

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

DATE: FRIDAY, DECEMBER 12, 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 8:45 a.m. The following were in attendance:

MEMBERS

Mr. Peter Young	Ms. Lynn McCrory
Mr. Timothy Johns	Mr. Ted Yamamura
Mr. Toby Martyn (arrived at 10:20 am)	

STAFF

Ms. Dede Mamiya, Land Division	Mr. Dan Quinn, State Parks
Mr. Francis Oishi, Aquatic Resources	Mr. Eric Hirano, Engineering
Mr. Peter Garcia, DOT	Mr. Mike Buck, DOFAW
Mr. Bill Stanley, DOFAW	

OTHERS

Ms. Linda Chow, Deputy Attorney General	
Ms. Yvonne Izu, Deputy Attorney General	
Mr. Jay Paige, Deputy Attorney General	
Mr. Vince Kanemoto, Deputy Attorney General	
Mr. Bill Wynhoff, Deputy Attorney General	
Mr. Russell Sugi, Deputy Attorney General	
Mr. Ryan Churchill, D-46	Mr. Lance Foster, D-46
Mr. Ernest Kimoto, D-46	Mr. Roy T. Nishida, D-37
Ms. Karina Terakura, D-47	Mr. Sidney Fuki, D-11
Mr. John Carroll, D-14	Mr. Don Couch, D-15
Ms. Sheree Nitta Stewart, D-42	Ms. Luanne Murakami, D-40
Ms. Michele Luke, D-31	Ms. Linnel Nishioka, D-31
Mr. Warren Lee, D-31	Mr. Dudley Pratt, D-38

Mr. Dan Williamson, D-38  
Mr. Richard Peterson, F-1  
Ms. Noreen Van Horn, D-43  
Mr. Kenneth Simm, D-44  
Ms. Ronnie Grover, E-4  
Ms. Mary Kagawa-Walker, E-4  
Mr. Michael Ho, D-49, M-7  
Mr. Cedric Choi, D-34  
Mr. Bill Plum, D-2  
Ms. Eve Anderson, D-2  
Ms. Yukie Ohashi, C-1  
Mr. Nelson Sega, C-1

Ms. Barbara Locricchio, D-38  
Mr. Richard Van Horn, D-43  
Mr. Kenneth Wong, D-44  
Mr. Merton Lau, D-33  
Mr. Ted Myers, E-4  
Mr. Andrew Evans, E-4  
Mr. Stephen Sekiya, D-49, M-7  
Mr. David Hagino, D-35  
Mr. John Lehnert, D-2  
Mr. Ron Suzuki, C-1  
Mr. Darryl Young, C-1  
Ms. Gracelyn Bravo, C-1

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

Motion made at 8:45 a.m. by member McCrory and second by member Johns to move into Executive Session to consult with the Deputy Attorney General on the Recreation Residence Leases at Kokee State Park, Kauai.

**Unanimously approved to move into Executive Session (McCrory/Johns)**

The meeting was resumed at 9:19 a.m.

**Item A-1: Minutes of November 4, 2003**

The following changes were made:

Page 1 in the "Others" section, fourth line and Page 5, third paragraph

**Ms. Susan [~~Stateman~~] Stanton**

Page 2, fifth paragraph, second sentence

**"He spoke of Seratoma an outdoor educational facility in South Dakota. The state of South Dakota came up with a plan detailing what they envisioned on the land and went to the public to solicit donations."**

Page 3, Item 3, first paragraph, second sentence

**"He informed the Board that Kauai DLNR staff has been working on a Master Plan for the area for over five years."**

**Unanimously approved as amended (Johns/McCrory).**

**Item A-2: Minutes of November 5, 2003**

**Unanimously approved as submitted (McCrorry/Johns).**

**Item D-46: Final Approval of Land Exchange between the State of Hawaii and Maui Land & Pineapple Company, Inc. for State-Owned Lands at Lahaina, Maui, TMK: (2) 4-3-1:5, 6, 7, 8 and Privately-Owned Lands at Waikele, Oahu, TMK: (1) 9-4-166:2, 3, and 4.**

Dede Mamiya Administrator of the Land Division came forward and informed the Board she is requesting a exchange of 226 acres of State owned lands in Maui (which are surrounded by lands owned by Maui Land and Pineapple) for three vacant lots in Mill Town Center. An appraisal of the parcels has been completed. The State owned lands were appraised at 1.51 million and the Maui Land and Pineapple (MLP) lands were appraised at 1.64 million. Ms. Mamiya believes the acquisition of the MLP lands would improve the assets of the public land trust. She feels the State agriculture lands could bring in an income of \$6,000 per year while the industrial lands would generate anywhere from \$98,000 - \$131,000 per year. Ms. Mamiya noted MLP has a buyer for parcel 4 and would like to delete it and replace it with parcel 1 which is a slightly larger parcel. Ms. Mamiya recommended the Board authorize the final approval of the land exchange between the State of Hawaii and Maui Land & Pineapple Company, Inc. and authorize the cancellation of Revocable Permit No. S-5978 effective upon the execution of the land exchange deed.

Ryan Churchill of Maui Land and Pineapple was present to answer any questions.

Lance Foster director of Native Rights, Land and Culture for the Office of Hawaiian Affairs (OHA) came forward and testified in opposition of the exchange of ceded lands. Mr. Foster testified against the State's desire to shrink the amount of ceded land in the public land trust. He believes the State is being negligent in its duty to obtain the highest and best use for the state lands in question. Mr. Foster feels the State should appraise the lands as urban instead of agriculture lands as the state lands in question is currently before the Land Use Commission to change the status of the lands. Lastly, Mr. Foster feels the State should evaluate the impact of the proposed development on the citizens in the area. He feels the State should not encourage high cost developments without first addressing the long term effect on the area.

Ernest Kimoto senior staff attorney with the Office of Hawaiian Affairs informed the Board his office will likely be requesting a contested case hearing and file the necessary paperwork within ten days if that is the decision made by their administration.

The Board asked Mr. Kimoto if he has seen the State parcel in question. Board member Yamamura went on to explain the portion of land owned by the State is basically a gulch parcel but through this land exchange the State would be receiving prime industrial land. He encouraged OHA to go and look at this parcel.

The Attorney General informed the Board because this is a disposition of property, under case law it does not entitle OHA to a contested case hearing. The Board noted OHA should take their case to the legislature.

**The Board amended the Recommendation Section by:**

**1) The title of the submittal to read as follows:**

**"Final Approval of Land Exchange between the State of Hawaii and Maui Land & Pineapple Company, Inc. for State-Owned Lands at Lahaina, Maui, Tax Map Keys: (2) 4-3-1:5, 6, 7, 8, and Privately-Owned Lands at Waikele, Oahu, Tax Map Key: (1) 9-4-166: 1, 2, and 3[~~and 4~~]."**

**2) The Privately-Owned Property under "Properties to be Exchanged" as follows:**

**"LOCATION: Lands of Waikele situated at Ewa, Oahu, identified by Tax Map Keys: (1) 9-4-166: 1, 2, and 3, [~~and 4~~], as shown on the attached map labeled Exhibit B.**

**AREA: [~~1.432~~] 1.455 acres, more or less, consisting of the following parcels:**

**Parcel 1: 24,974 square feet, more or less.**

**Parcel 2: 16,480 square feet, more or less.**

**Parcel 3: 21,935 square feet, more or less.**

**[Parcel 4: ~~23,962 square feet, more or less.~~]"**

**3) The Recommendation Section by amending subsection 1.C. to read as follows:**

**"1.C. Authorize the Chairperson to review and approve the appraisal of Lot 1 which shall be in accordance with Section 171-50, HRS, and to prescribe other terms and conditions as may be necessary to carry out the intent of the Board and to best serve the interests of the State."**

**Unanimously approved as amended (Yamamura/Johns).**

**Item D-37: Cancellation of Governor's Executive Order No. 1713 and Reset Aside to County of Kauai for Residential Treatment Facility, Hanapepe, Kauai, TMK: 1-8-8:63.**

Ms. Mamiya made it known the property was under an executive order to the Kauai Humane Society until November 2001 at which time the new Humane Society was completed. She communicated Mayor Baptiste has asked the department to reissue the executive order to the County of Kauai for use of the area as an adolescent residential treatment facility. It was made known the County of Kauai might need to address the issue of infrastructure. In terms of funding this project the County of Kauai will go before the legislature to request funding for construction. Ms. Mamiya recommended the Board approve the issuance of an executive order canceling Governor's Executive Order No. 1713 and approve to the Governor the issuance of an executive order setting aside the subject lands to the County of Kauai.

Roy Nishida representing the Mayor's office was present.

**Unanimously approved as submitted (McCrorry/Johns).**

**Item D-47: Consent to Assign Grant of Non-Exclusive Easement (L.O.D. No. S-27,765), Hawaii Omori Corporation, Assignor, to Gianulias Investments, LLC, Assignee, Lahaina Town, Lahaina, Maui, TMK: (2) 4-5-005: seaward of 009, 010 and 011.**

Ms. Mamiya conveyed to the Board the applicant, Hawaii Omori Corporation is currently in compliance with all obligations and is recommending the Board consent to the assignment of Grant of Non-Exclusive Easement.

Karina Terakura representing Gianulias Industries was present.

**The Board amended the submittal by replacing "Gianulias Investments, LLC" with Lahaina Cannery Mall, LLC" Everywhere it appeared in the submittal.**

**Unanimously approved as amended (Yamamura/Johns).**

**Item D-11: Grant of Perpetual, Non Exclusive Easement to Keaau Service Station, Inc., for Access Purposes, Olaa, Puna, Hawaii, TMK: (3) 1-7-01: por. of 63.**

Ms. Mamiya communicated the proposed easement would serve as access to the Keaau Service Station's fee owned property. Currently the Service Station is working with the Department of Transportation in planning improvements to the Huina Road/Volcano Road intersection and these improvements necessitates the relocation of the existing service station access. Staff also feels the relocation of the access road will improve the long-term commercial use of the State's property even after the lease expires. Ms. Mamiya recommended the Board authorize the issuance of a perpetual, non-exclusive easement and grant an immediate construction right-of-entry to Keaau Service Station, Inc. covering the subject area.

Sidney Fuki representing Keaau Service Station was present

**Unanimously approved as submitted (Johns/McCrory).**

**Item D-14: RE-SUBMITTAL: Enforcement Action Involving Unauthorized Use of State Land, Grading Violation and Illegal Dumping of Fallen Trees onto Unencumbered State Lands, Mr. Alfred J. Andrade and/or Alfred J. Andrade LTD Partnership, Alleged, Kaa0 Homesteads, Hamakua, Hawaii, TMK: (3) 4-5-03:13.**

Ms. Mamiya went over the history of this submittal. She informed the Board this submittal involves illegal grading and dumping of fallen trees into unencumbered State lands by Alfred Andrade and/or Alfred Andrade Ltd Partnership. Staff originally assessed a per day fine for the violation due to the applicants inaction to correct the violations. At the September 26, 2003,

meeting the Board deferred action on this item based on a request by the attorney for the Alfred J. Andrade Ltd. Partnership. Upon inspection of the site with staff and the Natural Resource Conservation Services (NRCS), it was recommended that all cut trees, branches and debris be removed from the gulch. The Partnership has acknowledged that violations have occurred and have agreed to follow the recommendations of the NRCS. They have also agreed to pay any fines and administrative costs that have incurred. Because the Partnership has been cooperative and is willing to pay for remediation costs, staff recommends the fine be dropped from a per day calculation to a flat \$500. Ms. Mamiya recommended the Board find that Alfred Andrade and/or the Alfred Andrade Partnership encroached upon State unencumbered land and violated the provisions of §§13-221-28(a) and 13-221-30 of the Hawaii Administrative Rules, impose a fine in the amount of \$500.00, assess administrative costs totaling \$1500.00, require Alfred J. Andrade and/or Alfred J. Andrade Ltd. Partnership to remove all cut trees, branches and debris from the gulch and any fill material within thirty days and hire a professional engineer licensed in the State of Hawaii to develop and implement a site plan that address erosion and the stability of the devegetated banks of the gulch.

The Board was concerned with a flat fine of \$500.00 assessed for the above violations and the message it would send to the public.

Ms. Mamiya explained the Partnership who owns the piece of land where the trees were cut down from, had no control over the actions taken by Mr. Andrade but they are willing to accept responsibility for what has occurred.

John Carroll attorney representing the Alfred J. Andrade Ltd Partnership came forward to testify. Mr. Carroll asked the board to meet in private to discuss confidential matters pertaining to this submittal.

Ms. Mamiya clarified to the Board there was no way the department could go after Mr. Andrade for the violations that occurred.

Motion made at 9:37 a.m. by Member McCrory and seconded by member Johns to move into Executive Session to discuss confidential matters pertaining to this submittal

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

The meeting resumed at 9:48 a.m.

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

**"G. In the event of failure of the Alleged to comply with any of the above items, a \$500 per day fine shall be imposed and the matter shall be turned over to the Attorney General for disposition, including all administrative costs."**

**Unanimously approved as amended (Johns/McCrory).**

**Item D-15: Set Aside to County of Maui for an Affordable Housing Project, Lower Honokowai, Lahaina, Maui, TMK: (2) 4-4-001:106.**

Ms. Mamiya confirmed the parcel in question is currently leased to the County of Maui for parking purposes. In this submittal staff would like to lease the land to the County of Maui for affordable housing. An adjacent property owner known as the Maui Breakers has proposed the development of an affordable housing project in concert with the redevelopment of his private property. The plan also calls for an emergency access corridor to be provided through the parcel to Honoapiilani Highway. The County has been looking for such a corridor to provide a needed evacuation route for this area. The County is also pursuing this opportunity to provide affordable housing in this area. The County intends to lease the land to the developer at nominal rent in accordance with Section 171-84, Hawaii Revised Statutes. Comments were solicited from the Office of Hawaiian Affairs and the Department of Hawaiian Home Lands (DHHL). DHHL reminded staff they were entitled to 30% of the lease rent. Staff notes that the Department of the Attorney General has advised staff when the lands are set aside the controlling agency is responsible for paying DHHL 30% of whatever is received. Ms. Mamiya recommended the Board approve and recommend to the Governor the issuance of an executive order setting aside the subject lands to the County of Maui.

**Unanimously approved as submitted (Yamamura/Johns).**

**Item D-40: Approval of Lease of Private Property with Mr. Toshio Nakashima, on Behalf of the Department of Human Services, for File Storage Purposes at Honokaa, Hamakua, Hawaii, TMK: 4-5-06:05.**

Ms. Mamiya made it known the Department of Human Services received notice from the Department of Health terminating their use of space for file storage. A verbal agreement has been obtained from Mr. Toshio Nakashima for use of approximately 400 square feet of space. Ms. Mamiya recommended the Board approve entering into a lease with Mr. Toshio Nakashima and Mr. Earl T. Nakashima on behalf of the Department of Human Services covering the subject area.

**Unanimously approved as submitted (Johns/Yamamura).**

**Item D-42: Appointment and Section of a Hearing Officer to Conduct All Hearings for One (1) Contested Case Hearing. Docket No. KA-04-07. In the matter of a Contested Case to Appeal Staff's Recommendation Regarding Proposed Size of Single Family Resident (SFR); SFR Setback, Visual Impact to SFR; and Erosion and Flooding.**

Ms. Mamiya confirmed the Department received a petition from Roy Vitousek who represents Edi Ben-Dor contesting staff's findings and recommendations in regards to the CDUA for the Ben-Dor Single family residence. Ms. Mamiya recommended the Board authorize the appointment of a Hearing Officer and let the Hearing Officer conduct all the hearings relevant to the petition and also delegate the authority for selection of the Hearing Officer to the Chairperson.

Sheree Nittta Stewart representing the applicant noted she had no objections to staff's recommendations.

**Unanimously approved as submitted (Johns/Yamamura).**

**Item D-31: Issuance of Revocable Permit to Hawaii Electric Light Company, Inc., Keahole, North Kona, Hawaii, TMK: 7-3-49:36.**

Ms. Mamiya pointed out the subject land was transferred to Hawaii Electric Light Company (HELCO) through a Land Patent Grant but reserved the water rights. On three previous occasions staff has appeared before the Board trying to obtain a water lease for HELCO but the item was deferred due to litigations with regards to the Conservation District Use Application (CDUA). In November 2003, HELCO entered into a settlement with various group to terminate all pending litigations. The settlement ended over 10 years of lawsuits between the parties. In the settlement it was determined that Waimana Enterprises did not have standing in the matter and was therefore not part of the settlement. HELCO long-term plan is to obtain a water lease but due to the requirement under Section 171-58 HRS the process can take more than a year to complete. Meanwhile HELCO is requesting a revocable permit to use the water so they can replace the potable water with brackish water for fire suppression needs. Ms. Mamiya recommended the Board authorize the issuance of a revocable permit to Hawaii Electric Light Company, Inc., covering the subject area.

Ms. Mamiya disclosed Waimana Enterprises has requested a petition for a contested case hearing. Yvonne Izu of the Deputy Attorney General's Office informed the Board that this was not a contestable issue.

Michele Luke appeared before the Board to represent Waimana Enterprise Inc. and Albert S. M. Hee in his individual capacity as a Native Hawaiian. Ms. Luke noted it was their organization that requested a contested case hearing. For the record she noted the request for the revocable permit did not address the impact to the watershed management plan. The Environmental Impact Statement (EIS) done in 1994, is based upon a power plant planned by HELCO, which is not similar to what is now being planned by HELCO. She believes the Board is allowing HELCO to build a fossil fuel burning power plant on conservation land without having addressed the specifications of the new power plant and the impact to the environment. Ms. Luke indicated the law prohibits the construction of a fossil fuel burning power plant on conservation lands. Ms. Luke disclosed she believes HELCO is in the process of seeking to rezone the land from conservation to urban and would therefore require HELCO to perform a new EIS. To address the issue of standing, Ms. Luke went on to state why she believes Waimana and Mr. Hee has standing in this matter. In terms of why she believes this issue can invoke a contested case hearing, she notes when property interest of others are being impacted they should be able to request a contested case hearing.

Ms. Linnel Nishioka representing HELCO and Warren Lee President of HELCO came forward to testify. Ms. Nishioka noted their concurrence with staff's submittal. In response to Ms. Luke's testimony, Ms. Nishioka believes if Waimana Enterprise felt the current EIS was insufficient the proper remedy would have been to file a Chapter 343 lawsuit back in 1994.



Unanimously approved as submitted (Johns/McCrory).

**Item D-38: Holdover of Leases for Various Lessees, Kokee Campsite and Puu Ka Pele Park Lots, Waimea, Kauai, TMK: (4) 1-4-3, 1-4-04, 1-4-02.**

Ms. Mamiya communicated staff is requesting that all Kokee leases be put on the same termination schedule of December 31, 2006. All lessees requesting a holdover were in compliance with their rent, liability insurance and performance bond requirements. She made it known if other lessees come forward after today requesting a holdover they will return to the Board with that request.

Dudley Pratt, co-lessee of lot 7 in the Pu'u Ka Pele area requested to see a copy of State Parks Master Plan. He also asked what the goal or objective of the Master Plan is.

Dan Williamson a Kokee leaseholder requested a lease extension of five years (instead of a one year holdover) because he believes it will enable the current lessees to preserve things in Kokee they consider valuable. He went on to speak of work being done by the leaseholders association.

Barbara Locricchio a Kokee leaseholder questioned if it was possible to change a section of the contract that stated the cabins will revert to the State at the end of the lease without compensation. She felt the lessees should be compensated for the cabins.

**The Board amended the Recommendation Section by:**

- 1) **Changed Exhibit B to Exhibit A;**
- 2) **Amended Exhibit A by:**
  - A) **Deleting the following leases:**

<u>Doc #</u>	<u>Lessee Name</u>	
g15031	Hagino, David M.	(Refer to forfeiture submittal, item D-35)
g15045	Camp Kokee Corp, c/o Roy Yempuku	(Past forfeiture action required lessee to submit secured performance bond; none received; per Lessee documents in the mail)

- B) **Adding the following leases:**

<u>Doc #</u>	<u>Lessee Name</u>	<u>TMK</u>	<u>Insurance</u>	<u>Bond</u>	<u>Rent</u>
g14987	Kumuwela, Inc.	(4) 1-4-4:20	07/06/2004	Personal Surety	Past due \$17.27
g15051	Dana, Ned & Hollis	(4) 1-4-2:18	01/06/2004	Personal Surety	Past due \$14.08
g15057	Hurley, Paul & Maile	(4) 1-4-2:12	05/03/2004	Personal Surety	Past due \$7.50
g15067	Nitta, Aileen, et al.	(4) 1-4-2:14	02/13/2004	Personal Surety	Past due \$5.25
g15075	Tenbruggeencate, Jan	(4) 1-4-2:40	02/10/2004	Personal Surety	Past due \$8.02
g15098	Neerings, Jill Hana	(4) 1-4-2:81	06/09/2004	Personal Surety	Past due \$7.63

Unanimously approved as amended (McCrory/Yamamura).

**Item F-1: Assessment of limited commercial use at the Waiopae Tidepools Marine Life Conservation District (MLCD), Hawaii.**

Chairperson Young recused himself.

Francis Oishi Program Manager with Aquatic Resources noted at the March 14, 2003 Board meeting, the Board adopted the establishment of a Marine Life Conservation District (MLCD) at Waiopae Tidepools at Kapoho, Hawaii. At that meeting the Board asked staff to assess whether or not limited commercial use at Waiopae would be acceptable. The Department also received correspondence from the County of Hawaii in which the County determined that commercial activity is not permitted under the residential zoning code for lands adjacent to Waiopae. In summary Mr. Oishi recommended that the Board uphold their previous decision to support the rule as was originally promulgated.

Richard Peterson representing Mark Wilhelm and Planet Ocean Watersports testified. Mr. Peterson noted there was a strong appearance of impropriety in the adding, at the last minute of the anti-business provisions for the MLCD. He noted he requested a copy of the above assessment in October 2003, but did not receive anything from the department. Mr. Peterson went on to speak of the tour Planet Ocean Watersports conducts and the income it provides for nine employees. He informed the Board there is not other viable alternative location similar to Waiopae. He asked the Board to delay acting on this matter because he has filed a 91-6 petition on the assessment of Waiopae to amend the rules pertaining to banning of snorkeling and the provision that does not allow permits to be given for snorkeling. He asked the Board to grant an interim relief, which would allow Planet Ocean Watersport to continue commercial operations at Waiopae. Addressing the issue of zoning, Mr. Peterson made it known there is public access to enter Waiopae therefore they will not be violating residential zoning laws. In conclusion, Mr. Peterson feels the rules go too far in banning commercial activity at Waiopae.

**Motion made at 10:37 a.m. to go into Executive Session to discuss legal issues pertaining to this submittal.**

**Unanimously approved to go into Executive Session (Johns/Martyn).**

**The meeting was resumed at 10:44 a.m.**

**The Board accepted staff's report and did not make any changes to the rules.**

Mr. Peterson asked the Board to suspend the Waiopae Tidepools rules until the completion of the administrative hearing and possible appeals on this issue.

The Board informed Mr. Peterson they were not able to suspend the Waiopae Tidepool rules.

**Item D-43: Sale of Reclaimed Land to Richard H. Van Horn and Noreen Mau Van Horn, as Trustees; and Rescind Prior Board Action of December 12, 2003, Agenda Item D-22 for Grant of a Term Non-Exclusive Easement for Seawall Purposes, Kaneohe, Koolaupoko, Oahu, TMK: (1) 4-6-001:009 seaward.**

Ms. Mamiya reminded the Board the applicant previously came before the Board and was granted a non-exclusive easement for seawall purposes. Recently, Mr. Van Horn submitted a photo which indicated the seawall encroachment was present in 1952. Pursuant to Section 171-53(b), HRS, if submerged lands were filled or "reclaimed" as of June 12, 1962, the Board may sell the land to the abutting owner after finding that its disposition is not prejudicial to the best interest of the State. Therefore Ms. Mamiya is recommending the Board authorize the sale of the subject reclaimed land to Richard H. Van Horn, as trustee of the Richard Hunt Van Horn Revocable Living Trust and Noreen Mau Van Horn, as Trustee of the Noreen Mau Van Horn Revocable Living Trust and rescind the prior Board action.

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

- "4. Rescind prior Board action [~~of December 12, 2003,~~] agenda item D-22 for grant of a term non-exclusive easement for seawall purposes."**

**Unanimously approved as amended (Martyn/McCrory).**

**Item D-44: Grant of 55-year Term, Non-Exclusive Easement to Kenneth Simon for Seawall and Fill Land Purposes, Kaneohe Bay, Oahu, TMK: 4-6-01:06 seaward.**

Ms. Mamiya pointed out the applicant applied for a building permit and during the survey for the shoreline certification, a seawall and fill land encroachment was discovered. The area of encroachment is about 819 square feet. Staff is recommending imposing a \$500.00 fine for the encroachment. The applicant has requested an estimated easement calculation to allow the shoreline certification process to proceed while the easement is being processed. Ms. Mamiya recommended the Board authorize the issuance of a 55-year term, non-exclusive easement to Kenneth Simon covering the subject area for seawall and fill land purposes.

**Unanimously approved as submitted (Martyn/McCrory).**

**Item D-33: Sale of Remnant to Merton Lau, Honolulu, Oahu, TMK: (1) 2-7-28:19.**

Ms. Mamiya conveyed the property is located across the Hawaii Humane Society. In the 1950's this remnant was created when construction of the H-1 freeway went through this parcel and 17,000 square feet was withdrawn. Staff communicated with the Department of Transportation (DOT) and was informed DOT would not grant approval for access to this parcel because it was deemed unsafe. In view of DOT determination restricting access, the Planning and Development Manager did not believe the lot can be developed as an independent lot and therefore qualifies the parcel as a remnant. Staff is requesting a condition be included in the conveyance document restricting access to and from the remnant. Ms. Mamiya recommended the Board authorize the consolidation of the subject remnant to Merton Lau covering the subject area.

**Unanimously approved as submitted (Martyn/McCrory).**

**Item E-4: Request for Authorization to Pursue a Public Process to Issue Special Use Permits to Make Commercial Tour Boat Landings at the Na Pali Coast State Park, Kauai.**

Dan Quinn Administrator for State Parks came forward to address the Board. He pointed out in the past the Board has approved three Special Use Permits to make commercial tour boat landings at Na Pali Coast State Park. Currently the three companies with this authorization are: Na Pali Zodiac, Kauai Sea Tours and Lady Ann Cruises. These permits will expire on December 31, 2003. At the time the submittal was prepared, no request for extensions were received but recently extension requests were received from each of the three companies listed above. The intent of State Parks is to issue permits through a public process to insure a fair and equitable opportunity for all qualified tour boat companies. Staff will use the previously approved number of landings and/or number of passengers as the maximum allowable capacity under the new permits. Mr. Quinn recommended the Board authorize pursuing a public process to issue State Parks' Special Use Permits for commercial tour boat landings at the Na Pali Coast State Park.

The Board inquired if the type of public process to issue the permits has been determined (i.e. high bid or lottery). Mr. Quinn indicated the type of public process has not yet been ironed out. He anticipates proceeding with the process within the next three months.

Ronnie Grover General Manager of Kauai Sea Tours came forward to read from her written testimony. She told the Board over the years, it has been her experience that the policy of the Board and State Parks was to allow the extension of the Special Use Permit if the company followed the rules and was in good standing with the Department. She believed the only permits that should come up for the public process would be those of a company who had not complied with the Board's requirements. Ms. Grover went over the contributions her company has made to State Parks monetarily and with manpower. She expressed her company's mission which is to help preserve and perpetuate the special archaeological site and share the history of Nualolo with others. To help in alleviating some of the burden undertaken by State Parks to maintain the parks, Ms. Grover suggested the following: 1) Increase the daily landing fee from \$1.00 per passenger to \$3.00 per passenger or a minimal monthly fee similar to harbor mooring fees; 2) Implement and collect revenues from other commercial boating industries (i.e. kayak tours); 3) Each of the existing permit holders be permitted the same number of landings per day (2 landings). Ms. Grover also agreed to relinquish her camper drop off service in Kalalau. In closing she asked the Board not to discount the many years of service Kauai Sea Tours have provided to State Parks and to consider an approval of her request for an extension of her Special Use Permit.

Mary Kagawa-Walker of Lady Ann Cruises who also does business as Na Pali Explorer came forward to testify. She told the Board the motto of her company is preservation of the area's culture and education of the people. Ms. Kagawa-Walker informed the Board that their company is small and if it is decided the special use permits would go out to public process it will put her company out of business as they will not be financially able to compete with bigger companies. She went on to speak of the contributions they have provided to State Parks with regards to the upkeep of the area. Ms. Kagawa-Walker noted she would be in favor of sharing some of the

number of landings currently allowed and also an increase in the fees. She asked the Board to please allow the current permit holders to renew their permit.

Ted Myers appeared before the Board to represent Captain Zodiac and proceed to read from his written testimony. Mr. Myers made it known that he did not find out about staff's submittal regarding the Special Use Permits for Na Pali Coast State Park until Tuesday afternoon. Mr. Myers went on to compare the Special Use Permits issued by State Parks to that of the permits issued to commercial boat slip holder at the state harbors. He noted a commercial ramp permit holder is able to retain his permit as long as he makes the required gross dollars set forth in the state rules. The permits are not put out to bid nor are they taken away. Mr. Myers went on to speak of contracts, obligations and advertising investments Captain Zodiac has committed itself to. He asked the Board to renew their permit for 2004 and thereafter but if it is not possible he asked the Board to renew the current permit holders for a two year period. Within that two-year period State Parks would be able to hold meetings, formulate a plan to issue these permits, accept applications from qualified companies and finally notify the companies that were successful in obtaining a Special Use Permit for Na Pali Coast State Park. Mr. Myers questioned if the new permit holders would be required to do a conservation district use permit application if larger vessels are used or if there is a change in the use of the area.

Chairperson Young informed the public the idea of pursuing a public process for the issuance of these permits were the result of other companies inquiring about commercial permits in Na Pali Coast State Park.

In response to Mr. Myers question whether a new conservation district use application would need to be done, Mr. Quinn did not think a new application would need to be done. Mr. Quinn noted the old application addressed the type of use and he did not feel the use would need to be re-addressed.

The Board asked Mr. Myers the percent of drop-offs he conducted in one month. Mr. Myers indicated from January through March they are able to land about forty percent (40%) of the time.

Andrew Evans representing Na Pali Eco Adventures Inc., asked the board to grant him a one-year extension to the Special Use Permit. He applauded the administration's intent in opening up the special use permit to a public process. However Mr. Evans does not believe a one-year extension is in the public's best interest for various reasons: 1) The existing permits will expire in 21 days without the "Public Process" being defined; 2) Contracts are signed by September of the previous year and many reservations have already been taken; and 3) The vessels required to make the beach lands are very specialized and are typically built to order (9 to 12 months). In closing, Mr. Andrews asked the Board to amend staff's submittal and grant the existing permittees a one-year extension while simultaneously setting fourth the directive to pursue a public process for the issuance of the Special Use Permits for Na Pali Coast State Park.

Sabra Kauka President of the Na Pali Coast Ohana the official State Parks curator's of Nualolo Kai came forward to acknowledge the support (transportation) provided by the existing boat companies to her organization as well as State Parks. She asked the Board to include a condition

in their permits that would require the permit holders to provide transportation to members of the Ohana. She also asked the Board to increase the landing fees collected under the Special Use Permit and have the fees go towards the Ohana's efforts in care taking the area. She recommended the Board reduce the number of lands at Nualolo. With regards to landings at Milolii, due to the area's closure she suggests the Board eliminate any reference to Milolii landings. Ms. Kauka asked the board to adopt a policy which would not allow the Special Use Permits to be resold. Once a company quits the permit should automatically revert back to the State. In closing she asked the Board to be included in any meetings pertaining to the area.

The Board asked Mr. Myers the price they charge for this tour. He indicated in the winter the price is \$109.00 and in the summer \$129.00. From this fee a dollar goes to the Department.

The Board noted its concern with State Parks being able to complete the Public Process in three months.

**The Board amended the Recommendation Section by:**

- 3) **Allowing the existing permittees a one-year extension to their Special Use Permit to expire December 31, 2004.**
- 4) **Within a year's time State Parks will commence the Public Process which will include a member from the Na Pali Coast Ohana, a State Archeologist, a representative from one of the three existing commercial tour boat companies (Na Pali Zodiac, Kauai Sea Tours and Lady Ann Cruises, Inc.) and one additional person from outside the existing boating community. If there are any other members of the community that should be a part of this discussion that they be included.**
- 5) **The Public Process shall consider: 1) the logistic support of the Na Pali Coast Ohana; 2) a provision that would look at no resale or subcontracting of the permits; 3) Increase in landing fees.**
- 6) **In September 2004, State Parks will come before the Board for approval of the Public Process.**
- 7) **The Board will delegate the authority to the Chairperson to approve the Special Use Permits.**

**Unanimously approved as amended (McCrorry/Johns).**

**Item D-49: Grant of Perpetual, Non-Exclusive Easement to Hawaiian Electric Company, Inc. (HECO) for Utility Purposes; Issuance of Construction Right-of-Entry; Sand Island; Honolulu, Oahu, TMK: (1) 1-5-41: 22, 130, 334 portions.**

Ms. Mamiya communicated the purpose of the easement is for the City and County of Honolulu to meet the demand for additional power for its sewage treatment plant. She made it known in

1991 the Department of Transportation, Harbors Division (DOT) received Board approval for a perpetual easement to relocate existing utility poles and lines. For unknown reasons the easement was never documented. At the time Hawaiian Electric Company Inc. (HECO) and the City of Honolulu were planning for the expansion of the sewage treatment plant, they were unaware of the State's desire to develop the subject area. Ms. Mamiya informed the Board if the City does not start full operations by 2004 they will be subject to Environmental Protection Agency fines. When HECO originally came before the Board their easement request consisted of 25-foot easement in some areas and 15-foot in other areas. Staff had concerns with this request as it would be a loss of one acre of State land. Other alternatives were discussed but none were feasible. Therefore with reservations, staff is in favor of a 15-foot easement and 10-foot easement. Ms. Mamiya recommended the Board authorize the issuance of a perpetual non-exclusive easement to Hawaiian Electric Company and a construction right-of-entry covering the subject area.

Keith Chun Planning and Development Manager for the Land Division informed the Board the smaller easement would not preclude all uses under the wire but the larger easement area would preclude all uses under it. Mr. Chun also noted this submittal would effect the industrial area to the point it would prove a loss of space.

Dennis Kaneshiro from the City's Design and Construction Division told the Board the initial increase in power will be used to run the disinfecting project and eventually the sludge project. The disinfecting project which is estimated to cost 90 million dollars will disinfect the sewage with ultraviolet light.

**The Board amended the Recommendation Section by adding a new subparagraph 1.D. to read as follows:**

**“1.D. HECO shall ensure electrical power capacity for the Department's future industrial park to be developed on the premises.”**

**Unanimously approved as amended (Johns/ Yamamura).**

**Item M-7: Grant of Perpetual, Non-Exclusive Easement Together with a Construction Right-of-Entry to the Hawaiian Electric Company, Inc. for Electrical Transmission Lines at Sand Island, Honolulu Harbor, Oahu, TMK: (1) 1-5-41P.**

Peter Garcia representing the Department of Transportation indicated the location of this parcel is across of the parcel in item D-49. He indicated HELCO is requesting the easement for electrical transmission lines that will run next to existing transmission lines. The upgrade in electrical service will provide power for the Sand Island Waste Water Treatment Facility. Mr. Garcia recommended the Board authorize the issuance of a perpetual non-exclusive easement together with a construction right-of-entry to Hawaiian Electric Company, Inc.

**Unanimously approved as submitted (Johns/Yamamura).**

- Item M-1: Issuance of Construction Rights-of-Entry and Subsequent Leases to U.S. Federal Aviation Administration for Five F-420 Centerfield Wind Towers at Hilo International Airport, Island of Hawaii, TMK: (3) 2-1-12-9P (1), Kahului Airport, Maui, TMK: (2) 3-8-01-19P. (1), and Kona International Airport at Keahole, Island of Hawaii, TMK: (3) 7-3-43-1P (3).**
- Item M-2: Issuance of Revocable Permit to Punaluu Builders, Inc., Honolulu International Airport, Oahu TMK: (1) 1-1-03-1P.**
- Item M-3: Issuance of Retail Concession Through Public Bid, Lihue Airport, Kauai, TMK: (4) 3-5-01-8P.**
- Item M-4: Consent to Assignment of Lease No. DOT-A-95-12, Genavco Corporation to Kamaka Air, Inc., Honolulu International Airport, TMK: (1) 1-1-76-14P.**
- Item M-5: Issuance of Lease to Federal Aviation Administration, United States of America, Kahului Airport, Maui, TMK: (2) 3-8-01-19P.**
- Item M-6: Amendment No. 1 to Lease No. DOT-A-89-17, United Parcel Service Co., Honolulu International Airport, Oahu, TMK: (1) 1-1-72-24.**

Mr. Garcia briefed the Board on the above items and recommended the Board approve staff 's recommendation as listed in the submittal.

**Unanimously approved as submitted (Johns/McCrory).**

- Item D-34: Grant of Term, Non-Exclusive Easement to Sally Zukeron Trust for Masonry and Concrete Block Walls Purposes, Waikiki, Honolulu, Oahu, TMK: (1) 3-1-35:23.**

Ms. Mamiya disclosed a survey revealed portions of a masonry wall and a concrete block wall were encroaching onto adjacent State Lands. The same survey also showed a portion of a fence owned by State Parks encroached onto the subject private property. State Parks responded by stating they have no objections to the issuance of an easement for the encroachment by the applicant provided the applicant grants an easement to the state for State Park's fence. Ms. Mamiya recommended the Board authorize the issuance of a term non-exclusive easement to the applicant covering the subject area for masonry wall and concrete block wall purposes.

**Unanimously approved as submitted (Johns/Martyn).**

- Item D-35: Forfeiture of General Lease No. S-5031, David M. Hagino and Lou Ann Guanson, Lessee, Waimea, Kauai, TMK: (4) 1-4-04:40.**

Ms. Mamiya informed the Board this action was brought before them because the Lessee failed to post the required performance bond. Since the time the submittal was prepared, the applicant has provided staff with a savings passbook for the correct amount but it still needs to be



processed (a second signature is needed as well as the preparation of the performance bond document). Ms. Mamiya recommended the Board amend the recommendation in the submittal to allow time for the processing of the above documents.

David Hagino told the Board he has a problem with the performance bond. He feels the state's requirement of a performance bond only makes the insurance companies rich. As an alternative he suggests the state figure the history of default for each lease and the cost of any repairs or remediation then add that amount to the annual rent. The figure derived would be collected in lieu of a performance bond. Mr. Hagino also reiterated his offer to pay the entire amount of the remainder of his lease term instead of the performance bond. He also noted his repeated suggestion to historically restore his property at his cost which when calculated would result in a higher amount when compared to his annual rent.

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

**“5. Provided that if the Lessee cures the default by January 31, 2004, this cancellation shall be automatically rescinded.”**

**Unanimously approved as amended (McCroroy/Martyn).**

**Item D-18: Approval of Lease of Private Property with Kahua Ranch Limited on Behalf of the Department of Accounting and General Services, Information and Communication Services Division for Radio Facilities Purposes, Waiaka and Kahualiliii, North Kohala, Hawaii, TMK: 5-9-02:por.2.**

Ms. Mamiya pointed out the Department of Accounting and General Services, Information and Communication Services Division (DAGS) is expanding the statewide emergency response government radio communication system and is in need to construct a transmission tower. Since there are no state lands in the vicinity that are suitable for this request staff is requesting a site owned by Kahua Ranch, Limited. Ms. Mamiya recommended the Board approve entering into a lease with Kahua Ranch, Limited on behalf of the Department of Accounting and General Services.

**Unanimously approved as submitted (Martyn/Johns).**

**Item D-2: RESUBMITTAL: Rescind Prior Board Action of December 13, 1996, Agenda Item D-12; Issuance of Revocable Permit to John Lehnert, Waimanalo, Oahu, TMK: (1) 4-1-27:2.**

Ms. Mamiya made it known the property was formerly encumbered by General Lease No. 4093 to Victor and Harriet Gega for agriculture, small animal husbandry and floriculture purposes. The lease expired on March 19, 1997. Ms. Mamiya confirmed Mr. Lehnert was never the lessee but had a sub-agreement of sale to purchase the lease. In 1996, Mr. Lehnert attempted to extend the lease to the extent able to acquire a mortgage. At that time the attorney general's office advised staff the lease could not be extended due to the character of use. Since the expiration of

the lease, Mr. Lehnert has been living on the property without authorization. Mr. Lehnert has been paying the reopening lease rent and has provided liability insurance but no performance bond has been submitted. This action has been before the Board on three previous occasions but has been deferred. Mr. Lehnert's attorney submitted a letter to the Attorney General's office with the argument the State took too long in the reopening appraisal and his client lost his loan and was unable to secure another loan. Ms. Mamiya noted one of the problems Mr. Lehnert encountered on his way to securing a loan was he was applying for a residential mortgage for an agriculture lease. Ms. Mamiya recommended the Board rescind its prior action of December 13, 1996, subject to the submission of current liability and fire insurance certificates, authorize the issuance of a revocable permit for intensive agricultural and residential purposes to the applicant and lastly the Department shall reimburse Mr. Lehnert the \$800 paid to the Department for the immediate rental reopening appraisal conducted for the failed lease extension.

John Lenhart told the Board for the last fifteen years he has been trying to get a lease for this parcel. He notes he has always done what staff has instructed him to do and has never been late in paying his rent. He feels there are some errors in staff's submittal. He indicated he paid a performance bond of \$1800.00 and he had a mortgage approval available on time but was delayed due to getting an appraisal of the property. Mr. Lenhart asked the Board to reinstate his request for a 25-year lease extension.

Bill Plum attorney for John Lenhart testified. He explained in 1996, Mr. Lenhart received pre-approval for a mortgage from Island Community Lending. He noted Mr. Lenhart's request for an appraisal of the parcel for mortgage purposes was not initiated until March 1977, which was when the lease expired. The appraisal for the property in question was not completed until December 1997. He feels it is not fair and equitable that Mr. Lenhart not be given a chance to correct the situation since it was the delay in the appraisal which caused his client to lose the opportunity to acquire a mortgage. Mr. Plum asked the Board to look at the original lease as it pertains to the use of the land. He notes the lease states the parcel must be used for agriculture, not intensive agriculture. He referred to an opinion issued by the Attorney General's Office that stated the lack of the term "intensive" agriculture was somewhat ambiguous and recommended the Department move forward with the issuance of a lease to Mr. Lenhart.

Mr. Lenhart clarified the mortgage issue. He told the Board he was unable to obtain an agriculture loan because in order to qualify he would have needed to derive twenty-five percent of his income from agriculture purposes. Mr. Plum noted that there is no statute that states the loan obtained must be an agriculture loan.

The Board questioned Mr. Lenhart providing the lender (FHA) with information indicating this parcel was a single-family residence.

With regards to the pre-approval of a loan with Investors Funding Corporation the Board pointed out one of the terms of the loan states the land be held in fee simple or a minimum of 25 years fix term lease. The Board told Mr. Lenhart if they were inclined to grant him a 25 year lease from when the lease expired in 1977, six years will have already passes thereby precluding him from fulfilling condition number 6 of the loan commitment.

Mr. Plum told the Board if the approval of a twenty-five year lease hinged on the fact the land will be held in fee simple or a minimum of twenty-five year fix term, he would call Joseph Gedan, President of Investors Funding Corporation and have him redo the loan commitment, item number 6 to state "Land held in fee simple or a minimum of 15 year fix term lease.

Eve Anderson came forward to testify. She went over the history of Mr. Lenhert's efforts in acquiring a state lease on the subject parcel. She spoke of an incident when Dean Uchida came out to the subject property and offered Mr. Lenhert a fifteen-year lease. Ms. Anderson went on to say Mr. Lenhert wanted a lease that had a similar term (thirty-five years) to other leases in the area. She feels Mr. Lenhert has done everything the Department has instructed him to do and doesn't feel the mortgage is necessary. She asked the Board to postpone today's decision in order to give Mr. Lehnert time to fix condition number six in the loan commitment by Investors Funding Corporation.

Motion made at 1:03 p.m. to move into Executive Session to discuss issue pertaining to this submittal with the Attorney General's Office.

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

The meeting resumed at 1:45 p.m.

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

**"5. The applicant shall pay the collateral security deposit and provide all signed documents within 60 days. If not completed within that time, the applicant shall be evicted from the property."**

**Unanimously approved as amended (McCrory/Martyn).**

**Item L-1: Job No. 86-OP-J1, Ka Iwi Scenic Shoreline, Oahu.**

**Item L-2: Amended Agreement for Transfer and Assumption of Demonstration Desalting Plant to the Honolulu Board of Water Supply and Authorization to Enter Into a Consent of Entry with the Honolulu Board of Water Supply.**

Eric Hirano Administrator of the Engineering Division briefed the Board and recommended the Board approve the above items as stated in staff's submittal.

**Unanimously approved as submitted (Johns/Yamamura).**

**Item E-1: Special Use Permit Extension for Michael Meierdiercks for Residential Purposes, Kalihi, Oahu, TMK: 1-4-16:3.**

Mr. Quinn conveyed Michael Meierdiercks has had a permit from State Parks since 1992 when the parcel was transferred from the City and County of Honolulu. He recommended the Board

extend the Special Use Permit to Michael A. Meierdiercks for a period ending December 31, 2004.

**Unanimously approved as submitted (Johns/Martyn).**

**Item E-2: Approval to Issue a Request for Qualifications/Request for Proposals to Develop, Operate, and Maintain Public Recreational Facilities at Malaekahana State Recreation Area, Laie, Oahu.**

**Item E-3: Request to Renew Beverage Concession Agreement for Wainapanapa State Park.**

Mr. Quinn briefed the Board on the above items and recommended the Board approve the items as listed in staff's submittal.

**Unanimously approved as submitted (Johns/Martyn).**

**Item D-13: Withdrawal from Governor's Executive Order No. 3076 to the Department of Education for Leihoku Elementary School, Quitclaim of State's Interest to the City and County of Honolulu and Issuance of a Construction Right-of-Entry, Lualualei, Waianae, Oahu, TMK: (1) 8-6-01:por. 54.**

Ms. Mamiya let the Board know the parcel is currently under Governor's Executive Order No. 3076 and is part of the Leihoku Elementary School. Staff intends to withdraw the Governor's Executive Order and Quitclaim the parcel to the City and County of Honolulu. The City and County of Honolulu plans to widen the pavement of Lualualei Homestead Road. Ms. Mamiya recommended the Board: 1) approve and recommend to the Governor issuance of an executive order withdrawing the 22,000 square feet from Governor's Executive Order No. 3076; 2) authorize the quitclaim of interests, if any, the State may have to the City and County of Honolulu; and 3) authorize the issuance of a Construction right-of-entry permit to City and County of Honolulu covering the subject area.

**Unanimously approved as submitted (Johns/Martyn).**

**Item C-1: Request for Approval to Release for Public Review the Draft Habitat Conservation Plan for Abutilon Menziesii at Kapolei and Accompanying Incidental Take Permit.**

Mike Buck Administrator for the Division of Forestry and Wildlife informed the Board the submittal includes information on the history of Abutilon Menziesii, mitigation efforts and comments from the Recovery Committee. He made it clear to the Board today's approval would be to allow their division to move forward with public hearings. Upon approval by the Board the Division would conduct a public hearing on the Habitat Conservation Plan to solicit input. At the end of the public process the Department of Transportation and the Recovery Committee will review the comments and make any necessary changes. Thereafter the Recovery Committee will make a recommendation to the Board then the Division will come forward to seek final approval of the Habitat Conservation Plan. Mr. Buck recommended the Board authorize the

release for public review of the draft Habitat Conservation Plan for *Abutilon Menziesii* at Kapolei and accompanying Incidental Take License and Certificate of Inclusion.

Mr. Buck went on to introduce some of the individuals who have helped the project along, Bill Stanley of DOFAW, Ron Suzuki DOT Highways, consultant, Yukie Ohashi, Darryl Young head of advance planning, Nelson Sega project manager and Gracelyn Bravo.

Mr. Suzuki made it known there was a lot of interest for this project by the community and asked the Board for its approval.

**Unanimously approved as submitted (Johns/McCrory).**

**Item C-2: Request for Approval to Release for Public Review Safe Harbor Agreement for the Reintroduction of the Nene to Piiholo Ranch, Maui.**

Mr. Buck noted this submittal seeks the Boards approval for public review of a Safe Harbor Agreement that would allow the reintroduction of the Nene in Maui on lands owned by Peter Baldwin. He clarified he was seeking approval for the public review process and not approval of the Safe Harbor Agreement. Mr. Buck recommended the Board authorize the release for public review of the Safe Harbor Agreement for the Reintroduction of the Nene to Piiholo Ranch, Maui and accompanying Incidental Take License.

**Unanimously approved as submitted (Yamamura/Johns).**

**Item D-1: Rescind Prior Board Action of June 28, 1991 (Agenda Item F-1-a), Issuance of Revocable Permit to Zelda Kapuni at Ualapue-Kapualei, Molokai, TMK: (2) 5-6-3:por. 35.**

**Item D-3: Consent to Assign General Lease No. S-5141, Alfred P. Lerma Jr., as Commissioner/Assignor, to Leonard Naboa Jr., Assignee, Hoopuloa, South Kona, Hawaii, TMK: (3) 8-9-14:27.**

**Item D-4: Consent to Assign General Lease No. S-4957, David H. Lawton, as Commissioner/Assignor, to Louis Kuahuia Jr., Assignee, Milolii-Hoopuloa, South Kona, Hawaii, TMK: (3) 8-9-14:22.**

**Item D-5: Amendment of Prior Board Action; Lease of Land for the Department of Health, Emergency Medical Services, Formerly Under Department of Regulatory Agencies for Microwave Communication Purposes, Naalehu, Kau, Hawaii, TMK: (3) 9-5-07: 16 & 30.**

**Item D-6: Rescind Prior Board Action of August 25, 2000 (Agenda Item D-7) Issuance of Revocable Permit for Pasture Purposes, William V. Brillhante, Permittee, Waiakea, South Hilo, Hawaii, TMK: (3) 2-4-03:37.**

- Item D-7:** Amend Prior Board Action of September 29, 1995, (Agenda Item F-7) for Direct Award to City and County of Honolulu, Department of Public Works (now called Department of Environmental Services) for a 65-year Term, Non-Exclusive Easement for Sewer Purposes at Waiakea, Oahu, TMK: 2-8-24: por. of 37.
- Item D-8:** Request to Write-Off Uncollectible Accounts, Oahu, Hawaii and Maui.
- Item D-9:** Rescind Prior Board Action of February 14, 2003, Agenda Item D-10, to Grant a Perpetual, Non-Exclusive Easement and Construction Right-of-Entry to Hawaiian Electric Company, Inc. (HECO) for Utility Purposes, Waianae Agricultural Park Subdivision, Waianae, Oahu, TMK: 8-5-34: por. 13.
- Item D-10:** Consent to Assign General Lease No. S-4203 (Water License), Richard Smart, Assignor, to Parker Ranch, Inc., Assignee, Alakahi Stream, South Kohala, Hawaii, TMK: (3) 6-3-01:02.
- Item D-12:** Consent to Assign General Lease No. S-4885, Melvyn K. Aila, Assignor, to Melvyn K. Aila and Melanie P. Aila, Assignee, Maunalaha Homesites, Maunalaha Homesites, Honolulu, Oahu, TMK: (1) 2-5-24:25.

Ms. Mamiya briefed the Board and recommended the Board approve the above items as listed in the submittal.

**Unanimously approved as submitted (Johns/Yamamura).**

- Item D-17:** Rescind Land Board Approval of 6/10/1999, Item D-8: Grant of Term, Non-Exclusive Access and Drainage Easement Affecting a Portion of State Owned Lands, Por. of Kekaha, Waimea, Kauai, TMK: 1-2-2: por. 1.

Ms. Mamiya made it known the subject easement is needed by Ceatech USA. She recommended the Board Rescind its prior action of June 10, 2003, under agenda item D-8.

**Motion to Withdraw**

**Unanimously approved to Withdraw (Johns/Yamamura).**

- Item D-16:** Rescind Land Board Approval of 8/24/2001, Item D-2: Consent to Assign General Lease No. S-5397, Richard Corr, Assignor, to Richard Corr and Charles C. Corr, Assignees, Lot 9-A, Hanapepe Rice and Kula Lots, Hanapepe, Waimea, Kauai, Hawaii, TMK: 1-9-12-28.

Ms. Mamiya briefed the Board and recommended the Board rescind its action of August 24, 2001 under agenda item D-2.

**Unanimously approved as submitted (McCrorry/Johns).**

- Item D-19:** Forfeiture of Revocable Permit No. S-5016, John Wittenburg, Permittee, Kahakuloa Valley, Kahakuloa, Maui, TMK: (2) 3-1-004:033.
- Item D-21:** Forfeiture of Revocable Permit No. S-5339, Charles A. Lopes, Permittee, Waiakoa Homesteads, Waiakoa, Makawao, Maui, TMK: (2) 2-2-014:003.
- Item D-23:** Request to Waive Restriction on Land Patent Grant No. 5733, Honolulu, Oahu, TMK: (1) 2-1-37:29.
- Item D-27:** Forfeiture of Revocable Permit No. S-6713, Rosabella Lukela Ramos, Permittee, Kahakuloa Valley, Wailuku, Maui, TMK: (2) 3-1-004:128.
- Item D-28:** Forfeiture of Revocable Permit No. S-6933, Beatrice Kekahuna, Permittee, Honopou, Hamakualoa, Makawao, Maui, TMK: (2) 2-9-001:018.

Ms. Mamiya briefed the Board on the above items and recommended the Board approve the above items as stated in the submittal.

**Unanimously approved as submitted (Johns/McCrory).**

- Item D-26:** Forfeiture of Revocable Permit No. S-6692, Moses K. Kauhaahaa, Jr., Permittee, Kahakuloa Valley, Wailuku, Maui, TMK: (2) 3-1-004:009.
- Item D-30:** Forfeiture of Revocable Permit No. S-7169, Moses Kauhaahaa, Jr., Permittee, Kahakuloa Valley, Wailuku, Maui, TMK: (2) 3-1-004:014.

**Motion to Withdraw**

**Unanimously approved to Withdraw (Johns/Yamamura).**

- Item D-20:** Forfeiture of Revocable Permit No. S-5171, Richard Hoopii, Permittee, Kahakuloa Valley, Wailuku, Maui, TMK: (2) 3-1-004:029.
- Item D-22:** Forfeiture or Revocable Permit No. S-5402, Richard Hoopii, Permittee, Kahakuloa Valley, Wailuku, Maui, TMK: (2) 3-1-004:116.
- Item D-24:** Forfeiture of Revocable Permit No. S-6121, Kahakuloa Protestant Church, Permittee, Kahakuloa Valley, Wailuku, Maui, TMK: (2) 3-1-004:005.
- Item D-25:** Forfeiture of Revocable Permit No. S-6618, Saroon Von Schuetze, Permittee, Hoolawa-Mokupapa, Hamakuloa, Makawao, Maui, TMK: (2) 2-9-002:008.
- Item D-29:** Forfeiture of Revocable Permit No. S-7134, Mobile One, Inc., Permittee, Waiakoa and Papaanui, Makawao, Maui, TMK: (2) 2-2-007:017.

Ms. Mamiya briefed the Board and recommended approval on the above items.

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

**“5. Provided that if the Permittee cures the default by January 31, 2004, this cancellation shall be automatically rescinded.”**

Unanimously approved as amended (Johns/Yamamura).

**Item D-32: Consent to Mortgage and Extension of Lease Term, General Lease No. S-3764 Sugita Enterprises, Ltd, dba Hawaiian Floral Nursery, Lessee, Waimanalo, Koolaupoko, Oahu, TMK: 4-1-010:08.**

**Item D-36: Issuance of Revocable Permit to Kehena Ranch for Pasture Purposes; Hualua, North Kohala, Hawaii, TMK: (3) 5-5-07:08 & 09.**

**Item D-39: Issuance of Direct Lease to State of California, Department of Food and Agriculture for Medfly Program, Waimanalo, Koolaupoko, Oahu, TMK: (1) 4-1-27:9.**

**Item D-45: Seat Aside to Department of Transportation for Kalaniana'ole Highway Improvements Purposes, Waimanalo, Koolaupoko, Oahu, TMK: (1) 4-1-14:11 & pors. of Kalaniana'ole Highway.**

The Board was briefed on the above items and Ms. Mamiya recommended approval of each of the items as stated in the respective submittals.

Unanimously approved as submitted (Johns/McCrory).

**Item D-41: Annual Renewal of Revocable Permits on the Islands of Hawaii, Maui, Molokai, Kauai and Oahu.**

Ms. Mamiya noted this is the annual renewal of permits and recommended the Board approve the continuation of the revocable permits on a month-to-month basis for another one-year period up to December 31, 2004 and approve the continuation of current rents up to December 31, 2004.

The Board amended Exhibit A by:

1) Adding the following revocable permits:

<u>Doc. No.</u>	<u>Permittee</u>	<u>Rent</u>
rp7368	Alexander & Baldwin, Inc.	To be determined
rp7196	AOAO Mana Kai-Maui	To be determined
rp7343	Castle & Cooke Lanai Properties, LLC	To be determined
rp7267	Wood Valley Water & Farm Cooperative	To be determined



2) Amending the annual rent for RP7333, Milton and Melanie Ching, Permittees, from \$0 to "To be determined."

3)

The Board requested staff look at RP2543 and RP6842 to see if they would be appropriate for transfer to Department of Agriculture.

Unanimously approved as amended (Johns/Yamamura).

**Item D-48: Issuance of Revocable Permit to Noboro Munechika and Michie N. Munechika, Hanapepe, Kauai, TMK: (4) 1-9-02: 06 & 07.**

Ms. Mamiya went over the submittal and recommended the Board authorize the issuance of a revocable permit to the applicants covering the subject area.

The Board questioned what would happen when this leased expired. Ms. Mamiya informed the Board the lease would be transferred to the Department of Agriculture (DOA). The Board asked staff to return with a submittal to authorize the sale of lease at public auction since a transfer to DOA may take years.

Unanimously approved as submitted (McCrorry/Martyn).

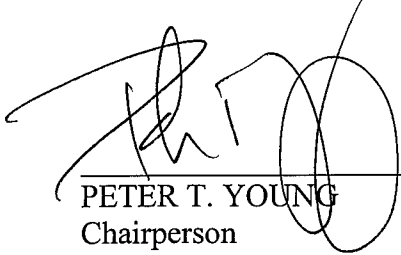
There being no further business, Chairperson Young adjourned the meeting at 2:11 p.m.

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

Approved for submittal:

  
\_\_\_\_\_  
PETER T. YOUNG  
Chairperson  
Department of Land and Natural Resources