

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

DATE: FRIDAY, SEPTEMBER 13, 2002
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

Chairperson Gilbert Coloma-Agaran called the meeting of the Board of Land and Natural Resources to order at 9:05 a.m. The following were in attendance:

MEMBERS:

Mr. Gilbert Coloma-Agaran	Ms. Lynn McCrory
Mr. Timothy Johns	Mr. Ted Yamamura
Ms. Kathryn Inouye	Mr. Gerald DeMello
Mr. Toby Martyn (arrived at 9:55 a.m.)	

STAFF:

Ms. Dede Mamiya, Land Division	Mr. Sam Lemmo, Land Division
Mr. Dan Quinn, State Parks	Mr. Mason Young, Division of Boating & Ocean Recreation (DOBOR)
Ms. Carol She' (DOBOR)	

OTHERS:

Ms. Pam Matsukawa, Department of the Attorney General	Mr. Dane Shibuya, D-2
Ms. Pele Hanoa, D-2	Ms. Leinaala Enos, D-2
Ms. Constance Pettitt, D-9	Mr. Larry Neil, D-6
Ms. Natalie Hiu, D-12	Mr. David Estrella, D-11
Mr. Michael Twigg-Smith, D-14	Mr. Dean Geleynse, D-13
Ms. Sharon Cho-Ibanez, D-15	Ms. Gale Atwater, D-14
Mr. Campbell Cavasso, D-17	Mr. Michael Nahoopii, D-16
Mr. Don Osford, E-3	Ms. Lee Wild, E-1
Mr. Glen Hale, J-1	Mr. Ron Takamura, J-1
	Mr. Greg Allen, J-1

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

A. MINUTES

Item A-1: Approval of July 12, 2002 minutes

Item A-2: Approval of August 9, 2002 minutes

Item A-3: Approval of August 23 2002 minutes

Motion to Defer (McCrorry/Yamamura).

Unanimously approved to defer

Item D-6: Time Extension Request – Conservation District Use Permit KA-2710 for the Princeville Potable Water System, Hanalei, Kauai, TMK: 5-3-01: 19.

Ms. Mamiya informed the Board on the two previous extensions requested by the applicant. She recommended that the Board approve an extension of six (6) months for Princeville Utilities to complete the project.

Mr. Larry Neil, of Princeville Utilities was present to acknowledge support of the staff submittal and to answer any questions.

Unanimously approved as submitted (McCrorry/Inouye).

Item D-9: Cancellation of Revocable Permit No. S-6931, Kent S. Kaneko, dba Kent's Auto Repair, Permmittee, Waiakea, South Hilo, Hawaii, TMK: 3rd/2-2-50: 80.

Ms. Mamiya briefed the Board and noted that on four occasions the permittee has been served a notice of non-compliance. She recommended the cancellation of Revocable Permit No. S-6931 and to authorize the collection of all monies due to the State of Hawaii.

Ms. Constance Petitt, secretary and office manager for Kent's Auto Repair, spoke on behalf of the permittee. She also submitted a letter to the Board explaining why the rent was not paid. She stated that Mr. Kaneko was unaware that the rent was not paid, in fact she constantly assured him that the rent was paid. Ms. Petitt took full responsibility for this matter. She asked the Board not to hold Mr. Kaneko responsible for her grave error in judgment.

Member Yamamura made a motion to withdraw this item.

Motion to withdraw (Yamamura/Johns).

Unanimously approved to withdraw.

Item D-2: Forfeiture of General Lease No. S-5606, Hana Laulima Lahui O Ka'u, Inc., Lessee, Wailau, Kau, Hawaii, TMK: 3rd/ 9-5-019: 34.

Ms. Mamiya briefed the Board on the past performance of the Lessee and their failure to pay rent and liability insurance. She noted that the Lessee was in violation of Paragraph 41 and 52. Ms. Mamiya informed the Board that the Lessee received a grant approval from the Office of Hawaiian Affairs (OHA) for the construction of a community cultural center, provided they could secure matching construction funds (through the County of Hawaii). But because they could not secure matching funds the money was not released. Ms. Mamiya recommended the cancellation of General Lease No. S-5606.

Dane Shibuya, president of Hana Laulima reiterated that the CDUA lapsed twice and Hana Laulima did not do anything due to their funding situation. Their group has been working with the community and the Queen Liliuokalani Children's Trust to remedy the situation. The Trust has informed Hana Laulima they would come up with the monies for the back lease rent. As far as OHA releasing the money, Mr. Shibuya was told his organization would need to go through a community-based organization. It was also suggested that Hana Laulima hire a director to follow through with an extension of their CDUA when it expires and any other matters that might come up. Mr. Shibuya also stated that they were looking at federal funds, the American Native Anagram. He noted that that by receiving of a State lease and OHA providing a grant award, it would greatly improve their chances for outside funding. Mr. Shibuya said he felt that with the monies acquired from the County of Hawaii, it would be enough for Hana Laulima to start up and remain self-sufficient.

Leinaala Enos, from the Queen Liliuokalani Children's Trust spoke in support of Hana Laulima. She stated that she is in the process of writing a MOA with Queen Liliuokalani Children's Center and Hana Laulima to help them with paying their arrears, their lease, any penalties and the CDUA. She said that in terms of other grants, Hana Laulima should look at approaching the First Nations board for private money. Also Queen Liliuokalani will work with Hana Laulima to find people who are able to help them with grant writing. Ms. Enos informed the Board that the money from Queen Liliuokalani Children's Center must go through an approval process, which will take some time, therefore they might need an extension. She hopes to hear something by the end of next week. Ms. Enos also expressed the desire to see services for the Hawaiian children and their families held at the center.

Member Johns asked Ms. Mamiya if the County of Hawaii has expressed an interest in acquiring this property. Ms. Mamiya stated that there were no interested parties in this piece of property.

Member McCrory asked Mr. Shibuya if their organization came up with \$10,000 would OHA match that amount or would OHA require Hana Laulima to come up with the full \$245,000 before they would match the funds. She also noted that the grants from the Center for Business and Economic Development (CBED) is usually only \$10, 000 and if that would be enough money to start construction .

Ms. Enos explained in speaking with Wayne Tom, Hana Laulima would be working with CBED to get the matching funds for OHA so they can at least break ground, but they would be actively seek additional funding elsewhere.

Member Inouye questioned the realistic assessment of Hana Laulima's financial needs. She stated that OHA would provide money through the Seeded Grants Program, which basically focuses on organizational training not funding for construction. Therefore Queen Liliuokalani Children's Center will need to come forward with the lease rent on a long term basis. Member Inouye also questioned why the grant monies if obtained, should go towards Hana Laulima's rent on a structure that hasn't been built as oppose to it going towards the program, that could operate from a public facility.

Ms. Enos stated that right now Queen Liliuokalani is looking at the immediate needs of Hana Laulima, their needs until the end of the year. They would also like to negotiate with DLNR on their lease amount and determine why their lease amount is so high. Ms. Enos, informed the Board, in the future Hana Laulima would approach private funding through Hawaii Community Foundation and the First Nations Development Institute. In terms of finding a public facility from which to operate their program, Ms. Enos stated that Hana Laulima doesn't have a place. Ms. Enos felt they could work out of a school or a garage, but it's not available at this time for the type of program they have planned. Their base is to get the land then work on the structure.

Member Johns asked Ms. Mamiya to contact the mayor's office and see if the County of Hawaii has any interest in the property. He stated that he would be in favor of a deferral at this time in order to give Hana Laulima some time to work out their problems but he doesn't want it to drag out. Mr. Johns feels that Hana Laulima must work diligently to get their lease rent and other obligations up to date.

Member DeMello is in favor of giving Hana Laulima some time to look at their funding and to get organized as long as it was not long and drawn out.

Member Yamamura asked Ms. Mamiya to provide the Board with a synopsis of this lease.

Member McCrory asked Hana Laulima when they return to provide a list of places they have applied to for grants, specifically towards construction and the amounts they have applied for.

Pele Hanoa echoed her support for Hana Laulima. She believes being a non-profit organization, the State should offer Hana Laulima, a lease of \$1.00 a year. She expressed her frustration with getting the cultural center built. She explained that the community wants to educate their children through this cultural center.

Member Johns asked Ms. Mamiya to check on the CDUA if Hana Laulima would need to reapply or if there was a way to revive their old one.

Member DeMello made a motion to defer to give Hana Laulima additional time to look into additional resources for funding the center.

Motion to defer (DeMello/Yamamura).

Unanimously approved to defer.

Item D-11: Resubmittal – Forfeiture of General Lease S-5347, Martin Lagundino, Lessee, Lots 1, 23, 24, 33-A, 34-A, 35-A, Hanalei Homesteads, Hanalei, Kauai, TMK: 5-4-2: 26 & 31.

Ms. Mamiya informed the Board that the Lessee agent, Mr. David Estrella would satisfy the lease defaults prior to this meeting and this morning he did give her an updated insurance form.

Member McCrory reminded the Board that this was a lease in which they were looking at response time in returning the signed lease or revocable permit.

Ms. Mamiya stated that they were looking if it could be delegated but it was determined that it would have to be delegated by rule unless they put a timeframe on the approval. But in doing so it would cause more work for the staff because they would be constantly coming back to the Board if the lessee did not meet the time line set.

David Estrella, agent for the lessee, presented the Board a cashier's check in the updated amount due. He said both himself and Martin Lagundino believed that they went through the proper procedures for the assignment of the lease and believed everything was in good standing. He stated that another complication was the fact that he had to take control of all matters as Mr. Lagundino was residing in Molokai. Throughout the period that the Land Division sent Mr. Estrella the Notice of Default he was not on island therefore he was not aware of the situation. Upon arriving back home, Mr. Estrella contacted Mike Laureta, of the Kauai Land Division office to let him know he wanted to resolve the issues at hand and get the lease back in good standing. To answer Member McCrory's question as to whether Mr. Estrella was using the pasture land, he stated that during the time the land was being turned over (in 2000), they were not using it. But rather than have the lease fall into default, he is prepared to use the land. Mr. Estrella said he would like to get the land back in use then consider if they would use it themselves or assign it to someone else.

Member McCrory informed Mr. Estrella that the Board is no longer accepting unsecured surety bonds so he would need to put up a cash bond for the performance bond.

Mr. Estrella stated that it would not be a problem.

The Board amended the Recommendation Section by:

- 1. Accepting Mr. David Estrella's check for the rent delinquency;**

2. **Deleting paragraphs 1 through 4; and**
3. **Requiring that a secured performance bond be submitted within a two-month period.**

Unanimously approved as amended (McCrorry/DeMello).

Item J-1: Request that the Board of Land and Natural Resources Adopt Proposed Amendments/Adoption of Hawaii Administrative Rules, Chapter 13-250 and 13-256 Related to Wailua River on the Island of Kauai.

Mr. Mason Young, Administrator for the Division of Boating and Ocean Recreation (DOBOR), briefed the Board on the public Hearing that took place at Chiefess Kamakahele Middle School on Kauai on July 27, 2002. Approximately 25 people attended, 17 people provided verbal testimony, 192 people provided written testimony in support of the water-skiing changes and 200 supported both the water-skiing and the boundary changes. Mr. Young recommended that the Board adopt the proposed amendments.

Carol She' Boating Regulations Officer for DOBOR was present to answer any questions.

Member McCrorry questioned Mr. Young as to why the report from the Small Business Impact Committee was not included. Ms. She' replied that DOBOR does not usually receive a reply from the committee since this was not the preliminary impact statement. They usually reply to the first impact statement. She noted that their comments with regards to this issue were positive.

Chairperson Coloma-Agaran went over the process by which the rules are adopted. He stated, that the "proposed" rules go to the Small Business Impact Committee for comments before it goes out to public hearings. If the comments received are not positive, it could prevent the proposed rules from going out to public hearings.

Ron Takamura an advisory member to the SORMA group on Kauai stated their group has been working on the rules for the past 6 years and it finally looks like there is a compromise in which everyone can share and share a like. He is hoping the Board will move forward with the approval process. He feels the longer the Board waits, the greater the potential hazards and loss of life there will be on the river.

Glen Hale, representing the Kauai Water Ski Club told the Board that their group is concerned that some of the information given to the Board regarding the reaction of the people on Kauai on this issue was not reported accurately. At one of the hearings a petition was presented with 300 signatures of individuals who were against the proposed amendment, with respect to prohibition of water skiing in the area above Zone A. He stated that this information was not included as part of the report results of the public hearing. He wonders if the one hundred ninety-two people referred to in Exhibit 2, item 6,

are the individuals that signed the petition. If they are the same people, then the results are opposite, it should reflect that they are against the rules. With respect to the restrictions proposed by the amendments he feels that the Board should be concerned with the preliminary scope or purpose of the administrative rules (dealing with safety and public welfare). In regards to Zone A, he wonders if DOBOR has utilized an expert in coming up with these rules, whereas the Kauai Water Ski Club has contacted individuals who have skied the river, who know what they are talking about.

Chairperson Coloma-Agaran asked Mr. Hale in his opinion, if he believes the Board should ban water skiing activities from the river.

Mr. Hale didn't believe the Board should ban these activities because the purpose of the Board and the Administrative Rules are to further public interest and welfare. And the public interest and welfare of the people of Kauai includes the use of the river in a way that benefits everyone involved. He feels that the rules proposed increases the safety risk. Mr. Hale states, the rules that currently allow skiers to go into Zone B area, spread out the skiers in a way that it avoids the types of risk that can occur when you over crowd a particular section of the river.

Member Johns asked Mr. Hale if by spreading out the people, he believes it makes Wailua River safer because it exposes more people to the risk and that is better than keeping them all in one place.

Mr. Hale believes that spreading out people in a larger section of the river is safer then crunching them together in a smaller area. He believes by imposing restrictions on the areas when it is congested increases the risk of danger.

Member McCrory questioned Mr. Hale if the 192 people that were against the original water-skiing and the boundary changes, if he was able to get comments from them after the proposed time restrictions of Zone B were proposed.

Mr. Hale said that he was not able to get copies of the Zone B proposed changes therefore he was not able to go back out and get petitions that deal with that specific change.

Member McCrory pointed that what (DOBOR) is proposing, is something that is a little better then what Mr. Clotier, their expert proposed because between sunrise and 9:00 a.m. and 5:00 p.m. to sunset, when the park is in low use the water skiers would have almost no one to run into.

Mr. Hale disagreed with Member McCrory because between 9:00 a.m. and 5:00 p.m. when there is the most traffic at Wailua River, that is the time when you want to implement the safest type of rules. Mr. Hale believes the safest type of rules would be to increase the area for water skiers. He feels that the people who have promulgated these rules have left out the consideration of the people who know what is safe (i.e. water safety experts).

Greg Allen, of the Kauai Water Ski Club stated that he lives on the river and the river is safe. He has gone to all of the public hearings in the last four years to voice his concern that the children should be allowed to ski, but the proposed rules say that you can't have knee boards, tubes and boogie boards, but now if you have straps or leashes, it's okay. At the public hearing he proposed to allow all boats who have 50 horsepower or less, the ability to be able to pull kids up and down the river.

At first, he thought the argument to keep skiers at the bottom was good. But if you realized that it takes 36 miles an hour and 45 seconds to get across, multiply that by five boats and buoys they will be in trouble. Mr. Hale, Kauai Water Ski and Surf, Wailua Kayak and Kayak Wailua, suggested the kayak businesses trim the Ha'o bush in the narrowest area of the river, there by giving everyone 30 feet of space in the only spot that is really an issue. Their organization would like to put in green balls that indicate a path for kayakers. He said the community is willing to put in a 30 feet path for the kayakers. The current proposal allows for only a certain number of kayakers and guided tours. Mr. Allen believes that the kayakers will be spread out on the river but by establishing a lane, 15-30 foot wide, everyone will know where the kayakers are.

Currently there are 300 kayakers a day, but this plan would drop it to half the amount thereby increasing the price for rentals and putting less money into the hands of Kauai residents. If you put in a kayak lane, you can put in 500 kayakers a day. Most of the kayakers don't know the river, so by establishing a kayak lane they will know where to go.

Member McCrory stated that the guided tours would keep the kayakers together.

Mr. Hale said the problem is not the kayakers being together, but it's them being spread out in the river. At the public testimony in Puhi, it was commented the very worse offenders were the guide tours, the guides. Mr. Hale stated, if the Board told them to establish a fund of \$10,000 for maintenance of the buoys then the Board would consider this plan, his organization would go ahead and get the money. They would make it happen because they want to work with the State so everyone can enjoy the resources.

Member McCrory told Mr. Hale that the buoys are a good idea and would work very well. But setting up buoys is not part of these rules before us. Instead the rules do define what side of the river someone can be on.

Mr. Hale informed the Board that when the kayakers come down Wailua River by the "S" turn they like to be on the South side (away from the wind). But upon going up the river they are told to be on the North (right) side. Therefore the kayaker's are on both sides of the river.

Member Johns pointed out if the kayakers go up on the North and come down on the South, there is a point in which they will need to cross over which is where the barges come in and out.

Mr. Hale said he has spoken about these issues with Mayor Kusaka, Mike Laureta, Kauai Land Agent and Freckles Smith. He also informed the Board that at Wailua River there is space for the kayakers by the State Park, the ramp facility, the restaurant, the parking lot, or by the large grassy section. Mr. Hale voiced the concern that people have said the Coco Palm's side is congested while Smith's and Waialeale don't want the kayakers on the ramp, so the best solution would be to put the kayakers on the grassy area. He states that the kayakers go home at 4:00 p.m. and the luau doesn't start until 5:00 p.m. The kayakers are now on the south side and they won't need to cross in front of the barges. The only place they will now cross is up by Kamokila Village, which already has that type of traffic crossing. He informed the Board that the skiers have always voluntarily turned before Kamokila Village.

Member McCrory addressed Mr. Young and Ms. She' and asked them what other comments and suggestions came out of the public hearing that were not included in the rules and if they plan on doing anything further with those suggestions.

Mr. Young stated that he would like the rules to go out to public hearings and have any problems aired out there. He believes the key is, a lot of people that have testified agreed with what DOBOR was doing. The people that testified believe that the State needs to take control over the conflicts that occur on the Wailua River. Mr. Young said that he is not saying these rules will work, but at least the State is trying by giving DOCARE officers the ability to manage the river. He reiterated what Mr. Takamura said, in which he believes we need to find someone to manage the river and get it started to see if it works. If it doesn't work then DOBOR will come back to the Board and go to the public and seek testimony. Mr. Young feels that the public testimony was rather constructive and the testimony received is reflected in what the Board has in front of them today. He said, increasing Zone B was not their choice, but when the water skiers came forward and said they needed a longer stretch than 90 seconds, the compromise was that Zone B would be open between sunrise and 9:00 a.m. and 5:00 p.m. to sunset, but not during mid day when the traffic was deep. He believes that the State needs to control the river.

Member Johns questioned Mr. Young if the State could enforce any existing regulations now.

Mr. Young stated there were none.

Ms. She' informed the Board of a rule that states you are not allowed to go more than slow no wake within 200 ft of any shoreline. So the skier's would be in violation of that rule.

Member Johns asked Mr. Young, if Vaughn (Tyndzik) had any master plan that is enforceable. He asked if the Board Members have seen the River under everyday operations.

Member McCrory informed the Board, that in the six years they have been working with the rules, there has been a large improvement. In the beginning no one agreed with anyone, everyone was screaming. And now to be at a point of a public hearing, where

there is an issue with one group of people is amazing to her. She pointed out the change in the original proposal that allowed skiing in Zone B is a major change that resulted from the public hearing. Ms. McCrory believes some of the other requested changes would have resulted in immediately going back out to public hearings. She then asked Mr. Young if he planned on going back out to public hearings with other proposed changes to the rules.

Mr. Young answered, not immediately because he wanted to see what the rules look like, and how it is enforced. He would like to work with the DOCARE officers because they will be very busy.

Ms. She stated the rules would not allow a tube to be towed, but it would allow a board and a ski.

Chairperson Coloma-Agaran questioned Mr. Young if Vaughn would follow through if the Board wants him to look at the other comments from the public hearing that required more work and another public hearing.

Mr. Young stated he has no problem with doing that. He believes we need to work with the boating staff and the DOCARE officers on Kauai.

Member Johns voiced he was not entirely comfortable with the rules and he contemplated whether passing the rules and immediately moving to refine them is the right approach or whether it should go out to public hearings first. Member Johns was concerned if the needs of the different groups were addressed and who were on the committees set up by Mr. Tyndzik.

Member Inouye pointed out, that at one point the Coast Guard recommended not allowing skiing around and in Zone A. They were the experts in water safety.

Mr. Young stated before they went to public hearings, they had two informational meetings in Kauai (after 2 or 3 others).

Member Johns was concerned because results of the informational meetings were not submitted to the Board with (DOBOR) submittals.

Member McCrory stated that the community reports were submitted to the Board with the first set of rules before it went out to public hearings. She said there was one community meeting in which no one showed up. So a second meeting, that was widely publicized (article on the front page of the newspaper) was attended by 20-30 people from wide ranging groups-water skiers, kayaker's. From these community meetings that's where the first set of rules came out, which the Board approved to go out to public hearings.

Ms. She' offered to supply a copy of the history on this issue.

Mr. Johns asked for a copy.

Mr. Young voiced his concern as they did not expect the water skiers to come out to the public hearing on Kauai because they assumed they had taken care of all their concerns and answered all their questions.

Member McCrory stated she felt these rules were a fair compromise and would like the Board to move ahead with the rules. She noted the solo kayakers, who were the most dangerous, were not removed from the river. Ms. McCrory pointed out the Board also needs to address the issue of flooding in the river. She also asked (DOBOR) to come back to the Board either six months or a year from now with a report stating any problems, concerns, what rules were working and what rules were not. Ms. McCrory asked Mr. Allen if he would be willing to join the SORMA group. Since Mr. Allen agreed to do so, Ms. McCrory stated that the Board would instruct DOBOR to add Mr. Allen to the SORMA board.

Member Johns voiced that Mr. Tyndzik will need to seek some sort of water safety analysis so the Board will be able to defend the rules and justify the zoning on the river.

Ms. She' added that in the packet of information that is going out for public hearing on Oct 5, 2002, there are rules that will regulate commercial kayakers statewide. They will have to set up educational programs, which will include car toppers.

Member McCrory added the following recommendation:

“DOBOR shall report back to the Board in one year from the date the rules take effect, on how the rules are working, any violations issued and any safety issues that have risen and been resolved.”

“DOBOR shall add Mr. Greg Allen or another water skier to the SORMA group.”

Member Johns also asked DOBAR to arrange for the members of the Board, a tour of Wailua River, on a normal day of operation, the next time they are on Kauai.

Unanimously approved as amended (McCrory/Inouye).

Item D-13: Consent to Assign Drainage Easement Bearing General Lease No S-5201, Dean Geleynse, Assignor, to Makena Barrett White, Assignee, Makiki, Honolulu, Oahu, TMK: (1) 2-5-03: Portion 09.

Ms. Mamiya briefed the Board and recommended the Board consent to the assignment of General Lease No. S-5201.

Dean Geleynse, assignor was present to answer any questions.

Unanimously approved as submitted (McCrorry/Inouye).

Board Member Martyn entered the meeting.

Item D-12: Amend Prior Board Action of August 25, 1989, Item F-5, Grant of a Perpetual, non-Exclusive Easement to Kokusai Kogyo Co., Ltd. And Kyo-Ya Company, Ltd. For Waterline Purposes, Waikiki, Honolulu, Oahu.

Ms. Mamiya informed the Board that when the easement was executed portions were left out due to title concerns and earlier this year the State abstractor determined the State owned those portions of the easement.

Natalie Hiu, attorney representing Kokusai Kogyo and Kyo- Ya Company, Ltd., addressed the Board and told them the easement has been in use since the late 1920's.

Member Inouye questioned Ms. Mamiya if portions W-2B1 and W-2B2 would be added later.

Ms. Mamiya said they would be issuing one document for W-2B1, W-2B2, W-3B and W-3D.

The Board amended the Recommendation Section by amending Paragraph 1 to read as follows:

“1. Adding portions W-3B, [and] W-3D , and portions of Parcels 33 and 34 to the easement area;”

Unanimously approved as amended (Inouye/Johns).

Item D-15: Issuance of Right-of-Entry to the Board of Water Supply, for Purposes of Soil Test Boring, Governor's Executive Order No. 1920, Waikiki, Honolulu, Oahu, TMK: (1) 2-7-036: Portion 002.

Ms. Mamiya briefed the Board on the request of a Right-of-Entry by the Board of Water Supply to perform soil test boring for the Diamond Head Water System Improvement Project. The work is anticipated to take one day. The work should not affect the Kokusai Kogyo easement. She recommended the Board approve the issuance of the Right-of-Entry to the Board of Water Supply.

Sharen Cho-Ibanez, staff engineer with Pacific Geotech-Engineers was present to answer any questions.

Unanimously approved as submitted (Inouye/McCrory).

Item D-17: Rescind Prior Board Action dated February 22, 2002, Item D-10; Consent to Assign General Lease No. S-3780, Napuanani Farms, Assignor, to Campbell Cavasso, Assignee, with Consent to Mortgage and Lease Extension, Waimanalo, Koolaupoko, Oahu, TMK: (1) 4-1-026: 019.

Ms. Mamiya briefed the Board on the past applicants for this lease and their failure to come up with the mortgage payment. She stated that the assignee is a qualified farmer and he intends to centralize his landscaping business. He will obtain a loan from the Hawaii Home Loans to pay the purchase price of the leasehold. She recommended the Board rescind their action dated February 22, 2002, Item D-10 and consent to assign General Lease No S-3780, from Napuanani Farms to Campbell Cavasso.

Mr. Campbell Cavasso, proprietor informed the Board that he has been in the landscaping and agricultural business since 1984, and by assigning the lease to him, he would be able to consolidate his business more effectively.

Member McCrory asked Ms. Mamiya if in the past, the Board has extended the term of the lease for the purchase price of the lease.

Ms. Mamiya answered yes.

Member McCrory inquired into the performance bond.

Ms. Mamiya informed the Board that Napuanani is current in their performance bond and Mr. Cavasso will need to get his certificate of deposit.

Unanimously approved as submitted (Inouye/Johns).

Item E-1: Request for Time Extension for Hulihee Palace Renovations and Additions, Kailua-Kona, Hawaii.

Mr. Dan Quinn, State Parks Administrator briefed the Board and asked for a time extension to renovate the Kuakini building on the Hulihee Palace grounds. He recommended the Board amend Condition No 1 to a completion date of December 31, 2003.

Lee Wild of the Daughter's of Hawaii was present to answer any questions.

Unanimously approved as submitted (DeMello/Yamamura).

Item D-14: Conservation District Use Application for the Twigg-Smith Single-Family Residence at Tantalus, Oahu, TMK: (1) 2-5-018: 33.

Mr. Sam Lemmo gave a brief background on the property. He noted that the applicant would be building a 3-bedroom 3 ½ bath home approximately 3,500 square feet. Based on their analysis, Mr. Lemmo recommended the Board approve this application to construct the Twigg-Smith Single-Family Residence.

Michael Twigg-Smith, the applicant stated that they went to the Makiki-Tantalus neighborhood board meeting earlier this year and the board was receptive to the project and didn't see it as being adverse to the community. They brought visual aids to the meeting that showed the house and its elevations.

Member McCrory asked Mr. Twigg-Smith if the neighborhood board was going to send a letter stating their support of this project.

Mr. Twigg-Smith said the neighborhood board was unable to provide him with a letter of support, but they appreciated him coming in and showing the board his plans.

Ms. Gale Atwater, representing the agent for Mr. Twigg-Smith appeared. She stated that they have read the staff report and recommendations and accept their findings. She informed the Board that Mr. and Mrs. Twigg-Smith will fully comply with all of the conditions and would like to ask the Board for their favorable action in this matter.

Unanimously approved as submitted (McCrory/Johns).

Item D-1: Cancellation of Revocable Permit No S-5346 to Richard Smart and Issuance of Revocable Permit to Parker Ranch, Inc., Kaohe 3rd, Hamakua Hawaii, TMK: 3rd/4-4-014: 004.

Dede Mamiya, Administrator for the Land Division, explained to the Board that this item was previously before the Board but it was deferred because the Division of Forestry and Wildlife (DOFAW) showed interest in adding it to the Mauna Kea Forest Reserve, but DOFAW decided not to. Ms. Mamiya recommended the Board authorize the cancellation of Revocable Permit No. S-5346.

Unanimously approved as submitted (DeMello/Yamamura).

Item D-3: Amend Prior Board Action of September 12 1997, Agenda Item D-3, Direct Sale of Perpetual, Non-Exclusive Easement, to the Hawaii Electric Light Company and Verizon Hawaii at Piihonua, South Hilo, Hawaii, TMK: (3) 2-3-31: 05.

Ms. Mamiya briefed the Board and stated the need to delete all reference to parcel 17. She recommended the Board amend its action of September 12, 1997, regarding Item D-31.

Unanimously approved as submitted (DeMello/Yamamura).

Item D-4: Amend Board Action of 1/22/99, Agenda Item D-40; Consent to Assign General Lease No. S-5038, Patricia Kubach and Patty MacDaniel, Assignors, to Dennis Riker, Assignee, Lot 81, Kokee Camp Site Lots Waimea (Kona), Kauai, TMK 1-4-4: 60.

Ms. Mamiya explained to the Board they were adding an assignee, Paul Kyno. She noted they were in compliance with all the lease terms, except fire insurance.

The Board amended the Recommendation Section by adding the requirement that the assignees provide a performance bond.

Unanimously approved as amended (McCrory/Johns).

Item D-5: Grant a 55-year Non-Exclusive Easement for Seawall to Richard B. Sweet, Sr. and Eula May Sweet, Husband and Wife, Trustees of the Richard B. Sweet and Eula May Sweet Revocable Living Trust dated April 25, 2000, Kaneohe, Koolaupoko, Oahu, TMK: (1) 4-5-58: 38.

Ms. Mamiya briefed the Board on the subject matter and recommended the issuance of a 55-year Non-Exclusive Easement for the Seawall. She also recommended waiving the \$500 fine because the encroachment was less than 100 square feet.

Unanimously approved as submitted (McCrory/Johns).

Item D-7: Withdrawal from General Lease No S-5539; Set Aside to the County of Hawaii, Department of Water Supply and Issuance of Construction Right-of-Entry for a Reservoir Lot, Puuepa 2nd and Kokoiki, North Kohala, Hawaii, TMK: 3rd/5-5-04: 051.

Ms. Mamiya briefed the Board on this item and noted that the applicant will need to provide an Environmental Assessment. She recommended the withdrawal of half an acre from the lease, the issuance of an executive order to the County of Hawaii and to authorize the issuance of a construction right-of-entry.

Unanimously approved as submitted (DeMello/Yamamura).

Item D-8: Enf. MA-02-21: Request to Extend the Processing Period to Allow the Natural Resources Conservation Service Sufficient Time to Complete a Land Restoration Plan.

Mr. Sam Lemmo, related to the Board that this was an action the Board previously acted upon. He stated the applicants have asked for an extension to complete the Land Restoration Plan. He recommended the Board approve this request.

Unanimously approved as submitted (Yamamura/Johns).

Item D-10: Consent to Assign General Lease No S-3624, Jerel Yamamoto, Foreclosure Commissioner, Assignor, to GE Capital Hawaii, Inc., Assignee, Waiakea, South Hilo, Hawaii, TMK: 3rd/2-1-12: 26.

Ms. Mamiya briefed the Board and recommended the assignment from the Foreclosure Commissioner to GE Capital Hawaii, Inc.

Member McCrory inquired as to whether we could change the performance bond amount from six months' rent to the standard two years'.

Ms. Mamiya noted it was an auctioned lease, but there was a question as to whether this was a lease that was extended due to a natural disaster thereby allowing us to change the terms and conditions.

Unanimously approved as submitted (DeMello/Yamamura).

Item D-16: Cancellation of Governor's Executive Order Nos. 1037 and 3349, Reset Aside to the County of Maui, Set Aside and Immediate Right-of-Entry and Use to the Department of Transportation, Highways Division for the Widening of Mokulele Highway, Pulehunui and Waikapu, Wailuku, Maui, Portions of TMK: 3-8-008: Mokulele Highway (portion), 3-8-008: 001, 008 and 032.

Member Yamamura recused himself.

Ms. Mamiya briefed the Board on the item and explained how this item would affect various leases and what the Land Divisions intent were. She recommended the Board approve the Cancellation of the Governor's Executive Orders.

Michael Nahoopii, Senior project manager with Parson's UXP stated that their current mandate is to continue the cleanup at Kahoolawe until the end of November 2003 with a close out period of about four or five months into 2004. Mr. Nahoopii's concern was in understanding what the County had planned for the use of the land and the date as to when his company would need to get out of that area. In regards to parcel C-2, he stated that their company has worked out a deal with the National Guard to split the runway. In terms of parcel six they are using it for parking and laying down of equipment. In terms of relocation cost and money already spent, his company would like to stay where they are at and extend their Right-of-Entry until the end of the clean up project.

Unanimously approved as submitted by the remaining members (Johns/Inouye).

Item D-18: Briefing and Update on the State's Negotiations in Fulfilling the Court Order in Napeahi v. State, Civil No 85-1523 (U.S. District Court).

The Board may go into Executive Session pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, in order to consult with its attorney.

No Action.

Item D-19: Results of the Public Auction Sales of State of Hawaii Leases on the Islands of Oahu, Hawaii and Kauai, held on August 26, 28 and 29, 2002, respectively.

Ms. Mamiya informed the Board on the results of the public auction held on Oahu, Hawaii and Kauai. She noted, it was the first time they used their website to advertise the auction and she believes it was a good tool to use. The only problem she encountered was the lack of bidders for each of the leases.

Chairperson Coloma-Agaran voiced his concern regarding Item 1, on Oahu, that the upset price was so much lower than the winning bid.

Ms. Mamiya noted that the bidders for that parcel were not very prudent. She said they would raise the price \$5000 at a time.

Chairperson Coloma-Agaran instructed the Board to look over the auction and if they had any questions or comments to talk to Ms. Mamiya or the land agent on their island. He told the Board if there is interest in discussing the auction process something can be set up. Chairperson Coloma-Agaran, stated in the past eight years the Board has tried to make

changes to ensure we have bidders and that they are qualified and have a plan to accomplish things.

No Action.

Item E-2: Request use of the Old Kona Airport State Recreation Area in Kailua-Kona, Hawaii, for a Fundraiser Luau.

Mr. Quinn briefed the Board on the Fundraiser and its purpose to provide qualified chaplains to Hawaii's jails and prisons. He recommended the Board approve the request.

Member DeMello clarified with Mr. Quinn his intention on not allowing the exchange of monies at the Airport.

Mr. Quinn stated that by restricting the collection of monies at the Old Kona Airport, it would be consistent with the interpretation of the First Amendment Rules.

Member Johns made it known that upon motion, at the Boards discretion it could delete condition number one.

The Board amended the Recommendation section by deleting item number one.

Unanimously approved as amended (DeMello/Johns).

Item E-3: Request to Use Diamond Head Crater for Parking for Sony Open.

Mr. Quinn briefed the Board on the request by the Friends of Hawaii Charities to use Diamond Head Crater for parking during the Sony Open. The Diamond Head Citizens Advisory Committee were unanimous in opposing the use of the interior of the crater. The staff had concerns regarding the fee collection per vehicle. Mr. Quinn recommended the Board approve the use of the Cannon Club and other suitable areas on the exterior of Diamond Head Crater.

Member McCrory questioned the lost in revenue as visitors might not be able to get to the park and visit Diamond Head Crater. She asked if the Sony Open would be paying the State a fee for using its parking facilities.

Mr. Quinn replied, no. He told the Board he would like them to resolve the details of parking on the outside of the crater and not the inside. He would like to discuss specifics as to the use of the Cannon Club for parking, control of the area outside of the crater, clean up of the areas so it would be safe to drive vehicles into and indemnify for the State. He also noted that any additional work that needs to be done (i.e. clean up of the area) would need to be done by the applicant. In terms of the need for officers from the Division of

Conservation and Resource Enforcement (DOCARE), Mr. Quinn stated that the applicant would be required to hire the officers should the need arise.

Don Osford, event manager for the Sony Open in Hawaii was present to answer questions. He informed the Board that the Hawaii National Guard has responded favorably and will assist with some parking in their area and at the corner of 22nd Avenue and Diamond Head Road on the asphalt. The Hawaii Film Studio and Kapiolani Community College have not responded yet but they are still pursuing other avenues for parking. With regards to parking fees, Mr. Osford said their organization would rather not pay for parking as their main purpose is to raise money for the Friends of Hawaii Charities. Their goal is to raise one million dollars over the next two years. He stated they have 1500 volunteers for this event therefore he would like the Board to consider letting them use the interior of the crater due to the number of vehicles they will need to park. Mr. Osford made it known that the organization would also provide any necessary clean-up before and after the Sony Open, security, parking attendants and whatever is necessary to make it work.

Unanimously approved as submitted (Inouye/Martyn).

There being no further business, Chairperson Coloma-Agaran adjourned the meeting at 1:30 p.m.

Tapes of the meeting and all written testimonies 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,

Terry Crowell

Approved for submittal:

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

