

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

DATE: FRIDAY, MARCH 23, 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	Mr. William Kennison
Mr. Colbert Matsumoto	Ms. Lynn McCrory
Ms. Kathryn Inouye (from 11:15 a.m.)	Dr. Fred Holschuh

**STAFF:**

Mr. Michael Buck, Division of Forestry and Wildlife (DOFAW)  
Mr. Michael Robinson, DOFAW  
Mr. Dean Uchida, Land Division

**OTHERS:**

Ms. Pam Matsukawa, Department of the Attorney General	Mr. Peter Garcia, Department of Transportation
Mr. Andrew Doughty, D-3	Mr. Ronald Weidenbach, D-11
Mr. John Corbin, D-11	Mr. Kealoha Kuhea, D-6
Mr. Keikialoha Kekipi, D-6, D-1	Mr. Ron Terry, D-6, D-1
Mr. Chul Ho Cho, D-9	Mr. Morris Kozai, D-2
Mr. Mike Nahoopii, D-8	

**ITEM A-1: APPROVAL OF THE FEBRUARY 9, 2001 MINUTES**

Member Holschuh amended page 3, third paragraph, by deleting [rule initiatives] and replacing it with work together.

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

**ITEM C-1: REQUEST FOR APPROVAL OF CONTRACT WITH THE HAWAII FOREST INDUSTRY ASSOCIATION (HFIA) TO CONDUCT SERVICES RELATING TO IMPLEMENTING PROJECTS OF THE STATE'S HAWAII FORESTRY AND COMMUNITIES INITIATIVE PROGRAM**

Mr. Michael Buck, Administrator of the Division of Forestry and Wildlife, briefed the Board and recommended that the Board authorize the Chairperson to execute the subject contract with the Hawaii Forestry Industry Association in the amount of \$47,000, pending modification and approval as to form by the Attorney General's Office. He distributed catalogs of one of their marketing projects, and indicated that they plan on disseminating it throughout the forest industry.

Mr. Michael Robinson, Coordinator of Hawaii Forestry and Communities Initiatives, was present to answer questions.

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

**ITEM D-3: SALE OF REMNANT TO MR. ANDREW AND MRS. HARRIETT DOUGHTY, PORTION KAPAA TOWN LOTS, KAWAIIHAU, KAUALI, HAWAII, TMK: 4-5-12: POR. 3**

Mr. Dean Uchida, Administrator of the Land Division, briefed the Board and recommended that the Board authorize the sale of the subject remnant to Mr. and Mrs. Doughty, subject to standard conditions.

Mr. Andrew Doughty was present to answer questions.

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

**ITEM D-11: TIME EXTENSION REQUEST FOR CONSERVATION DISTRICT USE APPLICATION (CDUA) NO. OA-2504 FOR A COMMERCIAL AQUACULTURE FACILITY AT DILLINGHAM QUARRY AT KAENA, WAIALUA, OAHU, TMK: 1<sup>ST</sup>/6-9-01: 3 & 33**

Mr. Uchida briefed the Board and recommended that the Board approve an extension of 3-years to complete project construction, extending the project completion to March 23, 2004, subject to conditions.

Mr. Ronald Weidenbach, Co-Owner/Farm Manager of Hawaii Fish Company, explained that they were unable to complete construction within the Board stipulated timeframe because of unexpected setbacks to their aquaculture project. He also explained the extent of work that has been done, and the project construction plans for the recommended 3-year extension.

Mr. John Corbin, Manager of the Aquaculture Development Program, was present to support the applicant and to substantiate any background information relative to the program.

The Board amended the staff recommendation by adding condition no. 4 to read:

“4. That this CDUA is now subject to all applicable sections of Title 13, Chapter 5, Hawaii Administrative Rules.”

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

**ITEM D-6: REQUEST FOR RIGHT-OF-ENTRY BY THE EASTERN WASHINGTON UNIVERSITY, FOR PURPOSES OF CONDUCTING ITS LEARNING ABOUT VOLCANIC ACTIVITY PROJECT AT PUU KAWAIWAI, KAWAIHAE 2<sup>ND</sup>, SOUTH KOHALA, HAWAII, TMK: 3<sup>RD</sup>/6-2-01: 15**

Mr. Uchida briefed the Board and recommended that the Board approve the issuance of a right-of-entry to the Eastern Washington University, subject to 12 conditions.

Mr. Kealoha Kuhea, Kanaka Maoli, testified in opposition to the right-of-entry. His main concerns were Native Hawaiians being denied access for cultural practices, foreigners to Hawaii being allowed access to sacred places, and respect for the Hawaiian culture in the studying of lava tubes. He felt that there has to be some kind of consensus that Native Hawaiians have a say, in dealings with the Land Board.

Mr. Keikialoha Kekipi, Hawaii Island Burial Council Member, informed the Board that if the applicant is permitted to study the volcano, and they do go into lava tubes, that some of the lava tubes are deemed sacred by cultural practitioners. He indicated that through experience, sacred sites have been desecrated, mostly inadvertently and unintentionally, because of the lack of education that may make people insensitive. The learning experience should be enhanced with some guidance from the Kamaaina in the area. He requested that the Board add a condition addressing this matter.

There was some discussion by the Board. Member Holschuh suggested a requirement for an orientation involving local experts such as Mr. Kekipi. The Burial Council can bring the experts together, and oversee the orientation. Member Matsumoto felt that this particular type of activity being requested, which is a field trip being taken by school teachers to visit a cinder cone, is not the type of activity intended for these types of conditions. If a massive scientific study of the area is planned, then those types of safeguards would need to be imposed. Chairperson Coloma-Agaran wanted the department, Historic Preservation working with the Land Division, to start looking at whether some of the standard conditions need to be modified. Member Kennison requested amending condition no. 4 by adding lava tubes. The Board decided to amend condition no. 4, and then have the department work on incorporating some of Mr. Kekipi's ideas for future rights-of-entry requests statewide.

Mr. Ron Terry, former Professor of the University of Hawaii at Hilo, shared the same concerns as Mr. Kekipi about violating sacred cultural areas. He felt it important that eco-tourism, educational tourism, and other operators in the State of Hawaii that are working in potentially sensitive areas get some guidance. He indicated, for the Board's consideration, that the University of Hawaii could offer an excellent orientation as well.

The Board amended condition no. 4 to read as follows:

"4. ...coral alignments, pavings, lava tubes, or walls are encountered, work shall stop and contact..."

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

**ITEM D-1: CDUA NO. HA-3008 FOR PARK IMPROVEMENTS AND LAND PARCEL CONSOLIDATION AT AHALANUI COUNTY PARK, AHALANUI, PUNA, HAWAII, 3<sup>RD</sup>/1-4-02: 5, 6, AND 61**

Mr. Uchida briefed the Board and recommended that the Board approve CDUA No. HA-3008 for park improvements and land parcel consolidation, subject to 18 conditions.

Mr. Terry, Consultant for the Department of Parks and Recreation, County of Hawaii, informed the Board of the contested case hearing held during the processing of the special management area permit, that the contested case hearing consultation was very valuable in changing the plan and getting it to be more appropriate, as the original proposal was insensitive to cultural resources and other aspects of the natural resources.

Mr. Kekipi, Party to the Contested Case Hearing, Volunteer Caretaker of Ahalanui Park, and Hawaii Island Burial Council Member, distributed background information of the area and described his involvement in the mitigation process. He indicated that he was not opposed to the CDUA, but was against the possibility of the County expanding the park across the road because of the carrying capacity of the pond, and also because of burials and other cultural resources in that area. He requested that the Board impose a condition that any expansion of the park in that direction should require a carrying capacity study of the pond.

Mr. Uchida suggested adding a condition to read:

"19. If the County of Hawaii does choose to expand the Ahalanui Park, the County of Hawaii must conduct a carrying capacity study of the impacts on the pond located in the conservation district."

Both parties agreed with the language as suggested. Member Holschuh made a motion to approve staff's recommendation with the addition of condition no. 19.

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

**ITEM D-9: CONSENT TO ASSIGN, EXTENSION OF LEASE TERM AND CONSENT TO MORTGAGE, GENERAL LEASE (GL) NO. S-3780, NAPUANANI FARMS, ASSIGNOR; MR. CHUL HO CHO, ASSIGNEE; SUMMIT MORTGAGE BANK, MORTGAGEE; WAIMANALO, KOOLAUPOKO, OAHU, TMK: 1<sup>ST</sup>/4-1-026: 019**

Mr. Uchida amended Section C of the staff recommendation by changing the lender from Summit Mortgage Bank to Summit Lending, LLC. Staff's recommendation is that the Board consent to the assignment, authorize the extension, and consent to the mortgage, of GL No. S-3780, subject to conditions.

Mr. Chul Ho Cho was present to answer questions.

The Board amended the staff recommendation as follows:

"C. Consent to the mortgage between Mr. Chul Ho Cho, Mortgagor, and Summit Lending, LLC. [Mortgage Bank], Mortgagee, subject to the following:"

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

**ITEM D-2: EXTENSION OF LEASE TERM AND CONSENT TO MORTGAGE, GL NO. S-5168, AKAMAI LANDSCAPE & MAINTENANCE SERVICE, INC., LESSEE, WAIMANALO, OAHU, TMK: 1<sup>ST</sup>/4-1-27: 18**

Mr. Uchida briefed the Board and recommended that the Board authorize the extension of GL No. S-5168, and consent to the mortgage between Akamai Landscape & Maintenance Service, Inc., and First Hawaiian Bank, subject to standard conditions.

In response to a concern raised by Member McCrory about the history of default notices for failure to post the required performance bond, Mr. Morris Kozai, Akamai Landscape & Maintenance Service, Inc., explained the problems with his insurance company in obtaining the certificate of insurance on a timely basis. Member McCrory suggested, and Mr. Kozai agreed, to post the bond in cash.

Mr. Kozai's Lender from First Hawaiian Bank, requested that the lease be extended for 40-years instead of 30. He indicated that the bank requires, under leasehold property, 10 additional years. The Board was concerned about extending a lease for 40-years on a loan of \$100,000. The lender agreed to ask for an exception in this case.

The Board amended the staff recommendation by adding the following condition:

"3. The lessee post cash to satisfy the performance bond requirement for this lease."

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

**ITEM D-8: REQUEST FOR PARTIAL WITHDRAWAL OF LAND FROM GL NO. S-4197, GRANT OF PERPETUAL NON-EXCLUSIVE EASEMENT OF WITHDRAWN LAND FOR HIGHWAY RIGHT-OF-WAY PURPOSES TO THE DEPARTMENT OF TRANSPORTATION AND AN IMMEDIATE RIGHT-OF-ENTRY FOR CONSTRUCTION PURPOSES TO PARSONS-UXB JOINT VENTURE, ON GOVERNMENT LAND, PORTION OF PULEHUNUI AND WAIKAPU, WAILUKU, MAUI, IDENTIFIED BY TMK: 3-8-08: POR. 01 AND 08**

Mr. Uchida briefed the Board and recommended that the Board authorize the withdrawal of approximately 1.224 acres of land from GL No. S-4197, approve of the issuance of a perpetual non-exclusive easement to the Department of Transportation, and grant an immediate right-of-entry to Parsons-UXB Joint Venture, subject to conditions.

Mr. Mike Nahoopii, Parsons-UXB Joint Venture, was present to answer questions.

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

**ITEM D-4: SET ASIDE TO COUNTY OF KAUAI, DEPARTMENT OF WATER, FOR HANAPEPE WELL SITE AND RELATED EASEMENTS, AND GRANT OF PERPETUAL, NON-EXCLUSIVE EASEMENT FOR ELECTRIC TRANSMISSION LINE PURPOSES TO CITIZENS UTILITIES COMPANY, LTD., OVER EASEMENT A-1, HANAPEPE, KAUAI, TMK: 1-8-7: POR. 10**

Mr. Uchida briefed the Board and recommended that the Board approve the set aside of the site to the County of Kauai, Department of Water, and authorize the issuance of a perpetual, non-exclusive easement to Citizens Utilities Company, Ltd., subject to standard conditions.

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

**ITEM D-5: ISSUANCE OF RIGHT-OF-ENTRY TO THE DEPARTMENT OF LAND AND NATURAL RESOURCES, DIVISION OF FORESTRY AND WILDLIFE, FOR PUBLIC HUNTING MANAGEMENT PURPOSES ON LANDS FORMERLY COVERED BY GL NO. S-4222, WAIMEA (KONA), KAUAI, TMK: 1-2-2: 1 & 23**

Mr. Uchida briefed the Board and recommended that the Board authorize the issuance of a right-of-entry to the Division of Forestry and Wildlife, subject to conditions.

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

**ITEM D-7: RESCIND PREVIOUS APPROVAL FOR SET ASIDE TO THE CITY AND COUNTY OF HONOLULU FOR PUBLIC PARKS PURPOSES, HONOLULU, OAHU, TMK: 1<sup>ST</sup>/2-9-26: 2 AND PORTION 43**

Mr. Uchida briefed the Board and recommended that the Board rescind its approval of September 29, 1995, subject to standard conditions.

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

**ITEM D-10: GRANT OF PERPETUAL, NON-EXCLUSIVE EASEMENT TO MR. RODD R. AND MRS. LISA F. SUNADA, HUSBAND AND WIFE, AS TENANTS BY THE ENTIRETY FOR ACCESS AND UTILITY PURPOSES OVER AND ACROSS STATE-OWNED LAND AT AIEA, EWA, OAHU, TMK: 1<sup>ST</sup>/9-9-044: 022**

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

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

**ITEM K-1: GRANT OF TERM, NON-EXCLUSIVE EASEMENT AND ISSUANCE OF RIGHT-OF-ENTRY TO HAWAIIAN ELECTRIC COMPANY, INC. FOR ACCESS PURPOSES, NEAR PIER 31, HONOLULU HARBOR, OAHU, TMK: (1)-1-5-36-1P**

Mr. Peter Garcia, Property Management Officer of the Department of Transportation, briefed the Board and recommended that the Board authorize the issuance of a term, non-exclusive easement to Hawaiian Electric Company, Inc., subject to standard terms and conditions, review and approval by the Department of the Attorney General, and such other terms and conditions, that may be imposed.

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

**ITEM K-2: ISSUANCE OF REVOCABLE PERMIT TO MR. ERIC K. LINDSEY FOR A LUNCH WAGON AT KAWAIHAE HARBOR, ISLAND OF HAWAII, TMK: (3)-6-1-3-24P**

Mr. Garcia briefed the Board and recommended that the Board authorize the Director of Transportation to issue the applicant a revocable permit.

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

**ITEM K-3: AMENDMENT TO REVOCABLE PERMIT NO. H-84-1182 ISSUED TO KERR PACIFIC, PIER 22, HONOLULU, HARBOR, OAHU, TMK: (1)-15-39-7P AND 50P**

Mr. Garcia withdrew this item at the request of the applicant.

**Withdrawn (Matsumoto/Kennison).**

**ITEM K-4: CONSENTS TO SUBLEASE, HONOLULU INTERNATIONAL AIRPORT, OAHU (DFS GROUP L.P./TIARE ENTERPRISES, INC. & ISLAND SHOPPERS, INC.)**

Mr. Garcia briefed the Board and recommended that the Board authorize and grant a consent to sublease for each of the two subleases.

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

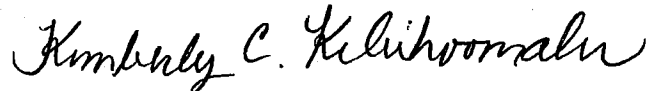
**ITEM K-5: REPORT ON REVOCABLE PERMITS ISSUED OR RENEWED BY THE DEPARTMENT OF TRANSPORTATION FOR CONSISTENT USES**

**No action.**

There being no further business, Chairperson Coloma-Agaran adjourned the meeting at 11:45 a.m.

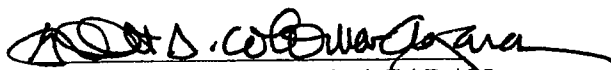
Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Kimberly C. Keliihoomalu

Approved for submittal:



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