

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

DATE: FRIDAY, JANUARY 23, 2004
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 9:12 a.m. The following were in attendance:

MEMBERS

Mr. Peter Young
Mr. Ted Yamamura
Mr. Toby Martyn (arrived at 10:04 a.m.)

Mr. Timothy Johns
Mr. Gerald DeMello

STAFF

Ms. Dede Mamiya, Land Division
Mr. Dan Quinn, State Parks
Mr. Michael Lau, DOT

Mr. Sam Lemmo, OCCL
Mr. Glen Abe, DOT

OTHER

Ms. Yvonne Izu, Deputy Attorney General
Mr. Max Graham, D-8, D-5
Mr. Bill Moore, D-15
Mr. Tom Schnell, D-14
Mr. Lance Foster, D-14, D-10
Mr. Gary Tsuji, M-4
Mr. Tim Tunison, D-12
Mr. Bruce Layman, D-10
Mr. Bobby Camara, D-10, D-16

Mr. Gordon Jensen, D-21
Mr. Ryan Churchill, D-14
Mr. Jeff Long, D-14
Ms. Donna Leong, D-17
Ms. Linnel Nishioka, D-12
Mr. Perry White, D-10
Mr. Bryson Kuwahara, D-9

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

Item A-1: Minutes of January 9, 2004

Unanimously approved as submitted (Yamamura/DeMello).

Item D-8: Authorization to Begin Process to Relinquish Mineral Rights Over Wetland Easement on Lands Belonging to The Bette Midler Family Trust in Kapaa, Kauai, Hawaii.

Dede Mamiya Administrator of the Land Division informed the Board this action before them today is something new that hasn't been done previously. She explained to the Board that the State reserves the mineral rights on the subject property. The Bette Midler Family Trust (Trust) desires to enter into a perpetual easement with the Natural Resources Conservation Service (NRCS) to do a wetland restoration project. Before implementing the project, the NRCS wants to be assured that mining will not occur on the subject parcel, as it will interfere with the restoration efforts. Ms. Mamiya went on to make reference to Section 182-2, HRS which states the Board, "may release, cancel, or waive the reservation of mineral rights whenever it deems the land use, other than mining, is of greater benefit to the State . . ." Working together with the attorney general's office, staff has mapped out a process pursuant to Section 182. At this time, Ms. Mamiya is recommending the Board authorize staff to publish the requisite notices and allow staff to conduct the public hearing. Following the hearing staff will return to the Board with a recommendation on whether to relinquish the State's mining rights on the Subject Property.

The Board questioned what else staff could do to satisfy NRCS mining condition without relinquishing the State's mining rights. Deputy Attorney General Yvonne Izu explained a previous instance when the State did not follow through with relinquishing the mining rights and in response NRCS did not follow through with implementing the project. Ms. Izu noted the agreement she has worked out would allow the State to relinquish the mining rights but still hold on to the mineral rights. She has also proposed a reverter clause if and when the conservation easement ceases to exist then the relinquishing of the State's mining rights would go away.

Max Graham representing the Bette Midler Trust informed the Board the United States government is quite rigid in its rules and requires the document relinquishing the State's mining rights. He notes if the government ever returns the Land to the Trust the mining rights would be restored to the State.

The Board amended the title of the submittal to read:

"Authorization to Begin to Relinquish [~~Mineral~~] Mining Rights Over Wetland Easement on Lands owned by The Bette Midler Family Trust in Kapaa, Kauai, Hawaii: TMK: (4) 4-3-10: portions of 2 and 3"

Unanimously approved as amended (Johns/DeMello).

Item D-5: Grant of Term, Non-Exclusive Easement for Access and Utility Purposes to Carrie and Shawn Riley, Kapaa Homesteads, 1st Series, Kawaihau, Kauai, TMK: (4) 4-6-7: por. 12.

Ms. Mamiya made it known the Riley's parcel crosses over the State's Kainahola Ditch which is part of an irrigation system and is encumbered by a Revocable permit to the East Kauai Water Users Cooperative (EKWUC). The easement is necessary for the applicants to access their property. Staff has included three conditions in the agreement that would protect the state's ditches. These three conditions were suggested by EKWUC. Ms. Mamiya recommended the Board authorize the issuance of a 55-year term non-exclusive easement for access and utility purposes and impose a fine of \$500.00 for encroachment upon public lands without authorization.

Max Graham representing the Riley's noted the three conditions requested by EKWUC are standard conditions.

Unanimously approved as submitted (Johns/Yamamura).

Item D-21: Grant of 55-year term, Non-Exclusive Easement to Gordon D. Jensen for Seawall Purposes, Puuloa, Ewa, Oahu, TMK: 9-1-27:14, seaward.

Ms. Mamiya communicated during the building permit and shoreline certification process a minor seawall encroachment onto State lands was discovered. The Office of Conservation and Coastal Lands (OCCL) did not consider the encroachment a Conservation District violation and has also determined the seawall would have no adverse impact on the natural resources. The applicant has requested an amount be deposited with the State of Hawaii, which in turn would allow the shoreline certification process to proceed while the easement is being processed. Staff calculated the amount to be \$855.00. Ms. Mamiya recommended the Board authorize the issuance of a 55-year term, non-exclusive easement covering the subject area as well as authorize the Department to accept a deposit in the amount of \$855.00 from the applicant.

Gordon Jensen asked the Board what the price would be for the 21 square feet easement. Ms. Mamiya explained to Mr. Jensen they would need to do an appraisal of the area to determine the amount of his rent.

Unanimously approved as submitted (Johns/DeMello).

Item D-15: Conservation District Use Application for the Saddle Road Improvements – Mile Post 19-27, East Hawaii (Portion of Section III), U.S. Department of Transportation, Federal Highways Administration, TMK: (3) 3-8-01:7, 8, 19; 2-4-8:1, 4, 8; 2-6-18:4, 10.

Sam Lemmo Administrator of the Office of Conservation and Coastal Lands (OCCL) reminded the Board the applicant received approval for Phase 1 of the Saddle Road Improvements. These improvements encompass a total distance of 48 miles. A public hearing on this item was held with only the consultants attending. In 1999, the federal government issued a final impact statement for this project. Mr. Lemmo notes this phase of the project sticks to the existing alignment and does not propose using new areas. The only concern on Mr. Lemmo's part were there would be higher road cuts and fill areas due to the straightening, widening and flattening of the road. He also noted this segment of the

highway does not involve wetlands or significant natural resources. Mr. Lemmo recommended the Board approve this application for the Phase 2 Saddle Road Improvements from Milepost 19 to Milepost 27.

Bill Moore Planning Consultant with Okuhara and Associates the primary consultants for this project came forward to testify. He informed the Board the project has been broken into two phases. The first phase received approval in 2001 with a ground blessing scheduled for February 17. A projected completion date of the first phase is mid to late 2006.

Unanimously approved as submitted (DeMello/Yamamura).

Item D-14: Conservation District Use Application to Construct Nguyen Single Family Residence, Swimming Pool, Gazebo, Retaining Walls, and Landscaping, Bill Nguyen c/o PBR Hawaii, Honolua Ahupuaa, Lahaina District, Maui, TMK: (2) 4-2-004:032 (portion).

Mr. Lemmo reminded the Board approval was granted which allowed the subdivision of a 20-acre parcel into three separate parcels. The subject 6.5-acre parcel was one of three parcels created by this subdivision. The other two parcels termed the "Coastal Reserve" parcel and the "Honolua" parcel are to be preserved in perpetuity. The applicant proposes to construct a 5000 square foot house, gazebo, swimming pool and covered lanai areas. The agent for the applicant conducted a pole study to indicate potential visual impacts. It was concluded the top to the roof on the Honolua Bay side would be visible to the public. Base on this analysis, staff believes additional visual mitigations measures such as plantings or redesign and lowering of the subject roof section would need to take place. An Environmental Assessment (EA) was completed and published in the December OEQC and the Department determined the project would not have a significant environmental effect and therefore issued a FONSI. In conclusion Mr. Lemmo recommended the Board approve this application for a single-family dwelling.

Ryan Churchill of Maui Land and Pineapple informed the Board the two parcels (the Coastal Reserve and Honolua parcel) have restricted covenants on the deed, which restricts future developments on the parcels.

Tom Schnell of PBR Hawaii, the planning consultant for the applicant came forward to testify. He confirmed a pole study was completed on the area and went over the exhibit six. Mr. Schnell made it known the pitch of the roof was lowered which resulted in the lowering of the roof by 2.6 feet.

Jeff Long architect for the applicant informed the Board it was their understanding and agreement that all of the County of Maui's housing codes will be adhered to. Lance Foster Director of Native Rights Land and Culture for the Office of Hawaiian Affairs (OHA) applaud the applicants working with native Hawaiian families to continue their access rights. He noted OHA's concern with continued subdivision of Conservation District lands for private use.

Unanimously approved as submitted (Yamamura/DeMello).

Item D-17: Conservation District Use Application for an Easement Across Conservation District Sales Owned Right of Way, Roy Vistousek III, Cades Schutte, North Kona District, Hawaii, located between TMK's (3) 7-3-009:003 & 016.

Mr. Lemmo indicated the applicant filed a Conservation District Use Application (CDUA) due to the fact that the subject parcel contains an unbreached portion of Mamaloha Trail. A CDUA was filed previously but has since expired. An Environmental Impact Statement (EIS) on the project was completed and accepted by the Department as satisfactorily meeting the Environmental requirements. A public hearing on the matter was held on Kona. Two requests for a contested case hearing (CCH) were received at the public hearing. Both of the petitions for the CCH were filed but were later withdrawn. Na Ala Hele has no objections to the proposed breach of the Mamaloha Trail. They noted although the original trail will be altered its integrity will be preserved. The design of signs and specific wording will be developed with input from various departments. With respect to the issue of a Cultural Impact Statement and the CCH staff believes the applicant has addressed these issues completely. Mr. Lemmo recommended the Board approve the proposed easement across the Conservation District State-owned right-of-way.

Donna Leong of Cades Schutte representing the applicant conveyed her agreement with Staff's recommendation and their willingness to install signage on the trail.

Unanimously approved as submitted (DeMello/Johns).

Item M-4: Rescission of Prior Board Action of May 23, 2003, Item M-4 and Authorization to Issue Direct, Negotiated Taxi Management Concession Lease at Honolulu International Airport.

Glen Abe of the Department of Transportation, Airports Division came before the Board requesting the Board rescind its prior action of May 23, 2003 under agenda Item M-4 in its entirety.

Chairperson Young announced there was a written request for a Contested Case Hearing (CCH) on this item. Deputy Attorney General Yvonne Izu informed the Board today's action was a disposition therefore a CCH was not available.

Gary Tsuji attorney for Signature CAB Holdings Inc. dba The CAB appeared before the Board. He noted he was the individual who sent in the written request for a CCH. Mr. Tsuji pointed out the Department of Transportation (DOT) claim that the RFQ process has "led to controversy and delay in the selection of the next concessionaire" was purely a result of DOT's actions. He pointed out on May 24, 2003 DOT issued a Request for Qualifications I which was subsequently withdrawn. Then on July 9, 2003, DOT issued a Request for Qualifications II, which was withdrawn on January 2004. Mr. Tsuji disagreed with DOT's decision to award the Taxi Concession to Ampco System Parking. He pointed out Ampco has a business affiliation, is an owner and has an interest and is an operator, administrator and manager of a ground transportation business operating a national shuttle service.

Michael Lau the attorney for the Department of Transportation (DOT) informed the Board his Department does not believe The CAB has any recourse but to come here today and appeal to the Board after the October 6, 2003 letter informing the company that they were not qualified to be the new Taxi Management Concessionaire and DOT's decision to withdraw the RFQ. Mr. Lau went on to say the reason a restriction on a ground transportation company was placed in the RFQ was to prevent the perception of favoritism by the taxicab companies for their own drivers. After receiving concerns from The CAB, DOT realized the process was taking too long and decided the best and most efficient course of action would be to cancel the RFQ and move forward. Mr. Lau also made it known this is a Chapter 102 disposition, which allows DOT to dispose of the concession by negotiation.

Mr. Tsuji believes DOT's decision to cancel the RFQ and award the taxi concession by negotiations was arbitrary and capricious. He feels it is the duty and the responsibility of the Board to examine whether DOT acted in good faith and in conformance with the guidelines issued by the Board.

The Board asked Mr. Lau to give his agency's justification for their decision to pursue the path of issuing the concession by negotiation. Mr. Lau indicated DOT has the authority to negotiate with a single company but this time around DOT wanted to see who was out there and wanted to avoid criticism of favoritism and that is why a clause exempting ground transportation companies from applying was placed in the RFQ. He felt this exemption clause does not apply to transportation companies operating outside of Hawaii. Mr. Lau went on to say when the RFQ went out DOT did not receive much response and since The CAB would be excluded under the rules of the RFQ, DOT decided to cancel the RFQ and move forward as it would be the most efficient thing to do.

The Board urged the DOT to act in good faith when negotiating the taxi concession agreement.

Unanimously approved as submitted (Johns/Yamamura).

Item M-1: Consent to Sublease – Lease No. DOT-A-01-0003, DFS Group, L.P. (Sublessor), to Maui Divers of Hawaii, LTD (Sublessee), Honolulu International Airport, Oahu, TMK: (1) 1-1-03-1P.

Unanimously approved as submitted (Johns/DeMello).

Item M-2: Consent to Sublease – Lease No. DOT-A-92-0011, Bar-K, Inc. (Sublessor), to Berry Aviation, Inc. (Sublessee), Honolulu International Airport, Oahu, TMK: (1) 1-1-72-1-12P.

Unanimously approved as submitted (Johns/DeMello).

Item M-3: Consent to Sublease – Lease No. DOT-A-92-0011, Bar-K, Inc. (Sublessor), to RTW Corporation (Sublessee), Honolulu International Airport, Oahu, TMK: (1) 1-1-72-1-12P.

Unanimously approved as submitted (Johns/DeMello).

Item D-12: Briefing for Six Month Update on the Habitat and Forest Restoration Plan for Kahuku Ranch, Hawaii, TMK: 9-2-1:2, State File No. ENF HA-02-01.

Member Johns recused himself

Linnel Nishioka representing Damon Estates told the Board to date Damon Estates has spent approximately \$200,000 on the Habitat and Forest Restoration Plan. Ms. Nishioka went over the pictures in her handout. She informed the Board the first year of fencing will be completed by March 2004. With regards to the Ungulate Control Program, from May 17 to December 2003, 34 days of hunting and one day of aerial hunting occurred. The total number of ungulates taken was 151.

Tim Tunison of the National Park Service spoke of the monitoring program implemented in the area. Their goal is the recovery of koa and native trees, stopping of invasion of weeds and browsing effects on native species. He spoke of the different implementation methods used to monitor progress of the growth of koa and native trees.

The Board commended Damon Estates and all those involved for the implementation of the Habitat and Forest Restoration Plan.

No Action.

Item D-10: Conservation District Use Application for After-the fact Improvements to a Jeep Road, Associated Tree Removal and Erosion Control, Ms. Chandi Duke Heffner, c/o Perry White, Planning Solutions, North Kohala, Hawaii, TMK: (3) 5-8-001:009 (portion).

Mr. Lemmo reminded the Board in 1999, the landowner was found to be in violation of unauthorized road construction and tree cutting on Conservation District land. She was fined by the Board and required to submit an after-the-fact Conservation District Use Application (CDUA) to rectify the improvements. The notice of the Final Environmental Assessment (FEA) was published in the November 2003 OEQC's Environmental Notice. Mr. Lemmo brought up the issue of the State's claim of ownership over the ala loa trail, which is located on the applicants property. The applicant contests the State's claim of ownership. Mr. Leemo pointed out in doing an abstract research it indicates the ala loa trail is owned by the State therefore Mr. Lemmo has included a condition which states the applicant shall work with Na Ala Hele to establish public access within three months of the Board's action on this matter. If the applicant chooses not to comply with this condition, Mr. Lemmo feels the Board should deny the after-the-fact CDUA. Provided the applicant agrees to the condition stated in the submittal, Mr. Lemmo recommended the Board approve the after-the-fact CDUA.

Perry White of Planning Consultant appeared before the Board. He communicated the work done to improve the road did not impeded public access. He made it known the

applicant disputes the existence of the ala loa trail. Mr. White indicated he had concerns with recommendation 14) because if that right already exists then there is no need to include this condition in the approval. He feels if the applicant does not agree with the existence of the trail the Department could view her previous actions as a continued violation and this would involve a large monetary fine for her.

Bruce Layman attorney representing the applicant told the Board their position with regards to the trail would be different if it was determined a trail existed where the State says it does. His client's position is that the State has no evidence to show they own a portion of his client's property (where the Ala Loa trail exists). Mr. Layman feels the decision made by the Board today should not be based on condition 14) alone. With regards to the ala loa trail they dispute there is a publicly owned trail across the applicant's property. With regards to current mauka-makai access litigation on this matter is still pending.

Lance Foster Director of Native Rights Land and Culture of the Office of Hawaiian Affairs (OHA) feels the Board should view the applicant's violation as a continued violation. He believes the Board should defer decision on this item because the Environmental Impact Statement did not address the issue of access and he feels this issue should be worked out before a decision on this item is made. He made it known the destruction of the archeological sites is subject to pending litigation and agrees with staff recommendation 13). Mr. Foster told the Board it is the State's responsibility to provide coastal access. In closing he told the Board these are ceded lands held in trust by the State not for any particular individual and not for the exclusion of the public.

Bobby Camara a resident of the Big Island came forward to testify. He made it known it is important to note if the state abstractor has determined the State owns a coastline trail across the subject property that trail is also a part of the Ala Kaukai National Historic Trail. Being a part of the National Historic Trail will also involve federal issues.

Motion made at 11:00 a.m. by Member Johns and second by Member Martyn to move into executive session to discuss legal issues pertaining to this agenda item.

The meeting was resumed at 11:10 a.m.

The Board amended the Recommendation Section by deleting Recommendation 13) and renumbering the remaining items.

Unanimously approved as amended (DeMello/Yamamura).

Chairperson Young informed the representatives of the applicant that they are able to request a Contested Case Hearing by the end of today's meeting and follow it up in writing within 10 days.

Item D-9: Conservation District Enforcement File No. HA-04-09 Regarding Unauthorized Excavation of Cinder; and Unauthorized Grubbing and Grading in Two (2) Separate Areas, by Bryson Kuwahara, Puu Kalia, Puna District, Hawaii, TMK: (3) 1-3-009:005.

Mr. Lemmo disclosed subsequent to Mr. Kuwahara's use of the subject area another Kamehameha lessee applied for a Conservation District Use Application (CDUA) to excavate cinder. The new CDUA was rejected due to the discovery of a potential violation committed by the prior lessee, Mr. Kuwahara. It was discovered cinder was excavated outside of increment I and II. The total overage of the excavation is 9.23-acres and the total estimated volume is 155,135 cubic yards of cinder. In reviewing the case, Mr. Lemmo believes Mr. Kuwahara also failed to comply with condition #4 of CDUP HA-1957 which states an archeological survey must be done by a professional archeologist for areas of the cinder cone that have not been disturbed by prior quarry activity. Mr. Lemmo recommended the Board find Bryson Kuwahara in violation of Chapter 183C HRS and Chapter 13-5, HAR and is subject to the conditions listed in staff's submittal.

The Board questioned why Staff was only going after the violator as in the past the Board has gone after the violator and the landowner. Mr. Lemmo told the Board if the lessee fails to perform staff will go after the landowner.

Bryson Kuwahara the lessee appeared before the Board and accepted responsibility for doing excavation work outside of the boundary of the CDUP. He communicated he used a GPS to establish the boundaries but due to the rough mountainous terrain it was hard to determine where the points were. He told the Board he started excavation in 1997 and believed he went outside the boundary about ten (10) years ago. Due to the fact that time has passed since the excavation was done the area in question has experienced regrowth. Mr. Kuwahara conveyed the terms of the contract he had with Bishop Estate stating the Estate would be paid ten (10) percent of the gross income from the cinder sale. At the end of the month he would send the Estate a check for the amount owed. He went on to tell the Board if Bishop Estate was fined by the Board the Estate would go after Mr. Kuwahara for the fine, attorney fees and court costs. As far as staff's assertion that Mr. Kuwahara did not submit an archeological survey he informed the Board this is incorrect. Mr. Kuwahara assured the Board he went through the forest with a professional archeologist and botanist and completed and submitted the survey to the department. He brought a copy of the survey completed in March 26, 1987 he sent to the Department.

Addressing the issue of the archeological survey, Mr. Lemmo told the Board the State Historic Preservation Division issued a letter after receiving the 1987 survey informing Mr. Kuwahara the survey lacked necessary information. No response was received by the Department from Mr. Kuwahara.

Chairperson Young made it known the Department is looking at a change in the chain of responsibility by going after the responsible party while at the same time not relieving the opportunity to subsequently go after the landowner.

Mr. Kuwahara showed the Board his plans for Increment I and II in which he planted iron wood trees in the area he excavated cinder. He informed the Board staff's request that he reforest the overage areas within ninety (90) days is going to be difficult because the only place he can get ironwood trees is from the Division of Forestry and Wildlife. Mr. Kuwahara felt he needed at least six months to a year to complete the reforestation.

The Board amended the following Recommendations:

- 1) That Mr. Kuwahara violated the provisions of Chapter 183C, Hawaii Revised Statutes (HRS), and Chapter 13-5 Hawaii Administrative Rules (HAR), in two (2) instances by failing to obtain the appropriate approvals for unauthorized excavation of cinder on 9.23 acres, and unauthorized grubbing and grading within the Conservation District in two (2) separate areas. Mr. Kuwahara is fined a total of [~~\$8,000~~] \$4,000 for two (2) Conservation District violations.
- 2) Mr. Kuwahara is fined an additional [~~\$2,000~~] \$1,000 for not complying with the Board's February 27, 1987 CDUP, regarding Condition #4.
- 4) Mr. Kuwahara shall pay all fines (total [~~\$11,000~~] \$6,000) within thirty (30) days of the date of the Board's action.
- 6) Mr. Kuwahara shall use the existing restoration plan on file for the permitted area for the intent of re-vegetating the unauthorized mined area;
- 7) Upon approval by the Chairperson, Mr. Kuwahara, at his own expense, shall implement the approved restoration plan; and will re-vegetate the land within the Conservation District to a condition suitable to the chairperson within [~~ninety (90) days~~] six (6) months of the department's approval of the plan, or by any other time as determined by the chairperson;
- 8) DOCARE will conduct a site inspection after [~~one hundred twenty (120)~~] two hundred ten (210) days to verify that Condition 7 has been met; and

Unanimously approved as amended (DeMello/Martyn)

Member Yamamura voiced his concern with the Board remaining objective, consistent and fair in its decision making process. He noted his preference for the numbers recommended by staff.

Member Martyn noted his preference with using some of the monies collected from the fine for the reforestation plan.

Item D-16: Conservation District Use Application No. HA-3168 for Kekaha Kai State Park Phase I – Maniniwali/Kua Bay, DLNR Division of State Parks, c/o James Leonard, PBR Hawaii Hilo, Awakee, Maniniowali, Kukio 2, TMK: (3) 7-2-04:03, 17 & 19.

Mr. Lemmo pointed out the developer on behalf of State Parks proposes to construct a two lane paved park access road, parking, a day use area, comfort station, restroom and storage facilities, picnic facilities, a camping area, landscaping, pathways, trail improvements, anchialine pond improvements, utility improvements and a water and a wastewater system which will be connected to the adjacent private development mauka of the proposed project. The applicant also poses to create a "wilderness" type environment through

sustaining the natural and cultural resources of the area. Mr. Lemmo informed the Board the Final Environmental Impact Statement was published in the OEQC's Environmental Notice on June 8, 2003. Mr. Lemmo recommended the Board approve this application for the proposed improvements for Kekaha Kai State Park Phase I at Kua Bay subject to the conditions listed in staff's submittal.

Dan Quinn Administrator of State Parks made it known this past Wednesday the gates going down to Kua Bay were welded shut and with boulders placed on both sides of the gate. Mr. Quinn circulated pictures of the gate area. He communicated the park was being developed by the private sector as part of a land exchange in the area. Looking towards the future, he envisions camping in the park but for now only day use will be allowed. He noted there was one modification to the original plan in that the restroom has been moved mauka (instead of makai) of the parking lot.

Bobby Camara a resident of Volcano came to testify. Mr. Camara applauded the Department's work in closing off the gate access to Kua Bay. He feels the 2 ½ million dollars spent for access and other improvements to the park would have been better spent on the parks infrastructure. Some of Mr. Camara's concerns are landscaping, the style of the buildings proposed, and public and pedestrian access to the beach. As far as landscaping at the park, Mr. Camara appreciates the state's use of native species but felt the species proposed will need water to thrive. Mr. Camara's biggest concern is the preservation of the quality of the water at Kua Bay. He hopes the landscaping issue will take into consideration the use of water. Mr. Camara suggested using kiawe trees in the parks landscaping plans due to its low maintenance. In the end Mr. Camara questioned who has final say on the look of the buildings and landscape and what it will look like.

Unanimously approved as submitted (DeMello/Johns).

Item E-1: Request for Approval to Lower cabin Rental Rates, Mauna Kea State Recreation Area, Hawaii.

Dan Quinn Administrator of State Parks clarified there is water hookup for only the toilets, the rest of the water will need to be brought in by the park user. He went on to tell the Board due to the springs drying up which fed the parks water supply, Mauna Kea Park closed in 1998. In 2002 the spring began to flow but the park was not able to meet the EPA drinking water standards. Currently four (4) of the parks cabins have toilets hooked up and State Parks would like to rent out these cabins at a reduced rate. Mr. Quinn asked the Board that permits be issued only out of the Hawaii State Parks district office so they can explain the condition of the cabins to potential renters. Due to a shortage in staff, Mr. Quinn noted the cabins would be available for rent from Friday night through Monday. Mr. Quinn recommended the Board approve temporarily lowering the basic rental rate of the housekeeping cabins at Mauna Kea State Recreation Area from the current \$45.00 per night to \$35.00 per night provided the rates will return to the current level when potable water is provided at the park.

The Board made the following changes to staff's submittal

Paragraph one

“... leading to the closure of the park in [2002] 1998. Subsequently, continued drought conditions kept the park closed. In [1992] 2002, the spring began to flow . . .”

Unanimously approved as amended (DeMello/Yamamura).

- Item D-1:** Acquisition of Private Lands and Set Aside to the Department of Education for Addition to Makawao Public Library; Makawao, Maui, TMK: (2) 2-4-31: por 1.
- Item D-2:** Consent to Renewal of Revocable Permit No. 10 for Lands under Governor’s Executive Order No. 1598 to Elizabeth Marinez dba Olomana Gardens, Waimanalo, Koolaupoko, Oahu, TMK: (1) 4-1-10: por. of 69.
- Item D-3:** Consent to Renewal of Revocable Permit No. 12 for Lands under Governor’s Executive Order No. 1598 to Estate of Harry M. Okumura, Deceased; Waimanalo, Kooluapoko, Oahu, TMK: (1) 4-1-10: por. of 36.
- Item D-4:** Cancellation of Governor’s Executive Order No. 47 and Reset Aside to County of Hawaii for Park and Related Purposes Manowaiopae Homesteads, North Hilo, Hawaii, TMK: (3) 3-6-09:33.
- Item D-6:** Grant of Perpetual, Non-Exclusive Easement to Kauai Independent Utility Cooperative for Access and Utility Purposes, Lot 21-A, Hanapepe, Waimea (Kona), Kauai, TMK: (4) 1-9-05:41.
- Item D-7:** Amend Prior Board Action of December 12, 2003 (Agenda Item D-41), Annual Renewal of Revocable Permits on the Islands of Hawaii, Maui, Molokai, Kauai and Oahu.
- Item D-11:** Issuance of Land Patent in Confirmation of Land Commission Award No. 7700 to Kahauolono, situated at Kaalaea, District of Koolaupoko, Oahu, TMK: (1) 4-7-15:07 and 06, and (1) 4-7-24:28.
- Item D-13:** Amend Prior Board Actions of March 28, 2003 (D-15) and January 12, 2001 (D-5) Concerning the Consent to Assignment of General Lease Nos. S-5318, S-5319 and S-5484 from Edwin Martins (Deceased) Revocable Living Trust and Cancellation and Reissuance of Revocable Permit Nos. S-7150, and S-7200, Kapaa, Kauai, TMK: (4) 4-6-03:01: 4-6-04:14, 4-6-03:22, 23; 4-6-6:28, 29; 4-6-5:10.
- Item D-18:** Rescind Prior Board Action – Acquisition of Land from County of Hawaii and Set Aside to the State Department of Defense as Addition to Kohala Armory Site, Honopueo, North Kohala, Hawaii, TMK: (3) 5-4-09:04.

Item D-19: Sale or Reclaimed (Filled) Land to Martin J. Gillan, Kaneohe, Koolaupoko, Oahu, TMK: (1) 4-4-06:15.

Item D-20: Rescind Prior Board Action of March 8, 1968, Agenda Item F-10, Perpetual Non-Exclusive Easement for Stub Poles, Guy Wires and Anchors across Government Land at Lualualei, Waianae, Oahu, TMK: (1) 8-7-08: por.26.

Unanimously approved as submitted (Johns/Martyn).

There being no further business, Chairperson Young adjourned the meeting at 12:30 p.m.

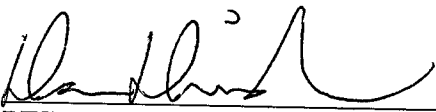
Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Terry Crowell

Approved for submittal:

for 
PETER T. YOUNG
Chairperson
Department of Land and Natural Resources