 1. a., either be taken out or further defined as the word may restrict or hinder them from subleasing.

Member Matsumoto requested more information regarding ADC's business plan, the term of lease, the timetable in developing and making lands available, and the market evaluation for what's being proposed in the area. He wanted to be sure that the land is put to productive use and that ADC is prepared to implement something within a reasonable time that will insure the purpose for which it will be granted, will be accomplished.

Ms. Malama Solomon, representing her father Mr. Randolph Solomon, indicated that this transfer directly affects them because they are presently leasing the land from the State for the purpose of ranching. She felt that the land, classified as marginal, is conducive for grazing and pasture purposes. She supported the concept of the project, however, felt that a more appropriate and practical plan would be to consolidate the agricultural parcels by looking at the possibility of doing a land exchange with the Bishop Estate. She asked for a deferment of this item, and for the Board's intervention in helping the farmers and the ranchers resolve this issue by trying to pursue a land exchange with the Bishop Estate.

Ms. Jill Andrade, representing J.J. Andrade Slaughterhouse, Inc., indicated that they have invested into the parcel and into their operation. Her concern in using this land for agricultural purposes is the possibility of the ditch system being shut down and the likelihood of water restrictions, ranching does not require as much water as an agriculture operation. She presented a topography map showing the soil classification as marginal.

Mr. Woody Ramos, representing Jack Ramos Ranch, felt the subject lands would not be suitable for farming. He suggested land towards the end of the ditch that would be more appropriate for agricultural purposes.

Mr. Bob Shioji testified in support of the land transfer, and felt that the subject lands are good farmlands. He indicated that they have farmers committed to lease the lands, and asked that they be given the opportunity to farm on these last 4 parcels of State land in Hamakua.

Mr. Walker Sanders, representing Hamakua Coop, testified in favor of the project and addressed some of the issues raised by the ranchers. His main concern was that diversified agriculture is a much higher value use of the public's land than that of pasture use.

The Board deferred action on this item subject to the Board obtaining specific information regarding the proposed development, the proposed use of the property, and the business plan proposed by ADC.

**Deferred (Matsumoto/Kennison)**

**ITEM D-24: MUTUAL TERMINATION OF GL NO. S-5523 AND ISSUANCE OF A REVOCABLE PERMIT TO KUAHIWI CONTRACTORS, INC., HIONAA-KAALA IKI, KAU, HAWAII, TMK: (3) 9-5-15: 003**

Mr. Uchida briefed the Board and recommended that the Board authorize the termination of GL No. S-5523 by mutual agreement and authorize the issuance of a revocable permit to Kuahiwi Contractors Inc., subject to standard conditions.

Mr. Alfred Galimba, President of Kuahiwi Contractors, Inc., testified in favor of staff's recommendation.

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

**ITEM D-12: CONSERVATION DISTRICT USE APPLICATION (CDUA) FOR KAU HAWAIIAN CULTURAL CENTER, PUNALUU KAU, HAWAII, TMK: 3<sup>RD</sup>/9-5-19: 34**

Mr. Uchida briefed the Board and recommended that the Board approve this application for a Kau Hawaiian Cultural Center and consolidation and re-subdivision, subject to 15 conditions.

Mr. Dave Shibuya, President of Hana Laulima Lahui O Kau, Inc., agreed with the staff's recommendations.

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

Chairperson Johns acknowledged Mr. Ralston Nagata, Administrator of the Division of State Parks, who will be retiring at the end of the year.

**ITEM E-4: APPROVAL OF LEASE RENEWAL TO THE FRIENDS OF MALAEKAHANA FOR A PORTION OF THE KAHUKU SECTION OF THE MALAEKAHANA STATE RECREATION AREA, OAHU**

Mr. Nagata briefed the Board and recommended that the Board approve a 1-year lease extension through December 31, 2001.

Mr. Craig Chapman, President of the Friends of Malaekahana, agreed that a 1-year lease extension would be enough time to work on the master plan.

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

**ITEM B-1: REQUEST FOR APPROVAL TO ENTER INTO TWO AGREEMENT WITH THE UNIVERSITY OF HAWAII (UH)**

Ms. Athline Clark, Planner V for the Division of Aquatic Resources, briefed the Board and recommended that the Board authorize the Chairperson to negotiate and, subject to necessary approvals, enter into two agreements with UH during January 15, 2001 - February 1, 2002.

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

**ITEM D-28: ISSUANCE OF ADDITIONAL MAUNA KEA COMMERCIAL PERMITS TO VARIOUS APPLICANTS AND AMEND PRIOR ACTION LIMITING SUMMIT PERMITS AT KAOHE, HAMAKUA, HAWAII, TMK: 3<sup>RD</sup>/4-4-15: 9 & 12**

Mr. Uchida explained that subsequent to staff preparing this submittal, staff has had some discussions with the Interim Director of the UH, Office of Mauna Kea Management (OMKM). OMKM was concerned about adding to the total number of permits, and asked that it not be done at this time, and at the same token realize the need for UH to take a more active role in managing the situation at Mauna Kea. Based on that, staff's recommendation was amended by deleting it in its entirety and replacing it with an amended version that essentially turned over the entire commercial permitting process to UH. Mr. Uchida made a clarification that when the application by Clark Russell Carr dba Island RV was filed, they had originally asked to conduct tours at Puu Poliahu, which the department considered inappropriate. The recommendation for approval was not intended to condone approval of such activity but to grant a permit and allow the UH to control the area and level of permit activity.

Chairperson Johns noted that written testimony was received from Mr. Walter Heen, Interim Director of OMKM dated December 13, 2000, and Mr. Rob Pacheco, President of the Mauna Kea Activities Association dated December 9, 2000.

In response to some of the questions raised by the Board, Mr. Heen clarified that the Board of Regents of the UH approved the Mauna Kea Science Reserve Master Plan in June 2000. He became the Interim Director on August 1, 2000. The Board of Regents of the UH appointed the Mauna Kea Management Board (MKMB) effective October 1, 2000. He indicated that the amended staff recommendation

concorde with their December 13, 2000 letter, and also concords with the concerns of MKMB and OMKM to further the purpose of the plan, ultimately to protect Mauna Kea.

Chairperson Johns requested, if such a presentation has not yet been made to the Board, that a briefing be held concerning the master plan that was approved by the Board of Regents.

Mr. Matt Carter, representing Taiko Bo Hawaii Inc. (existing permittee), requested that if the Board were to decide to hand over the responsibility to UH, that UH work with the 9 existing commercial operators and block all new permits. He also recommended that UH put a 1-year moratorium on any action until they can study this matter fully.

Mr. Ed Stevens, on behalf of Ahahui Ku Mauna, a Hawaiian Cultural Group that views Mauna Kea as a traditional sacred place, submitted written testimony. He urged the Board to deny the application submitted by Clark Russell Carr dba Island RV to conduct commercial tours to the top of Puu Poliahu, and asked for the Board's support in keeping Puu Poliahu free from this kind of activity. He agreed with the staff's amended recommendation that UH begin to exercise control of the area.

Mr. Noboru Kobayashi, President of K-Leap Corporation (new applicant), was present with his Attorney and an Interpreter/General Manager of K-Leap Corporation. His Attorney explained Mr. Kobayashi's main concern, that he is seeking this type of permit to provide access to the summit for mentally challenged individuals, and that he is looking at being able to compete. His Interpreter indicated that Mr. Kobayashi has been waiting for this permit for 16-months and during that time he obtained a contract attempting to send business of mentally challenged individuals wanting to go up to the summit.

Mr. Ron Koehler, General Manager of the Mauna Kea Support Services, Managers of the Ellison Onizuka Visitor Information Center, explained the limitation on capacity at the visitor center. He concurred with the staff's amended recommendation that the permitting process be held up until a viable plan can be put together.

Mr. Rob Pacheco, President of Mauna Kea Activities Association, submitted written testimony in favor of any new permits or applications being forwarded to UH.

Mr. Doug Arnott, representing Arnotts Lodge, submitted written testimony, and supported the staff's amended recommendation to defer any new permits while this volatile situation is evolved.

Mr. Seth Blume, Small Business Operator in Mauna Kea, concurred with the staff's amended recommendation.

Mr. Buck Pelkey, Guide for Paradise Safaris (existing permittee), one of the first tours to do star gazing tours on Mauna Kea, agreed with the staff's amended recommendation to defer the new permits, and to look into this matter more deeply.

Mr. Henry Ferguson, Native Hawaiian Cultural Practitioner, indicated that the Hawaiian Community holds Mauna Kea to be the most sacred spot in Hawaii, and permitting others to further exploit what they hold sacred is a fallacy.

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

That the Board:

- A. Deny granting of all new applications at this time. Refer the applicants to the Office of Mauna Kea Management for consideration in connection with the transfer of the permitting authority;
- B. Authorize the transfer of the authority and function of permitting, including all existing revocable permits, for commercial tour operations with Hale Pohaku (GL No. S-5529), the summit access road and the Science Reserve at the summit (GL No. S-4191) to the University of Hawaii, the Office of Mauna Kea Management, the Mauna Kea Management Board. Such transfer shall be subject to the review and approval of the Department of the Attorney General; and
- C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

The staff analysis on page 7 under proposed new permittee Clark Russell Carr dba Island RV was amended to include the following:

The original application requested special tours to the top of Puu Poliahu that the department considers inappropriate. The recommendation for approval was not intended to condone approval of such activity but to grant a permit and allow the University of Hawaii, the Office of Mauna Kea Management and the Mauna Kea Management Board to control the areas and level of permit activity.

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

The Board recessed at 11:55 a.m. The meeting was reconvened at 12:05 p.m.

**ITEM E-3: REQUEST FOR A 1-YEAR EXTENSION FOR THREE SPECIAL USE PERMITS TO MAKE COMMERCIAL TOUR BOAT LANDINGS AT THE NUALOLO KAI COAST STATE PARK, KAUAI**

Mr. Nagata amended the staff submittal by changing the landings from 2, to "4" landings per day at Nualolo Kai. Staff's recommendation is that the Board extend the permits to December 31, 2001.



Mr. Tom Haggerty and Ms. Ronnie Grover representing Kauai Sea Tours, and Mr. Clarence Greff, were all present to answer questions.

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

**ITEM E-2: APPROVAL OF MANINIOWALI EQUITY COMPANY, LLC PROPOSAL FOR IMPROVEMENTS TO THE MANINIOWALI-KUKIO SECTION OF KEKAHA KAI STATE PARK, KONA, HAWAII**

Mr. Nagata requested that this item be withdrawn in order to address concerns raised by Mr. Christopher Yuen in his written testimony.

**Withdrawn (Inouye/Matsumoto).**

**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 permit for a period ending December 13, 2001, subject to conditions.

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

**ITEM D-11: TIME EXTENSION REQUEST FOR CDUA NO. KA-2870 FOR A SINGLE FAMILY RESIDENCE, WAIOLI, VALLEY, HANAIEI, KAUAI, TMK: (4) 5-5-08: 06**

Mr. Uchida briefed the Board and recommended that the Board approve an extension of 2-years to initiate the approved single family residence, and an extension of 2-years to complete construction, subject to conditions.

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

**ITEM D-19: APPROVAL IN CONCEPT TO PURSUE LAND EXCHANGE BETWEEN THE STATE OF HAWAII AND LANPAR/HTL ASSOCIATES, FOR PORTION STATE-OWNED SUBMERGED LANDS IDENTIFIED AS OFFSHORE OF TMK: (3) 6-9-7: 14 AND LANPAR/HTL ASSOCIATES – OWNED PROPERTY, WAIKOLOA, HAWAII**

Mr. Uchida briefed the Board and recommended that the Board approve in concept a land exchange between LanPar/HTL Associates and the State of Hawaii, that the Board select 1 or more of 4 options listed, and once the option has been selected details of the proposed exchange property shall be submitted to the Board for initial approval prior to initiating acquisition.

Chairperson Johns noted that written testimony was received from the Native Hawaiian Legal Corporation (NHLC) dated December 15, 2000 in opposition to staff's recommendation, from the Office of Hawaiian Affairs (OHA) dated November 17, 2000 opposing any agreement to pursue a land exchange, from Mr. Kevin Seiter dated December 14, 2000 recommending another specific piece of property be considered for exchange, and from Mr. Douglas Blake, Conservation Council for Hawaii, dated December 14, 2000 asking for deferral until a better solution can be advanced through the cooperation of the principals involved in this dispute.

Ms. Leimana Damate, read through OHA's written testimony dated November, 17, 2000, in opposition to any agreement to pursue a land exchange between the State of Hawaii and LanPar/HTL Associates for a portion of State owned submerged lands. OHA's position is that the State is breaching its fiduciary obligations to the general public and to Native Hawaiians by failing to collect all of the back rent owed, by structuring this settlement so that no revenue is generated, by trading away lands without the advise and consent of OHA, and finally by substantially undervaluing the lands it intends to exchange.

Mr. Carl Christensen, Staff Attorney with NHLC, indicated that they have represented Plaintiff Mervin Napeahi since 1985 in litigation involving the submerged lands which the Board is now being asked to trade to a private party. He gave some background information on this matter and summarized his written testimony in opposition to the proposed land exchange.

Mr. Mervin Napeahi indicated that he has persevered this case for 15 years. He testified against staff's recommendation.

Mr. Ferguson testified in opposition to staff's recommendation. He stated that the person who should be concerned, that should be incorporated into this whole thing, who has been purposely left out, is Mr. Napeahi, the prevailing party.

The Board was not clear on the remedy being proposed. There were a number of issues and questions that needed to be more thoroughly examined and addressed. The Board decided to defer this item to allow staff to meet with the Attorney General, Mr. Napeahi, and Mr. Christensen to discuss an appropriate resolution.

**Deferred (Matsumoto/Kennison).**

**ITEM D-23: RESCIND PRIOR BOARD ACTION FOR FORFEITURE AND APPROVE HOLDOVER OF GL NO. S-3949, BIG ISLAND FLORAL, INC., LESSEE, LOTS 14 AND 16, KEONEPOKO HOMESTEAD LOTS, PUNA, HAWAII, TMK: 3<sup>RD</sup>/1-**

**5-07: 17, 18, 62, 63, 64, 65 AND 66**

Mr. Uchida briefed the Board and recommended that the Board rescind its forfeiture action of September 22, 2000, and approve a 1-year holdover of GL No. S-3949.

Mr. Kanani Brown, representing Big Island Floral, testified in favor of staff's recommendation.

The Board amended the staff recommendation by including condition D. to read as follows:

- D. The lessee has until December 19, 2000 to obtain the reinstated performance bond in the amount of \$24,500.00. If the bond is not obtained by this date, the lease expires and no holdover will be granted.

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

**ITEM D-22: SALE OF LEASE AT PUBLIC AUCTION FOR COMMERCIAL PURPOSES, OLOWALU-UKUMEHAME, LAHAINA, MAUI, TMK: 4-8-01: POR. 1**

Mr. Uchida briefed the Board and recommended that the Board approve the authorization of a sale of lease at public auction for commercial wind farm facility, and authorize an immediate right-of-entry to the successful bidder, subject to standard conditions.

Mr. Keith Avery, representing Zond Pacific Inc., requested that the public auction process be expedited as quickly as possible because of the need to expedite their contract with Maui Electric Company Ltd.

Chairperson Johns was concerned about the applicant having to obtain the necessary entitlements, such as a CDUA, and then being subject to having another entity come in and out bid them for this specific parcel. He requested that staff examine statutory changes that would allow for direct negotiation of leases for alternative energy producers. Mr. Avery expressed his concerns in the existing process and agreed that this issue should be addressed through the legislature.

Member Matsumoto was concerned about safeguards being incorporated into the proposed lease arrangement to ensure that upon termination of the activity, the improvements would be removed without cost to the State. Mr. Avery indicated that this is typically a part of their other land agreements.

The Board amended the staff recommendation by adding condition 3. e. to read as follows:

- e. That the lessee post a bond or other instrument that would be used to restore property back to existing conditions [i.e. remove turbines and structure] at the end of the lease term or sooner if the lessee is unable to perform.

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

**ITEM D-31: TERMINATE OF REVOCABLE PERMIT NO. 6500, MR. RALPH ADAMSON,  
LOT 11-B, HANAPEPE, WAIMEA (KONA), KAUAI, TMK: 1-9-5: 53**

Mr. Uchida briefed the Board and recommended that the Board authorize the cancellation of Revocable Permit No. 6500, subject to standard conditions. He indicated that a letter was received from Mr. Adamson dated December 14, 2000 requesting that he be provided 60 days to vacate the premises in order to allow for the removal of his personal belongings. Letters were also received from Kim Starr Gallery, and the Hanapepe Economic Alliance, supporting staff's recommendation to terminate the permit.

Mr. Patrick McIntire, and wife Ms. Kim Starr, neighbors of Mr. Adamson, presented photographs showing the subject property not being used as an art gallery. They testified that the subject property was in fact being used for residential purposes and that the permittee still lives on the premises.

The Board amended staff's recommendation to allow the permittee 30 days to vacate the premises.

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

**ITEM D-3: ISSUANCE OF A REVOCABLE PERMIT TO MR. RANDOLPH H. CABRAL  
FOR PASTORAL PURPOSES AT KOPU, KAU, HAWAII, TMK: 3<sup>RD</sup>/9-6-02:  
PORTION OF 13**

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

Mr. Cabral was present to answer questions.

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

**ITEM D-29: CONSENT TO ASSIGN GL NO. 3202, MR. GEORGE A. BETTENCOURT,  
NAMED SUCCESSOR TRUSTEE UNDER THE UNRECORDED FRANK  
FERREIRA REVOCABLE LIVING TRUST, ASSIGNOR, TO MR. GEORGE A.  
BETTENCOURT AND MRS. DAWN I. BETTENCOURT, ASSIGNEE,  
KEAUKAHA, SOUTH HILO, HAWAII, TMK: 3<sup>RD</sup>/2-1-17: 65**

Mr. Uchida briefed the Board and recommended that the Board consent to the assignment of GL No. 3202 from Mr. Bettencourt, to Mr. and Mrs. Bettencourt, subject to standard conditions.

Mr. Bettencourt was present to answer questions.

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

**ITEM D-13: REQUEST FOR PUBLIC HEARING AND SMALL BUSINESS IMPACT DETERMINATION: PETITION TO AMEND TITLE 13, CHAPTER 5, HAWAII ADMINISTRATIVE RULES, TO CHANGE 18.769 ACRES OF THE STATE LAND USE CONSERVATION DISTRICT LIMITED SUBZONE TO THE GENERAL SUBZONE AT KAAWALOA, SOUTH KONA, ISLAND OF HAWAII, TMK: 3<sup>RD</sup>/8-1-10: 05**

Mr. Uchida briefed the Board and recommended that the Board approve the petitioner's request.

Mr. Christopher Norrie, representing Pali-K Ranch, LLC (petitioner), testified in favor of staff's recommendation.

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

Mr. William Kalawaiianui, testified on claiming an ownership interest on the following items: Item D-1, D-9, D-13, D-15, D-17, D-19, D-22, D-28, D-29, K-1, and K-5. Chairperson Johns asked Mr. Kalawaiianui to provide all his documentation to staff, so the Attorney General's Office can then examine the materials and make determinations that are necessary with regard to title ownership.

**ITEM D-2: CDUA FOR CHU SINGLE FAMILY RESIDENCE AT WAIALUA, MOLOKAI, MAUI, TMK: (2) 5-7-03: 68**

Mr. Uchida briefed the Board and recommended that the Board approve the CDUA, subject to 22 conditions.

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

**ITEM D-4: AMEND PRIOR BOARD ACTION OF OCTOBER 27, 2000 (ITEMS D-29 AND D-30) AUTHORIZING THE ISSUANCE OF REVOCABLE PERMITS TO NOVARTIS SEEDS, INC. FOR USE OF STATE LANDS AND WATERS**

Mr. Uchida briefed the Board and recommended that the Board amend its action of October 27, 2000 by changing the name from Novartis Seeds, Inc., to Syngenta Seeds, Inc.

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

**ITEM D-5: RESCIND PRIOR BOARD ACTION OF OCTOBER 13, 2000 (AGENDA ITEM D-26), FORFEITURE OF REVOCABLE PERMIT NO. S-7093, MR. BLAINE G. KAHALEWAI, SR. & MRS. ORRIN KAHALEWAI, PERMITTEES, WAIMANALO, KOOLAUPOKO, OAHU, TMK: 4-1-08: PORTION OF 46**

Mr. Uchida briefed the Board and recommended that the Board rescind prior Board action of October 13, 2000, for the forfeiture of Revocable Permit No. S-7093.

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

**ITEM D-6: REQUEST TO WRITE OFF UNCOLLECTIBLE ACCOUNTS, MAUI AND OAHU**

Mr. Uchida briefed the Board and recommended that the Board approve of and recommend to the Attorney General that the uncollectible accounts be deleted.

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

**ITEM D-7: CANCELLATION OF GOVERNOR'S EXECUTIVE ORDER NO. 3115 AND RESET ASIDE TO DEPARTMENT OF EDUCATION, HAWAII STATE PUBLIC LIBRARY SYSTEM, FOR ADDITION TO THE PEARL CITY BRANCH LIBRARY SITE, MANANA-UKA, EWA, OAHU, TMK: (1) 9-7-94: 29**

Mr. Uchida briefed the Board and recommended that the Board cancel Governor's Executive Order No. 3115, and set aside the subject lands to the Department of Education, subject to standard conditions.

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

**ITEM D-8: GRANT OF PERPETUAL, NON-EXCLUSIVE EASEMENT, ISSUANCE OF A MANAGEMENT AND CONSTRUCTION RIGHT-OF-ENTRY TO THE DEPARTMENT OF TRANSPORTATION (DOT), HIGHWAYS DIVISION FOR HIGHWAY PURPOSES, MALAEKAHANA, OAHU, TMK: (1) 5-6-1: PORTIONS OF 25 AND 47**

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

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

**ITEM D-9: TRANSFER OF KUHIO BEACH IMPROVEMENTS PROJECT FROM THE DIVISION OF BOATING AND OCEAN RECREATION TO THE LAND DIVISION**

Mr. Uchida briefed the Board and recommended that the Board authorize the transfer of the Kuhio Beach Improvement project from the Division of Boating and Ocean Recreation to the Land Division, Coastal Lands Program.

Chairperson Johns acknowledged Mr. Howard Gehring, Acting Administrator for the Division of Boating and Ocean Recreation, who will be leaving the department at the end of the year.

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

**ITEM D-10: TIME EXTENSION REQUEST FOR CDUA NO. KA-2769 FOR A SINGLE FAMILY RESIDENCE, HAENA, KAUAI, TMK: (4) 5-9-02: 44**

Mr. Uchida briefed the Board and recommended that the Board approve an extension of 2-years to complete project construction, subject to conditions.

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

**ITEM D-14: ACCEPTANCE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT FROM ARIZONA APARTMENT HOUSING, LLC TO THE STATE OF HAWAII ON BEHALF OF THE DEPARTMENT OF EDUCATION FOR WALL ENCROACHMENT ON PRIVATE PROPERTY SITUATE AT HONOULIULI, EWA, OAHU, LD. CT. APP. 1069 & 1828 (FORMERLY POR. 9-2-03) TMK: 9-2-019: 48**

Mr. Uchida briefed the Board and recommended that the Board accept the perpetual, non-exclusive easement from Arizona Apartment Housing, LLC to the State of Hawaii on behalf of the Department of Education for the wall and chain link fence, subject to standard conditions.

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

**ITEM D-15: RIGHT-OF-ENTRY TO THE UNITED STATES OF AMERICA UPON GOVERNMENT LAND ENCUMBERED BY GL NO. S-4197 TO ALEXANDER & BALDWIN, INC., PORTION OF PULEHUNUI AND WAIKAPU, WAILUKU, MAUI, IDENTIFIED BY TMK: 3-8-08: POR. 01**

Mr. Uchida briefed the Board and recommended that the Board approve the issuance of a right-of-entry to the U.S. Army Corps of Engineers, subject to standard conditions.

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

**ITEM D-16: GRANT OF PERPETUAL, NON-EXCLUSIVE EASEMENT TO HAWAIIAN ELECTRIC COMPANY, INC. AND VERIZON HAWAII, INC., FOR UTILITY PURPOSES, KALAWAHINE, HONOLULU, OAHU, TMK: 2-5-19: 5**

Mr. Uchida briefed the Board and recommended that the Board authorize the issuance of a perpetual non-exclusive easement to Hawaiian Electric Company, Inc. and Verizon Hawaii Inc., subject to standard conditions.

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

**ITEM D-17: ACQUISITION OF LAND FROM CASTLE & COOKE, INC., ISLAND OF LANAI, MAUI COUNTY, TMK: (2) 4-9-002:001 PORTION**

Mr. Uchida briefed the Board and recommended that the Board accept the conveyance from Castle & Cooke, Inc. for the 25 acres, subject to standard conditions.

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

**ITEM D-21: SET ASIDE AND RIGHT-OF-ENTRY TO THE STATE OF HAWAII, DEPARTMENT OF AGRICULTURE FOR LOWER HAMAKUA DITCH RIGHTS-OF-WAY, HONOKAA-PAAULO IRRIGATION SYSTEM, KALOPA TO HONOKAIA, HAMAKUA, HAWAII ISLAND, TMKs: (3) 4-4-003: 019, 039 040 & 041; 4-4-003: 024, 025 & 026; 4-5-001: 008; 4-5-002: POR. 028; 4-6-001: 009; AND 4-6-003: 017, 018 & 019**

Mr. Uchida briefed the Board and recommended that the Board authorize the issuance of an executive order setting aside the subject lands, and grant an immediate construction and maintenance right-of-entry to the State of Hawaii, Department of Agriculture, subject to standard conditions.

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

**ITEM D-25: AMENDMENT TO THE SUBLEASE RENT PARTICIPATION POLICY**



Chairperson Johns asked that this item be deferred to allow Kauai Member McCrory, who was not present, an opportunity to participate in this matter, and also to allow the new Chairperson, and Hawaii Member, time to review this issue.

**Deferred (Matsumoto/Kennison).**

**ITEM D-27: WITHDRAWAL OF LANDS FROM GL NO. S-4101, CANCELLATION OF REVOCABLE PERMIT NO. S-7137 AND REISSUANCE OF NEW REVOCABLE PERMIT AND SET ASIDE TO BOARD OF WATER SUPPLY, CITY AND COUNTY OF HONOLULU FOR WELL SITE, PIPELINE AND ACCESS AND A MANAGEMENT AND CONSTRUCTION RIGHT OF ENTRY, WAIMANALO, KOOLAUPOKO, OAHU, TMK: 4-1-08: PORTIONS OF 5 & 80**

Mr. Uchida briefed the Board and recommended that the Board withdraw subject lands from GL No. S-4101, cancel Revocable Permit No. S-7137 and issue a new permit with the reduced area, approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands and authorize immediate management and construction right-of-entry to the Board of Water Supply, subject to conditions.

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

**ITEM D-30: REQUEST FOR MUTUAL CANCELLATION OF GL NO. S-5355, MR. NORMAN AND MRS. YAEKO MIYATA, LESSEES, WAIMANALO, OAHU, TMK: (1) 4-1-18: 51**

Chairperson Johns noted that written testimony was received from Mr. Jess Griffiths, Attorney representing the Miyata's.

Mr. Uchida briefed the Board and recommended that the Board, upon written notification from the Miyata's or their Attorney, mutually terminate GL No. S-5355, subject to standard conditions.

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

**ITEM K-1: RESUBMITTAL OF FLORIST CONCESSION AT HONOLULU INTERNATIONAL AIRPORT, OAHU, TMK: (1)-1-1-03-1P**

Mr. Peter Garcia, Property Management Officer for DOT, briefed the Board and recommended that the Board authorize the proposed amendment.

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

**ITEM K-2: ISSUANCE OF A CONSTRUCTION RIGHT-OF-ENTRY TO MATSON TERMINALS, INC. FOR THE RELOCATION OF NON-EXCLUSIVE EASEMENTS UNDER HARBOR LEASE NO. H-79-5, AT THE SAND ISLAND CONTAINER YARD FACILITY, HONOLULU HARBOR, OAHU, TMK: (1)-1-5-41-111P**

Mr. Garcia briefed the Board and recommended that the Board authorize the Harbors Division to issue Matson Terminals, Inc. a construction right-of-entry.

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

**ITEM K-3: ISSUANCE OF A LEASE BY DIRECT NEGOTIATION AT PIER 38, HONOLULU HARBOR, OAHU, TMK: (1)-1-5-42**

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

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

**ITEM K-4: AMENDMENT TO PRIOR LAND BOARD ACTION OF JANUARY 22, 1999 UNDER AGENDA ITEM K-5 REGARDING THE ISSUANCE OF A LEASE BY DIRECT NEGOTIATION TO UNITED FISHING AGENCY, LTD. AT PIER 38, HONOLULU HARBOR, OAHU, TMK: (1)-1-5-42P**

Mr. Garcia briefed the Board and recommended that the Board amend its action of January 22, 1999, by amending the lease term to 55-years, together with establishing a fixed rental for the initial 35-year term of the lease.

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

**ITEM K-5: ISSUANCE OF REVOCABLE PERMIT TO MR. RANDALL RING DBA REDWATER CONSTRUCTION, KAWAIHAE HARBOR, ISLAND OF HAWAII, TMK: (3)-6-1-03**

Mr. Garcia briefed the Board and recommended that the Board authorize the issuance of a revocable permit to the applicant, subject to terms and conditions.

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

**ITEM K-6: AMENDMENT OF REVOCABLE PERMIT NO. H-99-2155 TO THE DEPARTMENT OF THE ATTORNEY GENERAL, PIER 19, HONOLULU HARBOR, OAHU, TMK: (1)-1-5-39-26P**

Mr. Garcia briefed the Board and recommended that the Board authorize the amendment of Revocable Permit No. H-99-2155 issued to the Department of the Attorney General, subject to terms and conditions.

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

**ITEM K-7: REPORT ON REVOCABLE PERMITS ISSUED OR RENEWED BY THE DEPARTMENT OF TRANSPORTATION FOR CONSISTENT USES**

Mr. Garcia indicated that this is a report and the Board is not required to take any action.

**No action.**

**ITEM K-8: ISSUANCE OF REVOCABLE PERMIT TO KAIKOR CONSTRUCTION ASSOCIATES, INC., NEAR PIER 23, HONOLULU HARBOR, OAHU, TMK: (1)-1-5-39-15P**

Mr. Garcia briefed the Board and recommended that the Board authorize the issuance of a revocable permit to Kaikor Construction Associates, Inc., for storage purposes, subject to terms and conditions.

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

**ITEM K-9: ISSUANCE OF REVOCABLE PERMIT TO MAUI DUCK TOURS, LLC, NEAR PIER 23, HONOLULU HARBOR, OAHU, TMK: (1)-1-5-39-15P**

Mr. Garcia briefed the Board and recommended that the Board authorize the amendment of a revocable permit to the applicant, subject to terms and conditions.

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

**ITEM K-10: ISSUANCE OF REVOCABLE PERMIT TO ALOHA AGRICULTURAL CONSULTANTS, INC., KALIHI KAI, HONOLULU, OAHU, TMK: (1)-1-2-23-79**

Mr. Garcia briefed the Board and recommended that the Board authorize the issuance of a revocable permit to Aloha Agricultural Consultants, subject to terms and conditions.

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

**ITEM K-11: CONSTRUCTION RIGHT-OF-ENTRY AND GRANT OF PERPETUAL, NON-EXCLUSIVE EASEMENT FOR WATERLINE PURPOSES IN FAVOR OF WATER COMMISSION OF THE COUNTY OF HAWAII, KONA, ISLAND OF HAWAII, TMK: (3)-7-3-43-03**

Mr. Garcia briefed the Board and recommended that the Board approve the waterline, authorize issuance of a non-exclusive perpetual easement to the Water Commission of the County of Hawaii, subject to terms and conditions.

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

There being no further business, Chairperson Johns adjourned the meeting at 2: 11 p.m.

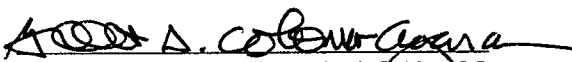
Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Kimberly C. Keliioomalu

Approved for submittal:



GILBERT S. COLOMA-AGARAN  
Chairperson  
Board of Land and Natural Resources