

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

DATE: FRIDAY, MAY 24, 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 and Land and Natural Resources to order at 9:30 A.M. following presentation of Employee Awards. The following were in attendance.

MEMBERS:

Mr. Gilbert Coloma-Agaran
Mr. Timothy Johns
Ms. Kathryn Inouye

Mr. Ted Yamamura
Dr. Fred Holschuh
Ms. Lynn McCrory

STAFF:

Ms. Linda Chow, Department of the
Attorney General
Ms. Dede Mamiya, Land Division
Mr. Keith Chun, Land Division
Mr. Dan Quinn, State Parks
Mr. Steve Thompson, DOBOR
Mr. Andy Monden, Land Division
Ms. Athline Clark, DAR

Mr. Edsel Yamada, Department of
the Attorney General
Mr. Mike Buck, DOFAW
Mr. Sam Lemmo, Land Division
Mr. Mason Young, DOBOR
Mr. Paul Conry, DOFAW
Mr. Dave Parsons, DOBOR

OTHERS:

Mr. Freddy Nobriga, D-24
Ms. Marjorie Ziegler, D-24
Mr. John McAustin, D-20
Mr. Bruce Ha, D-20
Mr. Alan Oshima, D-19
Mr. Garret Hew, D-19
Mr. Tim Williams, D-21
Ms. Bev Kamahale, D-21
Mr. Ben Welborn, D-15
Mr. Brian Barbata, J-3

Andrew Iwashita, D-17
Mr. Mitch Imanaka, D-20
Mr. John Yamaguchi, D-20
Mr. Phil Hauret, D-7
Mr. Alan Murakami, D-19
Mr. George Atta, D-21
Mr. Tom Markos, D-21
Ms. Patrice Nagley, D-21
Ms. Sharon Riley, D-16
Ms. Janet Mandrell, J-3

Item D-13: Consent to Assign General Lease No. S-4210, David Glen Jordan, Assignor, to Lincoln Aliiloa Kimokeo and Sommer Jean Kehau Kimokeo, Assignee, Keanae Homesteads, Hana, Maui, TMK: (2) 1-1-003: 059.

Ms. Dede Mamiya, Administrator for the Land Division, said this lease was assigned to David Jordan in 1991 and in 2001 he began receiving Notice of Default for failure to maintain the dwelling, properly utilize the land and to keep rent current. He also failed to make loan payments to Mr. Aronson under the mortgage. Mr. Aronson proposed the assignment of the lease to a qualified applicant, Mr. Jordan concurred. The proposed assignee, Mr. Lincoln Kimokeo was determined to have sufficient experience to carryout the diversified agriculture portion of the lease. The staff recommendation is that the Board consent to the assignment of the General Lease subject to terms and conditions.

Unanimously approved as submitted (Yamamura/Holschuh).

Item D-24: Extension of Lease Term and Consent to Mortgage, General Lease No. S-4476, Freddy Nobriga Enterprises, Inc., Lessee, Piihonua, South Hilo, Hawaii, TMK: 3rd/2-6-18:01.

Ms. Mamiya explained that this pasture lease commenced in 1976 and with the extension of 20 years, would be at the 55 year maximum. This request was submitted in April 2001 but concerns were raised by the Division of Forestry and Wildlife (DOFAW) regarding the extension of the lease. DOFAW does not support this request unless the lessee makes a greater commitment to maintaining its stock proof perimeter fencing. On several occasions, the lessee's cattle breached portions of the fencing that adjoins the forest reserve causing damage to native flora. From the Lessee's point of view, DOFAW has been negligent in removing trees that threaten to fall onto the adjacent demised premises, destroying that portion of his fence. The lessee has obtained injunctive relief through the courts to prevent the eradication plan from being put into action. Ms. Mamiya said the Land Division was not aware of the dispute between the lessee and DOFAW, which is the subject of pending litigation. She said a settlement in the litigation is pending and should be finalized soon. Staff recommendation is that the Board authorize the Extension of the Lease and Consent to the Mortgage under terms and conditions.

Chairperson Coloma-Agaran suggested withdrawing lands from the lease and said he would prefer to preserve the forest reserve than to worry about trees falling on someone's fence. Ms. Mamiya said Land Division's preferred route would have been to issue a Notice Of Default (NOD) since he was in violation of the lease. There was discussion on the settlement agreement and Mike Buck, Administrator of DOFAW said the Division would like to be responsible for the trimming of valuable koa trees in forest reserves.

Ms. Marjorie Ziegler testified on behalf of Earth Justice and Conservation Council for Hawaii in opposition of the extension of the lease. She felt it is the lessee's responsibility to maintain the fence and keep the animals contained and said there is a question of viability of this operation as related to other leases from Department of Hawaiian Home Lands and Parker Ranch. Ms. Ziegler said it is not appropriate to use the department's limited resources

to clear koa and native forest to keep a fence line maintained and doing so would set a precedence. She said they supported the idea of establishing a buffer, moving the fence away from the forest reserve onto the leased property and have them maintain that buffer. Ms. Ziegler reiterated her opposition to the lease or to defer the submittal since the settlement agreement is still pending.

The Board moved into executive session to discuss legal issues (Holschuh/Johns).

Chairperson Coloma-Agaran called the meeting back to order and stated that the deputy attorney general has informed the Board that the settlement agreement hasn't been executed or approved.

Member Kathy Inouye requested from staff a report on the tenant's past performances on any delinquencies or violations under the current lease terms. Chairperson Coloma-Agaran said Land Division and DOFAW are to work out an arrangement of providing information to each other about areas of concern on different leases.

Unanimously approved to defer Item D-24 until the settlement agreement is received and reviewed (Holschuh/Johns).

Item D-17: Amend Prior Board Action of July 25, 1980, Item F-7, Grant of Easement for Access Purposes at Kaniahiku and Halekamahina, Puna, Hawaii, TMK: 3rd/1-4-01: 04 & 12.

Ms. Mamiya briefed the Board to amend prior Board action as the ownership had changed over the years. The staff recommendation is that the Board amend its action of July 25, 1980 for Grant of Easement for access purposes and to authorize the Grant of Easement to be used for utility purposes under terms and conditions.

Andrew Iwashita, attorney representing Jason Shannon asked that there be a provision for an agreement between the parties for the maintenance of the common area. Ms. Mamiya said there is no specific provision that requires agreement of maintenance, that each grantee is responsible for maintaining easement areas.

Unanimously approved with amendment to add a provision to the easement document that the grantee shall enter into a joint maintenance agreement with the Division of State Parks (SP) and other users of the easement area (Holschuh/McCrory).

Item D-20: Cancellation of General Lease Nos. S-3831, S-3840, and S-4647, Kauai Beachfront Hotel, LLC; Authorize Sale of Lease at Public Auction for Hotel and Other Purposes on State Lands at Waialua, Kauai, Hawaii, TMKs: 3-9-06: 16 and 20.

Mr. Keith Chun, Planning and Development Manager of the Land Division briefed the Board regarding the cancellation of the three General Leases. Kauai Beachfront Hotel, LLC has 27 years remaining on their current lease but requests a longer-term lease to obtain financing for their plans. The staff recommends that the Board cancel the general leases and re-auction a new lease. Mr. Chun said as a condition of the auction, the successful bidder, if it is not the

current lessee be required to pay the existing lessee the fair market value for tenant improvements. He said one of the three parcels is currently zoned for a parking lot but the lease would allow them to rezone the property to resort use to allow them to further develop it.

Member Lynn McCrory questioned the rent waiver for the first year at the State's expense. Member Tim Johns commented that it is difficult to justify the greater economic benefit by taking the lease rent out and not be compensated.

Member McCrory questioned how the Rental Reopening section on page 11, Item D was going to be done. Mr. Chun explained that the reopenings are usually set at every 10 years but that it restricted a lessee's ability to obtain financing. Mr. Chun said it was recommended by an appraiser that a known rent period of 30 years with fixed step up of percentage rent be compounded every year after the 10th year, then bumped up the next 10 years, then open at 30 years.

Member McCrory referred to Exhibit B, Memorandum of Agreement, Item 6-d, Evaluation criteria for DLNR to determine eligible bidders. She said the perception is that KBH is helping to structure to be the only bidders.

Ms. Mamiya said for clarification purposes the Character of Use section first paragraph in parenthesis should be amended to (including but not limited to retail...).

Mr. Mitch Imanaka introduced Mr. John McAustin and Mr. John Yamaguchi, appraiser. He requested that the Board 1) use depreciated replacement value for the valuation of existing improvements or if fair market value is used, then base it on the 65 years of the new lease rather than the remaining lease term; 2) consider land in use in valuing the land; 3) allow applicant to provide input on lease form; 4) allow Chairperson to extend the construction deadline for cause; and 5) set the known rent for 30 years.

The Board moved into executive session for clarification of legal requirements purposes (McCrory/Holschuh).

Chairperson Coloma-Agaran reconvened the meeting.

Member McCrory said the Board would like to do a two-step process, which is to move forward to what the Board would like to see in the submittal and ask that it be brought back to the Board before it goes to public auction. This will allow the applicant time to resolve any issues.

Unanimously approved with amendments:

- 1) To delete in its entirety Exhibit B, page 2, Item 6-d "Evaluation criteria for DLNR to determine eligible bidders."**
- 2) Page 3, the "Character of Use" section add underlined to "Hotel and uses accessory or incidental thereto and customarily conducted within resort-hotel"**

areas (including, but not limited to, retail, restaurant, banquet, commercial office, spa, landscaping, and parking facilities).”

- 3) On Page 4, to the “Known Rent Period and Rental Reopenings” section add underlined and delete bracketed to read: “Known rent period (and fixed step-ups in rent, if appropriate) shall be the initial 30 years of the lease term [to be determined by independent appraisal, subject to review and approval by the Chairperson]. Rental reopenings....”
- 4) On Page 5, delete the “Rent Waiver” section in its entirety.
- 5) Tenant improvements shall be valued at fair market value based on the remaining term of the existing leases.
- 6) Staff to return to the Board before going out to auction to report on the appraisal of improvements and lease rent.
(McCrorry/Johns)

Item D-7: Grant of Perpetual, Non-exclusive Easement to Hawaiian Electric Company, Inc. for Utility Purposes and Cancellation of Revocable Permit No. 236 to Hawaiian Electric Company, Inc., Pouhala Homesteads, Waikele, Ewa, Oahu, TMK: 9-4-11: Pors. Of 17, 20 & 29

Ms. Mamiya said this submittal is to correct the disposition of the Revocable Permit No. 236 that was issued in 1946 with the alignment running over Nawaakoa Place. Since the roadway has since been transferred to the City and County, the Perpetual Easement needs to reflect the areas that are not in the roadway. Staff recommendation is that the Board authorize the issuance of the Perpetual, Non-exclusive Easement to HECO and the cancellation of RP 236 under terms and conditions.

Mr. Phil Hauret representing HECO requested that Verizon Hawaii be added as applicant.

Ms. Mamiya requested deferment of the submittal as Verizon Hawaii was not named in the agenda and the concern was that the amendment would not meet Sunshine Law requirements.

Unanimously approved to defer item (Inouye/McCrory).

Item D-19: Re-issuance of Interim Revocable Permits to Alexander & Baldwin, Inc. and East Maui Irrigation Company, Limited, for the Honomanu, Keanae, Huelo and Nahiku License Areas, Hana, Maui, Various TMKs.

Ms. Mamiya said the licenses were originally issued for a term of twenty-one (21) years and on five (5) year interval basis that ended in 1972. The right to take from Government owned lands has been covered under revocable permits. The issuance of the water permits for the four licenses are alternated annually between Alexander and Baldwin (A&B) and East Maui Irrigation Co., Ltd. (EMI). Ms. Mamiya said at the meeting of May 25, 2001, staff returned to the Board to reissue the RP. At this meeting a request for contested hearing were made

and the Board deferred action on staff recommendation and granted a hold over permit on a month to month basis pending the results of the contested case hearing. On April 15, 2002, a hearing on standing was held and a Board briefing will be conducted on June 13, 2002 regarding an appraisal of the permit rents. Ms. Mamiya said if the newly determined permit rents deviate from the current rents, staff will bring back a submittal to amend the monthly rents which may be increased or decreased by the Board and upon resolution of the various issues, recommend to the Board issuance of a long-term water lease. Staff recommendation is that the Board authorize the re-issuance of permits for the subject waters in the interim and pending the outcome of the contested case. The Board discussed the rationale for bringing the request to the Board given last year's action. Ms. Mamiya indicated there were questions regarding the length of a holdover for a revocable permit.

Mr. Alan Oshima representing EMI stated that this request was not generated by them. EMI has been operating under the assumption that there is a contested case and that there is a holdover of the revocable permits and the status quo is preserved. He disclosed that the applicant's position on standing is that EMI does not object to those parties who have moved to intervene. He felt that the Board has the authority to be in a hold over situation since it is part of the contested case.

Chairperson Coloma-Agaran said the Board's intention is to keep the status quo and that it was brought back to the Board because of questions raised about authority to holdover permits beyond a year. He said any decision made today is not intended to prejudice or change the contested case.

Mr. Oshima discussed whether the permits could be reissued simply to comply with the statutory limitations without undermining the Board's intent last year to maintain the status quo pending the contested case.

Mr. Garrett Hew responded to a question from Mr. Yamamura and described maintenance of the ditch systems and the need to continue maintenance.

Mr. Alan Murakami staff attorney with the Native Hawaiian Legal Corporation said they were before the Board 16 years ago asking for a contested case hearing on this issue. He indicated that he is asking for his clients, and is authorized to ask for Mr. Isaac Hall, attorney for Maui Tomorrow, for a contested case on the staff recommendation to grant new permits. He questioned whether there is a legal basis for the Board to do what the staff is recommending. He said presently they are in a contested case hearing and are trying to resolve issues. Mr. Murakami submitted written testimony in opposition to the re-issuance of the Interim Revocable Permits.

Office of Hawaiian Affairs submitted written concerns for the issuance of the permits.

The Board moved into executive session (Inouye/McCrory)

The meeting was reconvened. Chairperson Coloma-Agaran asked staff to request to expedite the contested case proceedings.

Unanimously approved to defer and grant a holdover of the existing revocable permit on a month-to-month basis pending the results of the contest case hearing (Yamamura/Inouye).

Item D-21: Conservation District Use Application (CDUA) OA-3087 for Construction of New Residential Addition and Various Other Site Improvements at Wilhemina Rise, Honolulu, Hawaii, TMK: (1) 3-3-36:30.

Member Johns recused himself.

Mr. Sam Lemmo, Senior Staff Planner of the Land Division handed out letters and briefed the Board. He said the application was referred to various agencies and the summary of the comments are provided as an exhibit in the submittal and that the Kaimuki Neighborhood Board failed to pass a motion to support the project. Mr. Lemmo said the neighbors raised various concerns regarding parking and blockage of access for emergency vehicles during construction including their opinion that the applicant has not been cooperative and that no notification was given to the neighborhood. He said the consultant responded to those concerns. Mr. Lemmo said verbal and written comments were received from the abutting landowner, Mr. Tim Williams about the potential impact on his view by the motor court. Mr. Williams met with the consultants on various occasions and because of those meetings, the motor court was redesigned.

Mr. Lemmo said the proposal for the motor court is intended to expand the existing motor court area and to provide three parking spaces for the main residence. He said the main problem with this proposal is that the proposed location involves construction within the minimum 25 foot side front and side lot line setback required for residential uses within the Conservation District for lots over one acre. He said however, that deviations maybe considered by the Board.

Mr. Lemmo said staff recommends that Board approve the application for maid's residence, gazebo, landscaping, and a variance to the minimum setbacks necessary for the listed project elements subject to terms and conditions.

Mr. George Atta, Group 70 agent on behalf of Mr. Haig made a presentation to the Board exhibiting maps and site plans and responded to the Board member's questions regarding the motor court, the gazebo, maid's quarters, and the view planes. There was some discussion on the 4-foot chain link fencing extending on a portion of the property.

Mr. Tim Williams testified and submitted written testimony against this application.

Mr. Tom Markos testified against the application.

Mrs. Bev Kanahale testified against the application and submitted written testimony. She talked about a report that referred to drilling in the property and felt that it would be a safety issue.

Ms. Patrice Nagley testified in opposition of the project and submitted written testimony.

Written testimony was submitted by Mr. & Mrs. Raymond Engle.

There was further discussion by the Board. Member Inouye questioned the lack of practical alternatives. Mr. Lemmo said the justified reason was a safety issue for turn around purposes. Mr. Haig said to "perfect an easement" he purchased an easement from Mrs. Kanahale which contains restrictive easements controlling the kind of development and how long it can take and applicable penalties for the P1 zone and his lot. Member Inouye questioned the structure of the maid's quarters. Mr. Lemmo said the lot is a private separate lot belonging to Mr. Haig and not a conservation lot. He said the impact of putting the maid structure next to his property line is Mr. Haig's impact and not the community's. Mr. Lemmo said the setback is 25 feet from the property line for residential structures.

Unanimously approved with the following amendments (Inouye/McCrory)

1. Amend first paragraph of the Recommendation Section on page 17 to read:
"Based on the preceding analysis, staff recommends that the Board of Land and Natural Resources APPROVE this application for maid's residence, gazebo, decking and walkways, landscaping (and after-the-fact improvements previously resolved through DLNR enforcement), and also approve a variance to the minimum setbacks necessary for the listed project elements only at the applicant's property line, subject to the following conditions:"
2. Amend condition 13) of the Recommendation Section to read:
"The single-family dwelling shall not be used for rental or any other commercial purposes."
3. Amend condition 14) of the Recommendation Section to read:
"The applicant shall relocate the proposed maid's residence outside of the 25-foot setback."

At the conclusion of this item, the applicant requested a contested case hearing. Mr. Tim Williams, the abutting neighbor indicated he would like to intervene in the contested case hearing.

Item D-15: Request for Public Hearing and Small Business Impact Determination: Petition to amend Title 13, Chapter 5, Hawaii Administrative Rules (Chap 13-5 HAR), to re-designate a portion of the State Land Use Conservation District Limited Sub-zone to the General Sub-zone in Pupukea, Districts of Ko'olaupua and Waialua on the Island of Oahu TMK (1) 6-1-02: 22

Mr. Masa Alkire, Planner for the Land Division briefed the Board. The petitioner is requesting re-designation of 18.5 acres of limited sub zone to general sub zone to facilitate donation of lands to DLNR, Division of State Parks (SP) and construct a spiritual sanctuary on the parcel. He said this is taking agriculture land to rezone to conservation land on an adjacent parcel. The petitioner will then apply to the City for subdivision to consolidate these parcels and to re subdivide them to create a conservation parcel. The 63 acres of conservation parcel will then be donated to SP to be used for park purposes. He said the applicant would then apply for the spiritual sanctuary.

Mr. Alkire said an initial version of draft Environmental Assessment (EA) was submitted but that it was not accepted because it did not fully discuss the spiritual sanctuary project elements. He said the petitioner was told to submit at the time of the public hearing an acceptable form of the Draft EA for distribution and to allow public input. Staff is of the opinion that a final EA should be finalized before this re-designation returns to the Board for final decision-making.

Staff recommendation is that the Board approve the request to process to amend Chapter 13-5, determine that the proposed rule amendment will not impact or affect small business, authorize approval to hold public hearing and to appoint a hearing master for the proposed rule amendment's public hearing.

Mr. Ben Welborn introduced himself as a representative of the petitioner and said he will do a presentation for the Board at a later date.

Member Inouye suggested on page 17 to correct language to read, "The land donation process is entirely contingent on State Parks accepting responsibility for the donated land".

Unanimously approved as amended (Inouye/McCrory).

Item J-1: Request for Approval to Amend Hawaii Administrative Rules, Sections 13-256-94, and Request Approval to Adopt New Hawaii Administrative Rules, 13-256-98, and 13-256-99, as they Relate to Ke'ehi Lagoon and the Reef Runway Located Seaward of the Honolulu International Airport.

Mr. Mason Young, Acting Administrator for the Division of Boating and Recreation briefed the Board and said staff recommendation is that the Board grant preliminary approval to conduct a public hearing on the proposed amendments and proposed rules and to authorize the Chairperson to appoint a hearing master to conduct the public hearing.

Unanimously approved as submitted (Inouye/Holschuh).

Item D-16: Conservation District Use Application (CDUA) OA-2979 for the Pouhala Marsh Wildlife Sanctuary and Habitat Restoration Project, Pearl Harbor, Oahu.

Mr. Lemmo briefed the Board on the contested case petitions from Tesoro and The Gas Company because of an easement with Department of Transportation through the marsh. He

said the settlement agreement is in place with DOFAW, U.S. Fish and Wildlife Service, Tesoro and The Gas Company to allow each entity what they need to do. Mr. Lemmo said staff believes that the project is consistent with the objectives and purposes of conservation to enhance resources and preserve resources for future generations. The staff recommendation is that the Board approve the application under terms and conditions.

Mr. Paul Conry, Wildlife Manager for the Division of Forestry and Wildlife said the plan will move forward with the best technology in adaptive management. He said the approval of the CDUA would enable them to work with Ducks Unlimited to complete that phase by summer.

Ms. Sharon Riley with Ducks Unlimited testified in support of the proposed CDUA. She said the design of the project would help minimize any kind of long-term maintenance.

Unanimously approved as submitted (Inouye/Holschuh).

Item D-8: Approval for Award of Construction Contract – Job No. 40-HB-2 Kailua-Kona Wharf Improvements, Kailua-Kona, Hawaii

Mr. Andrew Monden, Chief Engineer with the Land Division briefed the Board and recommended that the Board authorize the Chairperson to proceed with awarding the contract to Hawaiian Dredging Construction Company for the negotiated low bid of \$3,499,700.00, subject to Governor's approval.

In response to Member Holschuh, Mr. Monden said part of the Phase IV work that will be affected by the reduced scope of work would be the elimination of the outdoor shower, the wash down area for the boats and the asphalt pavement.

Unanimously approved as submitted (Holschuh/Inouye).

Item J-3: Resubmittal – Authorization to Lease at Public Auction a Marine Fueling Facility Situated at the Ala Wai Boat Harbor, Honolulu, Island of Oahu

Mr. Young said this item was deferred at the last Board meeting because of concerns addressed by the tenants as stated on page 6 of the submittal. He said staff recommendation is that the Board approve the sale of lease at public auction for a marine fueling facility under terms and conditions.

Mr. Young said concerns voiced at the Ala Wai ADHOC briefing held on Thursday, May 23, 2002 were objections to the use of the second floor of the fuel dock at the harbor master's office. He referred to the map in the submittal and said an alternative site could be built above the current three-slip area contingent on the funding. This would take care of the entry of vessels into the channel and the harbor.

There was a short discussion regarding the overnight accommodation that would be housed within the structure by the proposed renovation of the first floor as well as adding on to the second floor.

Mr. Young referred to the amendment page distributed earlier to change page 5 of the submittal, LEVEL OF SERVICE to read: "Lessee shall provide 24-hour management with fuel service available seven days per week and on-call service available after normal business hours as posted by the Lessee. Lessee may provide appropriate overnight accommodations for on-site manager."

Member Holschuh corrected the spelling of the word "hour" on the distributed amendment page.

Member McCrory asked why on page 6 under item f. Performance Bond, the proposed amount is only equal to one year's lease rent not the normal two years. Mr. Young said the current tenant said it is difficult to post a two-year bond. Mr. Brian Barbata felt that the money he would be investing for the improvements should be his bond.

Ms. Janet Mandrell, boat owner at the Ala Wai Harbor stated her concerns about the harbor office space and the length of the 35-year lease.

There was a discussion regarding the reopening of every 5 years. Mr. David Parsons, Administrator of DOBOR explained that past tenants complained about the steep increases on the 10 or 15 year reopenings and asked for 5 year reopenings so that the increase would not be so significant.

Member McCrory moved to amend the submittal to include the two proposed changes of the Level of Service for the Lessee to provide 24-hour management with fuel service available seven days per week and on-call service available after normal business hours as posted by the Lessee; to provide appropriate overnight accommodations for on-site manager; and to move the performance bond to twice the annual rent (McCrory/Inouye).

Unanimously approved as amended (Inouye/Holschuh).

Item J-2: Authorization for Installation of Day Use Moorings Offshore of Ko'olina Resort, Island of Oahu.

Mr. Young said Ko'olina Marina is willing to install day use, offshore moorings at their own cost for general use by the public.

Unanimously approved as submitted (Inouye/Holschuh).

Item C-1: Request Approval to Amend Forest Stewardship Contract Language to Address Concern Regarding Possible Sale or Transfer of Project Properties.

Mr. Michael Buck, Administrator of the Division of Forestry and Wildlife said the Stewardship Program is a 10-year cost sharing program. A protocol for commercial projects is in place where the State is paid back harvest for native forest areas. The recommendation is that the Board add 20 years of maintenance on the end of the 10 year term, if the person sells the land, the pro-rated portion of the land that's sold is reimbursed and if the new owner is willing to take on responsibilities, there will be no reimbursement. Staff recommendation is that the Board approve to amend the Forest Stewardship Contract Language. Member McCrory requested that future submittals include a clear outline of public benefit for the 30 years.

Unanimously approved as submitted (McCrory/Inouye).

Item C-2: Request for Approval to Release for Public Review the Draft Programmatic Safe Harbor Agreement for Nene on the Island of Molokai, Hawaii.

Mr. Buck said under this Agreement, DOFAW will become a "permittee" and will be able to enroll eligible landowners under State and Federal permits through "certificates of inclusion". The purpose of the agreement is to provide for habitat maintenance, predator control, and monitoring throughout private lands on the island of Molokai. He said his one concern is not to force private landowners to have federal employees on their properties if they don't want to. Mr. Buck also noted for the Board that the Legislature did not approve the ability to do safe harbor habitat conservation plans on public lands.

Unanimously approved as submitted (Yamamura/Holschuh).

Item F-1: Request for Approval to Enter into A Contract with the Nature Conservancy of Hawaii (TNC).

Ms. Athline Clark, Division of Aquatics briefed the Board to enter into contract for professional services to provide funding for the development of a Comprehensive Aquatic Alien Species Management Plan to run from July 2002 through June 2003. She said the staff recommendation is that the Board authorize the Chairperson to negotiate and, subject to necessary approvals, enter into a contract for Professional Services with The Nature Conservancy of Hawaii.

Unanimously approved as submitted (McCrory/Holschuh).

Item D-1: Grant of Perpetual, Non-Exclusive Easement; Authorization of Bill of Sale and Issuance of Management Right-of-Entry to the Water Board of the County of Hawaii for Water Line, Meter, and Fire Hydrant Purposes, Waiakea, South Hilo, Hawaii, TMKs: 3rd/2-4-01: 07, 19 & 167; 2-4-56: 17; and 2-4-57: 25 & 26.

Ms. Mamiya briefed the Board and said staff recommendation is that the Board authorize the issuance of a perpetual non-exclusive easement and the issuance of a Bill of Sale to transfer all water transmission line, meter, fire hydrants and related improvements under terms and conditions.

Unanimously approved as submitted (Holschuh/Inouye).

Item D-2: Rescind Prior Board Action of March 22, 1996, under Agenda Item D-1, Direct Sale of a Perpetual, Non-Exclusive Easement to Douglas Hardy Knowlton and Patricia Ross Knowlton for Access and Utility Purposes, Olaa Summer Lots, Puna, Hawaii, TMK: (3) 1-9-03: Kalaninauli Road.

Ms. Mamiya said the applicant requested a deferral of this item.

Unanimously approved to withdraw item (Inouye/Yamamura).

Item D-3: Amend Prior Board Action of March 8, 2002, Agenda Item D-2, Consent to LOPP Agreement between Edward and Janet Kurokawa, Lessor, and the State of Hawaii, by its BLNR, on Behalf of and for the DOH, Lessee, at Keahialaka, Puna, Hawaii, TMK: 3rd/1-3-46: Portion of 75.

Ms. Mamiya said this item is to amend the names of the Lessors.

Unanimously approved as submitted (Holschuh/McCrory).

Item D-4: Consent to Revocable Permit Between Department of Business, Economic Development and Tourism and Revolution Production Services, LLC, for Lands under Governor's Executive Order No. 3450, Kapahulu, Waikiki, Honolulu, Oahu, TMK: (1) 3-1-42: 09 Por.

Ms. Mamiya briefed the Board and recommended that the Board consent to the revocable permit between DBEDT and Revolution Production Services, LLC subject to terms and conditions.

Unanimously approved as submitted (Inouye/Yamamura).

Item D-5: Rescind Prior Board Actions of October 9, 1998, Item D-6, Set Aside to the Division of Conservation and Resources Enforcement, Hunter Education Program for the Kamuela Hunter Education Facility and Issuances of a Construction right-of-Entry at Waimea, South Kohala, Hawaii TMK: 3rd/6-5-04: 15.

Ms. Mamiya briefed the Board and recommended that the Board rescind prior Board action.

Unanimously approved as submitted (Holschuh/McCrory).

Item D-6: Forfeiture of General Lease No. S-5175, Shoji Kitami, Lessee, Heeia, Koolaupoko, Oahu TMK: 4-6-01: seaward of 11.

Ms. Mamiya said this item has been withdrawn.

Unanimously approved to withdraw item (Inouye/Yamamura).

Item D-9: Amend Prior Board Action of November 16, 2001, Agenda Item D-5, Grant of Perpetual, Non-Exclusive Easement and Issuance of an Immediate Right-of-Entry to the Orlando Lyman Charitable Trust, for Access Purposes, Piihonua, South Hilo, Hawaii, TMK: (3) 2-5-09: 02, 03, 04 & 26.

Ms. Mamiya briefed the Board and recommended that the Board amend its actions of November 16, 2001 to add two properties that this easement will serve.

Unanimously approved as submitted (Yamamura/Inouye).

Item D-11: Consent to Sublease General Lease No. S-5284-A, Hawaiian Cement, Lessee, to William Vanderlee DBA Van Der Lee Contrete Products, Sublessee, Pulehunui, Wailuku, Maui, TMK: (2) 3-8-008: Por 031.

Item D-12: Consent to Sublease General Lease No. S-5284-A, Hawaiian Cement, Lessee, to Goodfellow Brothers, Inc., Sublessee, Pulehunui, Wailuku, Maui, TMK: (2) 3-8-008: Por 031.

Ms. Mamiya said Items D-11 and D-12 are the same under the Sublease GL No. S-5284-A, one is to William Vanderlee and the other is to Goodfellow Brothers. She amended the lease number in recommendation for both submittals from Lease 4016 to 5284-A.

Unanimously approved Items D-11 and D-12 with amendments (Yamamura/Inouye)

Item D-14: Issuance of Right-Of-Entry to the County of Hawaii and the United States Army Corps of Engineers for Construction Staging Purposes, Repair of Wailoa River Flood Control Project, South Hilo, Hawaii, TMK: 3rd/2-2-20: 01 and 2-4-01: 10.

Ms. Mamiya briefed the Board and recommended that the Board authorize the issuance of an immediate right-of-entry.

Unanimously approved as submitted (Holschuh/McCrory)

Item D-18: Rescission of Prior Board Action Regarding Direct Issuance of Perpetual, Non-Exclusive Water Pipeline Easement at Hilo Hospital, Piihonua, South Hilo, Hawaii, TMK: 3rd/2-3-27: Por 02.

Ms. Mamiya briefed the Board and recommended that the Board rescind its prior Board action at its meeting of July 14, 1995 under Agenda Item F-2, authorizing the direct issuance of the subject easement under terms and conditions.

Unanimously approved as submitted (Holschuh/McCrory)

Item D-22: Set Aside to the DLNR, Division of Boating and Ocean Recreation for Marina and other Related Purposes and Amend Prior Board Action of January 11, 2002, Agenda Item D-26, Haleiwa, Wailua, Oahu, TMK: 6-2-03: 10 & 39.

Ms. Mamiya briefed the Board and recommended that the Board approve and recommend to the Governor the issuance of an Executive Order setting aside the subject lands and to amend the Board's prior action of January 11, 2002, Item D-26, to allow DOBOR to issue its own revocable permit under terms and conditions.

Unanimously approved as submitted (Inouye/McCrory)

Item D-23: Resubmittal: Cancellation of one-year Holdover and Extension of Lease Term of General Lease No. S-4726, Hawaii County Economic Opportunity Council, Lessee, Ponahawai, South Hilo, Hawaii, TMK: 3rd/2-5-06: 01 & 159.

Member Holschuh had concerns about the beehives on the property that would attract other swarms of bees in a residential area and what would happen to the iron building that the Lessee is proposing to erect after he moves on.

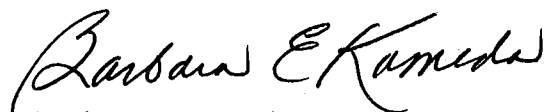
After a brief discussion, the Board asked staff to determine whether an Environment Assessment is required and to come back before the Board for a revocable permit after the lessee relocates his operations.

Unanimously approved to deny submittal (Holschuh/McCrory)

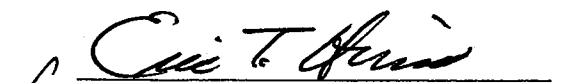
There being no further business, Chairperson Coloma-Agaran adjourned the meeting at 2:40 P.M.

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,


Barbara E. Kameda

Approval for submittal:


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



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