

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

DATE: FRIDAY, AUGUST 24, 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 9:12 a.m. The following were in attendance:

MEMBERS:

Mr. Gilbert Coloma-Agaran	Mr. Timothy Johns
Ms. Lynn McCrory	Ms. Kathryn Inouye (excused at 1:20 p.m.)
Dr. Fred Holschuh	Mr. Ted Yamamura

STAFF:

Mr. Harry Yada, Land Division	Mr. Sam Lemmo, Land Division
Ms. Dede Mamiya, Land Division	Mr. Barry Cheung, Land Division
Mr. Nelson Ayers, Division of Forestry and Wildlife	Mr. Hiram Young, Land Division
Mr. Curt Cottrell, Division of Forestry and Wildlife	Mr. Eric Yuasa, Land Division
Mr. John Hino, Division of Boating and and Ocean Recreation	Mr. Carty Chang, Land Division

OTHERS:

Ms. Pamela Matsukawa, Department of the Attorney General	Mr. Peter Garcia, Department of Transportation
Mr. John Leong, H-1	Mr. Matthew Ramsey, H-1
Mr. Robert Horcajo, D-28	Mr. Mike Auerbach, D-9
Mr. Michael Moore, D-30	Mr. Craig Watanabe, D-10
Mr. Michael Nahoopii, D-7	Mr. Leslie Milnes, D-20
Ms. Lara Butler, D-20	Mr. Kelly Gooding, D-20
Rev. Arumugam Katir, D-20	Mr. Yoginatha Swami, D-20
Mr. Godwin Esaki, D-20	Ms. Sally Iwankiw, D-8
Mr. Philip Hauret, D-27	Mrs. Karen Akiba, D-15
Mr. Dale Sarver, D-24	Mr. John Corbin, D-24

Ms. Shelley Bermudez, D-29
Mr. Alvin Maeda, D-29
Dr. Roy Kuboyama, D-29
Mr. Philipp Steingraeber, D-29
Mrs. Marie Kastensmith, D-29
Mr. Scott Muraoka, D-12

Mrs. Stephanie Phillips, D-29
Ms. Mildred Togami, D-29
Rep. Colleen Meyer, D-29
Mr. Frank Medrano, D-29
Mr. Derek Chow, D-12
Mrs. Mari Berry, D-25

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

Chairperson Coloma-Agaran and Member Holschuh were not present at this meeting, but were able to review the tapes to confirm the accuracy of the minutes.

Unanimously approved as submitted (McCrory/Inouye).

ITEM A-2: APPROVAL OF THE JUNE 22, 2001 MINUTES

Member Holschuh made some amendments:

- 1) page 9, Item J-2, line 2 - change correspondents to correspondence; and
- 2) page 10, paragraph 5 - change Kapuna to Kupuna.

Unanimously approved as amended (McCrory/Inouye).

ITEM H-1: YOUTH CONSERVATION CORPS (YCC) PROGRAM REPORT AND POWER POINT

Mr. John Leong, Pono Pacific Land Management, LLC, introduced Mr. Matthew Ramsey, also of Pono Pacific Land Management, LLC. Mr. Leong explained that they have been contracted to help the DLNR coordinate the Hawaii YCC 2001 Summer Program, held in Kauai this summer. He thanked the supporters of the program, in particular Chairperson Coloma-Agaran, Deputy Director Kawelo, Member Johns for past support as Chairperson of DLNR, and Ms. Maile Sakamoto, Na Ala Hele Specialist for the Division of Forestry and Wildlife, who put a lot into the program, and into Hawaii's youth. He showed an enriched version of a slide show, giving an idea of what the students did this past summer, and an overview of the program. Mr. Ramsey presented the Board with a project that the students put together at the end of this year's program, reflecting what they've learned, and their visions of the program.

Mr. Leong and Mr. Ramsey were both graduates of previous YCC programs and have come back to coordinate this year's program. The Board thanked the two for their time and effort.

No action.

ITEM D-10: SET ASIDE TO THE DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION AND ISSUANCE OF CONSTRUCTION RIGHT-OF-ENTRY AT KEALAKAHA, HAMAKUA, HAWAII, TMKs: 3RD/4-1-03: ROAD, 4-1-03: POR. 19, 4-1-03: POR. 32 AND 4-1-04: POR. 33

Mr. Harry Yada, Acting Administrator for the Land Division, briefed the Board and recommended that the Board approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands, and authorize the issuance of an immediate construction right-of-entry to the Department of Transportation, Highways Division, in accordance with terms and conditions.

Member McCrory questioned Condition No. B. 8 that reads: "Such other terms and conditions as may be prescribed by the Department of Land and Natural Resources, to best serve the interest of the State.", which normally states "by the Chairperson of the Department of Land and Natural Resources," rather than the "Department of Land and Natural Resources."

Member McCrory referred to Exhibit C, and commented on the 5 specific recommendations from the Engineering Branch that didn't seem to be incorporated into the conditions. Chairperson Coloma-Agaran asked that this item be deferred until later on in the meeting, to allow the Applicant time to review the comments by the Engineering Branch. (Continued on page 5).

ITEM D-28: CONSERVATION DISTRICT USE APPLICATION MA-3014 AFTER-THE-FACT APPROVALS FOR WORK PERFORMED AT OLOWALU, MAUI

Mr. Sam Lemmo, Staff Planner for the Land Division, explained that this item was deferred from the August 10, 2001 Board meeting, because of additional information the Board requested. He distributed a letter from Mr. Ed Lindsey, Na Kupuna O Maui, indicating support of action taken by Olowalu Elua Associates, LLC, regarding the planting of the Hau limbs, rather than the planting of mature Hau trees. Regarding the public access issue, essentially there is a covenant running with the land that requires public access to the shoreline. Based on comments from the Land Division, Maui Office, although there hasn't been a formal agreement put in place, Olowalu Elua Associates, LLC has been working on a parking area and possibly a public access right-of-way to the shoreline. He also distributed copies of an Attorney General's Opinion, indicating that the maximum fine the Board and Department could impose is \$2,000. Staff's recommendation is that the Board approve the after-the-fact Conservation District Use Application for work performed at Olowalu, Maui, subject to terms and conditions.

There was some discussion about public access. Member Holschuh asked that public access be part of the conditions. Member McCrory requested a time limit for the Applicant to provide access. Member Inouye asked that the easement be defined by metes and bounds. Mr. Robert Horcajo, Olowalu Elua Associates, LLC, agreed to the deadline, and in working with the State to define the easement by metes and bounds.

The Board approved staff's recommendation with the following additional conditions:

- 1) That within one (1) year of the Board's approval, the Applicant shall designate a public access alignment and parking through the subject lands to allow public access to the shoreline. A metes and bounds description of the access and parking shall be provided to the Chairperson for review and approval.
- 2) That the Board of Land and Natural Resources delegate the authority to approve the public access alignment and parking to the Chairperson.

Unanimously approved as amended (Yamamura/McCrory).

ITEM D-9: ISSUANCE OF CONSTRUCTION RIGHT-OF-ENTRY TO THE DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, FOR ITS HUNIA/VOLCANO ROAD INTERSECTION REALIGNMENT PROJECT AT PUNA, HAWAII, TMK: 3RD/1-7-01: PORTION OF 63

Mr. Yada briefed the Board and recommended that the Board authorize an immediate construction right-of-entry, in accordance with terms and conditions.

Mr. Mike Auerbach, Department of Transportation, Highways Division, distributed a Concurrence from the Leaseholder, Keaau Service Station.

Unanimously approved as submitted (Holschuh/Johns).

ITEM D-30: AMEND GENERAL LEASE NO. S-5523, CONDITION NOS. 20 AND 43, RELATING TO MORTGAGE AND TERMINATION BY EITHER PARTY, RESPECTIVELY, EXTEND CONSTRUCTION DEADLINE AND CONSENT TO MORTGAGE, OLAA, PUNA, HAWAII, TMK: 1-9-05: 9

Mr. Yada briefed the Board and recommended that the Board authorize amending Condition No. 20 to allow the leased premises to be encumbered by mortgage, authorize amending Condition No. 43 by adding language protecting the holder of a security interest, grant the lessee a further extension of 30-months to complete the construction of the improvements by October 31, 2004, and consent to the mortgage between the Volcano Art Center, and U.S. Department of Agriculture, Rural Development Program, subject to terms and conditions.

Mr. Michael Moore, Ysukazaki Yeh & Moore Attorney at Law, on behalf of Volcano Art Center, raised an issue regarding the Federal Grant of \$650,000 from the Economic Development Administration, requiring that a covenant be recorded, affecting the property, which essentially provides that the monies will be used solely for constructing the improvements for the art center. He requested that the Board approve the recordation of such covenant affecting the property, subject to review by the Attorney General's Office.

The Board amended the staff submittal by approving an amendment to the lease, recordation of a memorandum of lease and/or other type of documentation to establish a covenant required by the Economic Development Administration that the property and funds would be used solely for the purpose of the award. Such form and content of the documentation shall be subject to the review and approval of the Department of the Attorney General.

Unanimously approved as amended (Holschuh/Johns.)

ITEM D-10: SET ASIDE TO THE DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION AND ISSUANCE OF CONSTRUCTION RIGHT-OF-ENTRY AT KEALAKAHA, HAMAKUA, HAWAII, TMKS: 3RD/4-1-03: ROAD, 4-1-03: POR. 19, 4-1-03: POR. 32 AND 4-1-04: POR. 33

(Continued from page 3.)

Mr. Craig Watanabe, Department of Transportation, Highways Division, indicated that he met with staff from the Engineering Branch, and it appears that suggestion no. 1, that deals with the removal of pier footings and pier columns, doesn't apply in this case. The remaining suggestions, nos. 2 through 5, should be all up to speed.

The Board amended staff's recommendation as follows:

"8. Such other terms and conditions as may be prescribed by the Chairperson of the Department of Land and Natural Resources..."

Unanimously approved as amended (Holschuh/McCrory).

ITEM D-7: CONSENT TO RIGHT OF ENTRY TO A PORTION OF STATE LAND UNDER GENERAL LEASE NO. S-4197, ALEXANDER & BALDWIN, INC., LESSEE, TO PARSONS-UXB JOINT VENTURE, PULEHUNUI AND WAIKAPU, WAILUKU, MAUI, TMK: 3-8-08: POR. 01

Mr. Yada briefed the Board and amended the staff submittal, page 2, Term of Right-of-Entry, to the end on June 30, 2003, to coincide with the expiration of the Alexander & Baldwin lease. Staff's recommendation is that the Board authorize the right-of-entry, subject to terms and conditions.

Mr. Michael Hoopii, Parsons-UXB Joint Venture, was present to answer questions.

Unanimously approved as amended (Yamamura/Inouye).

ITEM D-20: AMEND BOARD APPROVAL OF FEBRUARY 26, 2001, AGENDA ITEM D-11, ISSUANCE OF REVOCABLE PERMITS TO MR. GODWIN M. ESAKI; MS. LARA BUTLER DBA KAAPANA HORSEMANSHIP; GE FARMS, INC.; MR. LESLIE P. MILNES; MR. RODOLFO N. AND MRS. AURORA BUNAO; MR. ELESTHER CALIPJO; MR. MICHAEL J. FERNANDES; MR. WILLIAM J. AND MRS. ALISON J. SANCHEZ; SAIVA SIDDHANTA CHURCH; MR. MANUAL H. ANDRADE, SR.; MR. KENNETH BRAY; MR. KELLY GOODING; AND MR. GERALD M. SANCHEZ; POR. OF WAILUA, LIHUE, AND WAILUA, KAWAIHAU, KAUAI, TMKS: 3-9-1: POR. 2; 3-9-2: 1 & 20; AND 4-2-1: 3, AND ISSUANCE OF IMMEDIATE RIGHTS OF ENTRY; AND

SET ASIDE OF VARIOUS STATE LANDS TO THE DLNR DIVISION OF AQUATIC RESOURCES, FRESHWATER FISHERIES DEVELOPMENT, FOR FRESHWATER FISHERIES DEVELOPMENT, WAILUA, LIHUE, KAUAI, TMK: 3-9-2: 9 & POR. 20; TO THE COUNTY OF KAUAI FOR RECREATIONAL PURPOSES, WAILUA, LIHUE, KAUAI, TMK: 3-9-2: POR. 20; TO THE DLNR DIVISION OF FORESTRY AND WILDLIFE FOR ADDITION TO EXECUTIVE ORDER NO. 3804, ADDITION TO LIHUE-KOLOA FOREST RESERVE, WAILUA, LIHUE, KAUAI, TMK: 3-9-1: POR. 2; AND TO THE DLNR DIVISION OF STATE PARKS FOR ADDITION TO EXECUTIVE ORDER NO. 2423, WAILUA, LIHUE, KAUAI, TMK: 3-9-2: POR. 20

Mr. Yada briefed the Board and recommended that the Board amend its prior action by replacing it with the content of the current staff submittal, subject to terms and conditions.

Mr. Leslie Milnes, Kalepa Coalition, introduced some of the members, Ms. Lara Butler, Mr. Kelly Gooding, Rev. Arumugam Katir and Mr. Yoginatha Swami representing Saiva Siddhanta Church, and Mr. Godwin Esaki representing Kapaa Banana Company. He asked for the Board's consideration in amending Condition No. B. 8., from 5-years to 10-years, which creates no monetary obligation to the State.

The Board amended Condition No. B. 8., by changing it from 5-years to 10-years. The buyback amount will be required to be paid by whoever is the winning bidder of the lease.

Unanimously approved as amended (McCrary/Holschuh).

ITEM D-8: AMEND PRIOR BOARD ACTION OF MAY 26, 2000, AGENDA ITEM D-2, GRANT OF PERPETUAL, NON-EXCLUSIVE EASEMENT AND ISSUANCE OF CONSTRUCTION RIGHT-OF-ENTRY TO MS. EVELYN IWANKIW, MR. BRIAN IWANKIW AND MS. SALLY IWANKIW FOR ACCESS AND UTILITY PURPOSES, PORTION OF HONOPOU-HOOLAWA, HAMAKUALOA, MAKAWAO, MAUI, TMK: 2-9-03: PORTION 08

Mr. Yada briefed the Board and recommended that the Board approve the request for deletion of subdivision requirement, and authorize the issuance of a construction right-of-entry, in accordance with terms and conditions.

Ms. Sally Iwankiw, Applicant, was present to answer questions.

Unanimously approved as submitted (Yamamura/Inouye).

ITEM D-27: AFTER-THE-FACT GRANT OF PERPETUAL, NON-EXCLUSIVE EASEMENT AND ISSUANCE OF CONSTRUCTION RIGHT-OF-ENTRY TO HAWAIIAN ELECTRIC COMPANY, INC. FOR UTILITY PURPOSES, FORMER FORT SHAFTER MILITARY RESERVATION, KAHAUKI, HONOLULU, OAHU, TMK: 1-1-08: 13 POR.

Mr. Yada briefed the Board and recommended that the Board authorize the after-the-fact issuance of a non-exclusive easement, and construction right-of-entry, in accordance with terms and conditions.

Mr. Philip Hauret, Senior Land Agent for Hawaiian Electric Company, Inc., was present to answer questions.

Unanimously approved as submitted (Inouye/McCrory).

ITEM D-26: AMEND PRIOR BOARD ACTIONS AT ITS MEETINGS OF SEPTEMBER 10, 1993 ITEM F-5 AND DECEMBER 17, 1993 ITEM F-9, DIRECT SALE OF RECLAIMED (FILLED) LAND AND GRANT OF NON-EXCLUSIVE EASEMENT FOR RECREATIONAL BOAT PIER PURPOSES TO MALIA, LIMITED, KANEOHE, KOOLAUPOKO, OAHU, TMK: (1) 4-4-007: 022

Mr. Yada briefed the Board and recommended that the Board approve the proposed amendments to its prior approval, in accordance with terms and conditions.

Unanimously approved as submitted (Inouye/Yamamura).

ITEM D-15: CONSERVATION DISTRICT USE APPLICATION FOR ESTABLISHMENT OF ORGANIC AGRICULTURAL USES; CONSTRUCTION OF A WORKSHED, SHADEHOUSE AND WATER CATCHMENT SYSTEM; AND IMPROVEMENTS AND EXTENSIONS TO EXISTING JEEP ROADS

Mr. Lemmo briefed the Board and recommended that the Board approve this application for agricultural use and associated accessory uses, subject to terms and conditions.

Mrs. Karen Akiba, wife of the Applicant, Mr. G.B. Hajim, was present to answer questions.

The Board added the following condition to the permit: “If an appeal to the Final Environmental Assessment is filed within a 30-day appeal period on the Final Environmental Assessment, the Board’s approval becomes null and void.”

Unanimously approved as amended (Holschuh/McCrory).

ITEM D-24: DIRECT ISSUANCE OF LEASE TO BLACK PEARLS, INC. FOR MARICULTURE PURPOSES, HONOLULU, OAHU, TMK: (1) 1-1-3: PORTION 5

Mr. Yada briefed the Board and recommended that the Board approve the direct lease, in accordance with terms and conditions.

Mr. Dale Sarver, President of Black Pearls, Inc., and Mr. John Corbin, Manager of the Aquaculture Development Program, Department of Agriculture, were both present to answer questions.

The Board amended the submittal to add a condition that specifically allows the State to revise or add provisions in connection with hazardous waste issues at the time of renewal.

Unanimously approved as amended (Inouye/Yamamura).

ITEM D-29: ISSUANCE OF 150 LEASES FOR PRIVATE RESIDENTIAL NON-COMMERCIAL PIERS PURSUANT TO THE KANEOHE BAY PIERS AMNESTY PROGRAM, KANEOHE, KOOLAUPOKO, OAHU; VARIOUS TAX MAP KEYS

Mr. Yada briefed the Board and recommended that the Board: 1) authorize the issuance of 55-year leases to the Applicants, subject to terms and condition; 2) authorize the Chairperson to rescind this action for any Applicant who has been unresponsive in submitting required items as determined by staff; and 3) authorize the amendment of any and all prior Board actions from April 12, 2001 on for which the Board approved the issuance of a pier lease in Kaneohe Bay so that the terms and conditions of such lease conforms to those established in this action of August 24, 2001, except for the collection of any deposit upfront.

Member McCrory referred to Condition No. 1. c. that reads: “Performance bond shall be required for Applicants who pay annually; no performance bond shall be required for Applicants who pay one-time.” She was concerned about the Applicants who decide to make the one-time payment, not being required to post a performance bond, and the possibility of the State having to remove the pier without the money to cover that expense. She suggested that the performance bond be part of the one-time purchase price.

Member Johns requested that Condition No. 3, be amended by making it subject to Chairperson and Attorney General approval.

Ms. Shelley Bermudez, representing YWCA of Oahu Camp Kokokahi, inquired about non-profit organizations being required to participate in the Amnesty Program. Mr. Yada indicated that the Amnesty Program is for private residential non-commercial piers only, and staff would need to review the process for non-residential piers. Member Johns asked that staff report back to the Board on how they propose to deal with the disposition for non-residential piers.

Mrs. Stephanie Phillips, Pier Owner and participant in the Amnesty Program, indicated that they want to be in compliance, however, disagreed with the methodology that was passed by the Board. The Board members explained the option available and the process involved, in hiring an independent appraiser, which would be at the Applicant's expense. Mr. Yada indicated that the whole intent of coming up with the methodology was to save costs for the Applicants.

Mr. Alvin Maeda, Acting Chairperson for the Protect Our Shoreline Ohana, distributed written testimony in support of the effort in bringing the Kaneohe Bay pier dilemma to a satisfactory conclusion, but was against the methodology approved by the Board at a previous meeting. He requested that an informational meeting be held for the pier owners, and that some of them be able to hire an appraiser as a group instead of individually. Mr. Yada indicated that staff has never objected to the hiring of an appraiser by a group.

Ms. Mildred Togami, Pier Owner, was represented by Mr. Maeda.

Dr. Roy Kuboyama, Pier Owner, was concerned about the determination of land value and the taxes involved.

Rep. Colleen Meyer, Pier Owner, requested that this item be deferred to the next Board meeting so that more people could testify. She felt the methodology approved by the Board at its meeting of February 23, 2001, occurred with minimal notice and/or input from the public. She distributed a comparison chart titled "Coastal State Fees for Using Submerged Lands for a Residential Non-Commercial Pier". Member Johns referred to the comparison chart and questioned the statutory scheme of the other States with regard to the use of submerged lands by private individuals, as compared to the State of Hawaii statutes. He believed the State of Hawaii has a statute that governs how submerged lands are disposed of, and wasn't sure if the other States have similar statutes. Mr. Yada also indicated that the State of Hawaii considers this a public land trust and there is an obligation to collect fees.

Mr. Philipp Steingraeber, Pier Owner, indicated that he has never seen the methodology that was approved by the Board and was concerned about the charges, penalties, and posting of the performance bond. He requested that this item be deferred if an agreement by the majority can't be reached.

Mr. Frank Medrano, Pier Owner, wanted to move on with the Amnesty Program and supported staff in trying to pull all this together.

Mrs. Marie Kastensmith, Pier Owner and participant in the Amnesty Program, testified against the methodology that was approved by the Board at a previous meeting.

Member Inouye addressed some of the concerns raised. She explained that the methodology has already been approved, and is not the issue before the Board. The issue before the Board is whether or not to start the process to issue the leases. If there is a dispute with the methodology, staff has recommended that the pier owners be able to hire an independent appraiser, as a group, or individually. She further explained that the process shouldn't be held up and everyone penalized, as there are many pier owners who are anxious to proceed with the process, who were in agreement with the procedure, and who were satisfied with the methodology approved by the Board. She understood there were some people who wanted an informational meeting to discuss the methodology, and was not opposed to the informational meeting to discuss the process.

Member Johns asked that staff report back to the Board after the informational meeting.

The Board approved the submittal subject to the following amendments.

- 1) Replace Recommendation No. 1. c. with: "A \$20 per square foot performance bond shall be required on all dispositions whether by one time payment or annual lease rent."
- 2) Amend Recommendation No. 3 to read: "... in this action of August 24, 2001, except for the collection of any deposit upfront, subject to the approval of the Chairperson and Attorney General."
- 3) Add a condition instructing staff to hold an informational meeting for all Applicants to go over the implementation process.
- 4) Add a condition allowing the pier owners to hire an independent appraiser, as a group, or individually.
- 5) Staff is instructed to provide the Board with a report on the results of the informational meeting.
- 6) Staff is instructed to report back to the Board on the status and process for non-residential piers.

Unanimously approved as amended (Inouye/McCrory).

Member Inouye was excused.

ITEM C-1: REQUEST TO INCLUDE THE KAULAHUKI AND KAHANUI ACCESS ROADS ON MOLOKAI INTO THE NA ALA HELE TRAIL AND ACCESS SYSTEM

Mr. Nelson Ayers, Service Forester for the Land Division, briefed the Board and recommended that the Board approve adding the access roads as part of the Maui Na Ala Hele systems.

Mr. Curt Cottrell, Na Ala Hele Program Manager, explained Exhibit 2, an official listing of the Na Ala Hele Trails.

Unanimously approved as submitted (Yamamura/Holschuh).

ITEM D-13: APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT NO. 500-B-K54-B, STREAM CHANNEL MAINTENANCE AT VARIOUS LOCATIONS, KAUAI, HAWAII

Mr. Hiram Young, Design Section Head for the Engineering Branch of the Land Division, briefed the Board and recommended that the Board authorize the Chairperson to proceed with awarding the contract to Brown Trucking, Inc., for their low bid of \$170,380, and sign the necessary documents to implement the project.

Unanimously approved as submitted (McCrary/Johns).

ITEM D-1: ISSUANCE OF REVOCABLE PERMIT TO MR. DEREK RAPOZO, POR. KAPAA RICE & KULA LOTS, KAWAIIHAU, KAUAI, HAWAII, TMK: 4-5-15: POR. 37

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

Unanimously approved as submitted (McCrary/Yamamura).

ITEM D-12: AUTHORIZATION TO ENTER INTO A COST SHARING AGREEMENT AMONG THE DEPARTMENT OF ARMY, DEPARTMENT OF LAND AND NATURAL RESOURCES, AND HONOLULU BOARD OF WATER SUPPLY FOR THE WEST HONOLULU WATERSHED STUDY

Mr. Eric Yuasa, Engineer for the Engineering Branch, Land Division, briefed the Board and recommended that the Board authorize the Chairperson to sign the Cost Sharing Agreement for the West Honolulu Watershed Study and other necessary documents pertaining to the study, subject to Deputy Attorney General's approval as to form.

Mr. Derek Chow, Project Manager for the Corps of Engineers, Mr. Scott Muraoka, Board of Water Supply, and Mr. Carty Chang, Engineer for the Engineering Branch, Land Division, were present to answer questions.

Unanimously approved as submitted (Johns/McCrory).

ITEM D-2: CONSENT TO ASSIGN GENERAL LEASE NO. S-5397, MR. RICHARD CORR, ASSIGNOR, TO MR. RICHARD CORR AND MR. CHARLES C. CORR, ASSIGNEES, LOT 9-A, HANAPEPE RICE AND KULA LOTS, HANAPEPE, WAIMEA, KAUAI, HAWAII, TMK: 1-9-12: 28

Mr. Yada briefed the Board and recommended that the Board consent to the assignment of General Lease No. S-5397, subject to term and conditions.

Member McCrory wanted to make sure there was a performance bond in place before approving the assignment. She made a motion to condition the consent on the existence of a secure performance bond. If the performance bond was waived or was an unsecured personal surety, the request will be brought back to the Board.

Unanimously approved as amended (McCrory/Yamamura).

ITEM D-3: CONSENT TO ASSIGN GENERAL LEASE NO. S-4942, MR. FRANK S. NONAKA, ASSIGNOR, TO MR. FRANKIE R. NONAKA, JR. AND MS. FRANCINE C. NONAKA, ASSIGNEES, HANAPEPE, KAUAI, TMK: 1-9-12: 11

Mr. Yada briefed the Board and recommended that the Board consent to the assignment of General Lease No. S-4942, subject to terms and conditions.

Member McCrory, as in the previous item, made a motion to condition the consent on the existence of a secure performance bond. If the performance bond was waived or was an unsecured personal surety, the request will be brought back to the Board.

Unanimously approved as submitted (McCrory/Holschuh).

ITEM D-4: CANCELLATION OF REVOCABLE PERMIT NO. S-7237 TO GAY & ROBINSON, INC. AND ISSUANCE OF NEW REVISED PERMIT TO GAY & ROBINSON, INC., WAIMEA, KONA, KAUAI, TMK: 1-2-02

Mr. Yada amended the staff submittal by changing page 1, the Revised Area, from 3300+/-acres, to 3,521+/-acres. Staff's recommendation is that the Board cancel Revocable Permit No. S-7237, and issue a new revocable permit to Gay & Robinson, subject to terms and conditions.

Unanimously approved as amended (McCrorry/Yamamura).

ITEM D-5: GRANT OF TERM, NON-EXCLUSIVE EASEMENT AND ISSUANCE OF CONSTRUCTION RIGHT-OF-ENTRY TO TIME WARNER ENTERTAINMENT COMPANY, L.P., DBA HAWAIIAN CABLEVISION, FOR CABLE TELEVISION TRANSMISSION LINE PURPOSES, AT OLINDA, MAKAWAO, MAUI, TMK: 2-4-013: 001, 002 AND 053 AND 2-4-015: 006, AND WAIOHULI-KEOKEA, KULA, MAKAWAO, MAUI, TMK: 2-2-004: 001

Mr. Yada briefed the Board and recommended that the Board authorize the issuance of a term non-exclusive easement, and a construction right-of-entry, subject to terms and conditions.

Unanimously approved as submitted (Yamamura/McCrory).

ITEM D-6: ISSUANCE OF REVOCABLE PERMIT TO MR. JAMES AND MRS. MELANIE VITALE, AAPUEO-NUI, KULA, MAKAWAO, MAUI, TMK: 2-3-058: 061

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

Unanimously approved as submitted (Yamamura/McCrory).

ITEM D-11: AMEND PRIOR BOARD ACTION OF NOVEMBER 19, 1999 (AGENDA ITEM D-18); SET ASIDE TO THE DEPARTMENT OF DEFENSE FOR A COMBINED VETERANS CENTER, VETERANS HOUSING AND OTHER RELATED PURPOSES AND A MANAGEMENT RIGHT-OF-ENTRY, WAIAKEA, SOUTH HILO, HAWAII, TMK: 2-4-57: POR. 1

Mr. Yada briefed the Board and recommended that the Board amend its action of November 19, 1999, by deleting all reference to the Department of Defense and by approving of and recommending to the Governor, issuance of an executive order setting aside the subject State land to the County of Hawaii for the development of a Combined Veterans Center, Veterans Housing and other related purpose, subject to terms and conditions.

There was some discussion. Chairperson Coloma-Agaran was concerned that if the money is not raised for the Combined Veterans Center, at what point would the State be able to cancel the set aside and bring it back to the Board, in case there are other users that are interested in the area. Mr. Yada mentioned the reverter clause, that if the property is not used for the purpose specified, at some point it could be cancelled and brought back to the Board. Member Holschuh suggested a time limit.

Chairperson Coloma-Agaran suggested instead, that the County of Hawaii provide an annual report to the Board on the progress of raising funds for the center. Staff was asked to monitor the progress.

Member Holschuh made a motion to amend staff's recommendation, by adding a requirement that the County of Hawaii provide the Board with annual reports on the progress made in raising the necessary funds for the center.

Unanimously approved as amended (Holschuh/Johns).

ITEM D-16: REQUEST FOR THIRD EXTENSION ON A NOTICE OF DEFAULT FOR GENERAL LEASE NO. S-5261, SAND ISLAND BUSINESS ASSOCIATION, HONOLULU, OAHU, TMK: (1) 1-5-41: VARIOUS

Mr. Yada briefed the Board and recommended that the Board grant a 3-month extension on the February 22, 2001 Notice of Default cure period deadline from August 22, 2001 to November 22, 2001 to General Lease No. S-5261 to remedy the Department of Health's January 30, 2001, Notice of Violation/Order against Mr. Richard Kuwada and Mr. William Mahas, subject to terms and conditions.

Unanimously approved as submitted (Johns/Holschuh).

ITEM D-14: GRANT OF A 55-YEAR NON-EXCLUSIVE EASEMENT FOR SEAWALL TO MR. DOUGLASS T.K. PANG, KANEOHE, KOOLAUPOKO, OAHU, TMK: (1) 4-7-019: 071 SEAWARD

Mr. Yada briefed the Board and recommended that the Board authorize the issuance of a 55-year term non-exclusive easement for the seawall to Mr. Pang, in accordance with terms and conditions, and impose a fine of \$500 for encroachment upon public lands without Government authorization.

Unanimously approved as submitted (Johns/Holschuh).

ITEM D-17: RESCIND PRIOR BOARD ACTIONS OF FEBRUARY 14, 1986 (AGENDA ITEM F-6), SALE OF REMNANTS TO MR. VIJAY WENK; MARCH 23, 1989 (AGENDA ITEM F-7), AMEND PURCHASER FROM MR. VIJAY WENK TO MR. DOUGLAS FAULKNER; JANUARY 12, 1996 (AGENDA ITEM F-8), AMEND PURCHASER FROM MR. DOUGLAS FAULKNER TO MR. CHRISTOPHER AND MS. LANI STARK; AND SALE OF REMNANTS TO MS. LANI STARK AT HONOPOU, MAUI, TMK: (2) 2-9-3: 46 AND 47

Mr. Yada briefed the Board and recommended that the Board rescind its prior action in connection with the sale of the remnants, and approve the sale of the subject remnants, in accordance with terms and conditions.

Unanimously approved as submitted (Yamamura/Holschuh).

ITEM D-18: RESCIND PRIOR BOARD ACTION OF AUGUST 21, 1997 (AGENDA ITEM D-15), PERPETUAL, NON-EXCLUSIVE EASEMENT TO GTE HAWAIIAN TELEPHONE COMPANY, INC., FOR CABLE CABINETS INSTALLATION OVER, UNDER AND ACROSS GOVERNMENT LAND SITUATE AT WAIPIO, EWA, OAHU, TMK: 94-59: PORTION OF 74

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

Unanimously approved as submitted (Johns/Holschuh).

ITEM D-19: ISSUANCE OF REVOCABLE PERMIT TO MRS. ROWENA AND MR. LESLIE QUISANO POR. KAPAA HOMESTEADS, KAPAA, KAUAI, HAWAII, TMK: 4-6-25: POR. 38

Mr. Yada briefed the Board and recommended that the Board authorize the issuance of a revocable permit to Mr. and Mrs. Quisano, in accordance with terms and conditions.

Unanimously approved as submitted (McCrorry/Yamamura).

ITEM D-21: REQUEST FOR AUTHORIZATION TO ACQUIRE PRIVATE LAND SITUATE AT MAALAEA, WAIKAPU, WAILUKU, MAUI - TMK: (2)-3-8-14: 27, 28, & 30 AND SET ASIDE TO THE DIVISION OF BOATING AND OCEAN RECREATION

Mr. Yada briefed the Board and recommended that the Board approve of and authorize the fee simple acquisition of the subject land, or if necessary, by eminent domain proceedings, subject to terms and conditions, and upon acquisition of the property, approve of and recommend to the Governor the issuance of an executive order setting aside the subject land to the Division of Boating and Ocean Recreation, in accordance with terms and conditions.

Mr. John Hino, Property Manager for the Division of Boating and Ocean Recreation, was present to answer questions.

Unanimously approved as submitted (Yamamura/McCrory).

ITEM D-22: SALE OF LEASE AT PUBLIC AUCTION FOR INTENSIVE AGRICULTURE AND PASTURE PURPOSES AND ISSUANCE OF REVOCABLE PERMIT

**TO MR. ROBERT FARIAS, PORTION OF GOVERNMENT LANDS OF
KAPAA HOMESTEADS, 1ST SERIES, KAWAIHAU, KAUAI, HAWAII,
TMK: 4-6-5: 11**

Mr. Yada amended the staff submittal to reflect the sale of the lease at public auction for Intensive Agriculture, and delete "Pasture Purposes". Staff's recommendation is that the Board authorize the sale of a lease at public auction covering the subject area, and authorize the issuance of a revocable permit, subject to terms and conditions.

Unanimously approved as amended (McCrorry/Holschuh).

**ITEM D-23: CONSENT TO SUBLEASE GENERAL LEASE NO. S-5468, OFFICE OF
HAWAIIAN AFFAIRS, LESSEE, TO HUI KALO O WAIALUA,
SUBLESSEE, WAIALUA, OAHU, TMK: (1) 6-6-9: 23**

Mr. Yada briefed the Board and recommended that the Board consent to the sublease under General Lease No. S-5478, between Office of Hawaiian Affairs, and Hui Kalo O Waiialua, in accordance with terms and conditions.

Unanimously approved as submitted (Johns/Holschuh).

**ITEM D-25: GRANT OF TERM, NON-EXCLUSIVE EASEMENT FOR SEAWALL AND
FILL ENCROACHMENT; ISSUANCE OF LEASE FOR PRIVATE
RESIDENTIAL NON-COMMERCIAL PIER TO MR. JAMES STANLEY
BERRY AND MRS. MARI ITO BERRY, KANEOHE, KOOLAUPOKO,
OAHU, TMK: (1) 4-7-030: 016 SEAWARD**

Mr. Yada briefed the Board and recommended that the Board authorize the issuance of a 55-year non-exclusive easement for seawall and fill encroachment purposes; issuance of a 55-year lease for private residential non-commercial pier, in accordance with terms and conditions; authorize the Department to accept a deposit in the amount of \$18,300; and impose a fine of \$500 for the encroachment.

Mrs. Mari Berry, Applicant, agreed with the terms and condition, and requested that she be able to pay a third of the deposit immediately, and the balance in 6 months.

The Board amended staff's recommendation by allowing the Applicant to pay \$6,100 immediately (\$5,600 applied to the deposit and \$500 for the fine), and the balance of \$12,700 will be due in 6 months from the date of this Board meeting.

Unanimously approved as amended (Johns/McCrory).

ITEM K-1: ISSUANCE OF A REVOCABLE PERMIT TO KAUAI FIRE PROTECTION, INC., NEAR PIER 42, HONOLULU HARBOR, OAHU, TMK: (1)-1-2-25-12P

Member Yamamura recused himself.

Mr. Peter Garcia, Property Management Officer for the Department of Transportation, briefed the Board and recommended that the Board authorize the Director of Transportation to issue the Applicant a revocable permit.

Unanimously approved as submitted (Johns/Holschuh).

ITEM K-2: ISSUANCE OF REVOCABLE PERMIT TO SEA ENGINEERING, INC., PIER 35, HONOLULU HARBOR, OAHU, TMK: (1)-1-5-34-10 & 24

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.

Unanimously approved as submitted (Johns/Holschuh).

ITEM K-3: ISSUANCE OF A REVOCABLE PERMIT TO MR. DENNIS AND MRS. ABBY SULLIVAN, 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.

Unanimously approved as submitted (Johns/Holschuh).

ITEM K-4: ISSUANCE OF A REVOCABLE PERMIT TO DORVIN D. LEIS CO., INC., NEAR PIER 29, HONOLULU HARBOR, OAHU, TMK: (1)-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.

The Board revised the Amended Collateral Security Deposit from \$1,200.00, to "\$2,400.00."

Unanimously approved as amended (Johns/Holschuh).

ITEM K-5: AUTHORIZATION FOR THE DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, TO NEGOTIATE FOR THE ACQUISITION OF PRIVATELY OWNED LANDS, INCLUDING THE EXERCISE OF EMINENT DOMAIN, FOR KAMUALII HIGHWAY, PROJECT NO. HWY-K-02-98, MISCELLANEOUS TRAFFIC OPERATIONAL AND SAFETY IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES, AT MAKAWELI, WAIMEA, KAUAI, TMK: (4)-1-7-06-04

Mr. Garcia briefed the Board and recommended that the Board authorize the Department of Transportation to negotiate the acquisition of the easements, authorize the Department of Transportation to obtain rights-of-entry from the land owners for site inspection, etc., subject to such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Unanimously approved as submitted (McCrorry/Yamamura).

There being no further business, Chairperson Coloma-Agaran adjourned the meeting at 2:15 p.m.

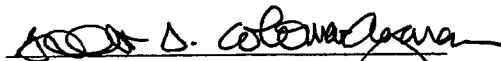
Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Kimberly C. Keliihoomalu

Approved for submittal:



GILBERT S. COLOMA-AGARAN

Chairperson

Board of Land and Natural Resources