

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

DATE: FRIDAY, DECEMBER 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 9:10 a.m. The following were in attendance:

MEMBERS:

Mr. Gilbert Coloma-Agaran	Ms. Lynn McCrory
Mr. Timothy Johns	Mr. Gerald DeMello
Mr. Toby Martyn (arrived at 11:00 am)	Ms. Kathy Inouye (arrived at 11:23 a.m.)

STAFF

Ms. Dede Mamiya, Land Division	Ms. Linnel Nishioka, CWRM
Mr. Sam Lemmo, Land Division	Mr. Scott Whitting, Land Division
Mr. Paul Conry, DOFAW	Mr. Carl Masaki, DOFAW
Mr. Andrew Monden, Engineering	Mr. Dan Quinn, State Parks
Mr. Peter Garcia, DOT	Mr. Mason Young, DOBOR
Mr. Dave Parsons, DOBOR	Mr. Stephen Thompson, DOBOR
Mr. William Devick, Aquatic Resources	Mr. Randy Hashimoto, DAGS

OTHERS

Ms. Yvonne Izu, Office of the Attorney General	
Mr. Dave Taylor, D-39	Mr. Steven Lim, D-28
Mr. Doug Haig, D-4	Mr. Earl Stoner, D-13
Mr. Bill Paty, D-58	Ms. Lesley Biven, D-35
Mr. Stanley Tamura, D-6	Mr. Phil Hauret, D-3, D-11
Mr. Gayson Ching, D-34	Mr. Campbell Cavasso, D-36
Mr. Allan Oshima, D-44	Mr. Alton Miyamoto, D-44
Mr. Max Graham, D-44	Mr. Leslie Milnes, D-44

Mr. Carl Stomier, D-22
Mr. Gary Zakian, D-47
Ms. Sunny Grier, L-1
Mr. Ralph Makaiau, L-1
Mr. Jerry Rothstein, D-31
Mr. Ben Welborn, D-40
Ms. Katy Gibson, D-45
Mr. Jim Coon, J-1

Ms. Lorna Nishimitsu, D-26
Mr. Jonathan Chun, D-25
Ms. Leslie Lanos, L-1
Ms. Jessica Hashimoto, D-31
Mr. Mike Faye, D-23
Mr. Glen Kimura, D-21
Mr. Julius Ah Sam, D-53

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

Item A-1: Minutes of October 11, 2002

Unanimously approved as submitted (McCrorry/DeMello).

Item A-2: Minutes of October 25, 2002

Unanimously approved as submitted (McCrorry/DeMello).

Item A-3: Minutes of November 15, 2002

The Board amended the following sections:

Page 17, Item D-26, third paragraph, "He told the Board the letter they received from Clipper Wind Power Inc., stated they are not doing any development in Hawaii as opposed to Hawaii Wind Energy stating that Clipper would be financing their project.

The letter is a result of Clipper learning GE already had a CDUP and an agreement with the utility company and they felt GE would stall the lease process thereby jeopardizing the time line set forth by Clipper and Hawaii Wind Energy

Page 18, Item D-26, fifth paragraph, "... were impressed with the approach of Keith Avery[,] of General Electric [approach] because he..."

Unanimously approved as amended (McCrorry/Johns).

Item D-42: Request to Amend prior Land Board Action of May 25, 2001, Agenda Item D-2, Relating to Department of Agriculture's General Lease No. S-3001, Omaopio, Makawao, Maui, TMK: (2) 2-3-003: 023.

Ms. Dede Mamiya, administrator of the Land Division briefed the Board and asked the Board to amend its prior board action by changing the assignee from Maui Produce Processing Cooperative and the County of Maui to the County of Maui and Maui Farmers' Cooperative Exchange and to extend the lease term from 11/30/18 to 11/30/21. Ms. Mamiya recommended the Board amend its prior action of May 25, 2001.

Unanimously approved as submitted (Johns/McCrory).

Item H-1: Status Report on the Risk Assessment Working Group and Approval of Future Action Plan of the Risk Assessment Working Group.

Ms. Linnel Nishioka, Deputy Director updated the Board on the enforcement rule package adopted at the last Board meeting and gave a status report on the work being done by the Risk Assessment Working Group (RAWG). She told the Board the group has developed and implemented uniform warning signage for the Department, conducted a statewide survey of users and risk assessment of most frequently used DLNR lands and signed an agreement with the U.S. Forest Service to do a more detailed risk assessment. She noted the two underlying policies of the group and the 3-tier classification system developed based on those policies. Ms. Nishioka recommended the Board approve the future follow up actions RAWG has proposed.

The Board asked for a follow-up in one year.

Unanimously approved as submitted (Johns/DeMello).

Item D-39: Grant of Perpetual, non-Exclusive Easement to Maui Electric Company, Limited for Utility Purposes, and Request for Construction Right-of-Entry, Kahului, Wailuku, Maui, TMK: (2) 3-8-001: por. 188.

Ms. Mamiya noted before the Board is a request to grant a perpetual easement and a right-of-entry to Maui Electric Company (MECO) to address modifications to the existing Wastewater Reclamation Facility. Furthermore she is asking the Board to approve a request to include the existing utility poles in their easement. Ms. Mamiya recommended the Board authorize the issuance of the perpetual, non-exclusive easement and construction right-of-entry to MECO.

Mr. Dave Taylor, engineer with Maui County Public Works noted the utility poles have been present from the construction of the plant but no easements were secured.

The Board amended the Recommendation section by amending paragraph 2 by changing "County of Maui" to "Maui Electric Company, Limited."

Unanimously approved as amended (Johns/McCrory).

Item D-28: Set Aside to Department of Land and Natural Resources, Division of Historic Preservation; Approval in Principle of Memorandum of Agreement or Lease to Edith Kanaka'ole Foundation, Puna, Hawaii, TMK: 3rd/1-2-09: portion of 43.

Ms. Mamiya briefed the Board. She told the members an archaeological inventory was conducted and the survey indicated that a burial site was located on the private parcel and partially on State lands. She informed the Board the Kanaka'ole family and the Edith Kanaka'ole Foundations has requested the lands be turned over to Historic Preservation.

She recommended the Board approve the issuance of an executive order setting aside the lands and approve in principle the issuance of a lease between the Historic Preservation Division and the Edith Kanaka'ole Foundation for maintenance of the site.

Steven Lim, attorney for the Edith Kanaka'ole Foundation told the Board they've been working with the State and the adjacent landowner the Ku Family Trust with regards to the burial site. Mr. Lim informed the Board the burial site encompasses two acres but the County zoning rules require all lands zoned AG-10 be at least 10 acres.

The Board amended the Area Section to read as follows:

AREA: **"The exact area will be subject to actual survey and the amount of burial area that is located within State lands. The entire burial area is estimated to be approximately one acre, more or less. However, additional lands may be necessary to meet subdivision standards."**

Unanimously approved as amended (DeMello/Johns).

Item D-4: Resubmittal – Grant of Perpetual, non-Exclusive Easement to Kauai Island Utility Cooperative and Verizon Hawaii Inc., Wailua Resort Site, Wailua, Lihue, Kauai, TMK: 3-9-6: 16.

Ms. Mamiya informed the Board the requested easements are necessary for 3 electrical sidewalk guy wire anchors for 3 existing poles. The easements are necessary as the new bike/pedestrian path passes right next to the 3 electrical poles. Ms. Mamiya recommended the Board grant a perpetual, non-exclusive easement to Kauai Island Utility Cooperative and Verizon Hawaii Inc.

Doug Haig of the County of Kauai, Public Works Department asked the Board for approval of the easement so they can complete the project.

Unanimously approved as submitted (McCrorry/Johns).

Item D-13: Grant of Perpetual, Non-Exclusive Easement to County of Maui, Department of Water Supply for Waterline Purposes at Pulehunui, Wailuku, Maui, TMK: (2) 3-8-008: por. 001.

Ms. Mamiya pointed out the 12-inch water main installed fell outside of the Department of Transportation (DOT) right-of-way therefore they are coming the Board for an easement. She recommended the Board authorize the issuance of a perpetual, non-exclusive easement to the County of Maui, Department of Water Supply.

Earl Stoner, developer for the project indicated they believed the water line was within DOT's right-of-way. He told the Board the easement is necessary for the completion of the third phase of the Mokulele water line widening project.

Unanimously approved as submitted (Johns/DeMello).

Item D-58: Final Approval of Land Exchange with the Boy Scouts of America (“BSA”) Maui, Oahu, Kauai.

Ms. Mamiya recapped information on the potential lands the State plans to receive in the land exchange with the Boy Scouts of America. The 2 potential lands offered to the State are the Mill Town Lots and the Kaloko Lot. The Kaloko Lot currently has tenants and generates approximately \$83,000 in net annual revenues but the State will need to successfully manage the property if it is acquired. The Mill Town Lots although vacant has the potential to generate income and has long-term growth potential. Ms. Mamiya recommended the Board approve the updated appraisals on the State-owned lands and authorize final approval of the land exchange between the Boy Scouts of America and the State of Hawaii by agreeing to accept the three Mill Town Lots 24, 25, and 26 for the exchange.

Bill Paty, vice president of the Aloha Council asked the Board to approve the Land Exchange between the Boy Scouts and the State for the Mill Town Lots.

Unanimously approved as submitted (McCrorry/DeMello).

Item D-35: Issuance of Revocable Permit to Onipaa Ranch Corp. and Kuahiwi Contractors Inc., Waiohinu, Kau, Hawaii, TMK: 3rd/9-5-06: portion of 01.

Ms. Mamiya informed the Board historically the subject state property and the abutting C. Brewer pasture lease were leased to the same person thereby not require fencing along the common boundary. On January 2001, the Land Division Office in Hilo (HDLO) received a request from Kuahiwi Contractors Inc., inquiring to lease the land. On March 2001 the land division received a request from Rodney Biven of Onipaa Ranch Corp., to lease the same property. Both parties were advised by the Land Division whomever received the lease from C. Brewer would get the lease for the State parcel. On October 12, 2001 HDLO received written confirmation that Onipaa Ranch was granted the C. Brewer lease. Onipaa Ranch has indicated they are not interested in 200-acres located west of Kaalualu Road therefore that portion will be leased to Kuahiwi Contracting Inc. Ms. Mamiya recommended the Board approve the issuance of a revocable permit to Onipaa Ranch Corp (for 1883.36 acres) and Kuahiwi Contractors Inc (for 200 acres).

Lesley Biven of Onipaa Ranch, asked if she was in agreement with the Division of Forestry and Wildlife (DOFAW) recommendation to put up fencing on the upper portions of the parcel they will lease, answered yes.

Unanimously approved as submitted (DeMello/Johns).

Item D-6: Resubmittal – Set Aside to Department of Transportation, Highways Division for Baseyard Purposes, Kaloko, North Kona, Hawaii, TMK: 3rd/7-3-08: 23.

Ms. Mamiya informed the Board the State acquired the subject parcel as a result of the development of Mamalahoa Highway. Since the 1970's the Department of Transportation (DOT) has used the parcel as their North Kona Baseyard. Ms. Mamiya recommended the Board approve the issuance of an executive order setting aside the land to DOT.

Stanley Tamura district engineer for State Highways Division-Hilo told the Board their present base yard is only 0.6 acres. As a result they've been using the parcel in question for storage of materials, aggregates, and traffic control equipment. Mr. Tamura noted DOT would also like to use the land to set up a staging area for construction crews.

Unanimously approved as submitted (DeMello/Johns)

Item D-3: Resubmittal: Amendment to prior Board Action of May 26, 2000, Agenda Item D-15, Cancellation of Land Office Deed (LOD) No. 8299, Hawaiian Electric Company, Ltd. (HECO) and Mutual Telephone Company and after-the-fact Grant of non-Exclusive, Perpetual Easement to Hawaiian Electric Company, Ltd. And GTE Hawaiian Telephone Company (now Verizon) at Kahuku High and Intermediate School, Kahuku, Koolauloa, Oahu, TMK: 5-6-06: 03.

Ms. Mamiya noted this was an amendment to a prior Board action. She told the Board a GEO was inadvertently left out and this action is to correct it. She recommended the Board amend its prior action of May 26, 2000.

Unanimously approved as submitted (Johns/DeMello).

Item D-11: Amendment to prior Board Action of July 26, 2002, D-5, Issuance of Right-of-Entry to the Hawaiian Electric Company, Inc. (HECO), to route Utility Lines to the Board of Water Supply (BWS) Waimanalo Wells III Project Site, Waimanalo, Oahu, MTK: 4-1-08: portions of 05 and 80.

Ms. Mamiya mentioned this action is to amend a prior Board action by extending the right-of-entry from October 25, 2002 to January 31, 2003. She recommended the Board approve the extension of the right-of-entry.

Phil Hauret of Hawaiian Electric Company Inc. was present to answer questions.

Unanimously approved as submitted (Johns/DeMello).

Item D-34: Time Extension Request – Conservation District Use Permit OA-2998B for Waihee 265 Reservoir Drainage Improvement Projects, Kahaluu, Koolaupoko, Oahu, TMKs: (1) 4-7-47: 13; 4-7-7: 05 and 4-7-33: 36.

Mr. Sam Lemmo planner with the Land Division briefed the Board and noted this is the second time an extension is being issued to the Board of Water Supply (BWS). BWS is

requesting a time extension due to delays associated with negotiations with the adjacent homeowner. Mr. Lemmo recommended the Board approve the time extension.

Gayson Ching from the BWS told the Board the adjacent landowner has agreed to the land easement price. He noted the landowner had some concerns regarding construction on his property and they've reached an agreement. He told the Board BWS will advertise for the project in November with the bidding process set to start on December 19 with construction to start in January.

Unanimously approved as submitted (Johns/McCrory).

Item D-36: Amend prior Board Action dated September 13, 2002, Item D-17; 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: 01

Ms. Mamiya stated this is a request to amend a prior board action. This action is to amend the mortgage amount from \$94,050 to \$25,000 and to change the mortgagee to Finance Factors. Ms. Mamiya recommended the Board amend its prior action of September 13, 2002.

The Board questioned the reduction of the mortgage amount.

Campbell Cavasso addressed the Board and stated he is in the process of acquiring another loan for the remainder of the \$94,000. He told the Board he is trying to get a loan from a second lender who is located on the mainland.

The Board amended the Recommendation Section to read as follows:

“That the Board amend its prior action of September 13, 2002, Item D-17 by amending the name of the mortgagee and the loan amount to Finance Factors, Limited and [~~\$25,000~~] \$50,000 respectively.”

Unanimously approved as amended (Johns/McCrory).

Item D-44: Issuance of Revocable Permit to Kauai Island Utility Co-op (“KIUC”) (formerly Kauai Electric), for the use of the “Blue Hole” diversion and portions of a Water Transmission System located in a section of the Lihue-Koloa Forest Reserve (Wailua Section), Wailua, Lihue, Kauai, TMK: 3-9-1; Issuance of Immediate Right of Entry for Management purposes; and Authorization for State to negotiate Agreement with Lihue Land Company for Water Delivery to State lands at Kalepa.

Mr. Scott Whitting of the Land Division briefed the Board on the history of General Lease No. S-3827. He noted the lease expired in May 1995 but to this day Lihue Plantation has been complying with the conditions of the old lease. Kauai Island Utility Co-op is

currently applying for the use of a portion of the existing Lihue-Hanamaulu section of the system specifically to power two hydroelectric plants. Mr. Whitting recommended the Board authorize the issuance of a revocable permit and right-of-entry to KIUC and authorize the Chairperson to negotiate and enter into a water transmission agreement with Lihue Land Company to provide water to the Kalepa lands.

Alan Oshima attorney for KIUC told the Board this the first step in obtaining a long-term lease of the water to use the hydropower. It is a continuing non-consumptive use of the water. In terms of the maintenance of the ditch system from the Blue Hole to the hydros it is the interest of KIUC to maintain this area. KIUC is willing to pay the State for the water and transport it to the area they need it. Mr. Oshima mentioned the water doesn't have high use because it is not used for drinking.

Alton Miyamoto President and CEO of KIUC stated the amount of water diverted from 1992-2002 is 14.9 million gallons per year.

Max Graham representing the East Kauai Water Users Cooperative (EKWUC) is the entity that has the revocable permit for the irrigation system on the north side of Wailua River. The Coop members are also farmers of the Kalepa lands so they have an interest in the water (on the south side) reaching the Kalepa lands. Mr. Graham said his members would like 10 million gallons of water per day to reach the Kalepa lands. He also questioned what would happen in times of drought. Mr. Graham also told the Board it was unfair for the ditch maintenance fees to be charged to EKWUC because there are other users of the Hanamaulu ditch system (ie. Lihue Land Company).

Leslie Milnes representing the Kalepa Coalition provided the Board with written testimony and spoke in favor of the testimony made by Max Graham. He told the Board his members would like the cost of the water allocated fairly among the various parties using it. He also noted their members were in support of building a storage reservoir and pipeline distribution system for irrigating water through the entire area utilizing the Stable Storm Diversion and the ditch.

The Board amended the Recommendation Section by:

1) Adding a new subparagraph 2.i.3 to read as follows:

“2.i.3. The water allocation proposal based upon applicants study and as agreed to by the board is to be incorporated as a condition of the permit upon board approval.”

2) Amending subparagraph 4.b to read as follows:

“4.b. Any fees charged by Lihue Land Company for ditch maintenance [shall be borne by the Cooperative] subsequent to the hydroelectric plants shall be fairly allocated among the various parties as approved by the Chairperson; and”

Unanimously approved as amended (McCrorry/DeMello).

Item D-22: Amend prior Land Board Actions of December 15, 1995, Agenda Item F-7, and October 30, 1998, Agenda Item D-3, by Revising the Method of Payment for Grant of Term, non-Exclusive Easement, over State Lands identified as TMKs: (2) 3-6-001: por. 002 and offshore submerged Lands at Ukumehame and Waikapu, Wailuku, Maui.

Ms. Mamiya informed the Board the applicant Maui Ocean Center received an easement from the State allowing them to draw sea water for their aquariums and displays while paying the State a lump sum (up front) as consideration. But because of decreased attendance Maui Ocean Center is requesting that they be allowed to pay the consideration amount of \$69,000.00 over a four-year period beginning in the year 2003. Ms. Mamiya recommended the Board authorize the revision in the method of payment.

Carl Stomier assistant general manager for Maui Ocean Center was present to answer questions.

Unanimously approved as submitted (Johns/DeMello).

The Board took a break at 10:43 a.m. and resumed at 10:55 a.m.

Item D-26: Alleged Unauthorized Construction of a Wastewater Treatment System and a Bamboo Water Closet, and Landscaping with Tree Cutting at Haena, Kauai, TMK: (4) 5-9-05: 020.

Mr. Lemmo briefed the Board on the events that have transpired. He told the Board Mr. Ben-Dor's CDUA was denied because the application was incomplete and there was an erosion hazard. Staff recommend the applicant consider additional shoreline setback for any subsequent applications. On Mr. Ben-Dor's second attempt at a CDUA staff identified an illegally constructed wastewater treatment system, the construction of a Bamboo structure, tress cut down, and landscaping of the property. Mr. Lemmo recommended the Board fine the applicant \$6268 and require them to remove the bamboo water closet and the wastewater treatment system within 60 days.

Member Martyn entered the meeting

Lorna Nishimitsu was on hand to represent Ed and Joan Ben-Dor. Ms. Nishimitsu told the Board her clients submitted a second CDUA and sought after-the-fact approval for the previous activities being addressed today. She told the board in late spring 2001, her clients hired an engineer to design a wastewater treatment system and the water closet. While in the process of getting other required permits the Ben-Dor's didn't realize they needed a permit from DLNR. She noted her clients had no intention of violating conservation laws. Ms. Nishimitsu asked the Board to allow her clients to keep the wastewater treatment system pending the State's determination that they be allowed to construct a dwelling on the property.

The Board amended staff's recommendation by:

1) Amending paragraph 2 to read as follows:

"2. The alleged be required to remove the bamboo water closet [~~and the wastewater treatment system,~~] within 60 days of the Board's action. Proof of the Demolition work shall be provided to the Planning Branch in the form of photographs. An archaeological monitor shall be present for all excavation work."

2) "8. The alleged shall file a Conservation District Use Application for the wastewater treatment system, which may or may not be with the single-family residence, within six months or they shall remove the system."

Unanimously approved as amended (McCrorry/Johns).

Member Inouye entered the meeting

Item D-47: Conservation District Enforcement File No. MA-01-09: Unauthorized Grubbing and Grading, Unauthorized Tree Cutting, and Unauthorized Animal Husbandry, Land Patent Grant 4376, Lower Nahiku, District of Hana, Maui, TMK: (2) 1-2-003: 021.

Mr. Lemmo told the Board these violations concern unauthorized grubbing, grading and animal husbandry. Attempts by staff have been made to contact the owners in regards to the violations. Mr. Lemmo noted the owners thought the conservation line ran along the cliffs but according to the State Land Use Commission (LUC) the alleged was petitioning the LUC to relocated the boundary. Mr. Lemmo recommended a fine of \$7,000.

Gary Zakian attorney for the landowners noted there are four landowners. Mr. Zakian pointed out there was no clear boundary line differentiating Agriculture land from the Conservation land therefore they are disputing staffs claim that grubbing and grading occurred on 5-6 acres. He told the Board his clients leased the property with the intent of raising cattle. Mr. Zakain mentioned his clients were aware a portion of the property was in the conservation district but they did not understand the implications of being in the conservation district. Consequently they did not knowingly violate conservation laws. Mr. Zakian did confirm his clients cut down trees. He asked the Board to consider reducing the fine for animal husbandry as it was difficult to distinguish where the conservation line exists.

After confirming with Mr. Zakian that his clients operated a construction and land development company, Board members expressed concern that the landowners were not aware of procedures and policies that are appropriate for the land they've acquired.

The Board amended staff's recommendation by amending paragraph 1 to read as follows:

“1. The alleged violated the provisions of Chapter 183C, Hawaii Revised Statutes, and Chapter 13-5, Hawaii Administrative Rules (HAR), in [four] three instance by failing to obtain the appropriate approval for unauthorized grubbing, grading, unauthorized tree cutting, and authorized animal husbandry within the Conservation District. The alleged is fined a total of [\\$8000] \$6000 for the Conservation District violations;”

Unanimously approved as amended (Johns/McCrory).

Item D-25: Alleged Unauthorized Construction of a shoreline Structure and Fill at Aliomanu, Kauai, TMK: seaward of 4-9-4: 4.

Mr. Lemmo informed the Board the matter before them concerns illegal shoreline improvements. He told the Board Mr. Simpson placed boulders on the seaward boundary of the property and also filled an area with dirt. Mr. Lemmo noted the soil is a concern to DLNR because it has entered the sea and caused substantial turbidity. He mentioned he is in receipt of a letter by Mr. Chun (attorney for Mr. Simpson) that the fill material has since been removed. Mr. Lemmo recommended the Board fine the landowner \$4000 and seek the removal of the boulders.

Mr. Jonathan Chun an attorney represented the landowner. Mr. Chun noted the erosion was not a natural process but is being caused by a seawall built by a landowner two houses away. Mr. Chun told the Board the previous landowners were responsible for placing the boulders (in 1998 or possible before). He confirmed his client placed additional boulders on top of the existing boulders and put some fill on the top. Mr. Chun reiterated his client has removed the fill. In addition Mr. Simpson has applied for an SMA permit and hired a marine engineer to look at further permanent solutions. Mr. Chun informed the Board the erosion is dangerous. He told the Board according to the marine engineer the only way to slow down the erosion process is through beach nourishment. He noted his client is willing to remove the boulders in conjunction with the SMA and put in sand bags. Mr. Chun told the Board his client has spent over \$10,000 to come into compliance with the rules therefore he is asking the fines be waived in lieu of the money his client has spent.

The Board amended staff's recommendation by amending paragraph B to read as follows:

“B. [~~That the Board of Land and Natural Resources impose a fine of \$2,000 for the boulder structure, and \$2,000 for the fill material, for a total penalty of \$4,000, pursuant to Chapter 183C, HRS;~~] The alleged shall expend \$4,000 in shoreline mitigation that protects the point and shall provide copies of invoices within one year;”

Unanimously approved as amended (McCrory/Martyn).

Item C-2: Request for Final Approval of the Programmatic Safe Harbor Agreement for Nene on the Island of Molokai, Hawaii.

Paul Conry, Wildlife Program Manager for the Division of Forestry and Wildlife told the Board the purpose of this agreement is to encourage landowners to provide protection to the Nene that may breed on their property. This agreement would cover the entire island of Molokai, including private landowners. The basic terms of the agreement calls for a safe harbor to be set up for thirty years. Mr. Conry recommended the Board approve the Programmatic Safe Harbor Agreement for Nene on the island of Molokai.

The Board amended the following:

1. **Amend Attachment 1, Programmatic Safe Harbor Agreement for Nene on the Island of Molokai, Hawaii, Item 10, page 12 to read:**

“... The responsibilities of the Service under this Agreement will be funded by the Service. DOFAW’s and the Service’s responsibility under this Agreement are subject to.....”

2. **Amend Attachment 3, Cooperative Agreement Template, signature Block, page 31 to remove the specific name [~~Michael G. Buek~~] and replace it with Administrator**
3. **Amend Attachment 4, Safe Harbor Agreement Certificate of Inclusion Template, Signature Block, page 32 to remove the specific name [~~Michael G. Buek~~] and replace it with Administrator.**

Unanimously approved by all six of the Board members present as amended (DeMello/Martyn).

Item C-3: Request for Approval to Release for Public Review the Federal Habitat Conservation Plan for Hawaiian Stilt at Cyanotech Aquaculture Facility Keahole Point, Hawaii and Accompanying Incidental Take Permit.

Mr. Conry told the Board this is a request for approval for public review of a Habitat Conservation Plan (HCP) for Hawaiian Stilt. The purpose of the HCP is to eliminate the incidental take of Hawaiian Stilts at the Cyanotech Facility. Mr. Conry noted Airport management has concerns regarding flight safety due to the stilts being in close proximity to the airport. Mr. Conry recommended the Board authorize the release for public review of the Federal Habitat Conservation Plan for Hawaiian Stilt at Cyanotech.

Unanimously approved by all six of the Board members present as submitted (Martyn/DeMello).

Item C-1: Approval to Advertise a Request for Proposals (RFP) for the Harvesting of 1,697 Acres of Ash and Subsequent Reforestation within

**the Waiakea Timber Management Area, Island of Hawaii, As Required
by Chapter 103D-303, H.R.S.**

Mr. Conry informed the Board this is a request to approve for advertising a Request for Proposals (RFP) to harvest approximately 1,697 acres of ash and other special forest products located in the Waiakea Timber Management Area. He asked the Board to approve a request to advertise a RFP and the processing of a Timber Land License.

The Board asked Mr. Conry how were they planning to address the issue of the Hawaiian bat.

Motion made at 12:10 p.m. to move into executive session to deliberate on pending contested cases.

Unanimously approved to move into executive session (Johns/Inouye).

The meeting was reconvened at 1:20 p.m.

Carl Masaki Forestry Program manager for the Division of Forestry and Wildlife told the Board the issue of the Hawaiian Bat was addressed in the Land Licensed issue to Tradewinds Forest Products and they were planning to use the same format. Mr. Masaki informed the Board they have received federal funding to do a survey on the bats to find out about their population.

The Board amended the submittal to read:

“Approve to Advertise a Request for Proposals (RFP) for the Harvesting of 1,697 Acres of Ash and Subsequent Reforestation within the Waiakea Timber Management Area, Island of Hawaii, As Required by [Chapter 103D-303, H.R.S.] Chapter 171-54, H.R.S.”

Amend Recommendation 1 to read:

“1. That the Board find that the public interest will be better served by disposing of the land license through the RFP process, including direct negotiation, rather than through a public auction and approve the Division of Forestry and Wildlife advertising of a Request for Proposals (RFP) using the procedures set forth in Chapter 103D-303 and the processing of a Timber Land License to be approved by the Board; and”

Unanimously approved by all six of the Board’s members present as amended (DeMello/Martyn).

Item E-1: Special Use Permit Extension for Michael A. Meierdiercks for Residential Purposes, Kalihi, Oahu, T.M.K. 1-4-16:3.

Dan Quinn Administrator of State Parks addressed the Board. He asked the Board to authorize an annual extension of a special use permit for TMK: 1-4-16: 3. Mr. Quinn noted they have no immediate plans/funds to develop the park and the tenant's presence would prevent the parcel from becoming a haven for illicit night activities and a dumping ground.

Unanimously approved as submitted (Inouye/McCrory).

Item L-1: Authorization to Enter into a Feasibility Cost Sharing Agreement Between the U.S. Department of the Army, City & County of Honolulu, and State of Hawaii for the Kahuku Ecosystem Restoration Feasibility Study.

Mr. Andrew Monden of the Engineering Division asked the Board for approval to enter into a cost sharing agreement to identify and formulate alternative plans to address ecosystem restoration, flood control and other beneficial water uses in Kahuku, Oahu.

Sunny Greir legislative aide to councilman Steve Holms noted they are in strong support of the feasibility study.

Leslie Lanos who is on the Board of Directors for the Kahuku Village Association asked the Board to enter into the feasibility study with the County and the Department of Army.

Ralph Makaiau noted there's been a community-based effort to push through with this project and requested the Board support this agreement.

Unanimously approved as submitted (Inouye/Martyn).

Item D-31: Request to Amend Title 13, Chapter 222, Hawaii Administrative Rules (Shoreline Certification Rules).

Mr. Lemmo noted the purpose in amending this rule is to standardize the application procedure for shoreline certifications, clarify the application procedure, institute a 90 day mandatory processing time frame, increase application fees, revise the procedure for appeals and improve the departments ability to identify unauthorized shoreline improvements. Mr. Lemmo recommended the Board approve the request to amend Chapter 13-222, HAR.

The issue regarding defining anchialine ponds was mentioned.

Jessica Hashimoto asked the Board to defer action on this matter. She objected to the State asking for reimbursement of costs they incurred while at the same time not being able to identify the cost that they wish to be reimbursed for. Also from a surveyor's standpoint she does not agree that a licensed surveyor must render an expert opinion that an artificial structure remains intact and unaltered. Ms. Hashimoto noted they are surveyors therefore

they do not possess the expertise to determine if a structure has been altered or remains intact.

Jerry Rothstein representing Public Access Shoreline Hawaii (PASH) submitted written testimony and spoke in favor of adopting the Shoreline Certification Rules. Mr. Rothstein requested what he described as 6 non-substantive amendments to the following rules-13-222-1, 13-222-7, 13-222-10, 13-222-12, 13-222-16, and 13-222-26. He also requested some substantive amendments and spoke strongly in support of changing the requirement which states that only a licensed land surveyor is qualified to locate the shoreline.

Randy Hashimoto of the Division of Accounting and General Services (DAGS), Surveying Division told the Board he met with surveyors on all the islands. In regards to Chapter 13-222-11(b), Mr. Hashimoto stated requiring the surveyor to make a statement "that a structure has been intact and unaltered since the last certification" would be one option to certify the shoreline without having to go through with the public notice process. But if the surveyor is uncomfortable with making the above statement, a new application for shoreline certification can always be submitted.

The Board amended staff's recommendation by including the changes to §13-222-12 as shown below and other changes necessitated by prior rule amendments.

"§13-222-12 Public Notice of Application and Certification. (a) The department shall cause [a public notice of the receipt] public notices upon the acceptance of an application for and a proposed certification or rejection of the shoreline. Public notices will be made in the [OEQC Bulletin, a bi-monthly] Environmental Notice, a semi-monthly publication of the Office of Environmental Quality Control, State of Hawaii."

Unanimously approved as amended (McCrary/Inouye).

Item D-23: Condition Modification/Additional Sand – Conservation District Use Permit No. KA-2900 for Sand Bypassing at Kikiaola, West Kauai.

Mr. Lemmo informed the Board the applicant was issued permit CDUP KA-2900 to bypass 10,000 cubic yards of sand at Kikiaola Boat Harbor and the applicant is requesting to bypass an additional 10,000 cubic yards of sand over the next two years. Attached to the permit were two conditions to which the Mr. Beckenfeld did not comply – failed to follow up with water quality monitoring and failure to do a marine transect study. Mr. Lemmo noted the applicant is requesting a modification to condition # 6. Mr. Beckenfeld indicated that he would like to limit monitoring to profiling the "dry beach" area. Mr. Lemmo recommended the Board approve the request for an additional 10,000 cubic yards of sand to be bypassed around Kikiaola Light Draft Harbor and allow a modification to condition 6.

Mr. Mike Faye of Kikiola Land Company addressed the Board. Mr. Faye told the Board it cost Mr. Beckenfeld about \$50,000-\$60,000 to bypass the sand. When the first 10,000

cubic yards of sand was placed there, it went away fairly rapidly so they determined by putting down 2,000-5,000 cubic yards a year would seem to work much better.

Unanimously approved as submitted (McCrorry/Johns).

Item D-40: Request to Amend Title 13, Chapter 5, Hawaii Administrative Rules (Chap 13-5 HAR), to redesignate approximately 2.2 Acres of the State Land Use Conservation District from the Limited Subzone into the General Subzone in Pupukea, Oahu, TMK: (1) 6-1-02: 22.

Mr. Lemmo notified the Board the applicant is requesting 2.2 acres be redesignated from Limited Subzone to General Subzone. The purpose of this change is to facilitate the construction of a spiritual retreat. The applicant is purposing to donate approximately 63 acres to State Parks. A public hearing was held on this subject and the applicant has made change in response to public comments and concerns. Mr. Lemmo recommended the Board approve the request to amend Chapter 13-5, HAR to designate approximately 2.2 acres from the Limited Subzone to General Subzone.

The Board asked staff to look at maintenance of the parking lot area (where visitors to the retreat will be parking) since it will be on State property.

Ben Welborn, Kauai representative for Landmark Consulting Inc. told the Board by redesignating the subzone it would allow the donation of park lands. He assured the Board the donation of lands to State Parks is in no way contingent upon approval of the sanctuary. He also stated their intent is to preserve the ridge line above Waimea Valley and to preempt development on the entire ridge.

Unanimously approved as submitted (Inouye/McCrorry).

Item D-21: Issuance of Right-of-Entry Permit for Preliminary Site Investigation for Planning and Environmental Documentation Purposes for the Department of Transportation's Kapaa Relief Route Project No. HP-056-1 (46), Kauai.

Ms. Mamiya mentioned Kimura International has been contracted by the Department of Transportation (DOT) to prepare a plan to alleviate existing and projected traffic congestion on Kuhio Highway. The right-of-entry will be for a 12-month period. Ms. Mamiya recommended the Board authorize the issuance of a right-of-entry permit to Kimura International Inc. and its sub consultants.

Glen Kimura of Kimura International was present to answer any questions

Unanimously approved as submitted (McCrorry/Inouye).

Item D-45: Forfeiture of General Lease Nos. S-5488 & 5489, New Town & Country Stables Inc., Lessee, Waimanalo, Koolaupoko, Oahu, TMK: 4-1-08: 59 & 54.

Ms. Mamiya briefed the Board and noted New Town & Country Stables Inc. are current on their rental payments but still needs to submit a performance bond. Ms. Mamiya told the Board the lessee wrote a letter stating their former insurance company was sold and the new company would not extend their bond but recently a local insurance company has stated a willingness to provide bonding. Ms. Mamiya recommended the Board authorize the cancellation of General Lease No. S-5488 & S-5489.

Katy Gibson owner of New Town & Country Stables presented the Board with a letter from Farm Credit Services of Hawaii stating they will be providing a letter of credit for \$15,202.00. She also provided the Board with a letter from Insurance Associates, Inc stating they are working on securing a lease bond for the applicant. Ms. Gibson asked the Board for some time to get the necessary paperwork together. Ms. Gibson assured the Board if she could not secure a letter of credit she will provide a cash bond.

The Board amended the Recommendation Section by deleting the entire section and replacing it with:

“The Lessee shall provide the performance bond by either a letter of credit or cash by February 1, 2003, otherwise the lease shall be automatically canceled.”

Unanimously approved as amended (McCrary/DeMello).

Item D-53: Rescind prior Board Action August 23, 2002, Item D-15; Forfeiture of General Lease No. S-4007, Alofa Corporation, Lessee, Waimanalo, Koolaupoko, Oahu, TMK: (1) 4-1-27: 023 and 024.

Ms. Mamiya briefed the Board on the history of Alofa Corporation. She noted the Board cancelled the lease in August 2002 for failure to post the required performance bond. On October 21, 2002 Alofa's attorney filed a temporary restraining order prohibiting the State from evicting the lessee. In the meantime Julius Ah Sam, president of Alofa Corp. obtained a loan and used the money to secure a Certificate of Deposit in the name of Alofa Corporation and the Department. Ms. Mamiya recommend the Board rescind its prior action of August 23, 2002.

Mr. Julius Ah Sam president of Alofa Corporation conveyed the strain placed upon him to come up with back rent and a performance bond. He told the Board he supported staff's recommendation to rescind the cancellation of his lease.

Unanimously approved as submitted (Inouye/Martyn).

Item J-1: Request Approval to Amend Hawaii Administrative Rules Sections 13-230-8, 13-231-58, 13-231-59, 13-231-61, 13-231-62 and 13-231-67 Relating to Definitions, the Renewal and Transferability of Commercial Activity Permits, and the Limitation on the Number of Commercial Activity Permits for State Boating Facilities.

Mr. Mason Young, acting administrator of the Division of Boating and Ocean Recreation (DOBOR) asked the Board to grant preliminary approval to conduct public hearings on the proposed amendments to Hawaii Administrative Rules.

Mr. Jim Coon representing the Ocean Tourism Coalition asked the Board to approve staff's recommendation. He noted his only concern is that the rules do not come back to the Board unless it is in a complete package, not in bits and pieces.

Unanimously approved as submitted (Inouye/McCrory).

Member DeMello was excused at 3:00 p.m.

Item J-2: Issuance of Revocable Permit. Vehicular Parking Control, Ala Wai Small Boat Harbor, Island of Oahu.

Mr. Young told the Board in an effort to generate revenue he would like to issue a revocable permit to operate vehicular parking at the Ala Wai. He noted the permit would include approximately 130 single vehicle parking spaces. Mr. Young recommended the Board approve the issuance of this revocable permit.

The Board amended the Recommendation Section by adding number 5

"5. The Division of Boating and Ocean Recreation shall solicit competitive bids for the Revocable Permit."

Unanimously approved as amended (Inouye/McCrory).

Item K-1: Issuance of Revocable Permit to Blaine Apo, Near Pier 29, Honolulu Harbor, Oahu, TMK: (1) 1-5-38-2P.

Peter Garcia of the Department of Transportation informed the Board the revocable permit includes 800 square feet of open unpaved land near pier 29. Mr. Apo plans to use the area for storage of 1 bus and 2 automobiles. Mr. Garcia recommended the Board authorize the issuance of a revocable permit for the stated purpose.

Unanimously approved as submitted (Martyn/Inouye).

Item K-2: Issuance of Revocable Permit to Great Enterprise, LTD., Near Pier 42, Honolulu Harbor, Oahu, TMK (1) 1-2-25-12P.

Mr. Garcia noted the permit is for 989 square feet of warehouse space and would be used for storage of canned and dry goods for restaurant distribution. Mr. Garcia recommended the Board authorize the issuance of a revocable permit to Great Enterprise, LTD.

Unanimously approved as submitted (Martyn/Inouye).

Item K-4: Issuance of a License Agreement, Together with a Construction Right-of-Entry, to the United Coast Guard for a Security Camera on the Aloha Tower, Pier 9, Honolulu Harbor, Oahu, TMK (1) 2-1-01-15P.

Mr. Garcia informed the Board the agreement would be for the installation of a security thermal camera on the southern roof of the Aloha Tower to improve security. He recommended the Board authorize DOT to issue the subject license agreement and construction right-of-entry.

Unanimously approved as submitted (Inouye/McCrory).

Item K-5: Report on Revocable Permits Issued or Renewed by the Department of Transportation for Consistent Uses.

Mr. Garcia noted this item was a report on revocable permits issued for Consistent Uses in 2002.

No Action.

Item K-6: Report on Revocable Permits Issued or Renewed by the Department of Transportation for Inconsistent Uses.

Mr. Garcia informed the Board the report included revocable permits issued or renewed for Inconsistent Uses by DOT in calendar year 2002. Mr. Garcia recommended the Board approve the continuance of these revocable permits as they expire during Calendar Year 2003.

Unanimously approved as submitted (Martyn/Inouye)

Item D-7: Grant of a Term, non-Exclusive Easement for House Decks Overhang and Seawall Extension Overhang to Thomas Robertson, Kaneohe, Koolaupoko, Oahu, TMK: (1) 4-7-19: 20 seaward.

Ms. Mamiya informed the Board the applicant is asking for a grant of term, non-exclusive easement for the house deck overhang and the seawall. The staff at the Coastal Land Program has no objects to the issuance of the easement. Since the encroachment was done without proper State Government Authorization, staff recommends the Board impose a fine of \$500. Ms. Mamiya recommended the Board authorize the issuance of a 55-year term, non-Exclusive Easement to the applicants.

Unanimously approved as submitted (Inouye/McCrory).

Item D-8: Grant of a Term, non-Exclusive Easement for Seawall to Annie C. and Wayne D. St. Morris, Kaneohe, Koolaupoko, Oahu, TMK: (1) 4-5-47:
80

Ms. Mamiya pointed out this easement is for an encroachment of a seawall. She noted the area encroached upon is approximately 163 square feet. Ms. Mamiya recommended the Board impose a \$500 fine for the encroachment upon public lands and authorize the issuance of a 55-year term non-exclusive easement for seawall and landscaping purposes.

Unanimously approved as submitted (Inouye/McCrory).

Item D-9: Grant of a Term non-Exclusive Easement for Seawall to Yamashiro Investments & Yoshiko Yamashiro Trusts, Kaneohe, Koolaupoko, Oahu, TMK: (1) 4-4-18: 069 seaward.

Ms. Mamiya made known the area of the seawall encroachment is approximately 55 square feet therefore they are not proposing any fines. She recommended the Board issue a 55-year term non-exclusive easement for seawall purposes to Yamashiro Investments & Yoshiko Yamashiro, Trustee for the Yoshiko Yamashiro Trust.

Unanimously approved as submitted (Inouye/McCrory).

Item D-10: Grant of a 55-year non-Exclusive Easement for Seawall to the Colene S. Wong Trust, Kaneohe, Koolaupoko, Oahu, TMK: (1) 4-4-06:12.

Ms. Mamiya addressed the Board and noted the area of encroachment is 164 square feet therefore staff recommends imposing a fine of \$500. Ms. Mamiya recommended the Board authorize the issuance of a 55-year term non-exclusive easement for seawall purposes to the applicant.

Unanimously approved as submitted (Inouye/McCrory).

Item D-16: Grant of a Term, non-Exclusive Easement for Seawall to the James Y Kanada Trust, Kaneohe, Koolaupoko, Oahu, TMK: (1) 4-5-58: 35 seaward.

Ms. Mamiya disclosed the seawall encroachment was approximately 27 square feet therefore the applicants will not be fined. She recommended the Board authorize the issuance of a 55-year term non-exclusive easement to the James Y. Kanada Trust.

Unanimously approved as submitted (Inouye/McCrory).

Item D-17: Grant of a Term, non-Exclusive Easement for Seawall to Randall L. Erickson and Sharon J. Lowrie, Kaneohe, Koolaupoko, Oahu, TMK: (1) 4-4-18: 78 seaward.

Ms. Mamiya confirmed to the Board members the area the seawall encroached upon totals 229 square feet therefore staff is asking to impose a \$500 fine. She recommended the Board authorize the issuance of a 55-year term non-exclusive easement for seawall purposes to the applicants.

Unanimously approved as submitted (Inouye/McCrory).

Item D-41: Reconsideration of Fine for Seawall Encroachment, Stephen & Susan Chamberlin, Kaneohe, Koolaupoko, Hawaii, TMK: (1) 4-4-037: 048 seaward.

Ms. Mamiya informed the Board this item is before them for reconsideration. On March 22, 2002 the applicants were fined \$500 for an encroachment of their seawall of 10 square feet. Ms. Mamiya recommended the Board waive the fine pursuant to Sec. 171-6 (12), HRS and authorize the refund of the fine to the applicants.

Unanimously approved as submitted (Inouye/McCrory).

Item D-50: Annual Renewal of Revocable Permits on the Islands of Hawaii, Maui, Molokai, Kauai and Oahu.

Ms. Mamiya briefed the Board on the subject matter and reminded the Board they had questions regarding certain revocable permits therefore staff has included information on those permits. Due to a loss of appraisal staff, the Land Division has not initiated the review of permit rents for this year. Ms. Mamiya recommended the Board delegate to the Chairperson the authority to review and revise such rents during the year and approve the continuation of the revocable permits listed in Exhibit A on a month-to-month basis for another one-year period up to December 31, 2003 except for permits that are in arrears of more than 60 days.

Unanimously approved as submitted (Martyn/Inouye).

Item D-1: Resubmittal: Grant of Term, non-Exclusive Easement and Issuance of Construction Right-of-Entry to Time Warner Entertainment Company, L.P., dba Oceanic Time Warner Cable of Hawaii, for Cable Television Transmission Line Purposes, at Olinda, Makawao, Maui, TMK: 2-4-013: 053 and 054 and 2-4-015: 006 and 012.

Ms. Mamiya conveyed Time Warner's desire to install its cable television transmission lines upon existing poles that carry electrical and telephone lines. She noted the lines cross over lands encumbered by DOFAW and DOFAW has no objections to the transmission lines. She recommended the Board authorized the issuance of a term, non-exclusive easement covering the subject area for cable television transmission line purposes.

Unanimously approved as submitted (Martyn/McCrory).

Item D-2: Resubmittal – Cancellation of Grant of Term Easement No. S-5011; Grant of Perpetual, non-Exclusive Easement and Immediate Right of Entry to David William Singer, Trustee, and Marianne McCarthy Campbell for Access and Utility Purposes at Honouliwai, Molokai, TMK: (2) 5-8-003: por. 012.

Ms. Mamiya informed the Board Easement No. S-5011 is issued to Leigh-Wai Doo for roadway and utility purposes. Unbeknown to staff Mr. Doo sold the property and the new owners would like to apply for the easement. Ms. Mamiya recommended the Board authorize the cancellation of Easement GL S-5011 and authorize the issuance of a perpetual, non-exclusive easement to David William Singer, Trustee, and Marianne McCarthy Campbell covering the subject area.

Unanimously approved as submitted (Martyn/Inouye).

Item D-5: Resubmittal: Rescind prior Board Action of October 22, 1976 (Agenda Item F-5), Mrs. Ella Ramos Application to purchase Lots 14 and 14-A at Wailua, Maui, TMKs: (2) 1-1-4: 1 and 1-1-5: 27.

Ms. Mamiya informed the Board she is asking them to rescind their prior action because the lessee, Mrs. Ella Ramos is not living on the property nor has she the resources to pay the real property taxes. Ms. Mamiya recommended the Board rescind their prior action of October 22, 1976.

Unanimously approved as submitted (Martyn/McCrory).

Item D-12: Issuance of Revocable Permit to James L. and Nancy K. Johnson, husband and wife, Keanae Homesteads, Koolau, Hana, Maui, TMK: (2) 1-1-003: 064.

Ms. Mamiya told the Board the subject area is a remnant of 0.214 acres. She noted the applicants have been maintaining the parcel, which is adjacent to their private property ever since the previous lessees neglected it. Ms. Mamiya recommended the Board authorize the issuance of a revocable permit to James L. and Nancy K. Johnson covering the subject property.

Unanimously approved as submitted (Martyn/McCrory).

Item D-14: Sale of Remnant to Meru Capital Management, LLC, Kapaa, Kawaihau, Kauai, TMK: 4-5-12: por. 3.

Ms. Mamiya indicated the subject property is part of an abandoned railroad right-of-entry abutting the applicant's property. She recommended the Board authorize the sale of the subject land to Meru Capital Management and authorize the subdivision and consolidation of the subject remnant by the applicant.

Unanimously approved as submitted (McCrory/Martyn).

Item D-15: Resubmittal – Set aside to County of Hawaii for public Parking Lot Purposes, Kailua-Kona, North Kona, Hawaii, TMK: 3rd/7-5-06: 02, 36 & 37.

Ms. Mamiya asked the Board to authorize the issuance of an executive order setting aside parcel 2 to the County of Hawaii for parking lot purposes.

The Board amended the Area by deleting parcels 36 & 37.

Unanimously approved as amended (Martyn/McCrory).

Item D-18: Amend Board Action of December 14, 2001 (Agenda Item D-18), Grant of Perpetual, non-Exclusive Easement to Masaharu Edamura for Access and Utility Purposes, situated at Government (Crown) land of Waimanalo, Waimanalo, Koolaupoko, Oahu, TMK: 4-1-013: por. 1, 18, 21 and 22.

Ms. Mamiya asked the Board to amend its prior Board action of December 14, 2001 to include portion of parcel 1 to the easement area along with parcels 18, 21 and 22.

Unanimously approved as submitted (McCrory/Martyn).

Item D-19: Rescind prior Board Actions of October 9, 1987 (under agenda items F-1-e and F-3); of January 12, 1996 (under agenda item F-18); of August 21, 1997 (under agenda item D-21); direct Issuance of Perpetual, non-exclusive Easements to Lani Stark for Access and Utility Purposes; mutual Cancellation of Grant of Easement bearing Land Office Deed #S27604 issued to Vijay Arthur Wenk; Makawao, Maui, TMK: (2) 2-9-3: portion 20.

Ms. Mamiya requested the Board rescind its prior action of October 9, 1987 and issue a perpetual easement to Lani Stark for access and utility purposes.

The Board amended the Recommendation Section by amending paragraph 2 to read as follows:

“2. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a perpetual, non-exclusive easement for Easement A and a 55-year term, non-exclusive easement for Easement B to Lani Stark covering the subject area for access and utility purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

- A. The standard terms and conditions of the most current [perpetual] easement document form, as may be amended from time to time;**
- B. The [perpetual] easement shall inure to the benefit of the real property described as Tax Map Key: (2) 2-9-3: 12;**
- C. Review and approval by the Department of the Attorney General; and**

- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.**

Unanimously approved as amended (Martyn/McCrory).

- Item D-20: Grant of Perpetual, non-Exclusive Easement to Board of Water Supply for Water Meter Purposes, Keaahala, Kaneohe, Koolaupoko, Oahu, TMK: (1) 4-5-023: por. 02.**

Ms. Mamiya made it known the Board of Water Supply needs this easement for water meter purpose and she recommended the Board authorize the issuance of a perpetual non-exclusive easement to the Board of Water Supply covering the subject area.

Unanimously approved as submitted (McCrory/Martyn).

- Item D-24: Amend Board Action of May 10, 2002, Agenda Item D-10, regarding the Sale of Lease at Public Auction for Business, Commercial or Industrial Purposes on State lands at Waiakea, South Hilo, Hawaii, TMK: (3) 2-2-32: 62 & 63.**

Ms. Mamiya let the Board know this is an amendment that authorizes the sale of lease at public auction of two parcels in Hilo. Staff is requesting the Board waive the consent requirement and the right to adjust the ground rent in connection with any subleases to a franchisee of the lessee.

The Board amended the Recommendation Section by amending subparagraph 1.b. to read as follows:

“1.b. The sublease involves substantial improvements of at least \$500,000 constructed and/or owned by the lessee.”

Unanimously approved as amended (Martyn/Inouye).

- Item D-27: Sale of Remnant to 1366 Kinoole Partners, LLC & GP Hoaloha Limited Partnership, Waiakea, South Hilo, Hawaii, TMK: 3rd/2-2-25: 32.**

Ms. Mamiya informed the Board this is a sale of a remnant parcel, which is an abandoned railroad right-of-way. She told the Board the parcel would be sold to 1366 Kinoole Partners LLC and GP Hoaloha Limited Partnership who are both abutting land owners. Ms. Mamiya recommended the Board authorize the subdivision and consolidation of the subject remnant.

Unanimously approved as submitted (Martyn/McCrory).

- Item D-29: Amend prior Board Action of August 25, 1989, Item F-5, September 13, 2002, D-12, Grant of Perpetual, non-Exclusive Easement to Kokusai**

**Kogyo Co. Ltd. And Kyo-Ya Company, Ltd. For Waterline Purposes,
Waikiki, Honolulu, Oahu.**

Ms. Mamiya requested the Board amend its prior Board actions to eliminate Kokusai Kogyo Co. because they no longer own the property.

Unanimously approved as submitted (McCrorry/Martyn).

Item D-30: Issuance of Land Patent in Confirmation of Land Commission Award No. 4198 to Kaaiunahi, situated at Nohoaina, Waimea, Ko hala, Hawaii, TMK: (3) 6-7-02: portions of 1 and 68.

Ms. Mamiya recommended the Board consent to the issuance of a Land Patent in confirmation of Land Commission Award No. 4198 to Kaaiunahi.

Unanimously approved as submitted (Martyn/Inouye).

Item D-32: Dedication of Land and Grant of Easement to the State of Hawaii by Wailuku Agribusiness Company, Inc., Set Aside to the Department of Education for Playfield Purposes, and Authorize the Issuance of an Access Easement, Waihee, Wailuku, Maui, TMK: 3-2-07: portion 1.

Ms. Mamiya informed the Board this is an acceptance of land from Wailuku Agribusiness Company, Inc. The land will be used to construct a new classroom building for Waihee Elementary School. Ms. Mamiya recommended the Board accept the conveyance of land and grant of easement and approve the issuance of an Executive order setting aside the land to the Department of Education.

Unanimously approved as submitted (Martyn/McCrory).

Item D-33: Resubmittal: Conservation District Use Application (CDUA) OA-3099 for a Boat Ramp at Kaneohe Bay, Oahu, Hawaii, TMK: 1st/4-5-047: 83.

Mr. Lemmo indicated the applicant is requesting an after-the-fact approval for a boat ramp. The ramp was built prior to 1979 and the applicant has paid a fine of \$350.00 for the unauthorized use of conservation lands. Mr. Lemmo recommended the Board approve the Conservation District Use application for a boat ramp.

Unanimously approved as submitted (Inouye/McCrory).

Item D-37: Issuance of Revocable Permit to Gerald Lindsey, Kula, Makawao, Maui, TMK: 2-3-007: 015.

Ms. Mamiya addressed the Board and stated the parcel Mr. Lindsey is interested in is half of a gulch that is legally landlocked. Maui Land and Pineapple Company, Inc. owns the other half. Ms. Mamiya noted that Mr. Lindsey has received permission from Maui Land and Pineapple Co. to lease the other half of the gulch therefore she is recommending the

Board authorize the issuance of a revocable permit to Gerald Lindsey covering the subject area for pasture purposes.

Unanimously approved as submitted (Martyn/Inouye).

Item D-38: Resubmittal: Set Aside to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation for Marina and Marina Enhancement Purposes, Kealakehe, North Kona, Hawaii, TMK: 7-4-08: 03.

Ms. Mamiya noted this item was deferred from the last Board meeting because the Board wanted more details on the Division of Boating and Ocean Recreation (DOBOR's) intended plans and how they were coordinating efforts with surrounding land owners, specifically the Department of Hawaiian Home Lands (DHHL). In response, DOBOR provided staff with information, confirmed by DHHL indicating that DHHL and DOBOR intend to partner in master planning all of the Honokohau government lands makai of the Queen Kaahumanu Highway. DOBOR favors a joint RFP between the two agencies with the objective of achieving the maximum revenue stream for each agency. Ms. Mamiya recommended the Board approve the issuance of an executive order setting aside the subject land to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation.

Unanimously approved as submitted (Martyn/McCrory).

Item D-43: Consent to Assign General Lease No. S-3601, William White, III Trust, Assignor, to the William T. White, III Charitable Remainder Unitrust, Assignee, Consent to Sublease, William T. White, III Charitable Remainder Unitrust, Sublessor to BCI Coca Cola Bottling Company of Los Angeles, Sublessee; Waiakea, South Hilo, Hawaii, TMK: 3rd/2-3-49: 07.

Ms. Mamiya noted this request is a consent to assign a lease from William White, III Trust to William T. White, III Charitable Remainder Unitrust. Ms. Mamiya also asked the Board to reinstate the performance bond requirement.

Unanimously approved as submitted (Martyn/McCrory).

Item D-46: Cancellation of Governor's Executive Order No. 2565 to the Department of Transportation, Harbors Division, for Terminal Freight Site at Kealakehe, North Kona, Hawaii, TMK: 3rd/7-4-20: 18 & 20.

Ms. Mamiya informed the Board the Department of Transportation requested cancellation of the land and easements covered under Governor's Executive Order (GEO) No. 2565 as it was no longer needed for its intended use. She recommended the Board cancel GEO 2565.

Unanimously approved as submitted (Martyn/Inouye).

Item D-48: Amend prior Board Action of November 20, 1997 (Item D-22); Fee Conveyance of Road Lot to the County of Hawaii; Grant of Perpetual, Non-Exclusive Easement to Water Board of the County of Hawaii for Water Meter Purposes, Authorization of Bill of Sale to the Water Board of the County of Hawaii for Water System Improvements built by the State, Onouli, Hawaii, TMK: (3) 8-1-4: portion 36 and 45.

Ms. Mamiya briefed the Board and mentioned staff received Board approval to acquire and set aside the land for Konawaena Elementary School but they needed approval to convey the road, grant the perpetual easement for the water meter box and convey ownership of the water system. Ms. Mamiya recommended the Board amend its prior action of November 20, 1997, and authorize the fee conveyance, the issuance of a perpetual non-exclusive easement and the issuance of a Bill of Sale.

Unanimously approved as submitted (Martyn/McCrory).

Item D-49: Amend Board Action of May 24, 2002, Agenda Item D-20 regarding the Sale of Lease at Public Auction for Hotel and other purposes on State Lands at Wailua, Kauai, Hawaii, TMKs: (4) 3-9-06: 16 and 20.

Withdrawn

Item D-52: Amend prior Board Action of January 23, 1997 (Agenda Item D-21), accept Donation of Land from W.H. Shipman, Limited and set aside to the Department of Education, Keaau, Hawaii, TMK: (3) 1-6-3: portions 8, 11 and 14.

Ms. Mamiya noted that a reverter provision needed to be added to the set aside. She recommended the Board amend its prior action to included that a warranty deed shall contain a reverter provision in favor of W.H. Shipman, Limited.

Unanimously approved as submitted (Martyn/Inouye).

Item D-54: Consent to Assign General Lease No. S-3762, Linda Yamamoto, as Successor Trustee of the Henry Hiroshi Miyamoto Trust and Clyde Hachiro Miyamoto, Assignors, to Clyde Hachiro Miyamoto and Thomas Harry Hiroshi Nago, Assignees, Waimanalo, Koolaupoko, Oahu, MTK: 4-1-10: 46.

Ms. Mamiya noted this is a consent to assign the lease from the Henry Hiroshi Miyamoto Trust to Thomas Harry Hiroshi Nagao. She asked the Board to consent to the assignment of General Lease No. S-3762.

Unanimously approved as submitted (Inouye/Martyn).

Item D-57: Rescind prior Board Action of April 13, 1973 (Agenda Item F-11), U.S. Department of Agriculture, Soil Conservation Service Request for

**Grant of Easement for Pipeline purposes at Hoolehua, Molokai, TMK:
(2) 5-2-1 portion of 3.**

Ms. Mamiya informed the Board she is requesting to rescind a prior Board action because the U.S. Department of Agriculture no longer requires an easement for the area. She noted because of low water pressure an alternate pipeline route was chosen.

Unanimously approved as submitted (Martyn/McCrory).

Item D-59: Set aside to Department of Defense, Civil Defense Division, for Warning Siren Easement purposes, Kehena, Puna, Hawaii, TMK: 3rd/1-2-009: 041.

Ms. Mamiya noted this is a request to set aside land to the Department of Defense so they may install a warning siren in Puna. It was noted currently there are no warning sirens in the area. Ms. Mamiya requested the Board approve and recommended the issuance of an executive order setting aside by way of easement the subject area to the Department of Defense, Civil Defense Division.

Unanimously approved as submitted (Martyn/Inouye).

Item D-60: Issuance of a General Lease for private, noncommercial Pier to Kap Kyung Seo and Katherine Yung Do Seo and Cancellation of the Pier lease of non-exclusive Easement S-5323 to Kap Kyung Seo and Katherine Yung Do Seo for recreational Pier, Wailupe, Waikiki, Honolulu, Oahu, TMK: (1) 3-6-01: 35 seaward.

Ms. Mamiya briefed the Board and recommend authorizing the issuance of a 55-year term lease for private, noncommercial pier purposes to Kap Kyung Seo and Katherine Yung Do Seo.

Unanimously approved as submitted (Inouye/Martyn).

Item D-61: Resubmittal – Conveyance in Fee to Department of Hawaiian Home Lands, and Set Aside to Department of Transportation, Highways Division and County of Kauai for Roadway Purposes, and Issuance of Revocable Permit to Lisa D. DeRock and Danny G. Lepley, Kapaa Rice and Kula Lots, Kawaihau, Kapaa, Kauai, TMK: 4-5-4: por 2.

Ms. Mamiya informed the Board this item required multiple actions – issuance of an Executive Order, a Fee Conveyance and the issuance of a Revocable Permit. After briefing the Board on the request, she recommended the Board authorize the issuance of an executive order setting aside the subject lands to DOT-Highways Division and the County of Kauai, approval of the conveyance in fee a portion of the subject land to the Department of Hawaiian Home Lands and issue an interim revocable permit to Danny G. Lepley and Lisa D. DeRock covering a portion of the subject area.

Unanimously approved as submitted (McCrorry/Inouye).

Item F-1: Request for Approval to Enter into a Contract with the University of Hawaii (UH).

William Devick administrator for the Division of Aquatic Resources addressed the Board and requested approval to enter into a contract with the University of Hawaii to assist in the alien algal removal.

Unanimously approved as submitted (Martyn/Inouye).

Item F-2: Request for Approval to Amend/Extend an Agreement with the Research Corporation of the University of Hawaii (RCUH).

Mr. Devick noted this agreement with RCUH is for the period of March 1, 2003 through June 30, 2004. The agreement would provide administrative services for obtaining temporary personnel to be involved with assessment and integrated development/management of marine protected areas. He recommended the Board amend/extended an agreement for the Coral Reef Initiative project with RCUH.

Unanimously approved as submitted (Martyn/Inouye).

Item F-3: Request for Approval to Enter into a Contract with the University of Hawaii (UH).

Mr. Devick noted this request is to fund a study on taape. He requested the Board approve the request to enter into a contract with the University of Hawaii.

Unanimously approved as submitted (Martyn/McCrorry).

Item F-4: Request for Approval to Implement a Proposed Strategic Planning Framework.

Mr. Devick informed the Board before them is a request to implement a strategic plan to address the complexity of issues, conflicts in regulatory requirements and legal challenges that faces the Division of Aquatic Resources. He suggested reporting back to the Board annually on their progress. Mr. Devick recommended the Board approve the implementation of the proposed strategic planning framework.

The Board asked Aquatic Resources to provide an Annual Report/Briefing on the Strategic Planning Framework for the department.

Unanimously approved as submitted (Martyn/Inouye).

Motion made to defer the following items: D-51, D-55, D-56 & K-3

Unanimously approved to Defer (Inouye/McCrorry).

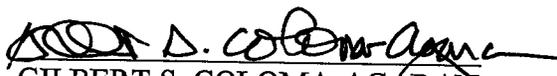
There being no further business, Chairperson Coloma-Agaran adjourned the meeting at 3:25 pm

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