

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

DATE: FRIDAY, OCTOBER 11, 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 9:20 a.m. The following were in attendance:

MEMBERS:

Mr. Gilbert Coloma-Agaran	Ms. Lynn McCrory
Mr. Timothy Johns	Mr. Ted Yamamura
Mr. Gerald DeMello	Mr. Toby Martyn (arrived at 10:14 a.m.)

STAFF:

Ms. Dede Mamiya, Land Division	Mr. Sam Lemmo, Land Division
Mr. William Devick, Division of Aquatic Resources (DAR)	Ms. Kimberly Lowe, DAR
Mr. Mason Young, Division of Boating & Ocean Recreation (DOBOR)	Mr. Dave Parsons (DOBOR)
Mr. Peter Garcia, Dept. of Transportation	

OTHERS:

Mr. William Wynhoff, Department of the Attorney General	
Mr. David Akama, D-13	Mr. Michiro Iwanaga, D-13
Mr. George Yokoyama, D-16	Ms. Rosa Heavy, D-19
Mr. Keith Uemura, D-9	Mr. Wayne Hinazumi, D-9
Mr. Carl Joy, F-1	Mr. William Aila, F-1
Ms. Cynthia Quinn, J-2	Mr. Yoshi Muraoka, J-2
Mr. Bruce Blakenfield, J-2	Mr. Ben Calosi, J-2
Mr. Tim Meyer, J-2	

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

Motion made to add item J-2 (Johns/McCrory).

Unanimously approved to add item.

ITEM D-13: Forfeiture of General Lease No. S-5089, David Y. Akama, Lessee, Lot 69, Puu Ka Pele Park Lots, Waimea, Kauai, Tax Map Key: 1-4-2: 66.

Dede Mamiya, administrator of the Land Division briefed the Board on the lessee history, back rent, interest and water charges owed to the State. She noted that Mr. Akama has been paying the old lease rent amount of \$580.00. She also stated that Mr. Akama signed the letter sent by staff, indicating he was rejecting the offer letter of the new rent amount of \$2,520. Ms. Mamiya recommended the Board authorize the cancellation of General Lease S-5089.

Member McCrory questioned if the Board cancelled the lease as a default that it would be correct that Mr. Akama would not be able to acquire any State leases for the next five years. She asked if there were other alternatives they could look at since the State "dropped the ball."

Mr. David Akama, along with his lawyer Mr. Michiro Iwanaga were present.

Mr. Iwanaga told the Board his client Mr. Akama is taking the position that he was not in default because he continued to pay the annual rent of \$580.00, which was the amount he was billed for. He stated that when the Land Division sent him a letter asking for updated information regarding his insurance, there was a box to check off indicating Mr. Akama was in default, but that box was not checked off. Also in a letter dated October 15, 1998, Mr. Akama was told his account was delinquent by \$6.80, which he paid. Mr. Iwanaga made it known that his client does not believe the lease should be forfeited. He stated if Mr. Akama had known the appeal process would not have reduced the proposed rent, he would have given up the lease. Mr. Iwanaga made it known that his client would like to continue with his lease by paying the new rent from this day forward.

Member McCrory asked Mr. Akama why he did not pay the water bill. He responded that he was told not to send in any more money.

A motion was made a 9:24 a.m. to go into executive session (McCrory/ Johns)

Unanimously approved

Meeting reconvened at 9:30 a.m.

Chairperson Coloma-Agaran told Mr. Iwanaga there were still some unanswered questions therefore he should contact the attorney general to resolve them.

Motion to defer (McCrory/Inouye).
Unanimously approved to defer.

Item D-16: Issuance of Revocable Permit to the Hawaii County Economic Opportunity Council, Ponahawai, South Hilo, Hawaii, Tax Map Key: 3rd 2-5-06: 159.

Ms. Mamiya briefed the Board and noted the lessee previously came to the Board to request a 10-year lease extension, but was denied. In the meantime their staff went to conduct a visual inspection of the property and found parcel 1 was littered with abandoned agricultural and related equipments/materials. Ms. Mamiya recommended as a condition to the Revocable Permit, the lessee shall have 90 days to clean and restore parcel 1.

Member DeMello stated that he did a site inspection and noted the clean up process had begun at parcel 1.

Mr. George Yokoyama stated he abandoned parcel one due to flooding conditions that occurred twice. He told the Board he has applied for federal grants and would therefore like to request a lease extension of ten years.

Member Johns informed Mr. Yokoyama that before the Board today is the Issuance of a Revocable Permit not an extension to his lease.

The Board amended the Recommendation Section by adding if the Applicant obtains a grant that requires a longer term, then the Board may consider a lease.

Approved as amended (DeMello/Yamamura).
Member McCrory voted no to the motion.

Item D-19: Issuance of Land Patent Grant to Rosa A. Heavey, Waimanalo, Koolaupoko, Oahu, Tax Map Key: 4-1-028: 01.

Ms. Mamiya briefed the Board and recommended the Board authorize the issuance of a Land Patent Grant.

Rosa Heavey was present to answer any questions.

Unanimously approved as submitted (Johns/Yamamura).

Item D-18: Grant of Term, non-Exclusive Easement and Issuance of Construction Right-off-Entry to Joslyn M.K. Kaawa for Waterline Purposes, Makiki, Honolulu, Oahu, Tax Map Key: 2-5-19: 19.

Ms. Mamiya told the Board that Ms. Kaawa wishes to install a pipeline through the Makiki Valley State Park to her new home. The Division of State Parks has reviewed this request and their requirements have been incorporated into the recommendation section. Because Ms. Kaawa intends to start the project as soon as possible, and she will need a Right-of-Entry, she is willing to pay a deposit of the estimated easement consideration to the State. Ms. Mamiya recommended the Board issue a Term non-Exclusive easement and Construction Right-of Entry to Joslyn M.K. Kaawa.

Ms. Joslyn Kaawa was present to answer any questions.

Unanimously approved as submitted (Johns/Yamamura).

Item D-1: Grant of Perpetual, Non-Exclusive Easement to Hawaii Electric Light Company, Inc. for Drainage Well Purposes, Waiakea, South Hilo, Hawaii, Tax Map Key: 3rd/2-1-01:12.

Ms. Mamiya informed the Board Hawaii Electric Light Company (HELCO) installed the first drainage well in the early 60's then added another well in 1972. During that time HELCO was under the assumption they owned the land. It was not until recently, when HELCO applied for an Underground Injection Control Permit did they realize the drainage wells were on State property. Ms Mamiya noted the current lessee, Hawaii Naniloa Resort had no objections to the easement provided they received the appropriate indemnifications. Ms. Mamiya recommended the Board Grant a Perpetual, non-Exclusive easement to HELCO.

Mr. Mark Gushiken, administrator of HELCO's Land Division, Dan Giovanni, Manager of the Production Department and Scott Tsue, manager for the Environmental Department were on hand to answer any questions. They also brought a picture board to orient the Board members with the area where the wells are located. Mr. Gushiken stated he would have no problem with providing indemnity for the Hawaii Naniloa Resort.

The Board amended the Recommendation Section by adding subparagraph 2.F. to read as follows:

"2.F. Specific language shall be included in the easement document to provide for indemnification of the Lessee (Hawaii Naniloa Resort LLC)."

Unanimously approved as amended (DeMello/Yamamura).

Item D-7: Request to Extend the Processing Period for an Additional 90 days for Conservation District Use Application HA-3065 for the Keck Outrigger Telescopes Project at Mauna Kea Science Reserve, District of Hamakua, Island of Hawaii.

Member DeMello recused himself.

Mr. Sam Lemmo, Planner with the Land Division gave a brief history of the applicant. He noted the case is currently in a Contested Case Hearing mode therefore the applicant is seeking an extension of the CDUA. Mr. Lemmo recommended the Board approve an extension for Conservation District Use Application HA-3065.

Kari Wilhelm, Associate General Counsel of the University of Hawaii reiterated that UH would like an extension so the Contested Case can be heard.

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

Item D-8: Issuance of Right-of-Entry Permit for Preliminary Site Investigation for Future Fiber Optic Submarine Cable Land Project, Oahu, Maui, Kauai, and Hawaii.

Ms. Mamiya briefed the Board and noted the permit would be for 90 days and would allow the permittee and their sub consultants to conduct preliminary site investigations and potential landing sites for future fiber optic cables. Ms. Mamiya noted the applicant is aware that a state policy must be developed before the Board reviews future applications for submarine fiber optic cable landings within the State. Ms. Mamiya recommended the Board authorize the issuance of a right-of-entry permit to Parsons Brinckerhoff Quade & Douglas, Inc. and its sub consultants.

Board Member Johns expressed concern over the time it has taken staff to return to the Board with their requested policy on fiber optic cable siting. Also, Board Member McCrory asked that staff look at what other states are charging as far as rent or fees to ensure our charges are appropriate.

Randall Urasaki, representing Sandwich Island Communication, stated they have received a loan from the Rural Utilities Service for this project. He noted that at this time they are doing feasibility studies to find locations to establish cable landings throughout all the islands.

Unanimously approved as submitted (Johns/McCrory).

Item J-2: Amendment to Prior Board Action of March 24, 2000, Agenda Item J-1, Lease Extension for General Lease H-70-14 to Keehi Marine Inc., DBA Keehi Marine Center, Kalihi-Kai, Honolulu, Oahu, TMK: 1-2-23: 30 (por.).

Mr. Mason Young, Administrator of the Division of Boating and Ocean Recreation noted when this action was originally brought before the Board the necessary mortgage loan

was not part of the submittal for consideration. Mr. Young recommended the Board amend its prior action to include a ten-year lease extension and consent to mortgage between Keehi Marine Inc., mortgagor, and Investors Funding Corporation, mortgagee.

Member Martyn entered the meeting.

Cynthia Quinn, attorney representing Keehi Marine, Inc., and Yoshi Muraoka, representing Keehi Marine were present to answer any questions.

Also present were Mr. Bruce Blakenfield of the Polynesian Voyaging Society, Hokulea, Mr. Ben Calosi, a marine attendant, Mr. Tim Myer, commercial attendant and boat builder and Ms. Jenny (no last name given) of Cates International Aqua Farming were present. They stated that their experience with Keehi Marine has been favorable. Mr. Calosi, mentioned the greatest asset is having a tenant that can arrange emergency services for any boat in trouble 24-hours a day. He also noted the clean-up efforts initiated by Keehi Marine at Keehi Lagoon Harbor and the surrounding area and other community involvement.

Unanimously approved as submitted (Johns/McCrory).

Item J-1: Authorize Cancellation of Revocable Permit No. B-95-70 and Issuance of a New Revocable Permit to Operate a Marine Fueling Facility Situated at the Ala Wai Boat Harbor, Honolulu, Island of Oahu.

Mr. Young informed the Board that this matter was brought to the Board to address the total area of submerged lands under Revocable Permit B-95-70 and a sign posted at the Ala Wai Boat Harbor by Magic Island Petroleum Inc. indicating they would be cutting back the hours of operation due to high cost. Mr. Young stated that closing the Fueling Facility Monday thru Thursday did not meet the purpose or intent of the permit to operate a marine fueling facility. He noted the Hawaii Yacht Club has expressed interest in the operation of this facility. Mr. Young recommended the Board approve the cancellation of the Revocable Permit and issue a new Revocable Permit addressing the total area of submerged lands and stating the minimum hours of operation at the fueling station would be Friday, Saturday, Sunday and six hours on Wednesday.

Mr. Young also informed the Board that he just received a counter offer regarding the hours of operation from Mr. Brian Barbata.

Chairperson Coloma-Agaran told Mr. Young to redo the recommendation section to reflect what the division now recommends, and bring back to the Board later in the meeting.

Item D-9: Conservation District Use Application (CDUA) KA-3093 for Kalaheo Water System Improvements at Koloa, Kauai.

Mr. Sam Lemmo, Planner for the Land Division briefed the Board and informed them the applicant, the Department of Water proposes to install a 500,000-gallon reinforced concrete reservoir, a booster pump, a building to house the controls and an additional building to shelter the emergency generator and a 2,000-gallon diesel fuel storage tank. Mr. Lemmo recommended the Board approve the completion, operation and subdivision for Kalaheo Water System Improvements.

Mr. Keith Uemura, Consultant for Par Engineers Inc., and Mr. Wayne Hinazumi of the County of Kauai, Department of Water were present.

Mr. Hinazumi noted that area 38 has been cleaned of debris and secured with fencing.

Member McCrory stated she was concerned with the size of the water tank. Mr. Hinazumi stated the existing trees would cover the tank and the tank would be painted dark green to blend in with the vegetation.

The Board was concerned if the land owners nearby (Mervin Kimura and Ernest Camara) were contacted and informed of the new water tank. The Board asked Mr. Hinazumi to acquire a letter from the adjacent landowners and any other landowners within 500 feet of the water tank. The letter should acknowledge the fact that a water tank will be built in their area.

Motion to defer (McCrory/Johns).

Item D-2: Amend Prior Board Action of March 23, 2001, Agenda Item D-8, Request for Partial Withdrawal of Land from General Lease No S-4197, Grant of Perpetual non-Exclusive Easement of Withdrawn Land for Highway Right of Way Purposes to the Department of Transportation and an Immediate Right-of-Entry for Construction Purposes to Parsons-UXB Joint Venture, on Government Land, portion of Pulehunui and Waikapu, Wailuku, Maui, Identified Tax Map Key: 3-8-08: Por. 01 and Por. 08.

Ms. Mamiya briefed the Board on the subject matter. She informed the Board, Parsons-UXB Joint Venture (PUXB) was required to construct an interim intersection on Mokulele Highway to help mitigate traffic caused by their project. But due to the Department of Transportation (DOT) widening project of Mokulele Highway it will cover up the interim intersection therefore Ms. Mamiya is recommending the Board delete all of paragraphs 1 and 2 of March 23, 2001, Agenda Item D-8.

Unanimously approved as submitted (Yamamura/DeMello).

Item D-3: Acceptance of Ceded Federal Surplus Land, same being a portion of Ka Lae Lighthouse Reservation located at Kamaoa, Kau, Hawaii, Tax Map Key: (3) 9-3-1: portion 1.

Ms. Mamiya told the Board the subject ceded Federal Surplus Land is a transfer of the property's ownership to the State of Hawaii. She noted the transfer of land does not include a 60' x 70' parcel on which the unmanned light station exists. Ms. Mamiya recommended the Board accept the conveyance of land from General Services Administration to the State of Hawaii at \$1.00 for the 4.622 acres underlying the Ka Lae Lighthouse Reservation.

Member Johns questioned who would manage the Heiau on this parcel of land. Chairperson Coloma-Agaran suggested if the State owed the Department of Hawaiian Home Lands (DHHL) additional land, they might be interested in this piece of land.

Unanimously approved as submitted (DeMello/Yamamura).

Item D-4: Rescind Prior Board Approval of September 26, 1986, Agenda Item F-11, Sale of Remnant to Reuben Ohai and Approve Sale of Remnant to Calvary Chapel Kauai, Portion of Kapaa Rice and Kula Lots, Kawaihau, Kauai, Tax Map Key: 4-3-4: por. 7.

Ms. Mamiya briefed the Board and updated the members of the Board on the ownership of parcels 5 and 6. Ms. Mamiya noted that parcel 6 is owned by Calvary Chapel Kauai and parcel 5 is currently in escrow to Calvary Chapel Kauai. She recommended the Board rescind its action of September 26, 1986 and approve the sale of the remnant to Calvary Chapel Kauai.

Unanimously approved as submitted (McCrorry/Yamamura).

Item D-5: Sale of remnant to Leonard Chow, Waiakea, South Hilo, Hawaii, Tax Map Key: 3rd/2-4-38:10.

Ms. Mamiya informed the Board this parcel is an abandoned survey triangulation station that was previously utilized as a survey control network to establish the boundaries of Waiakea Homestead. The Department of Accounting and General Services is requesting that Mr. Chow hire a licensed professional land surveyor to relocate the triangulation station within a public roadway. Ms. Mamiya recommended the Board authorized the sale of the subject remnant.

Member Johns was not present for the vote.

Unanimously approved as submitted by the remaining members (DeMello/Yamamura).

Member Johns returned to the meeting

Item D-6: Cancellation of Land Patent Grant No. (LPG) 15,870 and Issue New LPG Less Exclusions, Withdrawal from General Lease No. 5267 (GL 5267) and Set Aside to the County of Maui for the Mahinahina Water Treatment Plant and Water Tank Lot, Honokowai, Lahaina, Maui Tax Map Key: 4-4-02:18.

Ms. Mamiya noted in 1995, when LPG 15,870 was issued to the Department of Hawaiian Home Lands (DHHL) it inadvertently included a water treatment plant and a water tank operated by the County of Maui. Ms. Mamiya recommended the Board cancel LPG No. 15,870 and issue a new LPG to DHHL.

Unanimously approved as submitted (Yamamura/Johns).

Item D-10: Rescind Agenda Item LB 3624 of the Board's August 10, 1959 Meeting, Grant of Perpetual, non-Exclusive Easement to Richard Smart for Cattle Corridor Purposes and Extinguish Reservation for Same Contained in Land Patent Grant No. (LPG) 15,926 Issued to the Department of Hawaiian Home Lands, Waimea, South Kohala, Hawaii, Tax Map Key: 6-6-01:2

Ms. Mamiya briefed the Board and noted Mr. Richard Smart was issued an easement through the subject land to serve as a cattle corridor. In 1999, the land was conveyed to the Department of Hawaiian Home Lands (DHHL) and they have indicated the easement issued to Richard Smart would greatly impeded their development of the land. Ms. Mamiya recommended the Board rescind item LB 3624 and authorize the removal of the Lalamilo Cattle Trail easement.

Unanimously approved as submitted (DeMello/Yamamura).

Item D-11: Grant of a Term non-Exclusive Easement for Seawall, Landscaping and Boat Ramp to Charles and Noelani Keliikipi, Kaneohe, Koolaupoko, Oahu, TMK (1) 4-4-18: 070 seaward.

Ms. Mamiya briefed the Board and stated the encroachment of the seawall and boat ramp is about 396 square feet. She recommended a \$500 fine for the encroachment and the issuance of a 55-year term non-exclusive easement.

Mr. Leemo took the time to explain to the Board members about certified shorelines. He noted that a certified shoreline defines the boundary between the urban and conservation district therefore it is difficult when there isn't a benchmark to determine the shoreline.

Unanimously approved as submitted (Johns/Yamamura).

Item D-12: Consent to Assign Non-Exclusive Term Easement bearing No. S-5338, Thomas Orena Lloyd-Butler and Diane Butler Lloyd-Butler, Trustees for the Lloyd-Butler Family Trust, Assignor to Brian Grazer, Trustee under the Brian Grazer Trust, Assignee, Pupukkea, Koolauloa, Oahu, Tax Map Key: (1) 5-9-20: 51 Seaward.

Ms. Mamiya briefed the Board and recommended the assignment of the 76-year easement from the Lloyd-Butler Family Trust to the Brain Grazer Trust.

Unanimously approved as submitted (Johns/Yamamura).

Item D-14: Issuance of Right-of-Entry Permit to the County of Hawaii, Department of Water Supply on Lands Encumbered by General Lease No. S-4595, Waiohinu, Kau, Hawaii, Tax Map Key: 3rd/9-5-03: portion of 19.

Ms. Mamiya informed the Board the Department of Water would like to conduct field/topographical surveys and geo-technical investigations in connection with the proposed expansion of the reservoir. She recommended the Board authorize the issuance of a right-of-entry permit to the County of Hawaii, Department of Water Supply.

Unanimously approved as submitted (DeMello/Yamamura).

Item D-15: Rescind Prior Board Action of June 22, 2001 (Item D-9), consent to Assignment of General Lese No. S-5000 to Ida I. Perkins, Assignee, Waimea, South Kohala, Hawaii, TMK: 3rd/6-5-04: Portion of 15.

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

Unanimously approved as submitted (Johns/Yamamura).

Item D-17: Grant of a 55-year non-Exclusive Easement for Fence and Roof Overhang to Everett Freeman and Roberta M. Cosco, Kaneohe, Koolaupolo, Oahu, (1) 4-5-47: 90 Seaward.

Ms. Mamiya informed the Board the encroachment area is about 14 square feet. She noted the fence overhang is for security purposes. Also because the encroachment area of the fence and roof is less than 100 square feet Ms. Mamiya recommended waiving the fine.

Unanimously approved as submitted (Johns/DeMello).

Item D-20: Quitclaim of Land from the United States of America, the Department of Army to the State of Hawaii, Lease of Land to the United States of America, the Department of Army, Waialua, Oahu, TMK: (1) 6-8-14: por. 01, 6-9-01: 05 & 16.

Ms. Mamiya briefed the Board. She stated there were 3 lots being turned over to the State, lots 1-B-1, 1-B-2 and 1-B-3. Ms. Mamiya recommended the Board accept the quitclaim deed from the United States of America, the Department of the Army.

Board Member Johns raised the issue of setting aside land to Department of Transportation (DOT) Airports. The FAA has determined that any lands set aside to DOT Airports are treated as if they purchased the lands. After the meeting, DOT clarified that if we ever were to withdraw or cancel an EO to DOT Airports, we would have to pay fair market value.

The Board amended the Recommendation Section by adding paragraph 4 to read as follows:

“4. Approve and recommend to the Governor the issuance of an executive order setting aside Lot 1-B-3 to the Department of Transportation for airport purposes.”

Unanimously approved as amended (Johns/Yamamura).

Item D-21: Cancellation of /from Governor’s Executive Order No. 1530 and Reset Aside to Department of Transportation, Airports Division for Airport Related Purposes, Kaena, Waialua, Oahu, Tax Map Key: (1) 6-8-14: 01 portion and (1) 6-9-01: 29.

Ms. Mamiya briefed the Board. She noted the Department of Transportation (DOT) is requesting the set aside of Parcel 1 only. Parcel 2 will remain unencumbered until the Division of Forestry and Wildlife is ready to set up a nursery for endangered species. Ms. Mamiya recommended the cancellation of Order No. 1530 and approve the set aside of parcel 1 to DOT.

Unanimously approved as submitted (Johns/ DeMello).

Item D-22: Certification of Election and Appointment of Soil and Water Conservation District Directors (West Maui, Central Maui, West Kauai, Windward Oahu).

Ms. Mamiya submitted to the Board the names of the Soil and Water Conservation District Directors.

Unanimously approved as submitted (Johns/McCrory).

Item J-1: Authorize Cancellation of Revocable Permit NO. B-95-70 and Issuance of a New Revocable Permit to Operate a Marine Fueling Facility Situated at the Ala Wai Boat Harbor, Honolulu, Island of Oahu.

Mr. Young noted that under the terms of the current permit, DOBOR must give 30 days notice for revocation therefore he is requesting the cancellation of the permit to Magic Island Petroleum, Inc. become effective November 30, 2002, thereby allowing time for DOBOR to given written notice to the permittee. Mr. Young noted the permit would set minimum operating hours for the marine fueling facility. Mr. Young amended A & B of the Recommendation Section to the following.

“A. Approve the Cancellation of Revocable Permit No. B-95-70 issued to Magic Island Petroleum, Inc. effective through November 30, 2002. Subject to the condition that the operating hours for said permit be a minimum of 12-hours per day on Friday, Saturday and Sunday including federal and state holidays plus 6-hours on Wednesday of each week.

“B. Authorize the issuance of a Revocable Permit to Magic Island Petroleum, Inc. for a marine fueling facility under the terms and conditions listed as set forth in the draft Revocable Permit No B-02-02, subject to the operating hours being a minimum of 12-hours per day on Friday, Saturday and Sunday including federal and state holidays plus 6-hours on Wednesdays each week effective December 1, 2002.

Unanimously approved as amended (Martyn/McCrory).

Item F-1: Request for Final Approval of Amendments to Hawaii Administrative Rules, chapter 13-47, Hilo Bay, Wailoa River, and Wailuku River, Hawaii, Chapters 13-86, Octopus, Chapters 13-87, Ulua, Papio, and Omilu, chapter 13-88, Moi, and Moi-li’I, and Oama, and Chapter 13-95, Rules Regulating the Taking and Selling of Certain Marine Resources.

Mr. William Devick, Administrator of the Division of Aquatic Resources (DAR) briefed the Board and recommended the Board approve the amendments to Hawaii Administrative Rules.

Ms. Kimberly Lowe, project manager with DAR briefed the Board on the results of the public hearings held on the various islands. She explained how the minimum sizes for each of the fishes were determined and how to determine the measurement of a fish. Ms. Lowe informed the Board that DAR would be going through different phases to make necessary adjustments to the rules. Phase I will consist primarily of changes in the allowable minimum size for species captured from inshore waters. Ms. Lowe noted the

comment most often made at the public hearings was the desire for additional gear restriction mainly on gill net fishing and the idea of rotating open fishing areas.

Mr. Carl Joy, a full-time commercial fisherman spoke in support of the Amendments to the Rules. He told the Board he has concerns regarding grouping fishes together (too broad) just because the officers from the Division of Conservation and Resource Enforcement (DOCARE) cannot tell the different species apart. Instead he believes DOCARE needs to make an effort to learn and identify the different species.

Mr. William Aila stated he supported the changes DAR is implementing, but he believes as more information becomes available, the rules will need to adapt. He would like the Board to motivate the Division of Conservation and Resource Enforcement (DOCARE) to better train their officers to be able to identify the different species. He suggested DOCARE work together with DAR to train their personnel. With regards to grouping different species together, he felt there is a need for some sort of an assessment that can determine if the number of fishes in a species are declining. Mr. Aila stated the minimum sizes, for the uhu for example, only protect the females but we need to protect the male population also.

Chairperson Coloma-Agaran asked DAR when they would be coming to the Board regarding the rules for gill nets. He suggested when they return to the Board with a draft for the rules on gill nets to also have available some information as to the implementation of these new rules.

Member Johns stated he would like to hear from DOCARE if they have any issues or concerns with implementing and enforcing the new rules.

Member Johns asked the staff to return in one year to report on the problems/progress in the implementation of the new rules.

Approved as submitted (Johns/McCrory)

Member Yamamura voted against the Amendment noting he would like to see more provisions for DOCARE education and resources for enforcement and he would like to await the amendments to address the gill net issues.

Item K-1: Issuance of Revocable Permit to Dillingham Construction Pacific, Ltd., dba Hawaiian Dredging Construction, Co., Pier 1 Transit Shed, Kahului, Harbor, Maui, Hawaii, Tax Map Key No. 2nd/3-7-10:06 (Portion).

Mr. Peter Garcia from the Department of Transportation briefed the Board and recommended the Issuance of a Revocable Permit to Dillingham Construction Pacific, Ltd.

Unanimously approved as submitted (Yamamura/Johns).

Item K-2: Report on Revocable Permits Issued or Renewed by the Department of Transportation for Consistent Uses.

Mr. Garcia noted that included with his submittal was the report for the Harbors Division.

No Action.

Item K-3: Report on Revocable Permit Issued or Renewed by the Department of Transportation for Consistent Uses.

Mr. Garcia noted that included with his submittal was the report for the Airports Division.

No Action.

There being no further business, Chairperson Coloma-Agaran adjourned the meeting at 11:45 a.m.

Tapes of the meeting and all written testimony submitted at the meeting is filed in the Chairperson's Office and is 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

