

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

DATE: FRIDAY, JUNE 13, 2003
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

Chairperson Peter Young called the meeting of the Board of Land and Natural Resources to order at 9:10.m. The following were in attendance:

MEMBERS

Mr. Peter Young	Ms. Lynn McCrory
Mr. Ted Yamamura	Ms. Kathryn Inouye
Mr. Gerald DeMello	Mr. Timothy Johns (arrived
Mr. Toby Martyn (arrived at 10:10 am)	at 9:13 am)

STAFF

Ms Dede Mamiya, Land Division	Mr. Sam Lemmo, Land Division
Mr. Keith Chun, Land Division	Mr. Dan Quinn, State Parks
Mr. William Devick, DAR	Mr. Peter Garcia, DOT
Mr. Andrew Mondon, Engineering	

OTHERS

Mr. Willam Wynhoff, Deputy Attorney General	Mr. Robert Strand, D-8
Ms. Linnel Nishioka, D-20, M-1	Mr. Rick Viden, D-8
Mr. Richard Ingersol, D-8	Ms. Leila Rothwal Sullivan, D-10
Mr. Mike Fergus, D-18	Mr. Ernest Mike Schimdt, D-24
Ms. Sharlene Mata, D-6	Mr. Clarence Au, E-1
Mr. Kirk Oshiro, D-1	Mr. Kawika McKeague, E-2
Mrs. May Au, E-1	Mr. Brian Saito, F-1
Mr. David Hara, F-1	Mr. William Aila, F-1
Mr. Bill Ching, F-1	Mr. Peter Maina'aupo, F-1
Mr. Carl Jennings, F-1	Mr. Adam Gleson, F-1
Ms. Angela Anderson, F-1	

Mr. Bob Kern, F-1
Mr. Palikapu Desmond, F-1, D-3
Mr. Newton Chu, D-27
Mr. Keith Kurahashi, D-23
Mr. Dennis Tanaka, D-19
Mr. Leighton Yuen, D-3
Mr. Jim McMahon, D-3
Mr. Moses Hianu, D-3
Mr. Paul Dolen, D-3

Mr. Charles Bryant, F-1
Mr. John Conway, D-27
Mr. Bill Takaba, D-27
Mr. Randall Sakumoto, D-23
Mrs. Lisa Tanaka, D-19
Mr. Jerry Rothstein, D-3
Mr. Alan Murakami, D-3
Mr. Dan Dinell, D-3

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

Item A-2: Minutes of May 23, 2003

Page 2, Item D-11, first paragraph fourth line

“yet [posed] posted the entire performance bond....”

Page 2, Item D-16

“Item D-16: Sale of Lease at [Pubic] Public Auction for the Sole Purpose of Cultivating Sugar Cane. . . “

Page 4, second to the last paragraph

“~~The Board expressed its concern with the applicant coming [before the Board in the future should they need to expand by just expanding and paying the \$500 fine. They felt the State should receive a gross percentage of the profits the applicant was making from the area encroached upon]~~ once again to the Board as it had in the past. It appears that when they need to expand their space, and have paid previously a \$500 fine they expand it. Here we are once again in the same position.”

Unanimously approved as amended (McCrorry/Inouye).

Item A-1: Minutes of May 9, 2003

Unanimously approved as submitted (McCrorry/Johns).

Item D-20: Consent to Assign General Lease Nos. S-4250, S-4288, S-4438, S-4517, S-5170, S-5469, S-5547; Land Office Deed Nos. S-17410, S-24327, S-28331; and Grant of Non-Exclusive Easement Processing under PSF No. 98OD-173; Citizens Communications Company dba The Gas Company, the

**Assignor, to the Hawaii Gas Company LLC or The Gas Company LLC,
Whichever the Case May be, the Assignee, Statewide, Tax Map Keys:
Various**

Member Johns recused himself.

Dede Mamiya, Administrator for the Land Division communicated that the request before the Board is to assign several leases and easements from Citizens Communications Company dba The Gas Company to the Hawaii Gas Company LLC or The Gas Company LLC. Ms. Mamiya noted Citizens Communications Company has been divesting itself of its utility operations. The request assignments are subject to Public Utilities Commission approval of the sale, which is anticipated by this summer. The Consumer Advocate has reviewed this sale and has determined it will not result in the assignment premiums. Ms. Mamiya recommended the Board consent to the assignment of the subject leases.

Linnel Nishioka representing The Gas Company thanked the staff of the Land Division for their quick efforts in bringing this submittal before the Board.

The Board amended the subject documents being assigned by adding two pending easement requests as follows:

1. Add pending Grant of Easement request PSF No. 98OD-172 (GL No. S-5641):

Location and Area: Portion of the Government (Crown) Land of Aiea, situated at Aiea, Ewa, Oahu, Tax Map Key: 9-9-03: Por. 35; 9-9-04: Por. 24; and 9-9-12: Por. 5, 46 & 47 containing 0.204 acres, more or less as shown on Exhibit A, map no. 12.

Character of Use: Right, privilege and authority to construct, install, use, maintain, repair, replace or remove transmission pipelines for petroleum and gas products.

Term of Lease: 65 years, commencing on May 24, 1974 and expiring on May 23, 2039. No rental reopening during the term of this lease because lease rental was prepaid as a one-time lump sum payment.

Annual Rental: \$2,350 one-time lump sum payment.

2. Add pending Grant of Easement request PSF No. 03OD-116 for addition to the operation of Grant of Easement Bearing GL No. S-5641:

Location and Area: Land Court Application 328, Maps 1 and 9, TCT No. 74759, Aiea, Ewa, Oahu, Tax Map Key: 9-9-04: 3 containing 0.144 acres, more or less, as shown on Exhibit A, map no. 13.

- Character of Use:** Right, privilege and authority to construct, install, use, maintain, repair, replace or remove transmission pipelines for petroleum and gas products.
- Term of Lease:** 65 years, commencing on May 24, 1974 and expiring on May 23, 2039 (co terminus with GL No. S-5641). No rental reopening during the term of this grant of non-exclusive easement because lease rental was prepaid as a one-time lump sum payment.
- Annual Rental:** The rental is included in the \$2,350 one-time lump sum payment for GL No. S-5641.

Approved as amended by the remaining members (Inouye/McCrory).

- Item M-1:** Consent to Assignment of Various Harbor Leases from Citizens Communications Company, Assignor, to Hawaii Gas Company, L.C.C. Assignee, at Honolulu Harbor, Oahu, Hilo Harbor, Island of Hawaii, Kahului Harbor, Maui, and Nawiliwili Harbor, Kauai.

Member Johns recused himself.

Mr. Peter Garcia representing the Department of Transportation (DOT) briefed the Board and asked for their consent to the assignment of the various harbor leases.

Linnel Nishioka thanked DOT for their quick efforts in processing this submittal.

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

- Item M-2:** Grant of Non Exclusive Easement Together with a Construction Right-of-Entry to the Department of Water Supply, County of Hawaii, for Water Meter Purposes at Kawaihae Harbor, Island of Hawaii.

Mr. Garcia noted this easement would service the Harbors Division. He recommended the Board authorize the issuance of this perpetual non-exclusive easement together with a construction right-of-entry to the applicant.

Unanimously approved as submitted (DeMello/Johns).

- Item D-8:** Cancellation of Revocable Permit No. S-6576 and Issuance of Revocable Permit to Kapua Orchard Estates, LLC (KOE), Okoe, South Kona, Hawaii, Tax Map Key: 3rd/8-9-03: portion of 83.

Ms. Mamiya indicated she would like to cancel revocable permit No. S-6576 and issue the permit to Kapua Orchard Estates, LLC. The permit has been used by MacFarms of Hawaii, LLC to supplement the irrigation of their orchards. MacFarms of Hawaii, LLC has entered into a purchase agreement with Kapua Orchard Estates, LLC and the sale is expected to close

on June 20, 2003. Ms. Mamiya recommended the Board Authorize the cancellation of Revocable Permit No. S-6576 to MacFarms of Hawaii, Inc and authorize the issuance of a revocable permit to Kapua Orchard Estates, LLC covering the subject area.

Robert Strand, Richard Ingersol and Rick Viden of MacFarms were present to answer any questions.

Unanimously approved as submitted (DeMello/Johns).

Item D-18: Amend Prior Board Action of January 10, 2003, Agenda Item D-23, Sale of Reclaimed Lands to Michael J. Fergus Trust, Lahaina, Maui, Tax Map Key: (2) 4-5-001: 049.

Ms. Mamiya informed the Board the sale of reclaimed lands was in part to resolve encroachments on the subject reclaimed parcel. She noted the applicant has requested that a condition be added in the conveyance document that would prohibit him from placing any structures or improvements on parcel 49, other than what is currently existing. Ms. Mamiya recommended the Board amend its prior action by adding the above condition.

Mike Fergus the applicant was present to answer any questions.

The Board amended the Recommendation Section by amending condition “e” to read as follows:

“e. No building, structure, additions or improvements other than the existing portions of the two buildings totaling 235 square feet and encroaching onto parcel 49 shall be placed or constructed within the land conveyed. [~~If the existing buildings encroaching onto parcel 49, or those portions encroaching onto parcel 49, are destroyed, no rebuilding onto the land conveyed shall be allowed.]”~~

Unanimously approved as amended (Yamamura/Inouye).

Item D-10: Issuance of Land Patent in Confirmation of Land Commission Award No. 10020 to Luuloa, situate at Waipake, District of Koolau, Kauai, TMK: (4) 5-1-03: 06 (portions of).

Ms. Mamiya briefed the Board and recommended the Board consent to the issuance of a Land Patent in Confirmation of Land Commission Award No. 10020 to Luuloa.

Leila Rothwal Sullivan was present.

Unanimously approved as submitted (McCrorry/Inouye).

Item D-6: Issuance of Revocable Permit to Sharlene K. Mata dba Hawaii’s Keepsakes, Hanapepe Town Lots, Waimea, Kauai, Tax Map Key: (4) 1-9-5: 53.

Ms. Mamiya disclosed the State property and building was previously encumbered to Ralph Adamson but the permit was cancelled on July 30, 1987. The current applicant, Sharlene Mata is a sole proprietor of Hawaii Keepsake's, which merchandises Hawaiian quilts and products. Ms. Mamiya noted there was another applicant interested in the property but he was unwilling to submitted an application for public auction and to pay for the advertisement of the auction. He was also not interested in a month-to-month lease due to the risks involved. Ms. Mamiya recommended the Board authorize the issuance of a revocable permit to Sharlene K. Mata dba Hawaii's Keepsakes covering the subject area.

Sharlene Mata was present.

Unanimously approved as submitted (McCrorry/Yamamura).

Item D-24: Forfeiture of General Lease No. S-3875, Mike E. Schmidt and Gloria Schmidt dba Paradise Auction, Ltd., Lessee, Waiakea, South Hilo, Hawaii, Tax Map Key: 3rd/2-2-50: 93.

Ms. Mamiya made it known the applicant was served a notice of default for failure to keep lease rental payments current and failure to post the required fire insurance policy. The applicant has currently cured the above defaults. Ms. Mamiya recommended the Board authorize the cancellation of General Lease No. S-3875.

Ernest Mike Schmidt was present to answer any questions. The Board asked Mr. Schmidt if he would be able to come up with the performance bond, which would be two times the annual rent. Mr. Schmidt replied yes.

The Board amended the Recommendation Section by adding a paragraph 5 to read as follows:

"5. provided that if the Lessee provides a secured performance bond within 90 days of this Board action, the forfeiture shall be automatically rescinded."

Unanimously approved as amended (DeMello/Yamamura).

Item D-1: Issuance of Right-of-Entry Permit to the Department of Transportation, Highways Division onto Encumbered State Lands of North Kohala, Hawaii, Tax Map Key: (3) 5-3-08: 07, 5-8-02: 03 and 6-2-01:15.

Ms. Mamiya pointed out the Department of Transportation (DOT), Highways Division will be conducting topographical survey in connection with the proposed realignment of the existing Kohala Mountain Road. Highways Division will take on the responsibility of contacting the other lessess and private landowners for right-of-entry. Ms. Mamiya recommended the Board authorize the issuance of a right-of-entry permit to the Department of Transportation, Highways Division covering the subject area.

Kirk Oshiro representing the Department of Transportation was present to answer questions. Mr. Oshiro mentioned that the tax map key in the title was incorrect but correct throughout the body of the submittal. Upon consultation from the AG it was determined that this was a minor defect and the Board could take action. The Board asked Mr. Oshiro if DOT would be able to complete the job in the allotted time, in which he responded yes.

Unanimously approved as submitted (DeMello/Yamamura).

Item E-1: Consent for the Assignment of Residential Lease S-5308 to Clarence and May Au, Ahupua'a'O Kahana State Park, Oahu, TMK: 5-2-2: 41, Lot B-3.

Dan Quinn Administrator for State Parks appeared before the Board. Mr. Quinn informed the Board that the previous lessee lost their lease due to a default on mortgage payments. At a public auction held on March 12, Clarence and May Au were the successful bidders. In lieu of lease rent each lessee must provide 25 hours of interpretive service each month. Mr. Au lived in Kahana prior to 1970 and he is a descendant of the Nuhi family that has traditional and historical ties to Kahana. Mr. Quinn recommended the Board consent to the assignment of Lease S-5308 to Clarence and May Au.

Clarence and May Au were present to answer any questions.

Unanimously approved as submitted (Inouye/McCrory).

Item E-2: Establishment of Curatorship Agreement for Keaiwa Heiau, Keaiwa Heiau State Recreation Area, Aiea, Oahu.

Mr. Quinn made it known that the curator program is a joint project between Historic Preservation, State Parks and the PA'I Foundation. The PA'I Foundation has requested curatorship of Keiawa Heiau for five years. In that time they've agreed to develop a restoration plan for the interior of the heiau, renovate and maintain the garden of Hawaiian medicinal plants and develop and implement educational and interpretive programs. Mr. Quinn recommended the Board approve the PA'I Foundation as curators for Keaiwa Heiau for a 5-year term with an option for extension.

Kawaika McKeague of the PA'I Foundation was on hand to answer any questions.

Unanimously approved as submitted (Inouye/McCrory).

Item F-1: Request for Final approval to Amend Hawaii Administrative Rules, Chapter 13-34, Pupukea Marine Life Conservation District, Oahu.

William Devick Administrator of the Division of Aquatic Resources briefed the Board and recommended the proposed amendments to Chapter 13-34, Hawaii Administrative Rules relating to the Pupukea Marine Life Conservation District, Oahu be approved.

The Board noted there was a lot of testimony from individuals who would like to pole fish. Mr. Devick informed the Board pole fishing is allowed in the Waimea Bay area of the Pupukea Marine Life Conservation District during the months of August and September for opelu and akule during November and December.

David Hara provided written testimony and also spoke on behalf of Waialua Casting Club. Mr. Hara felt pole fishermen should be able to fish for akule in Waimea Bay because the supply of akule is not in jeopardy. He asked that pole fishermen be allowed to fish for akule during the months of June, July and August and opelu during August and September. He felt that the commercial fishermen with nets should wait until November 1 to surround akule and opelu at Waimea Bay. He also asked the Board to allow fishing for akule and opelu by canoe during the months of June, July, August and September.

Brian Saito, a full time commercial fisherman spoke in support of the amendments.

Bill Ching, a recreational fisherman spoke in opposition of the amendments to the rules. He opposes the possession of opelu during the months of August and September by the commercial fishermen. He feels the State needs to impose stiffer penalties for poachers.

William Aila testified before the Board and spoke in support of the amendment. He noted the cards are stacked against the fishermen. He feels the goal of Pupukea is to protect the reef fish therefore fishing for opelu and akule will not hurt the reef fish. He believes fishing for opelu and akule are under utilized. He told the Board everyone will have access to the fish. Shoreline fishermen will be able to fish from July through October and commercial fisherman will be able to start in November.

Carl Jennings a full time fisherman spoke in support of the amendments. He started fishing in 1978 for the love of fishing. He told the Board of the need to preserve their way of life by fishing and providing for the people of Hawaii.

Peter Maina'upo a commercial fisherman spoke in support of the rules. He told the Board fishing is part of the Hawaiian culture and he would like to be able to teach his children how to fish. He also spoke of an incident when he went with his motorized craft into the bay to fish. He was cited by the State and went to court. He spoke of how the State does not have proper signage at the bay instructing the people what is allowed and what is not.

Angela Anderson a law student studying environmental law at the University of Hawaii testified. She indicated she goes out to Waimea Bay every weekend to swim and snorkel. She feels the State should not allow commercial fisherman to fish in the bay because it will deplete the supply of fishes. She noted making the area a conservation district would allow the fish to multiply.

Adam Gleson a shore diver on the North Shore told the Board during times of big waves the nets from the fishermen destroys the reefs. He is concerned with swimmers, snorkelers and commercial fishermen occupying the same area. He feels there is a potential for accidents.

Bob Kern a recreational fisherman spoke in opposition to the amendments. He feels the rules should remain the way they are. Mr. Kern was part of the Task Force set up to come up with these rules. During community meetings everyone had the opportunity to voice their opinion and to change the rules now invalidates the work done by of the members of the task force. Mr. Kern feels an effort needs to be made to educate the public of any new rules and if the rules are broken the State needs to enforce it.

Charles Bryant a fisherman from Haula spoke in support of the amendments. He feels the Division of Aquatic Resources should have held community meetings across the entire island of Oahu, not just Waimea Bay area. He believes if you close Waimea Bay to the net fishermen then it should be closed to everyone for fishing.

Carl Jennings provided additional testimony. He told the Board it is the reefs that damage their nets therefore why would they want to fish on the reef. He does not believe net fishing is occurring on the reefs. He feels the reef is being destroyed by the snorkelers who are not informed as to how to act in the bay.

Palikapu Desmond a fisherman from Hilo testified. He feels the State has an obligation to look at the Native Hawaiian rights and allow them to practice their culture.

The Board requested staff to return in 2 years after the rules are in place with a report detailing how the allocation of resources were impacting the users and the environment.

Unanimously approved as submitted (Johns/Martyn).

Item D-28: Establishment of Criteria for Waiver's of the Assignment of Lease Evaluation Policy.

Ms. Mamiya informed the Board that this request was a result of staff believing their assignment policy was out dated. She noted the Hawaii Naniloa and two other lessees have requested that the assignment policy be waived. They were told by staff a waiver could not be granted unless a criteria for waivers were developed or the policy was modified. Upon research of six landowners staff learned only one, Kamehameha Schools had standard lease provisions imposing a lease assignment premium. Despite this research staff does not feel comfortable modifying or eliminating the assignment policy but they believe that there are situations in which the policy could be waived. Ms. Mamiya recommended the Board approve the criteria to determine when the Board may waive the Assignment of Lease Evaluation Policy.

Board questioned the subjective term of the word "substantial" in item one of the criteria. Ms. Mamiya also noted her concern with the term "substantial."

Unanimously approved as submitted (Johns/DeMello).

Item D-29: Conservation District Enforcement File No. OA-03-30 Regarding Unauthorized Grubbing and Grading (with Construction of a Gunitite Wall), Unauthorized Driveway and Parking Area, and Unauthorized Gravel Driveway, Kaneohe, Oahu.

Motion to Defer

Unanimously approved to defer (Inouye/Johns).

Item D-27: Amend Board Actions of December 14, 2001 (Agenda Item D-35) and April 12, 2002 (Agenda Item D-29) Regarding the Sale of Lease at Public Auction for Resort and Golf Course Purposes, on State lands at Waiakea, South Hilo, Hawaii (the Existing Hawaii Naniloa Hotel and Golf Course sites); Approve Evaluation Criteria for Public Auction Applicants, Tax Map Keys: (3) 2-1-01: 12 & 2-1-05: 13, 16, 17, 27, 32, 46.

Ms. Mamiya indicated she has come before the Board twice before regarding this issue. Per the instructions from the last Board approval, staff retained an independent appraiser, Hastings Conboy to determine a fair market rent for the property. The minimum base rent was determined to be \$165,688 plus percentage rent equal to 3% of the total revenues generated on the subject property with fixed step-ups in the 10th and 20th years. When presented with the proposed lease the Hawaii Naniloa Resort (HNR) objected to the Board's Assignment of Lease Evaluation Policy. State representatives met with HNR to discuss two of their major concerns (rent and assignment premium policy). At the meeting HNR raised the concept of a fair return pursuant to Act 55 versus fair market rent. HNR believed Act 55 allowed the State to charge less than fair market rent as long as the State is receiving a fair return. At this meeting the issue of tenant improvements arose (it was previously determined to be 6.1%). Hastings Conboy pointed out the previous appraisal conducted by HNR was not for the tenant-owned improvements but rather for the leasehold value for the remaining terms of the existing leases. The end result of the meeting was that staff would re-evaluate the assignment premium policy, the lease rents under Act 55 and the value of the tenant-owned improvements. Ms. Mamiya recommended the Board amend its prior Board action to provide for the sale of a new lease at public auction pursuant to Section 171-61 and other conditions listed in staff's submittal.

John Conway and Newton Chu were present to represent the Hawaii Naniloa Resort. Mr. Chu went on to tell the Board they are close to an agreement with the State. Of the 16 issues on the table they have come to an agreement on 12 issues. Mr. Chu stated he did not agree with staff's interpretation of what went on at the February meeting. Mr. Chu noted that upon leaving the meeting, staff raised the issue of changing the figure of the fair market value of the tenant-owned improvements from the figure of 6.1 million, which was previously agreed upon to 4.7 million. He also went on to explain that he believed the hotels in Hilo were sub par because most hotels on State lands have leases that will expire in the next 12-25 years therefore the hotels can not attract financing for improvements.

Regarding the issue of Rent and Assignment Lease, Mr. Conway stated in the two previous applications submitted by HNR an assignment premium policy was not mentioned. Mr.

Conway assumed since there was no mention of the assignment premium policy it was implied that the rent would be first determined by an appraiser and then the lessee and the lessor would agree upon an amount. Mr. Conway has serious questions as to Hastings Conboy's determination of how percentage rent applies to the market place since there were no comparables paying percentage rent. He also noted when Hastings Conboy appraised the subject land at its last reopening the figure determined to be the fair market rent is now included in the staff's submittal as the minimum base rent. Mr. Conway believes Hawaii Revised Statute §171-61 and Act 55 makes the presumption that the State would issue a lease as long as the State is earning a fair return. With regards to the gross income threshold, he felt the proposed percentage payments without a threshold could impose a substantial burden in the subject property's ability to achieve a sufficient level of profitability in the marketplace, which in turn would be detrimental to the lessee. Mr. Conway believes the opinion of the appraisal should be to establish an appropriate fair market rent for the subject property. Any determination of the fair market rent should provide; 1) a threshold that is high enough to invest significant additional capital in property in hopes of improving profitability and 2) the threshold is low enough to allow the lessor to share in future benefits of successfully repositioning the hotel. Mr. Conway states that the real test in the value of a property is not in the appraisal but in the marketplace. He believes the public auction process is not to create a market of ten bidders but to test the market and the value that has been determined and negotiated between the applicant and the State.

The Board expressed their concern with the threshold. They feel the figure of 6.1 is too high.

Alan Conboy and Ricky Minn of Hastings Conboy addressed the Board. Mr. Conboy addressed the Board's question as to his appraisal. He noted the value of tenant-owned improvements started at \$7 million. That figure was reviewed and brought down to a figure of \$6.1 million. Mr. Conboy told the Board he stands by his figure of \$4.7 million. He told the Board he looked at what HNR was proposing versus what he thought could be obtained. He felt the projections made by HNR were not obtainable within the next ten years, it was an unrealistic estimation.

Bill Takaba, Finance Director for the County of Hawaii, presented a letter from Harry Kim, Mayor of the island of Hawaii. Mr. Takaba came forward to express the importance of a new 55-year lease for the HNR at the site in question. He voiced Mr. Kim's concern regarding the negative impact that could be brought upon the Big Island should the lease fall through. He feels a long term lease will enable the owners to develop and improve the property and pay off other bills to the County of Hawaii. In closing Mr. Takaba asked the Board to support the expeditious sale of the 55-year lease.

A Request was made at 11:53 a.m. to move into Executive Session to consult with the Deputy Attorney General with regards to legal issues.

Unanimously approved to move into Executive Session (DeMello/Johns).

Deputy Attorney General, Yvonne Izu provided the public with a summary of what she instructed the Board. She told the members upon the review of Act 55 and its

constitutionality the Attorney General's office concluded they had very serious concerns that Act 55 is not constitutional and it violates article 11 section 5 of the constitution, which requires a legislative power over public lands be exercised only by general law. The Attorney General's office position is that Act 55 is a special law. Therefore she has strongly advised the Board not to rely on Act 55 but rather rely on the provision in Chapter 171-61. Primarily the only difference she sees is that in Act 55 there is reference to "fair return" which is not available in Chapter 171.

Member McCrory noted she was comfortable with the structure of the minimum annual rent and the percentage annual rent but she was uncomfortable with the gross income threshold. As far as the fair market value she was concerned with the difference in the fair market values (\$6.1 million versus \$4.7 million). She feels \$4.7 is more realistic. She suggested arbitration on this issue, which would bring in a third appraiser to assess the value.

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

- "1. Amend the Board's actions of December 14, 2001 (Agenda Item D-35) and April 12, 2002 (Agenda Item D-29) to provide for the sale of a new lease at public auction pursuant to Section 171-61, HRS, with the following terms:**
 - a. Revise the fair market value of the tenant-owned improvements to \$4.7 million, subject to arbitration if the Applicant so elects and which shall commence in 60 days.**
 - b. Minimum annual upset base rent; \$165,688 (1-10 years), with step-ups in years 11 and 21 based on a 1.5 % rent escalation rate, compounded annually; provided that this rent shall be subject to arbitration if the Applicant so elects and which shall commence in 60 days.**
 - c. Percentage annual rent: Three percent (3%) of gross revenues from all sources within the leased premises (excluding State excise tax); provided that this rent shall be subject to arbitration if the Applicant so elects and which shall commence in 60 days. The percentage annual rent payment shall be the amount, if any that exceeds the minimum annual base rent.**
 - d. Method of Payment. Minimum rent to be paid semi-annually, in advance. Percentage rent to be paid annually, in arrears, no later than [~~one hundred twenty (120)~~] one hundred eighty (180) days after the close of the lessee's fiscal year.**
 - e. Financial Statements. The lessee shall submit annual [~~audited~~] reviewed financial statements prepared according to generally accepted accounting principles to DLNR no later than [~~one hundred twenty (120)~~] one hundred eighty (180) days after the close of lessee's fiscal year.**

- ~~[f. — Rent Re-openings. — Clarify that the Gross Income Threshold, if any, shall also be redetermined at the rent reopenings.]~~
- [g] f. **Assignment Premium.** The assessment of a premium pursuant to the Board's Assignment of Lease Evaluation Policy shall not apply to the new lease.
- [h] g. **Consent to Assignments.** Add a provision that: (1) if the lessee is a manager-managed limited liability company, any changes in the manager shall be deemed an assignment of the lease; and (2) if the lessee is a member-managed limited liability company, the sale or transfer of 20% or more of any membership interest shall be deemed an assignment of the lease.
- [i] h. **Character of Use of Golf Course Parcel:** Add clarifying language to the permitted uses that allows golf course and golf course related uses (including clubhouse, restaurant and bar, cart barn and driving range). Add language to the permitted uses that allows "other recreational and parking uses as may be permitted under the county zoning ordinances or land use permits obtained from the county; provided, however, that in the event the golf course parcel is withdrawn or deleted from the lease, any rights to use the golf course parcel to serve the hotel parcels shall terminate.
- [j] i. **Commencement Date of Lease.** The first day of the month following a thirty (30) day period after the date of sale at public auction if HNR is the successful bidder; otherwise, the first day of the month following a ninety (90) day period; provided that:
- (A) the Chairperson may amend the commencement date for good cause, including but not limited to extending the commencement date to allow the lease document to be finalized and approved by the Department of the Attorney General and/or to allow a Level One (1) hazardous waste evaluation to be conducted on the property and any remediation or cleanup as may be necessary or desirable; and
- (B) if HNR is not the successful bidder, the Chairperson may extend the commencement date for up to an additional thirty (30) days upon the successful bidder's written request and subject to the successful bidder's payment into escrow of a sum equal to 30 days interest on the ~~[\$4.7 million]~~ tenant-owned improvement value at an annual interest rate equal to ten percent (10%), for payment to HNR.

- [k] j. **Mortgages and Mortgage Protection. Revise the proposed lease as provided in Exhibit F attached hereto.**
- [l] k. **The standard terms and conditions of the most current resort general lease form, as may be amended from time to time, except for such terms and conditions otherwise approved above in this board submittal.**
- [m] l. **Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.”**

2) **Exhibit G by:**

- a) **Deleting the reference to Act 55, S.B. No. 2205 (2000) in the introductory paragraph:**
- b) **Amending subparagraph 4.g. as follows:**
- “g. **Applicant agrees to release, indemnify, defend and hold the State harmless from and against all claims, lawsuits, damages, etc. [~~including 3rd party claims, resulting from~~] made by third parties holding sublease interests, security interests or other interest in the existing leases that are terminated in connection with its application for a new lease and the early termination of the existing leases. Applicant’s indemnity shall exclude any claims brought by third parties that have been denied the right to bid for the new lease, unless such claims are caused by the breach of Applicant’s obligations under the memorandum of agreement of the terms of the auction.”**
- c) **Amending subparagraph 4.h. as follows:**
- “h. **Applicant’s acknowledgement and/or representation that:**
- **Applicant will not withdraw from the [Act 55] lease re-issuance process.**
 - **Applicant is the proper entity, and is duly authorized, to apply for a new lease [under Act 55]. Applicant to submit title report and corporate resolutions evidencing same.**
 - **The [Act 55] lease re-issuance process will result in a early termination of the existing leases and the reservation of an estate for years (for TMK parcel 2-1-05: 27). Applicant agrees to execute such documents as may be required by the BLNR Chairperson to effectuate and evidence said early termination.**

- No representations have been made by DLNR regarding the likelihood of Applicant obtaining a new lease.”

Unanimously approved as amended (DeMello/McCrory).

Item D-23: Unauthorized Tree Removal, Violation No. KA-03-15, by the Moloaa Bay Ranch, LLC., Moloaa, Loolau, Kauai, Hawaii, Tax Map Key: 2-4-3:1.

Sam Lemmo of the Office of Conservation and Coastal Management briefed the Board. Mr. Lemmo noted on October 26, 2000, Moloaa Bay Ranch informed the State they intended to precede with maintenance activities at the subject site. In November 2000, staff went out to the site to identify dead, distressed and dying trees. Staff authorized Moloaa Bay Ranch to cut 6 or 7 dead ironwood trees, 5500 square feet of dead Christmas berry trees and dead java plum trees in various locations. On May 22, 2001, the Department received a memo from the Department of Forestry and Wildlife (DOFAW) reporting the authorized and unauthorized work completed by Moloaa Ranch. On December 2002, the landowner approached staff to resolve the alleged violations. On February 2003, the Department received a letter from the landowner elaborating on the unauthorized tree removal at Moloaa. Mr. Lemmo noted there were 32 Iron wood trees cut which had a diameter of more than 6 inches. He believed the landowner should have consulted with staff before removing additional trees. He also noted the landowner cleared more land than agreed upon (5500 square feet) with the State. Mr. Lemmo modified his written recommendation to focus on the trees cut that were 6 inches or greater in diameter and impose a violation for these trees (subtracting out 7 trees). The fine would included

\$2,000 for the clearance of more land than authorized,
 \$2,000 for the removal of all other trees less than 6 inches,
 \$2,000 fine to cover administrative cost
 and cost for each of the 25 trees greater than 6 inches in diameter cut

The Board questioned the violator appearing before the Board for the second time with the same type of violation. Member McCrory asked staff to change their recommendation to a fine of \$2,000 per tree for the 25 unauthorized trees cut along with the above fines.

Keith Kurahashi, planning consultant and Randall Sakumoto attorney for the landowner asked the Board to defer this item so they could consult with their client regarding the change in staff's recommendation of fines.

Motion to Defer

Unanimously approved to defer (McCrory/Martyn).

Item D-19: Unauthorized Pier Construction, Violation No. OA-03-4, by Dennis & Lisa Tanaka, Kaneohe, Oahu, TMK: (1) 4-4-18: 084.

Mr. Lemmo made it known in the late 1990's the State initiated the Kaneohe Bay Pier Amnesty Program. At this time the State solicited people living in Kaneohe to participate in

the program. Because staff's records indicated a pier at their residence, Dennis and Lisa Tanaka were sent an application, which they filled out and return to the Department. During this time the landowner built a pier. Mr. Lemmo recommended the Board impose a fine of \$2,000 for the unauthorized pier and a fines to cover all administrative costs and require the landowner to submit an after-the-fact Conservation District Use Application with in 60 days.

Dennis and Lisa Tanaka were present. Mr. Tanaka told the Board he is in agreement with Staff's recommendation.

The Board amended the Recommendation Section by:

1) Amending paragraph 2 to read as follows:

"2. That the Board impose a fine of \$2,000 pursuant to Chapter 183C, HRS for the unauthorized pier. In addition, that the Board impose fines to cover all administrative costs totaling \$576.32 (\$576.32 Planning Staff); provided that payment of the fines shall be made by the alleged within thirty (30) days of the Board's action;"

2) Amending paragraph 3 to read as follows:

"3. [~~That upon payment of the fine by the alleged within (30) days of the Board's action, the~~] The alleged shall submit an after-the-fact Conservation District Use Application (CDUA) within (60) days of the date of the Board's action for the subject pier, to determine its final disposition;"

3) Amending paragraph 5 to read as follows:

"5. That in the event of failure to comply with Board action items 2 and 3, or 2 and 4, the Board of Land and Natural Resources impose a fine of \$2,000 per day; [~~30 days from the date of the Board's action for the fine; 60 days from the date of the Board's action for the CDUA;~~] pursuant to Chapter 183C, HRS; and"

Unanimously approved as amended (Inouye/Martyn).

Item D-3: Approval to Proceed with Three-Person Appraisal of the Value of Filled Lands and Back Rent Amount at the Hilton Waikoloa Village, Anaehoomalu, South Kohala, Hawaii, Tax Map Key: (3) 6-9-07: 14.

Chairperson Young recused himself.

Ms. Mamiya briefed the Board on background information. She noted on October 25, 2002, the Board approved a conceptual resolution consisting of a land exchange with Lanpar, a perpetual non-exclusive easement for the submerged lands and payment of back rent by

Lanpar. Also at the meeting the Board authorized an independent appraisal of the State filled lands. Mr. Craig Leong of Appraisal Hawaii was hired to conduct the appraisal. Staff met with Lanpar and Ticor and they stated they would not accept Mr. Leong's appraised value. They did indicate agreement to a determination of the fair market value by a three-person appraiser panel, provided that the determination is non-binding. Ms. Mamiya indicated that she believed the three-person appraisal process would be an appropriate measure in arriving to a fair market value. The appraisal process would also save on the litigation process and would expedite the resolution of compensation to the State. She went on to say that by requiring binding appraisal it would not be productive in trying to arrive at fair market value for the lands. Ms. Mamiya noted that Mr. Napehi and others including a lot of phone calls and emails asked the State to reject any type of fee simple conveyance and instead lease the land. Staff feels that the issue of the disposition method has already been decided by the Board and reopening this issue would not be productive to resolving the compensation owed. Ms. Mamiya recommended the Board authorize the Department to enter into non-binding three-person appraisal with Lanpar/HTL Associates and Ticor Title Insurance for the purpose of determining the fair market value of the State filled lands and the fair market rent for the retroactive periods.

The Board had concerns regarding whether the appraisal should be binding or non-binding on Lanpar. When asked how long the appraisal process would take, Ms. Mamiya noted the appraisal would take about six months.

Leighton Yuen, attorney for Lanpar HTL appeared before the Board. Mr. Yuen made it known he agrees with Staff's proposal and has a strong commitment to reaching an acceptable agreement with all parties. Mr. Yuen made it known Lanpar would be conducting their own appraisal. If their appraiser can not reach a consensus with the State's appraiser they would choose a third appraiser.

Jerry Rothstein founder and president of Public Access Shoreline Hawaii (PASH) appeared before the Board and read his written testimony submitted to the Board. Mr. Rothstein spoke in favor of a land lease and was opposed to a land exchange. He feels that the State should pursue negotiations for a lease with Hilton Hotels. Mr. Rothstein requested Staff delete the last nine words "to advance the Board's October 25, 2002 conceptual resolution," as such language means land exchange is the only option, add the words, "Staff shall initiate compensation talks with Hilton Waikoloa Village" and lastly that any further decision making meetings on the disposition of these ceded lands he held at the Hilton Waikoloa Village or at the very least in Kona or South Kohala.

Jim McMahan representing the Office of Hawaiian Affairs (OHA) made it known they stand by their written testimony. He informed the Board OHA feels the appraisal should be binding to ensure compliance with the 1997 federal court order requiring prompt DLNR appraisal of these lands and prompt payment of compensation by the lessee. Lastly OHA continues to oppose a land exchange and believes that a lease is the proper disposition of these lands.

Alan Murakami representing the Native Hawaiian Legal Corporation appeared before the Board. Mr. Murakami felt that there wasn't adequate opportunity for the public to testify at

Palikapu Desmond a native Hawaiian spoke before the Board in opposition of a land exchange. He feels by having a lease it would give 20% of the revenues to OHA and the rest of the monies would go to the education of the children of Hawaii. Mr. Desmond spoke of a case involving a decision the Board of Land and Natural Resources made ten years ago with regards to a land swap. In that case Judge Amano ruled against stopping the land exchange because Mr. Desmond's group filed their motion too late. His group did go ahead and pursue their native gathering rights.

Moses Hianu spoke on behalf of Mervin Napeahi, who could not make today's meeting. Mr. Hianu noted it was Mr. Napeahi's wish that the Board not agree to anything (i.e. a land lease) today. Mr. Hianu asked that Mr. Napeahi be informed of any future meetings and also requested that all future meetings be held on the Big Island.

Jerry Rothstein appeared before the Board a second time to testify. Mr. Rothstein believes there is some type of liability if the State does not negotiate with Hilton Waikoloa. Mr. Rothstein stated he believes the back rent should be collected from Lanpar and current rent should be collected from Hilton Waikoloa.

Leighton Yuen addressed the issue of ownership of the land. Mr. Yuen told the Board Lanpar is the fee simple owner of the land that underlies the hotel. Global Partner's is the entity that is the owner of the improvements of the hotel.

The Board questioned Lanpar collecting rent from the hotel for lands that belong to the State. The Board voiced their opinion on whether part of the monies collected by Lanpar should be placed in an escrow account. There was discussion on collecting rent from Lanpar as soon as possible.

Dan Dinell with the Hilton Hawaiian Village came to speak before the Board. He made it known that the Hilton would like this issue resolved expeditiously. He noted the hotel leases approximately 60 acres from Lanpar but they are the owners of the improvements on the land. Mr. Dinell informed the Board, Hilton was not the owner nor operator of the hotel when the lands in question were filled.

Alan Murakami addressed the Board and stated that he feels the three-person appraisal should be binding. He notes why should the State possibly subject itself to a lower land value by going through this process when it is not binding.

Paul Dolen an attorney specializing in Native Hawaiian rights testified. He told the Board they are the trustees for the Hawaiian people and their land. He feels that State should cease all discussions or contractual agreements made on this issue including the three-person appraisal. The State should have evicted Lanpar a long time ago. He believes Lanpar has acted in bad faith.

The Board instructed staff to present to the Board in one month how the State might start charging Lanpar rent.

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The Board amended Exhibit A by:

1) **Amending subparagraph 5.d. to read as follows:**

“d. If at least two of the appraisers cannot agree, then the appraisal process shall end.”

2) **Adding subparagraph 5.e. to read as follows:**

“e. Within one month after 5.c. or 5.d., staff shall come back to the Board with either an eviction action or accepted values for a land exchange or lease.”

Unanimously approved as amended (DeMello/Inouye).

Item C-1: Request for Final Approval of the Federal Habitat Conservation Plan for Hawaiian Stilt at Cyanotech Aquaculture Facility, Keahole Point, Hawaii.

Michael Buck Administrator for the Division of Forestry and Wildlife (DOFAW) informed the Board the division has been through the public hearing process and has received comments from the Endangered Species Recovery Committee. Mr. Buck recommended the Board approve the attached Conservation Plan for Stilt at Cyanotech and Issuance of the Incidental Take License.

Unanimously approved as submitted (DeMello/Martyn).

Item C-2: Request for Approval of DLNR Radio System Maintenance Contract with Pacific Wireless Communications.

Mr. Buck told the Board this is the same contract as last year. The department was satisfied with the service and would like to negotiate a maintenance contract for the department. Mr. Buck recommended the Board authorize the Chairperson to negotiate and subject to necessary

approvals, execute the radio maintenance contract for the Department of Land and Natural Resources (Green Net).

Unanimously approved as submitted (Martyn/DeMello).

Item D-2: Issuance of Right-of-Entry Permit to U.S.A., Department of the Army on Lands Encumbered by Governor's Executive Order No. 3338, Keawaula & Kahanahaiki and Makua, Waianae, Oahu, Tax Map Key: (1) 8-1-01: 08, 14; (1) 8-2-01: 22.

Ms. Mamiya briefed the Board and recommended the Board authorize the issuance of a right-of-entry permit to U.S.A., Department of the Army covering the subject area.

Unanimously approved as submitted (Inouye/McCrory).

Item D-4: Consent to Assign General Lease No. S-4985, Esaki Surveying and Mapping, Inc., Assignor, to Dwight Ornellas, Assignee, Lot 27, Kokee Camp Site Lots, Waimea, (Kona), Kauai, Tax Map Key 1-4-04: 30.

Ms. Mamiya made it known that Dwight Ornellas would like General Lease No. S-4985 assigned to himself. Ms. Mamiya recommended the Board consent to the assignment of General Lease No. 4985 from Esaki Surveying and Mapping, Inc., as Assignor, to Dwight Ornellas, as Assignee.

Unanimously approved as submitted (McCrory/Martyn).

Item D-5: Forfeiture of General Lease No. S-4975, Alma Zalopany, Lessee, Waimea, Kauai, Tax Map Key: (4) 1-4-3: 6.

Ms. Mamiya indicated she would like to withdraw this item as the lessee has cured the performance bond and the liability insurance issue.

The Board expressed its concern over this lessee's poor history of defaults.

Motion to Withdraw

Unanimously approved to withdraw (McCrory/Inouye).

Item D-7: Amend Prior Board Action of September 14, 2001, Item D-12, Grant of Easement to the Hawaii Electric Light Company Inc. and Verizon Hawaii, for Utility Anchor Purposes at Kaumana, South Hilo, Hawaii. Tax Map Key 3rd/2-4-055: 047.

Ms. Mamiya recommended the Board amend its prior Board action of September 14, 2001.

Unanimously approved as submitted (DeMello/Johns).

Item D-9: Rescind Prior Board Action of April 9, 1999, (Agenda Item D-23), Direct Sale of a 55 Year Term, Non-Exclusive Easement to Haiku Plantations Association for Drainage and Maintenance Purposes over Government Land Situate at Waiahole Forest Reserve, Heeia, Oahu, TMK: 4-6-015: 03.

Ms. Mamiya briefed the Board and recommended the Board rescind its prior Board action of April 9, 1999 under Agenda Item D-23.

Unanimously approved as submitted (Inouye/McCrory).

Item D-11: Amendment to Prior Board Action of June 14, 2002, Agenda Item D-8, Grant of Perpetual, Non-Exclusive Easement to Hawaiian Electric Company, Inc. (HECO) and Verizon Hawaii Inc. (Verizon) for Utility Purposes and Cancellation of Revocable Permit No. 236 to Hawaiian Electric Company, Inc., Pouhala Homesteads, Waikele, Ewa, Oahu, Tax Map Key: 9-4-11: pors. of 17, 20 & 29.

Ms. Mamiya disclosed there were actually two disposition documents, instead of one that needs to be cancelled. Ms. Mamiya recommended the Board amend its prior action of June 14, 2002, Agenda Item D-8.

Unanimously approved as submitted (Inouye/Johns).

Item D-12: Consent to Assign General Lease No. S-5613, Blue Chip Corporation, Assignor, to George J. Handgis and Sharon J. Handgis, Trustees of the Handgis Living Trust, Assignee, Keauhou 1st, North Kona, Hawaii, Tax Map Key: 3rd/7-8-12: 40, 41, 51 & 75.

Ms. Mamiya briefed the Board and recommended the Board consent to the assignment of General Lease No. S-5613.

Unanimously approved as submitted (DeMello/Martyn).

Item D-13: Amend Prior Board Action of December 13, 2002, (Agenda Item D-50), Continuation of Permits; Revocable Permit No. 7108, New Kapahulu Business Association, Permittee, situated at Waikiki, Honolulu, Oahu, Tax Map Key: 2-7-036:4.

Ms. Mamiya asked to withdraw this item.

Motion to withdraw

Unanimously approved to Withdraw (Inouye/Martyn).

Item D-14: Rescind Prior Board Action of November 20, 1992 (Agenda Item F-1-h), Consent to Revocable Permit to M & N Construction, Inc. for Business Purposes at Hanapepe, Kauai, Tax Map Key: (4) 1-9-10: 35.

Ms. Mamiya recommended the Board rescind the prior Board action of November 20, 1992, under agenda item F-1-h.

Unanimously approved as submitted (McCrorry/Johns).

Item D-15: Consent to Assign of Grant of Easement Identified by General Lease No. S-4558, Harry Fong and Gertrude Fong, Assignors, to James Hazel Sayles, Jr. and Adriana Hall Sayles, Assignee, Hauula, Koolauloa, Oahu, Tax Map Key: 5-4-07: 63.

Ms. Mamiya noted this item is a request to assign a grant to easement to James and Hazel Sayles, Jr. and Adriana Hall Sayles in government lands in Hauula. She recommended the Board consent to the assignment of Grant of Easement identified by General Lease No. S-4558.

Unanimously approved as submitted (Inouye/Martyn).

Item D-16: Forfeiture of Revocable Permit No. S-7303, Quality Precast Products, Inc., Permittee, Honouliuli, Ewa, Oahu, Tax Map Key: (1) 9-1-031: portion 001.

Ms. Mamiya pointed out the permittee has a rental delinquency of \$14,400 and that they have also submitted written testimony to the Board indicating their financial situation. Ms. Mamiya recommended the Board authorize the cancellation of Revocable Permit No. S-7303 in the manner specified by law.

Unanimously approved as submitted (Inouye/Martyn).

Item D-17: Cancellation of Grant of Easement No. S-4576-A, assigned to Wayne and Jan Royal; Grant of Perpetual, Non-Exclusive Easement to Juan Wilson and Linda Pascatore for Access and Utility Purposes, Hanapepe, Waimea, (Kona), Kauai, Tax Map Key: 1-9-12: 5.

Ms. Mamiya briefed the Board and recommended the Board authorize the Grant of Easement No. S-4576-A effective July 11, 2001 and authorize the issuance of a perpetual non-exclusive easement to Juan Wilson and Linda Pascatore covering the subject area.

Unanimously approved as submitted (McCrorry/Martyn).

Item D-21: Consent to a Revocable Permit No. 24 between Department of Business, Economic Development and Tourism and 50 First Kisses, Inc., a Delaware

**Corporation, for Lands under Governor's Executive Order No. 3450,
Kapahulu, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 3-1-42: 09 Por.**

Ms. Mamiya indicated 50 First Kisses Inc., would like to use the film studio at Kapahulu. She recommended the Board consent to a revocable permit between Department of Business, Economic Development and Tourism and 50 First Kisses, Inc.

Unanimously approved as submitted (Inouye/Martyn).

Item D-22: Issuance of Revocable Permit to Brian M. Andrade, Kuwaawaa Pasture Reserve, Kalaheo, Koloa, Kauai, Tax Map Key: 2-4-3: 1.

Ms. Mamiya briefed the Board and recommended the Board authorize the issuance of a revocable permit to Brian M. Andrade covering the subject area for pasture purposes.

Unanimously approved as submitted (McCrorry/Martyn).

Item D-25: Consent to Assign Perpetual, Non-Exclusive Access and Utility Easement [LOD No. S-38338], from TRP Ventures, as Assignor, to Hale & Karen DEMAR, Assignee, Kamaole, Makawao, Maui, Tax Map Key: (2) 2-2-001: No Parcel Number.

Ms. Mamiya conveyed that TRP Ventures does not have current liability insurance and the assignee will be responsible for submitting current insurance. Ms. Mamiya recommended the Board consent to the assignment of L.O.D No. S-3 8338 from TRP Ventures, assignor to Hale and Karen Demar, Assignee.

Unanimously approved as submitted (DeMello/Martyn).

Item D-26: Forfeiture of Revocable Permit No. S-5126, Nohea Santimer, et al, Permittee, for Pasture Purposes, Keaau, Waianae, Oahu, Tax Map Key: 8-3-01: 09.

Ms. Mamiya briefed the Board and recommended the Board authorize the cancellation of revocable Permit No. S-5126 in the manner specified by law.

Unanimously approved as submitted (Inouye/Martyn).

Item L-1: Authorization to Drill and Test an Exploratory Well, and Enter into a Right-of-Entry with the Department of Business and Economic Development and Tourism (DBEDT), Housing and Community Development Corporation of Hawaii (HCDCH).

Andrew Mondon Engineer with the Engineering Division briefed the Board and recommended the Board authorize the cancellation of Revocable Permit No. S-5126 as specified by law.

Unanimously approved a submitted (McCrorry/Inouye).

There being no further business, Chairperson Young adjourned the meeting at 3:06 p.m.

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

Respectfully submitted,

Terry Crowell

Terry Crowell

Approved for submittal:

Peter T. Young

for

PETER T. YOUNG

Chairperson

Department of Land and Natural Resources