

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

DATE: FRIDAY, FEBRUARY 8, 2002  
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
Dr. Fred Holschuh	Mr. Ted Yamamura

**STAFF:**

Mr. Dan Quinn, Division of State Parks	Mr. Harry Yada, Land Division
Mr. Paul Conry, Division of Forestry and Wildlife	Mr. Sam Lemmo, Land Division

**OTHERS:**

Mr. Edsel Yamada, Department of the Attorney General	Ms. Sonia Faust, Department of the Attorney General, E-2
Ms. Ronnie Grover, E-1	Ms. Mary Kagawa-Walker, E-1
Ms. Claire Seaver, E-1	Mr. Ted Myers, E-1
Mr. Steve Coles, E-1	Mr. Wallace Heyer, C-1
Mr. Guy Inouye, D-9	Ms. Patricia Nielsen, D-5

{Note: language for deletion is [bracketed], new/added is underlined.}

**ITEM A-1: APPROVAL OF THE NOVEMBER 16, 2001 MINUTES**

The Board approved the November 16, 2001 Minutes with the following amendments:

- 1) Member Holschuh made a correction to page 2, Item D-14, 2<sup>nd</sup> line, that should read:  
“...GRANT OF PERPETUAL, NON-EXCLUSIVE EASEMENT AND ISSUANCE...”

**ITEM A-2**

- 2) Chairperson Coloma-Agaran made a correction to page 7, 2<sup>nd</sup> paragraph, 4<sup>th</sup> line, that should read: "...2 years have passed[past] since that time."
- 3) Chairperson Coloma-Agaran made a correction to page 14, 3<sup>rd</sup> paragraph, 3<sup>rd</sup> line, that should read: "...maintenance of facilities and the like[alike].

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

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

Mr. Dan Quinn, Administrator of the Division of State Parks, briefed the Board and recommended that the Board extend to December 31, 2002 the 3 State Parks Special Use Permits with the conditions that are applicable to commercial tour boat landings at the Na Pali Coast State Park; provided that issuance of an extended Special Use Permit to each operator is to occur only if the respective operator has a current Commercial Use Permit to conduct operations within the Na Pali ocean waters as issued by the Division of Boating and Ocean Recreation (DOBOR), and with the following modifications:

- 1) That the permittees be allowed to land 30 people at a time on the beach at Nualolo Kai, provided that a "landing" is defined as a group of up to 15 persons.
- 2) That the maximum number of persons on the shore at Nualolo Kai shall be 30.
- 3) That Kauai Sea Tours and Lady Ann Cruises, Inc. be authorized 3 landings per day at Nualolo Kai.
- 4) That Lady Ann Cruises be authorized to provide drop-off/pick up services for permitted campers at Milolii Beach.

The Board noted that testimony was received from DOBOR, requesting that the agenda item clarify that landings at Nualolo Kai, or providing pick up or drop off services at Milolii Beach, be restricted to vessels originating from and returning to either the commercial pier at Port Allen or Kikialoa Small Boat Harbor.

Ms. Ronnie Grover, Kauai Sea Tours, in response to a question raised by Member McCrorry regarding the installation of mooring pins, explained that this matter went back and forth with the Division of Aquatic Resources and DOBOR, the purchase request for the mooring pins was filled and then the equipment, somehow, got used on other islands, it never made it to Kauai, and in addition there were problems with the drill.

The Board asked the Division of State Parks to follow-up with the appropriate division regarding the installation of the mooring pins.

Member McCrory, as a result from a conversation with the Kauai Parks District Supervisor regarding signage that keeps disappearing, requested that each of the permittees provide up to \$1,000.00 for signage and post.

Ms. Mary Kagawa-Walker, Co-owner of Lady Ann Cruises, Inc., testified in favor of staff's recommendation and agreed to provide the signage and post as requested. Ms. Claire Seaver, Co-owner of Lady Ann Cruises, Inc., was present to answer questions. Member McCrory commended Lady Ann Cruises, Inc., for providing tools to the Division of State Parks as required.

Mr. Ted Myers, Na Pali Zodiac, testified in favor of staff's recommendation. In response to a question raised by Member McCrory, Mr. Steve Coles, Na Pali Eco-Adventures, indicated that he will follow through with the tools for the trail maintenance that were requested of them 2 years ago and agreed to provide the signage and post as requested.

Member McCrory requested that staff look at the possibility of putting the permits out for an auction process, and to see whether or not it's adequate to increase the number of permits.

Member Johns wanted to make sure that the impacts to the beach and trail, justify the number of permits being issued. Mr. Quinn indicated that their archeologist has been monitoring the resources at Nualolo Kai and they should have an idea on whether or not the limits of acceptable change to the resources are exceeded.

Member McCrory made a motion to amend staff's recommendation by adding the following conditions:

- 5) All boats (the main vessels not the actual tender vessels) that will land at Nualolo Kai will depart from either Port Allen or Kikiola Small Boat Harbor.
- 6) Each of the 3 permittees will work with the Division of State Parks on providing signage and post not to exceed \$1,000.00.

Mr. Myers requested, in reference to the departure points, that should there be any law change on departure locations, that it be looked at or allowed.

**Motion made at 9:40 a.m. to move into executive session to consult with legal counsel (Holschuh/Inouye). The meeting was reconvened at 9:46 a.m.**

Member McCrory amended her motion by adding additional language to condition no. 5: "..., or from such other locations as permitted by the State."

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

**ITEM C-1: REQUEST FOR THE BOARD TO ESTABLISH USE REQUIREMENTS AND FEES FOR HUNTING TAGS, PERMIT APPLICATIONS AND THE WILDLIFE STAMP FOR THE REMAINDER OF THE 2002 AND THE 2003 HUNTING YEAR**

Mr. Paul Conry, Wildlife Program Manager for the Division of Forestry and Wildlife, briefed the Board and recommended that the Board establish the use requirements, and approve the schedule of resident and nonresident fees for the hunting program for the remainder of this fiscal year and next. The exceptions to this are that all Hawaii residents, who are 65-years of age or older and all persons afflicted with Hansen's Disease, who are residents of Kalaupapa, Molokai, would not be required to pay the \$10.00 fee to obtain their hunting license validation stamp.

Mr. Wallace Heyer, Legislative Chairperson for the Hawaii Hunting Advisory Council, testified in favor of staff's recommendation.

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

**ITEM D-9: WITHDRAWAL FROM GOVERNOR'S EXECUTIVE ORDER NO. 1346 AND RESET ASIDE TO CITY AND COUNTY OF HONOLULU FOR ADDITION TO WASTEWATER PUMP STATION AND ISSUANCE OF A MANAGEMENT AND CONSTRUCTION RIGHT-OF-ENTRY, IWILEI AND KAPALAMA, HONOLULU, OAHU, TMK: 1-5-34: POR. 21**

Mr. Harry Yada, Acting Administrator of the Land Division, briefed the Board and recommended that the Board approve of and recommend to the Governor issuance of an executive order withdrawing 0.229 acres from Governor's Executive Order No. 1346, approve of and recommend to the Governor the issuance of an executive order setting aside the subject land to the City and County of Honolulu, and authorize a management and construction right-of-entry to the City and County of Honolulu, in accordance with terms and conditions.

Mr. Guy Inouye, City and County of Honolulu, Department of Design and Construction, testified in favor of staff's recommendation.

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

**ITEM D-5: RESCIND PRIOR BOARD ACTION OF DECEMBER 14, 2001 (AGENDA ITEM D-20) FORFEITURE OF GENERAL LEASE NO. S-3160, MS. PATRICIA SUSAN NIELSEN, WAIAKEA, SOUTH HILO, HAWAII, TMK: 3<sup>RD</sup>/2-1-07: 26**

Mr. Yada briefed the Board and recommended that the Board rescind its prior action of December 14, 2001, in accordance with terms and conditions.

Ms. Patricia Nielsen was present to answer questions.

Unanimously approved as submitted (Holschuh/Johns).

**ITEM D-7: REQUEST FOR PUBLIC HEARINGS ON A PETITION TO AMEND  
TITLE 13, CHAPTER 222, HAWAII ADMINISTRATIVE RULES**

Mr. Sam Lemmo, Senior Staff Planner for the Land Division, distributed written testimony from Mr. Kendall Hee, Engineers Surveyors Hawaii, Inc., requesting additional time to review the rules.

Member Inouye indicated that she received a phone call yesterday from a surveyor that was attending the Annual Hawaii Surveying Conference, and most of the people in attendance were unaware of this agenda item, and they had asked that this matter be deferred until they had a chance to review the amended rules.

The Board, before deferring this item, commented as follows:

Member Johns suggested that a professional association of the surveyors be notified and made aware that this matter will be brought back to the Board at its next meeting of February 22, 2002.

Member Inouye indicated that the way this item is noticed on the agenda, it's hard to tell that these rules are for Shoreline Certifications, because it's just listed as Title 13, Chapter 222.

Chairperson Coloma-Agaran, in reference to page 222-4, Section 13-222-7 (e) that identifies the Survey Division, Department of Accounting and General Services, requested that this be changed to the "State Surveyor's Office", with the intention that should there ever be a reorganization of that department the rules would not have to change to reflect this. In reference to page 222-5, Section 13-222-7 (j), the question mark needs to be filled in which presently reads: "(Imp HRS §§205A-42, 91-?)". In reference to page 222-5, Section 13-222-8 (a) that reads: A minimum of [two] three sets of photographs..., clarify that photographs include digital forms. In reference to page 222-10, Section 13-222-26 (a) that reads: "A property owner or a person or organization with a legitimate property interest may appeal...", concerned that this may be narrowing the standing requirement. In reference to page 222-11, Section 13-222-26 (d), revise to read: "...Upon failure to act on any appeal...".

**Deferred (Inouye/Yamamura).**

**ITEM D-8: CONSERVATION DISTRICT USE APPLICATION NO. OA-3058 FOR KA  
IWI SCENIC SHORELINE IMPROVEMENTS, EAST HONOLULU,  
OAHU**

Mr. Lemmo briefed the Board and recommended that the Board approve the Ka Iwi Scenic Shoreline Improvements, subject to terms and conditions.

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

**ITEM D-10: TIME EXTENSION REQUEST – CONSERVATION DISTRICT USE PERMIT HA-2968B FOR SINGLE FAMILY RESIDENCE, KAAWALOA, SOUTH KONA, ISLAND OF HAWAII, TMK: (3) 8-1-10: 05**

Mr. Lemmo briefed the Board and recommended that the Board amend condition no. 7 of Conservation District Use Permit HA-2968B by changing the initiation deadline to January 28, 2004, and the completion deadline to April 28, 2005, and that all other conditions imposed by the Board under Conservation District Use Permit HA-2968B, as amended, shall remain in effect.

The Board revised staff's recommendation by changing the initiation deadline to January 28, 2003, and the completion deadline to April 28, 2004.

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

**ITEM D-1: ISSUANCE OF REVOCABLE PERMIT FOR PASTURE PURPOSES TO MR. GARY L. DAVIS, LALAMILO, SOUTH KOHALA, HAWAII, TMK: 3<sup>RD</sup>/6-6-01: 5, 9, & 11**

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

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

**ITEM D-2: RESCIND BOARD ACTION OF AUGUST 24, 2001, D-1, AND ISSUANCE OF REVOCABLE PERMIT TO MR. DEREK RAPOZA, PORTION OF GOVERNMENT LANDS OF WAILUA RICE & KULA LOTS, LOTS 1-A & 1-B, WAILUA, LIHUE, KAUAI, TMK: 4-1-3: 45 & 46**

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

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

**ITEM D-3: RESCIND PRIOR BOARD ACTION OF OCTOBER 30, 1998, AGENDA ITEM D-13, HAWAII HEALTH SYSTEMS CORPORATION – KULA HOSPITAL REQUEST TO ISSUE REVOCABLE PERMIT OHANA PHYSICIANS GROUP FOR RESIDENTIAL HOUSING AND CLINIC,**

**AND ISSUANCE OF AN IMMEDIATE RIGHT-OF-ENTRY AT  
WAIOHULI-KEOKEA, MAKAWAO, MAUI, TMK: (2) 2-2-004: POR. 034**

Mr. Yada briefed the Board and recommended that the Board rescind the Board's action of October 30, 1998, in accordance with terms and conditions.

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

**ITEM D-4: RESCIND BOARD ACTION OF OCTOBER 27, 2000, AGENDA ITEM D-3, CONSENT TO ASSIGN PERPETUAL AND NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT [LOD NO. 27,947] FROM MR. RONALD AND MRS. MIRIAM JACINTHO TO MR. STEPHEN SYBESMA, AT ONAU, MAKAWAO, MAUI, TMK: (2) 2-1-006: POR. 077**

Mr. Yada briefed the Board and recommended that the Board rescind the Board's action of October 27, 2000, in accordance with terms and conditions.

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

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

Mr. Yada briefed the Board and recommended that the Board approve the issuance of a right-of-entry to the Eastern Washington University, in accordance with terms and conditions.

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

**ITEM E-2: THE BOARD WILL MEET IN AN EXECUTIVE MEETING UNDER SECTION 92-4, HRS, AND PURSUANT TO SECTION 92-5(a)(4), HRS, TO CONSULT WITH LEGAL COUNSEL ON QUESTIONS AND ISSUES PERTAINING TO THE BOARD'S POWERS, DUTIES, PRIVILEGES, IMMUNITIES, AND LIABILITIES ARISING FROM CIVIL NO. 00-1-0223K, MALAMA PONO KEALAKEKUA VS. DLNR**

**Motion made at 10:57 a.m. to move into executive session to consult with legal counsel (Holschuh/Inouye). The meeting was reconvened at 11:15 a.m.**

Motion made to authorize the Attorney General to settle the lawsuit.

**Unanimously approved (Holschuh/Johns).**

There being no further business, Chairperson Coloma-Agaran adjourned the meeting at 11:15 a.m.

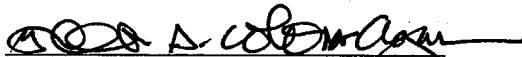
Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Kimberly C. Kelihoomalua

Approved for submittal:



GILBERT S. COLOMA-AGARAN

Chairperson

Board of Land and Natural Resources