

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

DATE: FRIDAY, JANUARY 12, 2001
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII

Chairperson Gilbert Coloma-Agaran called the meeting of the Board of Land and Natural Resources to order at 9:07 a.m. The following were in attendance:

MEMBERS:

Mr. Gilbert Coloma-Agaran
Ms. Lynn McCrory

Mr. William Kennison
Ms. Kathryn Inouye

STAFF:

Mr. John Hino, Division of Boating and
Ocean Recreation (DOBOR)
Mr. Dan Quinn, Division of State Parks
Mr. Michael Buck, Division of Forestry and Wildlife

Mr. Dean Uchida, Land Division
Mr. Dave Parsons, DOBOR
Mr. Al Rogers, Division of State Parks

OTHERS:

Mr. Allan Kawada, Department of the
Attorney General
Ms. Kari Wheeling, D-19
Mr. Everett Kaneshige, D-4
Mr. Edward Murley, D-4
Ms. Lisa Suan, D-4
Ms. Virginia Enos, D-16
Mr. Alfredo Lee, D-6
Mr. David Stoutemyer, D-10

Mr. Greg Knapp, J-1
Mr. R. Brian Tsujimura, D-7
Mr. Vernon Tashima, D-11
Mr. Brian Takeda, D-4
Mr. Jeffrey Roe, D-4
Mr. Bill Tam, D-16
Mr. John Mainaupo, Jr., E-1
Mr. Alan Kennett, D-6
Mr. Alan Uyehara, D-3

ITEM A-1: APPROVAL OF THE NOVEMBER 17, 2000 MINUTES

Deferred – no quorum.

ITEM J-1: ISSUANCE OF A REVOCABLE PERMIT TO THE HAWAII ISLAND PADDLESPORT ASSOCIATION, A HAWAII NON-PROFIT ORGANIZATION, ISLAND OF HAWAII

Mr. John Hino, Property Manager for DOBOR, briefed the Board and recommended that the Board approve the Revocable Permit as requested, subject to standard conditions.

Mr. Greg Knapp, Project Coordinator for the Hawaii Island Paddlesport Association, was present to answer questions.

Unanimously approved as submitted (Kennison/Inouye).

ITEM D-7: AMEND RENTAL REOPENING DATES FOR GENERAL LEASE (GL) NO. S-5173, HAWAII BAPTIST CONVENTION, AT HONOLULU, OAHU, TMK: 2-2-22: 19

Mr. Dean Uchida, Administrator of the Land Division, briefed the Board and amended the staff submittal by deleting references to July 1, 2016 in the Remarks and Recommendation sections. The existing lease expires on July 1, 2011.

Mr. R. Brian Tsujimura, representing Hawaii Baptist Convention, concurred with staff's recommendation.

Unanimously approved as amended (Inouye/McCrory).

ITEM D-19: FORFEITURE OF GL NO. S-4884, MRS. LOUISE MAU AI AND MRS. VELMA KEAHO QUEN TAI KUKUALANI FOSTER, LESSEES, MAUNALAHA HOMESITES, OPU, HONOLULU, OAHU, TMK: 2-5-24: 17

Mr. Uchida indicated that the lessee was served a Notice of Default for failure to post the required liability insurance and failure to pay delinquent real property taxes. Subsequently, staff has been informed by the Real Property Tax Office that the lessee has entered into a payment plan and will be paying off the delinquency on the real property taxes. Staff's recommendation, being that there is no clearance on the liability insurance, is that the Board authorize the cancellation of GL No. S-4884.

Ms. Kari Wheeling, representing the Lessee, provided the Board with a letter from Atlas Insurance Agency stating that they are waiting on approval of the insurance for the property. She informed the

Board that she, along with Mr. Craig Noah Foster (son of Mrs. Velma Foster), had stepped in to try and rectify the defaults and make good on the lease. She assumed that the lease matters were being handled by Mrs. Foster and her daughter, and was not aware of how bad the problems were until recently.

The Board was concerned about the numerous deficiency notices sent to the lessee, and failure to post the required liability insurance policy in a timely manner. The Board decided to amend staff's recommendation to read as follows:

A. That the lessee has 30-days from this action, until February 11, 2001, to obtain the necessary liability insurance for the property. Should the lessee fail to obtain the liability insurance within the 30-day period, the Board:

1. Authorize the cancellation of GL No. S-4884 in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under GL No. S-4884 as liquidated damages;
3. Terminate all rights and obligations of the lessee effective on a date to be determined by the Chairperson, provided that any and all obligations of the lessee which have accrued up to said effective date shall endure past such termination date until duly fulfilled; and
4. Authorize the Department of Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawaii under GL No. S-4884.

B. The Board also finds that this lease will be automatically terminated if the lessee does not cure any default within the required cure period on the lease. No further action from the Board will be necessary.

C. Subject to review and approval by the Department of the Attorney General.

Unanimously approved as amended (Kennison/McCrory).

ITEM D-11: GRANT OF A PERPETUAL, NON-EXCLUSIVE EASEMENT TO MRS. KIYOKO AOKI AND MS. ELEANOR Y. AOKI, AND CANCELLATION OF LAND OFFICE DEED NO. S-27,162, PAUOA VALLEY, HONOLULU, TMK: 2-2-16: 64 AND 65

Mr. Uchida briefed the Board and recommended that the Board authorize the issuance of a perpetual, non-exclusive easement subject to standard conditions, and authorize the cancellation of Land Office Deed No. S-27,162 when the replacement perpetual, non-exclusive easement document is executed.

Mr. Vernon Tashima, Attorney for the Applicants, testified in favor of the staff's recommendation.

Unanimously approved as submitted (Inouye/McCrory).

ITEM D-4: RESUBMITTAL – 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, TMK: 3-9-12: 2, 8-1-1: 18, 8-4-1: 12, 2-1-8:62, 6-2-2: 8, 3-9-2: 4

Mr. Uchida briefed the Board and recommended that the Board authorize the issuance of a perpetual non-exclusive easement for an inter-island submarine fiber optic telecommunication cables, subject to standard conditions.

Mr. Everett Kaneshige, representing the Applicants, addressed the concern raised by the Board regarding co-location, and concurred with the staff's recommendation.

Mr. Brian Takeda of R.M. Towill Corporation, Mr. Edward Murley, Vice-President and General Manager of Time Warner Telecom Inc., Mr. Jeffrey Roe, General Manager for GST Telecom Hawaii Inc., and Ms. Lisa Suan, Manager of Governmental Affairs for GST Telecom Hawaii Inc, were all present to answer questions.

Unanimously approved as submitted (Inouye/Kennison).

ITEM D-16: REQUEST FOR ADDITIONAL EXTENSION OF THE STATUTORY 180-DAY PROCESSING PERIOD FOR CONSERVATION DISTRICT USE APPLICATION (CDUA) NO. OA-2989 – CATES INTERNATIONAL, INC., FINFISH, OPEN OCEAN, CAGE AQUACULTURE FACILITY

Mr. Uchida explained that this matter has been going through a contested case hearing process, and that staff has recently been informed that the petitioners may be withdrawing from the contested case hearing process. Staff, at this time, has not received a formal written request from the petitioners. The expiration date on the 1st extension for processing this CDUA is on February 5, 2001. Staff's recommendation is that the Board proceed with granting the additional extension of 90-days, to give staff time to process the CDUA and to bring the matter to the Board for final decision making, or to allow the contested case hearing to proceed should that be the case.

Mr. Bill Tam, Attorney for Cates International, Inc., indicated that the Hearing Officer sent out a formal letter terminating the hearing based on communications with the petitioners, that the contested case hearing is essentially over, and that there is no further need for an extension. He was concerned

about the February 5, 2001 expiration date and requested that the matter be put on the next Board agenda. He felt that they had provided staff with all the necessary information to process the CDUA, and that the only question is, how much time is needed for staff to prepare the submittal.

The Board decided to amend the staff's recommendation to grant a 30-day extension. The Board asked that the staff recommendation and analysis be brought to the Board for consideration at the next meeting, January 26, 2001.

Unanimously approved as amended (Inouye/Kennison).

ITEM D-2: EXTENSION OF 180-DAY PROCESSING PERIOD, CDUA OA-2935 FOR MAUNALUA BAY DREDGING PROJECT AT HAWAII KAI, OAHU

Mr. Uchida briefed the Board and recommended that the Board approve the additional extension of 90-days to the processing period for the subject CDUA, such that the new expiration date is May 3, 2001.

Mr. Dave Parsons, Administrator of DOBOR, concurred with the additional extension necessary to get the hearing officers recommendations to the Board. He asked that it be handled expeditiously as possible as the funding for the construction contract is being held under a blanket encumbrance that expires on April 20, 2001.

Unanimously approved as submitted (Inouye/Kennison).

ITEM E-1: RESUBMITTAL – REQUEST FOR A DEFINITE DEADLINE FOR THE COMPLETION OF NEW HOUSES FOR THE PRESENT LESSEES OF KAHANA VALLEY STATE PARK, OAHU

Mr. Dan Quinn, Acting Administrator of the Division of State Parks, briefed the Board and recommended that the Board: A) Set an automatic deadline of August 1, 2001 for the completion of new homes by 7 lessees: Mr. Delquist Dominques, Ms. Sharon Keaweehu, Mr. John Mainaupo, Jr., Ms. Sheila Sherman, Ms. Valerie Barruga, Mr. Keith George, and Ms. Pualoke Dela Cerna.; and B) Authorize the department to carry out revocable permit or lease cancellation actions, as may be necessary to carry out the plan recommendations. The State Parks Plan for administering a definite deadline for the completion of building new houses, along with the Interim Milestone Deadlines, were attached to the staff submittal.

Member McCrory requested, in order to implement the contents of the State Parks Plan, that the plan be approved and specified as part of the staff's recommendation.

Member McCrory was concerned about page 3 of the State Parks Plan, II.B.2., where the lessor shall exercise its first right to purchase the leasehold interest should the lessee not transfer or assign their lease to a family member. She asked if some kind of phrasing could be included to charge this back

to the next lessee. She was concerned about the Division of State Parks taking money from their already limited budget and not being able to get it back. Mr. Al Rogers, Kahana Valley State Parks Manager, explained that they are in the middle of trying to clear this matter up, that it's a provision in the lease that is not quite clear and is now being referred to HCDCH for interpretation by the Attorney Generals. Chairperson Coloma-Agaran asked staff to report back to the Board on this matter.

There was some discussion about the timetable in the Interim Milestone Deadlines. Member Inouye commented that if the lessees are working on just sweat equity, and don't have a full-time construction crew working 40-hours a week, that it would be highly unlikely that the lessees are going to be able to meet the schedule. Mr. Mainaupo, Jr., representing the 7-lessees, agreed with Member Inouye and asked for an extension on the deadline, until December 31, 2001. Member Inouye felt that the lessees could meet the deadline up until May 1, 2001. She asked that staff work on the balance of the timetable, from May through December 2001, that basic priorities are set and adjustments made after talking with the lessees.

Member Inouye asked that the lessees sign off on the plan to recognize the deadlines that are set, and that copies of this be sent to the area Legislators.

Member Inouye clarified, because there are some lessees who will not meet the deadlines, that those leases will be terminated, and as it occurs the Board will be notified, but that it will not require action by the Board, and that there will be no appeal process.

The Board amended the staff submittal as follows:

That the State Parks Plan be approved and specified as part of the staff's recommendation.

That all lessees sign off on the plan to recognize the deadlines that are set, and copies submitted to the area Legislators.

Changes to the Interim Milestone Deadlines -

The final completion and move in will be December 31, 2001.

Amend 2nd to last paragraph, page 1, to read: "... Those not complying with deadlines will be given written notice to provide written reasons for non compliance and plan for catching up as accepted by the Division of State Parks within 10 days."

Delete the last sentence on page 1 that reads: "For unforeseen emergencies, the State Parks Division may extend for up to two months before the automatic cancellation occurs."

Unanimously approved as amended (Inouye/McCrory).

ITEM D-6: ISSUANCE OF MANAGEMENT RIGHT-OF-ENTRY TO THE AGRIBUSINESS DEVELOPMENT CORP (ADC), TO MANAGE EXISTING INFRASTRUCTURE RELATED SYSTEMS AND PERMITS FORMERLY MANAGED AND OPERATED UNDER GL NO. S-4222 TO KEKAHA SUGAR CO., TMK: 1-2-2: 1 & 23

Mr. Uchida briefed the Board and recommended that the Board authorize the issuance of an immediate right-of-entry to ADC for management of existing infrastructure systems, subject to: 1) The standard terms and conditions of the most current right-of-entry form to government entities, as may be amended from time to time. 2) Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State. He amended staff's recommendation by adding the following conditions: 3) That this right-of-entry to ADC is limited to the transfer of the NPDES permit and existing electrical system from Kekaha Sugar/Amfac. 4) This right-of-entry does not absolve Kekaha Sugar/Amfac of their responsibilities for abandoning wells, and hazardous waste clean-up on the property in accordance with applicant rules and laws. 5) Review and approval of the specific language of the right-of-entry by the Department of the Attorney General.

Mr. Alfredo Lee, Executive Director of ADC, was present to answer questions.

Mr. Alan Kennett, President and General Manager of Gay and Robinson, testified in support of the issuance of the right-of-entry to ADC.

Unanimously approved as amended (McCrary/Kennison).

ITEM D-10: TERMINATION OF REVOCABLE PERMIT NO. S-6706 AND ISSUANCE OF REVOCABLE PERMIT TO MR. DAVID STOUTEMYER AND MRS. KAREN LEE STOUTEMYER FOR SUBMERGED LAND LOCATED OFFSHORE AT KANEOHE, OAHU, TMK: 4-4-21: 36 FOR RECREATIONAL BOAT PIER PURPOSES

Mr. Uchida briefed the Board and recommended that the Board authorize the cancellation of Revocable Permit No. S-6706, and authorize the issuance of a new permit to Mr. and Mrs. Stoutemyer for the pier and the stairway, subject to standard conditions.

Mr. Stoutemyer supported staff's recommendation.

Unanimously approved as submitted (Inouye/McCrary).

ITEM D-3: CANCELLATION OF GOVERNOR'S EXECUTIVE ORDER NO. 3573 AND SET ASIDE TO DLNR, STATE PARKS, FOR ADDITION TO THE SAND ISLAND STATE RECREATION AREA, SAND ISLAND, HONOLULU, OAHU, TMK: 1-5-41: 06 (POR) AND 1-5-41: 22

Mr. Uchida briefed the Board and recommended that the Board cancel Governor's Executive Order No. 3573 on Parcel 1, include the existing Parcel 5 as part of the Sand Island State Recreation Area, recommend and set aside Parcel 5 to the Division of State Parks, and authorize the construction right-of-entry to the Honolulu Community College of the University of Hawaii, subject to standard conditions.

Mr. Alan Uyehara, Dean of Transportation and Trades for the Honolulu Community College, testified in favor of staff's recommendation.

Unanimously approved as submitted (Inouye/Kennison).

ITEM D-1: SALE OF LEASE AT PUBLIC AUCTION FOR BUSINESS PURPOSES, AND ISSUANCE OF REVOCABLE PERMIT TO CONTROLLED ENVIRONMENT AQUACULTURE TECHNOLOGY, INC., POR. OF HANAPEPE TOWN LOTS, HANAPEPE, WAIMEA (KONA) KAUAI, TMK: 1-9-10: 34, 35, 38 AND 1-9-11: 7

Mr. Uchida briefed the Board and recommended that the Board authorize the sale of a lease at public auction and authorize the issuance of a revocable permit, subject to standard conditions.

Unanimously approved as submitted (McCrary/Kennison).

ITEM D-5: CONSENT TO ASSIGN GL NOS. S-5318, KAPAA, HOMESTEADS, TMK: 4-6-3: 1; S-5319, KAPAA HOMESTEADS, 1ST SERIES, KAPAA, TMK: 4-6-4: 14; AND S-5484, KAPAA HOMESTEAD, 1ST SERIES, KAPAA, LIVING TRUST, ASSIGNOR, TO MR. JASON EDWIN MARTINS, ASSIGNEE AND CANCELLATION OF REVOCABLE PERMIT NOS. S-7150, KAPAA HOMESTEADS, 1ST SERIES, KAWAIHAU, KAPAA, KAUAI, TMK: 4-6-6: 28 & 29; AND S-7200, KAPAA HOMESTEADS, KAPAA, KAUAI, TMK: 4-6-5: 10, AND REISSUANCE TO MR. JASON EDWARD MARTIN

Mr. Uchida briefed the Board and recommended that the Board authorize the assignment of GL Nos. S-5318, S-5319, and S-5484, cancel existing Revocable Permit Nos. S-7150 and S-7200, and reissuance of the permits to Mr. Martins, subject to standard conditions.

Unanimously approved as submitted (McCrary/Inouye).

ITEM D-8: ISSUANCE OF LAND PATENT IN CONFIRMATION OF LAND COMMISSION AWARD NO. 240 TO MR. JOHN CLARK BY APPLICATION OF OLOWALU ELUA ASSOC., LLP, OLOWALU, LAHAINA, MAUI, TMK: 4-8-3: 47

Mr. Uchida briefed the Board and recommended that the Board issue the land patent, subject to standard conditions.

Unanimously approved as submitted (Kennison/Inouye).

ITEM D-9: AUTHORIZE THE CHAIRPERSON TO EXECUTE A CORRECTION DEED FOR THE DEED RECORDED AT THE BUREAU OF CONVEYANCE IN LIBER 2557 PAGE 239 DATED FEBRUARY 8, 1952 TO USA FOR THE CONSTRUCTION AND OPERATION OF THE FISHERY RESEARCH LABORATORY, MANOA, HONOLULU, OAHU, TMK: 2-8-23: 09

Mr. Uchida briefed the Board and recommended that the Board authorize the execution of a correction deed, subject to standard conditions.

Unanimously approved as submitted (Inouye/Kennison).

ITEM D-12: SET ASIDE AND ISSUANCE OF A MANAGEMENT RIGHT-OF-ENTRY TO WATER COMMISSION, COUNTY OF HAWAII FOR A WELL AND RESERVOIR SITE, KOHANAIKI, NORTH KONA, HAWAII, TMK: 7-3-06: POR. 03

Mr. Uchida amended the staff submittal by replacing Water Commission, County of Hawaii, with "Water Board, County of Hawaii", throughout the text and recommendation of the submittal. Staff's recommendation is that the Board authorize and recommend the set aside to the Water Board, County of Hawaii, subject to standard conditions.

Unanimously approved as amended (Kennison/Inouye).

ITEM D-13: CONSENT TO LEASE OF PRIVATE PROPERTY AGREEMENT BETWEEN MR. WILLIAM SEIFERT, LESSOR, AND THE STATE OF HAWAII, BY ITS BOARD OF LAND AND NATURAL RESOURCES ON BEHALF OF AND FOR THE DEPARTMENT OF HEALTH, LESSEE, COVERING A GEOTHERMAL MONITORING STATION SITE AT KEAHIALAKA, PUNA, ISLAND OF HAWAII, TMK: 1-3-46: POR. 07

Mr. Uchida briefed the Board and recommended that the Board consent to the Lease of Private Property Agreement between Mr. Seifert and the Department of Health, subject to standard conditions.

Unanimously approved as submitted (Kennison/McCrory).

ITEM D-14: APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT-JOB NO. 85-OP-F3, MALAEKAHANA STATE RECREATION AREA WATERLINE KAHUKU-MALAEKAHANA, OAHU, HAWAII

Mr. Uchida briefed the Board and recommended that the Board authorize the Chairperson to proceed with awarding the contract for Malaekahana State Recreation Area Waterline.

Unanimously approved as submitted (Inouye/McCrory).

ITEM D-15: CONSENT TO SUBLEASE GL NO. S-4205, FLOWERS INC., SUBLESSOR, TO BIG ISLAND PLANT & FOLIAGE INC., SUBLESSEE, WAIAKEA, SOUTH HILO, HAWAII, TMK: 2-4-49: 31

Mr. Uchida briefed the Board and recommended that the Board consent to the sublease of GL No. S-4205, subject to standard conditions.

Unanimously approved as submitted (Kennison/McCrory).

ITEM D-17: CONSENT TO LEASE OF PRIVATE PROPERTY AGREEMENT, BETWEEN MR. WALLACE CHOW, LESSOR, AND THE STATE OF HAWAII, BY ITS BOARD OF LAND AND NATURAL RESOURCES, ON BEHALF OF AND FOR THE DEPARTMENT OF HEALTH, LESSEE, COVERING A GEOTHERMAL MONITORING STATION SITE AT HALEKAMAHINA, PUNA, HAWAII, TMK: 1-4-01: POR. 44

Mr. Uchida briefed the Board and recommended that the Board consent to the Lease of Private Property Agreement between Mr. Chow and the Department of Health, subject to standard conditions.

Unanimously approved as submitted (Kennison/Inouye).

ITEM D-18: AUTHORIZE BILL OF SALE AND GRANT OF PERPETUAL, NON-EXCLUSIVE EASEMENT AND ISSUANCE OF MANAGEMENT RIGHT-OF-WAY TO WATER COMMISSION, COUNTY OF HAWAII FOR WATER PIPELINE AND RELATED APPURTENANCES PURPOSES, KIKALAKEOKEA RESIDENTIAL SUBDIVISION, KALAPANA, PUNA, HAWAII, TMK: 1-2-43

Mr. Uchida amended the staff submittal by replacing Water Commission, County of Hawaii, with "Water Board, County of Hawaii", throughout the text and recommendation of the submittal. Staff's recommendation is that the Board authorize the issuance of a perpetual, non-exclusive easement, authorize a management right-of-entry, and issue the necessary Bill of Sale documents for the transfer

of ownership of the water transmission lines, to the Water Board, County of Hawaii, subject to standard conditions.

Unanimously approved as amended (Kennison/McCrory).

ITEM C-1: REQUEST APPROVAL OF CONTRACT WITH MR. LANCE DUNBAR TO PARTICIPATE IN THE STATE FOREST STEWARDSHIP PROGRAM

Mr. Michael Buck, Administrator of the Division of Forestry and Wildlife, briefed the Board and recommended that the Board approve the contract with Mr. Dunbar to participate in the implementation of the State Forest Stewardship Program.

Member Inouye asked, prior to disbursement of any funds, that staff make a visual on-site inspection that includes photographs and documentation, and that this be part of the review and payment request.

Unanimously approved as submitted (Kennison/McCrory).

There being no further business, Chairperson Coloma-Agaran adjourned the meeting at 11:25 a.m.

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

Respectfully submitted,



Kimberly C. Kelihoomalu

Approved for submittal:



GILBERT COLOMA-AGARAN

Chairperson

Board of Land and Natural Resources

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