

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

DATE: FRIDAY, JULY 13, 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 9:11 a.m. The following were in attendance:

MEMBERS:

Mr. Gilbert Coloma-Agaran
Ms. Kathryn Inouye
Mr. Ted Yamamura

Mr. Timothy Johns
Dr. Fred Holschuh

STAFF:

Mr. Mason Young, Division of Boating
and Ocean Recreation (DOBOR)
Mr. Harry Yada, Land Division
Mr. Gary Moniz, Division of Conservation
and Resources Enforcement (DOCARE)

Mr. John Hino, DOBOR
Mr. Dan Quinn, Division of State Parks
Mr. Sam Lemmo, Land Division
Mr. Andy Monden, Land Division
Mr. Karl Dalla Rosa, Division of Forestry
and Wildlife

OTHERS:

Ms. Dawn Shigezawa, Department of the
Attorney General
Mr. Vince Bagoyo, J-2
Mr. Steve Cole, E-1
Mr. Max Graham D-4
Mr. Craig Furusho, D-17
Ms. Cecilia Christenson, D-17
Mr. Kale Feldman, D-26
Mr. Mike Pitta, K-3
Mr. Rob Volker, D-8
Mr. Alan Oshima, D-25
Mr. John Reghi, B-1

Mr. Peter Garcia, Department of
Transportation
Mr. Clarence Greff, E-1
Ms. Ronnie Grover, E-1
Mr. David Craddick, D-28
Mr. Stewart Wade, D-17
Ms. Joey Marshall, D-15
Mr. Calvin Miyamoto, D-30
Mr. Henry Curtis, K-3
Ms. Lisa Suan, D-8
Mr. Alvin Maeda, D-32

ITEM J-2: ISSUANCE OF LEASE BY DIRECT NEGOTIATION TO THE CASTLE AND COOKE RESORTS LLC, MANELE BAY SMALL BOAT HARBOR, ISLAND OF LANAI

Mr. Mason Young, Acting Administrator of the Division of Boating and Ocean Recreation, explained that there has been concern as to whether Act 299 SLH 2001 is the appropriate law to use. Based on that, he suggested an amendment to staff's recommendation to read: "A. Approve the issuance of lease by direct negotiation pursuant to Act 299 SLH 2001 or Section 171-59 HRS, as determined by the Attorney General, for a term of 55 years or 35 years, whichever is applicable, ..."

In response to a concern raised by Member Inouye regarding the re-determination of annual lease rents at the end of the 10th, 25th, and 40th years, Mr. Young agreed to revise the re-determination date to every 10 years, to conform with the new standard being maintained for land leases.

Mr. Vince Bagoyo, Vice-President of Castle and Cooke Resorts, LLC, gave the Board a review of the Development Schedule.

The Board amended the staff recommendation as follows:

"Approve the issuance of a lease by direct negotiation pursuant to Act 299 SLH 2001 or Section 171-59 HRS, as determined by the Attorney General, for a term of 55 years or 35 years, whichever is applicable, to Castle and Cooke Resorts LLC aka Lanai Company, covering approximately 2 acres as shown on Land Board Exhibit "B", to build and operate a land side marina, subject to the terms and conditions described in the submittal with the rental reopening to occur every ten (10) years."

Unanimously approved as amended (Yamamura/Holschuh).

ITEM A-1: APPROVAL OF THE MAY 25, 2001 MEETING

Member Yamamura was recused, he was not present at this meeting.

Member Johns was not present at this meeting, but reviewed the tapes and a copy of the minutes, and therefore participated in the vote.

Member Holschuh provided a list of amendments: Page 10, 3rd paragraph: "... and advantages[advantageous] available for the community of Maui.", Page 11, 2nd paragraph: "... fairly distribute the water to the people who need[s] it to survive.", and Page 13, 4th paragraph: "... The process of[or] reform of this outmoded..."

Chairperson Coloma-Agaran indicated that staff raised a concern on the action of the Board, Item D-5, Page 13, which shows the Board action as Deferred. The Board did grant a holdover permit, and the motion in the language of the minutes reflects this. He asked if the Board had any inclination to add additional language. Member Inouye recalled that there was substantial discussion before the motion was made, felt the language in the minutes was clear, and was fine with how it read.

Unanimously approved as amended (Inouye/Holschuh).

ITEM E-1: REQUEST BY NA PALI ZODIAC TO OPERATE IN COOPERATION WITH NA PALI ECO-ADVENTURES

Mr. Dan Quinn, Administrator of the Division of State Parks, briefed the Board and recommended that the Board approve the request by Na Pali Zodiac to operate in cooperation with Na Pali Eco-Adventures for boating operations on the Na Pali Coast.

Mr. Quinn referred to written testimony received from Kauai Sea Tours, and felt there were issues raised that needed to be addressed. The 30-passenger vessel being used and the limit of 15 individuals on the trail at a time, and the impact to cultural resources and archeological sites.

Mr. Clarence Greff, General Manager of Na Pali Zodiac, testified in support of staff's recommendation.

Mr. Steve Cole, Na Pali Eco-Adventures, clarified that they plan to moor the 30-passenger vessel outside, and allow 15 passengers at a time to walk the trail with a guide, while the other 15 snorkel. He indicated that they have been communicating with the Na Pali Coast Ohana on environmental concerns.

Ms. Ronnie Grover, General Manager of Kauai Sea Tours, wanted to make sure that the site is protected and maintained, and that peace is kept in the area.

Unanimously approved as submitted (Johns/Inouye).

ITEM E-2: CONSENT TO ASSIGNMENT OF GENERAL LEASE NO. S-5281, KAHANA VALLEY STATE PARK, OAHU

Mr. Quinn briefed the Board and recommended that the Board assign General Lease No. S-5281, to Mr. George Dela Cerna, Sr., pursuant to the terms of the lease.

Unanimously approved as submitted (Inouye/Holschuh).

ITEM E-3: REQUEST OF KAHUKU HIGH AND INTERMEDIATE SCHOOL TO EXTEND ITS PERMIT FOR AN ALTERNATE LEARNING CENTER AT KAHANA VALLEY STATE PARK, OAHU

Mr. Quinn asked that this item be withdrawn.

Withdrawn.

ITEM D-4: SALE TO COUNTY OF KAUAI, PUBLIC WORKS DEPARTMENT, PORTION OF DITCH NO. 8, POR. OF SOUTH OLOHENA-KAPAA, KAWAIHAU, KAUAI, HAWAII, TMK: 4-3-3: POR. 35

Mr. Harry Yada, Acting Administrator of the Land Division, requested an amendment by adding an additional condition: "3. e. Subject to Applicant receiving Final Subdivision approval for their project from the County of Kauai." Staff's recommendation is that the Board authorize the subdivision and consolidation of the subject remnant by the Applicant and/or Kapaa 382, LLC, and authorize the sale of a portion of Ditch No. 8 to the County of Kauai, with the additional condition, subject to terms and conditions.

Mr. Max Graham, representing Kapaa 382, LLC, requested that they be authorized to enter the property to allow them to construct the roadway.

The Board approved staff's recommendation with the following amendments:

3. e. Subject to the Applicant receiving Final Subdivision approval for their project from the County of Kauai; and
4. Authorize the issuance of a Construction Right-of-Entry subject to the terms and conditions of our most current right-of-entry form.

Unanimously approved as amended (Johns/Holschuh).

ITEM D-28: RIGHT-OF-ENTRY TO THE BOARD OF WATER SUPPLY OF THE COUNTY OF MAUI FOR MONITOR WELL PURPOSES, KUIAHA-PAUWELA, MAKAWAO, MAUI, TMK: (2) 2-7-08:08 (POR.)

Mr. Yada briefed the Board and recommended that the Board authorize the issuance of a right-of-entry to the Board of Water Supply for drilling and utilizing a monitor well for data collection and sampling purposes, subject to terms and conditions.

Mr. David Craddick, Director of the Department of Water Supply, County of Maui, made a clarification with regard to condition no. 2. D., that the data gathering and sampling would be over a 10 year period, the well cannot be turned into a production well until all the other wells in the plan have been drilled and converted into production.

Unanimously approved as submitted (Yamamura/Inouye).

ITEM D-17: RESCIND PRIOR BOARD ACTION OF OCTOBER 27, 2000, AGENDA ITEM D-25, FORFEITURE OF GENERAL LEASE NO. S-5387, MR. FALEAGAFULU M. TUAOLO, LESSEE, WAIMANALO, KOOLAUPOKO, OAHU, TMK: (1) 4-1-010: 026

Mr. Yada briefed the Board and recommended that the Board rescind its prior action of October 27, 2000, and authorize the cancellation of General Lease No. S-5387, in accordance with terms and conditions.

Mr. Craig Furusho, representing the Applicant, explained that the previous assignee the Board had authorized on October 27, 2000, Mr. John Campbell, fell through because the assignee failed to obtain a loan. Subsequently, there has been another potential buyer, Lao Buddhist Society of Hawaii, for an all cash transaction. He asked that his client be given a final opportunity.

Mr. Stewart Wade, also representing the Applicant, explained that he has been working with the potential buyer, Lao Buddhist Society of Hawaii, since May 2001, and the buyer plans to be teaching agriculture and flower raising to their people.

Ms. Cecilia Christenson, Banker from Kailua representing the Applicant, explained the problems with the previous buyer, and indicated that Lao Buddhist Society of Hawaii seems to assure that they do have the qualifications and agricultural background needed. She asked for the Board's consideration in extending the lease a little further so the contract could be consummated.

The Board raised many concerns: the history of non-compliance and defaults that has been consistent especially during the past several years; the lessee, not anybody else, is responsible for the conditions that the lessee agreed to in the lease; the potential buyer is more concerned about arts, crafts, and cultures, and its mission doesn't fit the definition of diversified agricultural use; the proposed buyer was not present to testify or answer questions; and the Board members' responsibility and obligation to the public for the lands that are entrusted in their care. Based on that, the Board decided to approve staff's recommendation as presented, to cancel General Lease No. S-5387.

Unanimously approved as submitted (Inouye/Johns).

ITEM D-15: GRANT OF A TERM, NON-EXCLUSIVE EASEMENT FOR SEAWALL TO MR. HAL M. STANLEY AND MS. DEBORAH L. STANLEY, CO-TRUSTEES OF THE STANLEY FAMILY TRUST UNDER TRUST AGREEMENT DATED NOVEMBER 25, 1993, LANIKAI, KAILUA, OAHU, TMK: (1) 4-3-008: 051 (SEAWARD)

Mr. Yada briefed the Board and recommended that the Board authorize the Department to accept a deposit in the amount of \$8,000 from the Applicants to be applied to the cost and purchase of the easement, authorize the issuance of a 55-year term non-exclusive easement for the footing of the seawall to the Applicants, and impose a fine of \$500 for the encroachment upon public lands.

Ms. Joey Marshall, Peter Vincent and Associates, the Applicant's Architect, was present to answer questions.

Unanimously approved as submitted (Inouye/Holschuh).

ITEM D-26: GRANT OF PERPETUAL, NON-EXCLUSIVE EASEMENT TO HAWAII KAI MARINA COMMUNITY ASSOCIATION FOR MAINTENANCE PURPOSES, MAUNALUA OAHU, TMK: (1) 3-9-2: SEAWARD OF KALANIANAOLE HIGHWAY NEAR THE BRIDGE

Mr. Yada briefed the Board and recommended that the Board authorize the issuance of a perpetual, non-exclusive easement to Hawaii Kai Marina Community Association for maintenance purposes, subject to terms and conditions.

Mr. Kale Feldman, Hawaii Kai Marina Community Association, testified in favor of staff's recommendation

Unanimously approved as submitted (Inouye/Yamamura).

ITEM D-30: ISSUANCE OF REVOCABLE PERMIT TO QUALITY PRECAST PRODUCTS, INC., HONOLULI, EWA, OAHU, TMK: (1) 9-1-031: PORTION OF 001

Mr. Yada briefed the Board and recommended that the Board authorize the issuance of a revocable permit to Quality Precast Products, subject to terms and conditions.

Mr. Calvin Miyamoto, Quality Precast Products, Inc., was present to answer questions.

Unanimously approved as submitted (Inouye/Holschuh).

ITEM K-3: ISSUANCE OF A RIGHT-OF-ENTRY TO CH2M HILL, INC. TO LOCATE, IDENTIFY AND REMOVE ANY DISCOVERED OR POTENTIAL SOURCE OF HAZARDOUS SUBSTANCES BEING RELEASED INTO HONOLULU HARBOR, NEAR PIERS 26 AND 35, IWILEI AND KAPALAMA, HONOLULU, HARBOR, OAHU, TMK: (1)-1-5-38-1 AND (1)-1-5-34-4 & 5

Mr. Peter Garcia, Property Management Officer for the Department of Transportation, briefed the Board and recommended that the Board authorize the issuance of a right-of-entry to CH2M Hill, Inc., subject to terms and conditions.

Mr. Mike Pitta, Project Manager for the Honolulu Harbor Participating Parties (HHPP), a consortium of various users and landowners, indicated that HHPP has entered into a voluntary agreement with the Department of Health to address contamination issues. CH2M Hill, Inc., their Environmental Consultant, will be addressing the issues at Piers 26 and 35. The whole investigation will eventually take them throughout the Iwilei area. Each company has carried out some degree of investigation, and as part of the Environmental Response Agreement with the Department of Health, they will be compiling all the investigation data and developing a strategy.

Mr. Henry Curtis, Executive Director of Life of the Land, was concerned about the impacts to the coastal marine areas. He asked that a condition be added, that CH2M Hill, Inc. come back to the Board at the end of the project to explain what was found, what was done, and whether there were any impacts or potential impacts to the marine eco-systems.

Member Inouye made a motion to approve staff's recommendation with an amendment to include an additional condition to read: "That CH2M Hill, Inc., provide the Board with an annual status report." Mr. Curtis supported the additional condition.

Unanimously approved as amended (Inouye/Johns).

ITEM D-8: AMEND PRIOR BOARD ACTION DATED JANUARY 16, 1998 (ITEM D-13) AND JANUARY 12, 2001 (ITEM D-4) FOR ISSUANCE OF 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. Yada briefed the Board and recommended that the Board amend its action of January 16, 1998 by replacing the grantee, GST Telecom Hawaii, Inc., with Pacific Lightnet, Inc.; amend prior action of January 12, 2001 by replacing the grantees, GST Telecom Hawaii Inc. and Time Warner Telecom of Hawaii, L.P. dba Oceanic Communication, with Pacific Lightnet, Inc. and Time Warner Telecom of Hawaii, L.P. dba Ocean Communication, subject to terms and conditions.

Mr. Rob Volkner, President and Chief Operating Officer of Pacific Lightnet, Inc., gave some background information and history of the company.

Ms. Lisa Suan, GST Telecom Hawaii Inc., was present to answer questions.

Unanimously approved as submitted (Inouye/Yamamura).

ITEM D-25: AMENDMENT TO CONSERVATION DISTRICT USE PERMIT NO. OA-2760 TO RECOGNIZE A REDUCTION IN THE SIZE OF THE PROPOSED EWA MARINA (OCEAN POINTE)

Mr. Sam Lemmo, Staff Planner for the Land Division, briefed the Board and recommended that the Board approve Haseko's request to amend Conservation District Use Permit No. OA-2760 to reflect a reduction in the size of the Ocean Pointe Marina from 120 acres to 70 acres, and that all other conditions imposed by the Board under Conservation District Use Permit No. OA-2760, shall remain in effect.

Mr. Alan Oshima, representing, Haseko, was present to answer questions.

Unanimously approved as submitted (Inouye/Yamamura).

ITEM D-32: CONSERVATION DISTRICT USE APPLICATION FOR THE PROPOSED KANEOHE PIERS AMNESTY PROGRAM

Mr. Lemmo briefed the Board and recommended that the Board dedicate revenues generated from the leasing of piers and granting of easements for seawalls, filled areas, boat ramps, steps, etc., as a revenue source for the Beach Restoration Special Fund, and approve the Kaneohe Bay Pier Project, subject to 11 conditions.

Mr. Alvin Maeda, Chairperson for the Protect Our Shoreline Ohana, provided written and oral testimony in agreement with the approval of the Conservation District Use Application, and indicated that they have been working with the department in an effort to bring all the piers into line.

Member Johns, regarding recommendation A., asked if the revenues that will be dedicated to the Beach Restoration Special Fund, would be generated from statewide piers, and if it would be appropriate to do this in a Conservation District Use Application concerning Kaneohe Bay, or should there be a separate submittal. Mr. Lemmo indicated that the intent was for revenues generated from Kaneohe Bay, and the beach restoration would be part of the statewide program. He explained that since this was coming to the Board for an action to authorize the legalization of the pier program, their judgment was that they would also, in the same action, tackle the issue of where the revenues go.

Member Inouye felt that there should be some kind of incentive for the existing people who have been paying, and asked that staff make a request to the Attorney General's for an opinion on whether the Board could compensate or give credit to them. She also pointed out the small dollar amount received from the few people who are complying, and asked whether the Board could allow them to cease payments until the leases are issued. Chairperson Coloma-Agaran suggested, should the Board approve the Conservation District Use Application, that the lease run from the date of approval. Mr. Lemmo added, anticipating the issuance of the new leases, the date would be retroactive, so that everyone comes on line at the same time, with the same conditions. Member Inouye suggested a time limit of 1-year for the pier owners to complete all matters related to the execution of a lease.

In response to a concern raised by the Board, Mr. Lemmo indicated that staff would provide a 90-day notice to those who are not part of the program and those that are not in compliance, informing them of their options.

The Board approved staff's recommendation as amended, by inserting "Kaneohe Bay" into recommendation A. for clarification, and appending 4-additional conditions to the permit as follows:

1. Upon issuance of pier leases by the Board, the effective date of lease shall be July 13, 2001;
2. That the Department of Land and Natural Resources Land Division request an opinion from the Department of the Attorney General on whether the Department and the Board may provide credit to the owners of piers who have been making lease payments in good standing;
3. That pier owners have 1-year from the date of the Board's decision on the Conservation District Use Application to complete all matter related to the execution of a lease including maps, liability insurance, lease payments, insurance, appraisals, and performance bond;
4. That the Department of Land and Natural Resources Land Division shall inform those pier owners who are not participating in the Amnesty Program and who have authorized piers that they have ninety (90) days from July 13, 2001 to apply to be included in the program.

If the Department does not receive an application to participate in the program from the owner of an unauthorized pier within 90-days of the Boards action on July 13, 2001, the Department will remove the encroaching piers at the pier owner's expense. In complying with this condition, the Department will make best effort to obtain current addresses.

Unanimously approved as amended (Inouye/Johns).

ITEM B-1: REQUEST BOARD APPROVAL TO ENTER INTO A JOINT ENFORCEMENT AGREEMENT BETWEEN THE DEPARTMENT OF LAND AND NATURAL RESOURCES, DIVISION OF CONSERVATION AND RESOURCES ENFORCEMENT, AND THE NATIONAL MARINE FISHERIES SERVICE, OFFICE OF LAW ENFORCEMENT

Mr. Gary Moniz, Enforcement Chief for the Division of Conservation and Resources Enforcement, briefed the Board and recommended that the Board approve the Joint Enforcement Agreement, and that the Chairperson be authorized to sign the memorandum.

Mr. John Reghi, Assistant Special Agent in Charge for the Pacific Regent, National Marine Fisheries Service, Office of Law Enforcement, gave some background information of the program.

In response to a concern raised by Member Johns, Mr. Reghi indicated that the funds could be used to expand the DOCARE volunteer program. Mr. Moniz added that they are currently looking at hiring volunteers on a part-time basis to fill gaps in some enforcement efforts, hours at the pier, and clerical support staff.

Member Johns made a motion to amend staff's recommendation by adding: "That some of the funds that become available be used to expand the DOCARE volunteer program."

Unanimously approved as amended (Johns/Yamamura).

ITEM K-1: APPROVAL OF CONSENT TO SUBLEASE, KERR PACIFIC CORPORATION (SUBLESSOR) AND DEPENDABLE EXPRESS, INC. (SUBLESSEE), PORTIONS OF HARBOR LEASE NOS. H-79-1 AND H-86-1, PIER 23, HONOLULU HARBOR, OAHU, TMK: (1)-1-5-39-22P & 26P

Mr. Garcia briefed the Board and recommended that the Board approve the Consent to Sublease, subject to terms and conditions.

Unanimously approved as submitted (Inouye/Holschuh).

ITEM K-2: ISSUANCE OF REVOCABLE PERMIT TO MR. RONALD P. WEIDENBACH, DILLINGHAM AIRFIELD, OAHU, TMK: (1)-1-6-8-02

Mr. Garcia briefed the Board and recommended that the Board approve the revocable permit to the Applicant.

Unanimously approved as submitted (Inouye/Yamamura).

ITEM K-4: CONVEYANCE OF PORTION OF ALA MOANA BOULEVARD, FROM KALIA ROAD TO KALAKAUA AVENUE, PARCEL A, HONOLULU-PEARL HARBOR ROAD, KALIA SECTION, FAP NO. U-44(9) TO THE CITY AND COUNTY OF HONOLULU, TMK: (1)-2-6-5, 7, 9, 12: ROAD

Mr. Garcia briefed the Board and recommended that the Board authorize the conveyance of a portion of Ala Moana Boulevard to the City and County of Honolulu for continued use as a public roadway facility, subject to terms and conditions.

Unanimously approved as submitted (Johns/Inouye).

ITEM K-5: SUPPLEMENTAL AGREEMENT NO. 3 FOR AN EXTENSION OF LICENSE CONTACT NO. DAC 84-9-87-29 TO THE UNITED STATES OF AMERICA, DEPARTMENT OF THE ARMY, AT KAWAIHAE HARBOR, ISLAND OF HAWAII, TMK: (3)-6-1-03-25P

Mr. Garcia briefed the Board and recommended that the Board approve Supplemental Agreement No. 3 to License Contract No. DACA84-9-87-29 between the State of Hawaii and the United States of America, subject to terms and conditions, and terms and conditions as may be prescribed by the Director of Transportation.

Unanimously approved as submitted (Holschuh/Inouye).

ITEM K-6: ISSUANCE OF REVOCABLE PERMIT TO DRAFSTONE COMPANY, INC. NEAR PIER 29, HONOLULU, HARBOR, OAHU, TMK: (1)-5-38-2P

Member Yamamura recused himself.

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

Unanimously approved as submitted (Inouye/Holschuh).

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 for the Board's information, and no action is required.

No action.

ITEM K-8: ISSUANCE OF REVOCABLE PERMIT TO KAIKOR CONSTRUCTION ASSOCIATES, INC., NEAR PIER 32, HONOLULU HARBOR, OAHU, TMK: (1)-1-5-35-7P

Member Yamamura recused himself.

Mr. Garcia briefed the Board and recommended that the Board authorize the Director of Transportation to issue the Applicant a revocable permit, subject to terms and conditions, and terms and conditions as may be prescribed by the Director of Transportation.

Unanimously approved as submitted (Inouye/Holschuh).

ITEM D-2: PERMISSION TO HIRE CONSULTANTS FOR DLNR CIP PROJECTS

Mr. Andy Monden, Chief Engineer for the Land Division, Engineering Branch, briefed the Board and recommended that the Board authorize the hiring of consultants for the projects, and authorize the Chairperson to sign the necessary documents pertaining to the individual project, subject to the release of funds by the Governor.

Unanimously approved as submitted (Johns/Holschuh).

ITEM D-29: PERMISSION TO ENTER INTO A MEMORANDUM OF AGREEMENT WITH THE OFFICE OF HAWAIIAN AFFAIRS REGARDING INFRASTRUCTURE DEVELOPMENT FOR THE KIKALA-KEOKEA SUBDIVISION, ISLAND OF HAWAII

Mr. Monden briefed the Board and recommended that the Board authorize the Chairperson to execute the Memorandum of Agreement with the Office of Hawaiian Affairs for the completion of infrastructure development for the Kikala-Keokea subdivision.

Member Johns requested, should there be any material changes to the agreement, that this be brought back to the Board.

Unanimously approved as amended (Holschuh/Inouye).

ITEM J-1: REQUEST THAT THE BOARD OF LAND AND NATURAL RESOURCES ADOPT PROPOSED AMENDMENTS TO TITLE 13, CHAPTERS 250 AND 254, HAWAII ADMINISTRATIVE RULES, REGARDING HANDBOARDS, WITHOUT SKEGS, IN POINT PANIC OCEAN WATERS OFF OAHU

Mr. Young briefed the Board and recommended that the Board adopt the proposed amendments to the Hawaii Administrative Rules.

Unanimously approved as submitted (Inouye/Holschuh).

ITEM D-1: APPOINTMENT AND SELECTION OF A HEARING OFFICER TO CONDUCT ALL HEARINGS FOR VARIOUS PETITIONS FOR A CONTESTED CASE HEARING: DOCKET NO. 00-03-MO – A PETITION CONTESTING A BOARD FINDING OF UNAUTHORIZED CONSTRUCTION OF A SHORELINE STRUCTURE AT WAIALUA, MOLOKAI, MAUI, TMK: SEAWARD OF (2) 5-7-001: 001

Mr. Lemmo briefed the Board and recommended that the Board authorize the appointment of a Hearing Office to conduct all the hearings relevant to the subject petition for a Contested Case Hearing, and that the Board delegate the selection of the Hearing Officer to the Chairperson.

The Board, in addition to approving the staff's recommendation, added a third condition, ratifying the Chairperson's selection of Mr. John Rapacz as the Hearing Officer for the Contested Case.

Unanimously approved as amended (Holschuh/Yamamura).

ITEM D-23: CONSERVATION DISTRICT USE APPLICATION NO. LA-3019 AND MANAGEMENT PLAN FOR DEER FENCES AND LANDSCAPING AT LANAIHALE, LANAI, TMK: 2ND 4-9-02: POR. 01

Mr. Lemmo made a few amendments to staff's recommendation: "That the Board of Land and Natural Resources approve this application and management plan for 5.5 Miles of Fencing, Landscaping and Watershed Ecosystem Research, at Lanaihale, Lanai Kamalo, Kapualei and Kaapahu, Molokai];", and "18. Other terms and conditions as prescribed by the Chairperson: 1)

The applicant, project implementers and/or landowners shall consult with cultural practitioners and the community when he considers locations for fence climb over sites for all fences; and 2) All mitigation measures set forth in the application, environmental assessment and management plan for this project are hereby incorporated as conditions of the permit.”

Member Johns amended the staff report, page 9, 3rd paragraph, to read: “Staff also would like to note that the proposed use would take place on private land. The project’s goal is to reduce the number of deer[goat] and maintain...”

Mr. Karl Dalla Rosa, Service Forester for the Division of Forestry and Wildlife, was present to answer questions.

Unanimously approved as amended (Yamamura/Inouye).

ITEM D-24: TIME EXTENSION FOR CONSERVATION DISTRICT USE APPLICATION NO. MA-2705 FOR THE ADVANCED ELECTRO-OPTICAL SYSTEM (AEOS) 8-METER CLASS TELESCOPE AND RELATED IMPROVEMENTS AT HALEAKALA, MAUI, TMK: (2) 2-2-07: 08

Mr. Lemmo briefed the Board and recommended that the Board approve the request to amend Conservation District Use Application No. MA-2705, subject to conditions.

Unanimously approved as submitted (Yamamura/Holschuh).

ITEM D-22: CERTIFICATION OF ELECTION AND APPOINTMENT OF SOIL AND WATER CONSERVATION DISTRICT DIRECTORS (MOLOKAI-LANAI, KONA, EAST KAUAI)

Mr. Lemmo briefed the Board and recommended that the Board certify the elections, and appoint those recommended as directors of their respective Soil and Water Conservation District, for the term ending June 30, 2004.

Unanimously approved as submitted (Johns/Inouye).

ITEM D-3: AMENDMENT TO PRIOR BOARD ACTIONS OF DECEMBER 15, 1995, AGENDA ITEM F-11, WITHDRAWAL OF LAND FROM GENERAL LEASE NO. S-4197 AND ISSUANCE OF A REVOCABLE PERMIT TO MAUI ECONOMIC OPPORTUNITY, INC. AND OF JULY 14, 2000, AGENDA ITEM D-4, WITHDRAWAL OF LAND FROM GENERAL

**LEASE NO. S-4197 AND SET ASIDE TO THE COUNTY OF MAUI,
PORTION OF FORMER NAVAL AIR STATION PUUNENE, PORTION
OF PULEHUNUI AND WAIKAPU, WAILUKU, MAUI, TMK: 3-8-008: 001
(PORTION)**

Mr. Yada briefed the Board and recommended that the Board amend its prior action of December 15, 1995, to rescind the issuance of a revocable permit to Maui Economic Opportunity, Inc., and amend its prior action of July 14, 2000, to add and include the 7.549 acre parcel within lands to the County of Maui.

Unanimously approved as submitted (Yamamura/Holschuh).

**ITEM D-5: FORFEITURE OF GENERAL LEASE NO. S-5031, MR. DAVID M.
HAGINO AND MS. LOO ANN GUANSON, LOT 54, KOKEE CAMP SITE
LOTS, WAIMEA (KONA), KAUAI, HAWAII, TMK: 1-4-4: 40**

Mr. Yada briefed the Board and recommended that the Board authorize the cancellation of General Lease No. S-5031, for failure to post the required liability insurance.

The Board deferred this item. Chairperson Coloma-Agaran indicated that a certificate of insurance was received and forwarded to the Land Division.

Deferred (Johns/Holschuh).

**ITEM D-6: FORFEITURE OF UNCOMPLETED FILE GENERAL LEASE NO. S-5193
AND CANCELLATION OF UNCOMPLETED FILE GRANTS OF NON-
EXCLUSIVE EASEMENTS TO ISLAND POWER COMPANY, WAILUA,
KAUAI, HAWAII, TMK: VARIOUS**

Mr. Yada briefed the Board and recommended that the Board authorize the cancellation of uncompleted file General Lease No. S-5193, subject to terms and conditions.

In response to a question raised by Member Inouye regarding the dates on page 2, 2nd paragraph, Mr. Yada made an amendment to read: "60 day cure period to correct default. The lessee received the certified mailing on 10/23/00[10/23/01]. The cure period for the default was 12/23/00."

Unanimously approved as amended (Johns/Holschuh).

ITEM D-7: AMEND PRIOR BOARD ACTION OF JANUARY 24, 1986, DIRECT SALE OF EASEMENT, KAUMANA TO KEAMUKU, HAWAII, TMKs: 2-5-01: 2, 6&8; 2-5-02: 1&14; 2-5-05: 80&86; 2-6-18: 1&4; 4-4-15: 8; 4-4-16: 3 & 5

Mr. Yada briefed the Board and recommended that the Board amend its action of January 24, 1986, Agenda Item F-2, by increasing the width of the authorized easement from 150 feet to 200 feet over the State lands traversed between HELCO's Kaumana substation and its Keamuku substation with the purpose being to construct, maintain and repair overhead 69KV and 138 KV electrical transmission lines, guy wires and anchors, subject to conditions.

Member Holschuh amended recommendation no. 1 to read: "1. Review and approval by the Department of the Attorney General."

Unanimously approved as amended (Holschuh/Inouye).

ITEM D-9: AMEND PRIOR BOARD ACTION OF AUGUST 26, 1994 (AGENDA ITEM F-4), ISSUANCE OF PERPETUAL, NON-EXCLUSIVE EASEMENT TO UNITED STATES OF AMERICA AT WAIALUA, OAHU, TMK: (1) 6-9-3: PORTION 2

Mr. Yada briefed the Board and recommended that the Board amend its action of August 26, 1994, by replacing perpetual, non-exclusive easement, with term, non-exclusive easement. The term to be from September 1, 1994 to August 16, 2029.

Unanimously approved as submitted (Inouye/Yamamura).

ITEM D-10: GRANT OF PERPETUAL, NON-EXCLUSIVE EASEMENT TO THE DEPARTMENT OF HAWAIIAN HOMELANDS FOR DRAINAGE PURPOSES; CONSENT TO DEPARTMENT OF HAWAIIAN HOMELANDS ENTERING INTO AN AGREEMENT WITH THE KALAWAHINE STREAMSIDE ASSOCIATION, KALAWAHINE, OAHU, TMK: (1) 2-4-43: PORTION 82

Mr. Yada briefed the Board and recommended that the Board authorize the issuance of a perpetual, non-exclusive easement to the Department of Hawaiian Home Lands, and consent to the agreement between the Department of Hawaiian Home Lands and Kalawahine Streamside Association, subject to terms and conditions.

Unanimously approved as submitted (Inouye/Yamamura).

ITEM D-11: RESCIND PRIOR BOARD ACTION OF JULY 10, 1998 (AGENDA ITEM D-13), RESUBMITTAL: CONSENT TO LEASE BETWEEN THE CITY AND COUNTY OF HONOLULU, A MUNICIPAL CORPORATION OF THE STATE OF HAWAII AS LESSOR, AND THE STATE OF HAWAII, BY ITS BOARD OF LAND AND NATURAL RESOURCES ON BEHALF OF THE ATTORNEY GENERAL, CRIMINAL JUSTICE DIVISION AS LESSEE, AT WAIAWA AND MANANA, EWA, OAHU, TMK: 9-7-023: 1 (POR.)

Mr. Yada briefed the Board and recommended that the Board rescind its action of July 10, 1998, subject to terms and conditions.

Unanimously approved as submitted (Inouye/Holschuh).

ITEM D-12: RESCIND PRIOR BOARD ACTION OF SEPTEMBER 26, 1986 (AGENDA ITEM F-1-G), REVOCABLE PERMIT TO MR. EDWARD AND MRS. JUDITH CARVALHO AT MAKAWAO, MAUI, TMK: (2) 2-7-8: 8

Mr. Yada briefed the Board and recommended that the Board rescind its prior Board action of September 26, 1986, subject to terms and conditions..

Unanimously approved as submitted (Yamamura/Inouye).

ITEM D-13: RESCIND PRIOR BOARD ACTION OF DECEMBER 16, 1988 (AGENDA ITEM F-1-D), REVOCABLE PERMIT FOR OPERATION OF ROCK CRUSHER AND DIESEL GENERATOR PURPOSES TO HANA EQUIPMENT CO., LTD. AT HANA, MAUI, TMK: (2) 1-3-6: PORTION 15

Mr. Yada briefed the Board and recommended that the Board rescind its prior Board action of December 16, 1988, subject to terms and conditions.

Unanimously approved as submitted (Yamamura/Holschuh).

ITEM D-14: RESCIND PRIOR BOARD ACTION OF JANUARY 12, 1996 (AGENDA ITEM F-6), ISSUANCE OF A REVOCABLE PERMIT TO MS. JENNY L. O'CLARAY FOR RESIDENTIAL PURPOSES AT KAHULUI AIRPORT, MAUI, TMK: (2) 3-8-2: PORTION 20

Mr. Yada briefed the Board and recommended that the Board rescind its prior action of January 12, 1996, subject to terms and conditions.

Unanimously approved as submitted (Yamamura/Inouye).

ITEM D-16: RESCIND PRIOR BOARD ACTION OF SEPTEMBER 26, 1986 (AGENDA ITEM F-1-E), REVOCABLE PERMIT TO MR. HENRY NOA AT KAWAIPAPA, MAUI, TMK: (2) 1-3-7: PORTION 1

Mr. Yada briefed the Board and recommended that the Board rescind its action of September 26, 1986, subject to terms and conditions.

Unanimously approved as submitted (Yamamura/Holschuh).

ITEM D-18: RESCIND PRIOR BOARD ACTION OF JULY 25, 1980 (AGENDA ITEM F-8), DIRECT SALE OF EASEMENT TO MAUI ELECTRIC CO., LTD. AND HAWAIIAN TELEPHONE CO. AT HANA, MAUI, TMK: (2) 1-4-4: 21

Mr. Yada briefed the Board and recommended that the Board rescind its action of July 25, 1980, subject to terms and conditions.

Unanimously approved as submitted (Yamamura/Inouye).

ITEM D-19: AMEND PRIOR BOARD ACTION AT ITS MEETING OF MARCH 23, 2001 (AGENDA ITEM D-9): CONSENT TO ASSIGN, EXTENSION OF LEASE TERM AND CONSENT TO MORTGAGE, GENERAL LEASE NO. S-3780, NAPUANANI FARMS, ASSIGNOR; MR. CHUL HO CHO, ASSIGNEE; SUMMIT LENDING, LLC, MORTGAGEE; WAIMANALO, KOOLAUPOKO, OAHU, TMK: (1) 4-1-026:019

Mr. Yada briefed the Board and recommended that the Board amend its prior action of March 23, 2001, subject to terms and conditions.

Unanimously approved as submitted (Inouye/Holschuh).

ITEM D-20: RESCIND PRIOR BOARD ACTION OF JANUARY 26, 1996 (AGENDA ITEM F-3), DIRECT ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT FOR UTILITY PURPOSES TO GTE HAWAIIAN TELEPHONE CO., AND SUBSEQUENT BOARD ACTION OF JANUARY 24, 1997 (AGENDA ITEM D-2), AMENDMENT AT WAIPIO-HUELO, MAUI, TMK: (2) 2-9-7: PORTION 3

Mr. Yada briefed the Board and recommended that the Board rescind its prior action of January 26, 1996, subject to terms and conditions.

Unanimously approved as submitted (Yamamura/Inouye).

ITEM D-21: RESCIND PRIOR BOARD ACTION OF AUGUST 12, 1983 (AGENDA ITEM F-8), LEASE BY NEGOTIATION FOR AGRICULTURAL PROCESSING AND MARKETING FACILITIES PURPOSES TO HAWAII PROTEA COOPERATIVE AT KULA, MAUI, TMK: (2) 2-3-3: PORTION 118

Mr. Yada briefed the Board and recommended that the Board rescind its prior action of August 12, 1983, subject to terms and conditions.

Unanimously approved as submitted (Yamamura/Inouye).

ITEM D-27: GRANT OF 55 YEAR TERM, NON-EXCLUSIVE EASEMENT FOR FOOTING OF SEAWALL TO MR. KEITH MAKOTO ISHIBASHI, TRUSTEE OF THE KEITH MAKOTO ISHIBASHI REVOCABLE TRUST DATED OCTOBER 1, 1999 AND MS. TAMMY AKEMI ISHIBASHI, TRUSTEE OF THE TAMMY AKEMI ISHIBASHI REVOCABLE PERMIT DATED OCTOBER 1, 1999, AS TENANTS IN COMMON, KANEOHE, KOOLAUPOKO, OAHU, TMK: (1) 4-6-22: 23 SEAWARD

Mr. Yada briefed the Board and recommended that the Board authorize the Department to accept a deposit in the amount \$5,500 from the Applicants pursuant to the conditions set forth in the Remarks Section in relation to the issuance of a 55-year non-exclusive easement for the footing of seawall purposes, and impose a fine of \$500 for encroachment upon public lands without Government Authorization, subject to terms and conditions.

Unanimously approved as submitted (Inouye/Johns).

ITEM D-31: SALE OF REMNANT TO MR. BRIAN M. O'BRIEN, PORTION OF KAPAA TOWN LOTS, KAWAIIHAU, KAUAI, TMK: 4-5-12: 13

Mr. Yada briefed the Board and recommended that the Board authorize the consolidation of the subject remnant by the Applicant, and authorize the sale of the subject remnant to Mr. O'Brien, subject to terms and conditions.

Unanimously approved as submitted (Johns/Holschuh).

There being no further business, Chairperson Coloma-Agaran adjourned the meeting at 1:50 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. Kelihoomalu

Approved for submittal:



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