

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

DATE: November 21, 1980

TIME: 9:00 A. M.

PLACE: Conference Room

State Office Building

Lihue, Kauai

ROLL
CALL

Chairman Susumu Ono called the meeting of the Board of Land and Natural Resources to order at 9:10 A. M. The following were in attendance:

MEMBERS

Mr. Moses W. Kealoha
Mr. Takeo Yamamoto
Mr. Stanley Hong
Mr. Roland Higashi
Mr. Susumu Ono

(Mr. Yagi was absent and excused.)

STAFF

Mr. Ralston Nagata
Mr. Roger Evans
Mr. James Detor
Mr. Kenji Ego
Mr. Libert Landgraf
Mr. Richard Kanayama
Mr. Sam Lee
Mr. Mason Young
Mrs. Joan K. Moriyama

OTHERS

Mr. Johnson Wong
Mr. Peter Garcia
Dr. Emmett Aluli, Attorney Joel E. August,
Capt. Jim ~~Carlson~~ and Mr. Richard
Paglinawan (Item E-1)
Mr. Clinton Shiraishi, Mr. Stanley
Kuriyama, Mr. Gregory Kamm,
Mr. John Kay (Items H-6 and H-7)
Mr. Boyce Brown (Item H-4)
Mr. Dick Hirata (Item F-1-1)
Mr. Tracy E. Lay (Item F-7)
Mr. Robert Lear (Item F-18)

Carson

MINUTES

The minutes of October 10 and October 24, 1980 were unanimously approved as submitted. (Kealoha/Yamamoto)

ADDED
ITEMS

Mr. Kealoha moved, seconded by Mr. Hong, and the board unanimously approved to add the following items to the board agenda:

Forestry

Item C-4 - Request for out-of-state travel for Carl T. Masaki

Land Management

Item F-1-m (MORTGAGE) - RAYMOND J. IWATA and JEAN R. IWATA, husband and wife, to the FEDERAL LAND BANK OF SACRAMENTO, a corporation (GL No. S-4626) - Lot 23, Keonepoko Iki Farm Lot Subdivision (Pahoa Agriculture Park)

Item F-26 - Request for leave of absence without pay - Patricia A. Pruett (Position No. 15952, Clerk Steno II)

Bureau of Conveyances

Item G-1 - Request for out-of-state travel for Charles F. Neumann

The board deviated from the printed agenda to accommodate the people in the audience who had matters on the agenda.

Item E-5 was taken up first.

ITEM E-5
COMMENTS AND RECOMMENDATION RELATING TO THE U. S. NAVY'S NOMINATION OF ARCHAEOLOGICAL SITES (INCLUDING DISTRICTS) AND REQUEST FOR A DETERMINATION OF ELIGIBILITY ON SITES NOT BEING NOMINATED ON KAHOOLAWE ISLAND

Before proceeding with this item, Mr. Ono announced, for the benefit of the audience, that this is not a public hearing, that this is a regular board meeting, and that the board will adhere to some ground rules.

Two representatives from the Protect Kahoolawe Ohana will be permitted to make statements, not to exceed a combined total of ten minutes. The navy will then be permitted to make comments, again not to extend ten minutes. Following that, Mr. Richard Paglinawan, who chairs the Hawaii Historic Places Review Board, will be making a formal presentation to the land board on the Review Board's findings and recommendations. Finally, Mr. Ralston Nagata, staff with the Division of State Parks, will be making the staff's recommendations.

Mr. Joel E. August, attorney from Maui, who spoke on behalf of the Ohana, said at this point this survey has produced a total of 544 archaeological sites, and these were the ones that the board has been asked to comment on for the Federal Government.

Mr. August said the first legal issue is whether all of the 544 archaeological sites should be nominated for listing on the National Register, or only a small portion of the sites. The criteria which were used in answering that question are contained in Federal regulations.

The second legal issue is whether the entire island itself is such a significant and distinguishable entity that it also meets the Federal criteria.

Mr. August said he was happy to report that the Ohana and DLNR are in agreement on a major issue affecting the Hawaiian people--the significance of Kahoolawe and its archaeological sites. In 1975 when the Ohana first filed its suit in the Federal court, it alleged that these sites and the island did meet the Federal criteria significance.

Mr. August further stated that the reports prepared by the Division of State Parks and the Hawaii Historic Places Review Board both concluded that the sites and the island itself should be listed in the National Register. The Ohana agrees with that position wholeheartedly. The Ohana is also confident, he said, that the Department of the Interior, who will eventually receive these comments, will agree with these conclusions.

Dr. Emmett Aluli said they have been responsible for revitalization of the traditional Hawaiian religion as it relates to Kahoolawe. He said even a year ago when they were working on the religious access to Kahoolawe, it was of the understanding that each time they went there with their kupuna and the scientists that they will be working their way through an understanding of the Hawaiian religion and historic sites as it relates to Kahoolawe. He said they are working within the time frame to get to meet the cultural significance of Kahoolawe. What is important now, he said, are the policies that will be set by this board for the future, not only for Kahoolawe, but throughout the state. That really is the key here.

Dr. Aluli thanked the board for the opportunity to address the board today.

Capt. Jim Carlson, representing the navy, said since the last meeting, the only change is the navy has requested a determination of eligibility from the Keeper of the Register for all identified sites.

Mr. Higashi said the center of discussion at the last board meeting was on specific sites. Today there is a question of having the whole island designated as historic sites. He asked the captain how that would affect the military's activities.

Capt. Carlson said that is a point that he would not like to address at this time.

At the last board meeting, the Protect Kahoolawe Ohana and the navy made their formal presentation to the board. Mr. Ono said today is the first opportunity for Mr. Richard Paglinawan to make a formal presentation to the board on behalf of the Hawaii Historic Places Review Board.

The Hawaii Historic Places Review Board, through Mr. Richard Paglinawan, advised the board that all the multiple resources on Kahoolawe Island be entered on the National Register of Historic Places. He went on further to advise that there are deficiencies in the documents presented by the U. S. Navy that need to be addressed. These deficiencies were expressed under the heading of: (1) Archaeology, (II) History, (III) Legendary, and (IV) Intrinsic Value. He said the Review Board prepared this part of the material based on the U. S. Navy's submittal, the public meeting held on November 8, 1980, and the knowledge of the members of the Review Board. The testimonies presented by the public support such a nomination.

Mr. Paglinawan asked the board to make two corrections to his written statement. Under Attachment 1, page 21, first line, the correct name is Nualolo, not Nulolo. Under Attachment 2, page 3, under Content, the authors' names were reversed. For page 19, the author's name should be Marshelle Castro, and for page 20, the author's name should be Megan Hanks.

Mr. Paglinawan said the archaeologist for the navy did a tremendous job in putting the materials together. However, in the presentation itself, they felt that it could be improved, he said, so they made specific recommendations.

Mr. Paglinawan thanked the board for the opportunity to present their comments.

Mr. Ono said the Review Board had a really tight schedule and they worked hard meeting that schedule. He asked Mr. Paglinawan to express the Land Board's appreciation to the members of the Review Board.

Mr. Ono called on Mr. Nagata to make the presentation on behalf of the staff.

Mr. Nagata said Federal regulations require the navy to submit these archaeological sites, being nominated or determined eligible, to the State Historic Preservation Officer for his review and comment.

Mr. Nagata said it was their opinion, for the purposes of the Multiple Resources Nomination, that the archaeological sites on Kahoolawe nominated by the navy should be accepted by the National Register, and that the remaining sites, including the 288, be declared eligible for listing on the National Register, with the exception of Sites 285 and 325.

Mr. Nagata said the recommended level of significance is state significance. They would have recommended that the archaeological sites being determined eligible be nominated. However, some question exists, he said, in the unclear designation of site boundaries that may hamper nomination. The National Register over the past few years has also sought their comments regarding the question of eligibility of the entire island as an archaeological district. Mr. Nagata said with the documentation now available, they are of the opinion that the archaeological sites found on the island would be more appropriately identified if the Island of Kahoolawe is registered as an archaeological district. Such recognition would eliminate the need to clarify site-by-site boundaries mentioned earlier.

Regarding the question of the SHPO nominating all sites, not presently being nominated by the navy, Mr. Nagata said they feel that the navy's nomination should be allowed to proceed as they feel adequate opportunity is being provided for the National Register to make an informal decision.

Mr. Nagata said the SHPO, with the concurrence of the board, further intends to submit these archaeological sites to the Review Board for their review and decision.

Mr. Nagata further stated that they felt that reasonable measures to preserve and protect Kahoolawe's heritage can be devised through a cultural resources management plan. Thus, the military and non-military use of the island would continue with appropriate management of these archaeological sites.

Mr. Hong asked Mr. Nagata whether the registration of the entire island as an archaeological district, constrains the navy in anyway from its military use, as they are using it now.

Mr. Nagata thought there would be some constraints. He said presently the navy is obligated by the executive orders and the Federal law that have been brought out by the Ohanas to identify sites, and to take measures to preserve or protect these sites. Therefore, he said, there is going to be a need to review measures necessary to preserve or protect.

Mr. Higashi said he believed that the attorney representing the Ohana stated at the last meeting that the navy only needed to consider the impact, and then do whatever they needed to do.

Mr. Nagata believed the Ohana's attorney at the last meeting did mention something to that effect, but the question was whether or not there would be some constraint. Mr. Nagata's opinion was there is some constraint to the navy's actions. They would have to go through a procedure of trying to recognize the potential impact, trying to mitigate these impacts. He didn't think it's as simple as was presented by the Ohana's attorney. The final decision would be up to the Federal agency, and that would be the navy.

Mr. Higashi said the attorney's feeling was based on site-by-site basis. He wanted to know if we do the whole island, whether it changes their procedure. Mr. Nagata didn't think that would change the procedure. He said as a district nomination, these individual sites would be recognized as features that had been identified as part of the district nomination.

Mr. Hong asked if we accepted on the basis of site-by-site designation, how that would constrain the navy.

Mr. Nagata said there would be a problem for the navy. They have implied that if these other sites that are not being nominated are declared eligible they would be undertaking additional work to upgrade the information for nomination at a future date. Personally, he felt that this adds another added constraint to the navy. They have to do additional identification work.

Mr. Hong asked whether the navy is aware of this added responsibility under the staff's proposal. Mr. Nagata thought that they are aware.

Mr. Hong asked whether the jurisdiction of the island would still be in the navy regardless of the designation. Mr. Nagata said that is correct.

Mr. Hong said Mr. Yagi is absent, and asked Mr. Nagata whether Mr. Yagi has expressed any views on the staff's recommendations.

Mr. Nagata personally did not have Mr. Yagi's views. The only discussion that he had with him was to inform him of the typographical error in the submittal. He didn't get the feeling that Mr. Yagi had any adverse reaction to the staff's recommendations.

Mr. Ono said Mr. Yagi's comment from the previous meeting was, what happens after the navy returns the land to us?

Mr. Ono informed the board that he will excuse himself from voting because of a potential conflict. He was advised by the attorney general's office not to participate in the voting. However, he said his views are contained in the submittal as the State Historic Preservation Officer. Mr. Ono conducted the remaining portion of the meeting but abstained from voting because of this conflict.

A member of the Ohana who was in the audience (and who was not identified) spoke and mentioned a ceremony that took place at the Iolani Palace on a beautiful clear day, with people like Frenchy DeSoto, Emma DeFries, Dr. Aluli and others attending. He asked the board not to be a rubber stamp and to do their work from the heart.

Mr. Nagata asked to make a correction to a typo under Recommendation on page 3, line 8. It should correctly read, "in lieu of (1)" not (2).

ACTION Mr. Kealoha moved to accept staff's Recommendation No. 2 (the recommendation to seek registration of the entire island as an archaeological district in lieu of (1); and Recommendation No. 3 (the submittal of these sites to the Review Board for their review and decision relating to the Hawaii Register). Mr. Higashi seconded and the motion was carried. (The record showed that Mr. Ono did not vote on this item.)

Mr. Nagata said the various parties involved in this--the U. S. Navy, the Protect Kahoolawe Ohana, and the Historic Review Board--put a tremendous effort into this particular Kahoolawe issue that has been decided on by the board. The navy has spent an extraordinary amount of money only in this phase, which is the identification of resources.

The Protect Kahoolawe Ohana, as Dr. Aluli has mentioned, has been trying to seek this kind of action for the last five years or so.

The Review Board (these members are not necessarily state workers), composed of members from the other areas of the community, spent their time reviewing the tremendous amount of documentation that was prepared by the navy's contractors. They had very limited time. Our staff also did have lots of materials to review. Because of the court order that the navy has tried to meet the deadline by early December, the time constraint has been tremendous.

Mr. Nagata said excellent job has been done by various parties in trying to provide all sides of this particular issues. He thought it would be a good idea, and suggested to the board to resolve and commend the actions of the various parties involved.

Mr. Ono agreed with Mr. Nagata's sentiments and said it is appropriate for the board to thank all parties who were involved in the process. Since the board had no objection to Mr. Nagata's suggestions, the chairman asked Mr. Nagata to proceed with the drafting of the necessary papers.

ITEM H-4 VIOLATION OF LAND USE WITHIN THE STATE CONSERVATION DISTRICT
AT HAENA, KAUAI

Mr. Evans said a CDUA has been submitted on this matter and a request was made by the attorney for the applicant that a deferral of the entire matter be made until such time as we bring the CDUA before the board.

Mr. Boyce Brown, attorney representing the applicant, said primarily we are dealing with an application for a chain link fence and a rock wall.

ACTION There was no objection by the board to the deferral.

ITEM H-6 VIOLATION OF LAND USE WITHIN THE STATE CONSERVATION DISTRICT
AT KOLOA, KAUAI

ITEM H-7 VIOLATION OF LAND USE WITHIN THE STATE CONSERVATION DISTRICT
AT KOLOA, KAUAI

Mr. Evans said the reason this violation of land use was being presented as two separate cases was because during the process of this application, there was a change in land ownership.

This case emanated from a complaint received on November 12, 1979, which reported that possible conservation violations at Koloa were occurring--trees were being cut in the conservation district; stumps were buried under the sand; and skeletons were buried under the sand. These violations occurred on privately-owned lands.

On or about August 6 of this year, Mr. Evans said again a complaint was filed, which reported another possible violation--the removal of sand occurring on privately-owned land.

In April 1979, the board approved an easement to Poipu Beach Condominium, who is the same group that made the conservation application. As a condition of granting that easement, the board stated that the public shall have free and unobstructed use of the area during the life of the easement.

The land owner on the CDUA was listed as Grove Farm. However, the land owner did give a letter of authorization to ADM International, who represented a firm called The Housing Group, to do work in the conservation district.

Also along with the application, they listed the type of work they wanted to do and where they wanted to do it. Specifically it was within the conservation district area. They said that the action that they propose to do will be limited to drawing a new line on the tax map and has no physical effect. Furthermore, they did state that they will remove dead ironwood trees and that minor grading will be done in accordance with the county grading ordinance.

On September 25, 1979, staff acknowledged the CDUA. As part of the processing, staff referred that application to the various agencies and within the divisions of DLNR for their comments and recommendations.

Our Historic Sites section responded that there are reported sites which have not been located, mapped and registered yet. They recommended that an archaeological reconnaissance be completed and assessed prior to the approval of the application.

On November 12, 1979, an anonymous complaint came to the department. An investigation disclosed that approximately twelve trees were removed, some others were trimmed, and an old stone wall was partially removed. A statement was made in the investigation report that the approval of the permit application was not until February 22, 1980, a period of three months after the job had already been completed.

On February 22 of this year, staff recommended to the board to approve the CDUA with conditions. Mr. Evans pointed out the three specific conditions. They were:

need to include boundary

Condition No. 4 - In the event that any unanticipated sites or remains such as shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls are encountered during construction, the applicant shall stop work and notify the Historic Preservation Office.

Condition No. 7 - The applicant submit an archaeological reconnaissance to the Historic Sites Section of the Division of State Parks prior to any clearing of land.

Condition No. 8 - That grading and tree removal be subject to the approval of Historic Sites Section and the Division of Forestry.

Written notification was sent to the applicant on February 25, 1980.

On June 9, 1980, our investigation indicated removal of sand in the conservation district. A visual check of the area was made and evidence showed that sand was removed from the conservation district.

In August, a complaint was received on sand removal in the conservation district. Our investigation team observed the equipment, which they stated at that time that it belonged to Rego Trucking doing the work. A bulldozer was seen leveling sand and a loader picking up rocks from a rock wall. Further, on this date, our investigator stated that they did communicate with the owner of the truck, who informed them that they were under a contract. Staff contacted the contractor and informed him that he did not have permission to remove sand, level sand dunes, dig holes, remove and destroy walls or cut down healthy ironwood trees within the sites. As a result, they ordered the people at the site to stop work. Our people were back on the site the next day and they did see a bulldozer within the conservation district, pushing sand to a point where a payloader was working to load sand into a trailer. Our investigator found trees down, stone wall removed, and the conservation land leveled. The work on the site was still continuing on August 8. Further, our investigators found a water truck in addition to the other equipment that were on the site.

As a part of the total investigation, on August 13 the Planning Office felt necessary to check with other divisions, to ascertain:

1. If our Historic Sites Section had ever seen a report or gave approval of an archaeological reconnaissance which was required by this board. The answer was no.
2. If any approval had come from Forestry regarding the conditions stipulated by the board. The answer was no.
3. If a grading plan had been submitted to DOWALD. The answer was no.

On August 13, our department made further observations. A yellow loader was seen moving sands, and the activity was occurring in an area seaward of the building. Further, in that report, staff observed the same trucking firm removing sand again from the premises.

On August 19, staff sent a notice and order to cease and desist, informing them that the conditions of the CDUA have not been met.

On August 28, we received a request from the firm involved whether they could hand clear the area. Mr. Evans said he was informed that they would reconsider breaking their agreement with the county, which was to allow free public access across the road, so as to limit the public. Mr. Evans said this was a stipulation by the board under Condition No. 5 of the Grant of Easement, and it was not something that they could consider breaking.

Further, in the letter of August 28, a statement was made that no work will commence until proper permits are secured, and that a grading permit must also be secured. They went on further to state that the rocks to be moved will be stockpiled at a location to be determined by ADM within the Poipu Kai project. Mr. Evans said based on that statement, staff felt that they do know where the rocks are.

Staff called the Kauai Department of Public Works to check to see whether any grading permit had been given on this project. The answer was yes, a grading permit was issued and it was issued sometime before the CDUA was made.

Mr. Evans said Section 1-5 of the Kauai County grading code defines grading as "any excavation or fill or combination thereof."

A request was then made to our State Surveyor to survey the property, to see whether any work was done on state land. The result of the survey indicates that all work was done on private land.

Following that, two letters, both dated September 5, 1980, from ADM International were sent to our Historic Sites Section and the Division of Forestry. They requested approval of the condition that the board originally stipulated. They enclosed an archaeological report. The report split the area into two sections, Sections A and B. The alleged violation apparently occurred in Section A. There are several historical sites there, one of which was Site 82, which is a sand dune. The archaeologist that made the report made several statements about this site. Site 82 is called a burial ground. This area is of great ethnic significance, therefore, the area should be avoided. Our Historic Sites people concurred with the recommendation in that report, and responded on September 30 that any land clearing, bulldozing, tree planting in the area be monitored by an archaeologist. The area had already been cleared by this time.

The letter to the Division of Forestry requested permission to clean up rubbish, dead trees, noxious vegetation and live trees in a portion of the subject area. The area that they requested is Area B, which was untouched. Mr. Evans said there is no request for approval in Area A, which the board stipulated had to be approved. The Forestry responded approval of trash clean up only for Area B.

Mr. Evans said as a part of the investigation, there were communication and strong concerns about the possibility of human remains because the area where they were working is a sensitive area.

Staff was able to contact the working people on the site, and had statements made by people who were working on the site, to the effect that while they were in the process of grading, three skulls were found. Rather than stopping work, as was required by the board, they reburied the skulls.

Mr. Evans said staff did make a site inspection yesterday, with the permission of the land owner, and was able to uncover one of the skulls. That skull has since been reburied, Mr. Evans reported.

Following this report, Mr. Evans showed some slides and photos to the board involving the subject matter.

Staff recommended that the board make the following findings which were listed under Item H-6, as follows:

1. That Chapter 183-41, Hawaii Revised Statutes, as amended, provides the enabling legislation for land use within the State Conservation District;
2. That the land upon which the landscaping and tree removal and trimming occurred is within the State Conservation District;

3. That Departmental Regulation No. 4 is the implementing vehicle by which application is made for land use within the conservation district;
4. That no board approval required under Chapter 183-41, HRS, as amended, and departmental Regulation No. 4, was given at that time;
5. That a violation of land use within the conservation district has occurred; and
6. That the responsible party for these landscaping activities was the land owner of TMK 2-9-01: 01, Grove Farm Company, Ltd.

As a result, staff recommended that the board impose:

1. A maximum fine of \$500.00 for each individual violation. The total amount of the fine assessed, therefore, to be \$6,500.00. This is for each of the twelve trees removed and for partial removal of the stonewall.
2. The administrative costs of \$450.00 to date to be reimbursed by the land owner, for a total of \$6,950.00.

The land owner failing to do this, staff further recommended that the board:

1. Request the assistance of the Department of the Attorney General to pursue the matter, such that the foregoing penalties are secured; and
2. That any additional costs, including litigation or the effectuation of the above, are incorporated.

Mr. Yamamoto asked why Grove Farm was being held responsible when the application was made by ADM.

Mr. Evans said ADM did make the application for the use. ADM did have a signed letter of authorization from Grove Farm to make the application because when that application came in, that land ownership was still retained by Grove Farm. It was not until some subsequent months, in May of this year, that the land ownership transferred. So for this first sequence of violation, our obligation is to go to the land owner, which at that time was Grove Farm, and not ADM.

Mr. Hong questioned Item H-6 where staff was recommending a total penalty of \$6,900.00 against Grove Farm, the land owner. He asked what is the remedy.

Mr. Evans said the obvious remedy is to have the land owner restore the area to its natural condition. However, the specific reason staff did not propose that remedy is because the land owner is now different, and they do propose that remedy in the new land owner. That is addressed in Item H-7.

Mr. Kealoha asked whether the trees were in the conservation district, and whether the stone wall was also in the conservation district.

Mr. Evans said it is clear that part of the stonewall was in conservation district because the stonewall completely ran through the boundary line.

Mr. Kealoha wanted to know how the new law affects the fine, and what day it becomes a daily violation.

Mr. Evans said the new law took effect when the Chief Executive approved it. In this specific case, the new law (\$500.00 per day) took effect on May 29, 1980.

Mr. Evans said this particular violation with Grove Farm occurred prior to the new law, so his response to Mr. Kealoha would be that the new law would not be effective in this case.

Mr. Kealoha said but the trees are not there.

Mr. Evans could not answer that. He said he would have to refer that to the deputy attorney general.

Mr. Kealoha felt that concern should be addressed in the recommendation. He said you cannot ignore the daily fine after it became law. We have this per day violation since May.

In referring to Condition No. 2 where staff is recommending \$450.00 for administrative costs, Mr. Kealoha asked whether that includes the \$200 fee that was incurred by one of the officers. Mr. Evans said no. He said that \$200 is in the next case.

Before going to Item H-7, Mr. Ono said he would like to have Mr. Shiraishi, or whoever is representing Grove Farm, to make his presentation.

Mr. Kealoha said it was his understanding that staff's recommendation addresses only that boundary within the conservation district which the staff and the board members walked on yesterday.

Mr. Evans said that is correct.

Mr. Clinton Shiraishi spoke as an attorney for Grove Farm, Inc. His presentation was limited strictly to the allegation of the wrongful removal of the trees and within the conservation district. He believed that Grove Farm is not in any way liable because it had nothing to do, either directly or indirectly, with respect to the removal of the trees.

As to whether any of these trees in fact were removed from the conservation district, that is in doubt. He said these alleged violations occurred one year ago. He asked why wasn't this matter brought to the attention of the property owner, or whoever was responsible, so they could have met with the staff and determine what trees were removed and from what location. He said they are in no position now, one year after the fact, to either deny or admit that any of these trees came from the conservation district. He said even the staff doesn't know the exact boundary line of the conservation district. He said they knew the approximate location of this line, and based upon their information, certain trees were removed.

As to whether or not they had any permission to remove the trees within the conservation district, if in fact that occurred, at the time they went to the County of Kauai Planning Commission for the SMA use permit, the Kauai Planning Department made a statement in their report that in examining the policies and guidelines of the environmental shoreline protection rules and regulations for the County of Kauai, relative to the proposed project, staff noted the following: Project abuts a piece of conservation district land which has been reserved for recreational purposes, and a portion of which will be dedicated to the county for park purposes, and there are no known resources on this subject site of significant, educational or scientific value.

Mr. Shiraishi said this last sentence means the Kauai Planning Department found that there was nothing of historical or archaeological significance, insofar as the area directly in front of this project was concerned.

Mr. Shiraishi further stated that those who were on the site yesterday recognized what a vast improvement that place was, as far as conditions and appearances are concerned.

With respect to the removal of the trees, Mr. Shiraishi said they do not deny or admit that any came out of the conservation district, and they believe that the staff has the burden of proof. He said they've got to go out there and clearly delineate where the conservation district line was and point out to them from exactly where these trees were removed. They are contending none of them came from the conservation district. They removed some trees, sure, but he said these came out from the urban district.

Mr. Higashi asked what method did they use to determine as evidenced by the map that was submitted to the board.

Mr. Shiraishi said they also have a map which delineates the conservation district boundary lines.

Mr. Ono said Mr. Shiraishi mentioned why Grove Farm is involved at all in this particular case. He said Grove Farm did sign the CDUA as the land owner.

Mr. Shiraishi also mentioned that yesterday's field trip by the board members showed the vast improvement and condition of the area. Mr. Ono said there are reasons why this area was designated as conservation district. Mr. Ono added the fact that the environment was disturbed should be one of the primary consideration. He said he didn't want that statement to stand without any clarification.

Mr. Ono said Mr. Shiraishi paraphrased the Kauai Planning Commission's letter by saying that there is no historical or archaeological significance in that area.

Mr. Shiraishi said the letter states that there are no known resources on the subject site of significance, educational or scientific values. When he spoke to Mr. Avery Youn, Deputy Planning Director of County of Kauai, Mr. Youn informed him that meant no historical or archaeological significance.

Mr. Higashi reminded Mr. Shiraishi that approval of the CDUA that was addressed to Grove Farm, was based on a condition that they check on the historical sites. State recognized that at least the archaeological reconnaissance had to be made.

Mr. Kealoha asked when Grove Farm sold the property to the present owner-- before the application was made, during the time the application was made, or after the application was made?

Mr. Shiraishi said the transfer occurred in May of this year.

There were no further question from the board on Item H-6.

On Item H-7, staff asked to make two specific changes. This was based on the site inspection yesterday and related to the actual finding of human remains on the site.

One of the changes was to add Condition No. 12 to the findings, that failure to stop work upon discovery of human skull constitutes a violation of Condition No. 4 of the Land Board approval on February 22, 1980.

Staff recommended that the board make the following findings:

1. That Chapter 183-41, HRS, as amended, provides the enabling legislation for land use within the State Conservation District;
2. That the land upon which removal of sand has occurred in the conservation district;
3. That the land upon which the stone wall was removed has occurred in the conservation district;
4. That departmental Regulation No. 4 is the implementing vehicle by which application is made for land use within the conservation district;
5. That no board approval required under Chapter 183-41, HRS, as amended, and departmental Regulation No. 4, was given for the type of work being done, and the conditions of an approved CDUA was not followed at time of work;
6. That a violation of land use within the conservation district has occurred;
7. That the responsible party for the removal of sand and the remains of the stone wall is the current land owner of TMK 2-9-01; por. 1;
8. That the responsible party did not meet land use Condition 7 or 8 of land board approval prior to the commencement of these activities;
9. That although the applicant had received grading plan approval by the county for an adjacent lot, no such grading plan was submitted for approval although grading did occur on the site;
10. That the lack of submission of a tree removal plan and archaeological reconnaissance required by Conditions 7 and 8 of CDUA approval from the period August 27, 1980 until September 5, 1980 constitutes willful violation of Chapter 183-41 after written notification was received;
11. That the lack of submission of a grading plan as required by Condition 8 from August 27, 1980 until the present constitute willful violation after written notification was received; and Added Condition No. 12,
12. That failure to stop work upon discovery of human skull constitutes a violation of Condition No. 4 of Land Board approval on February 22, 1980.

Staff further recommended that the board impose the following penalties:

1. A fine of \$500 per violation be imposed for the removal of sand and the remains of the stone wall for a total of \$1,000.
2. That a fine of \$500 per day for the period August 27, 1980 to September 5, 1980 for violation of land uses for willfully failing to comply with board Condition 8 relating to grading and tree removal requiring the approval of Division of Forestry, for a total of \$4,500.

3. That a fine of \$500 per day for the period August 27, 1980 to September 5, 1980 for violation of land use for willfully failing to comply with board Condition No. 7 relating to the submission of an archaeological reconnaissance to Historic Sites prior to land clearing for a total of \$4,500.
4. That a fine of \$500 per day for the period September 6, 1980 to November 21, 1980 for violation of land use for willfully failing to comply with board Condition 8 relating to the approval of grading by Historic Sites and the Division of Forestry, for a total of \$38,000.
5. That the administrative costs of \$3,200 to date be reimbursed by the land owner. This cost to include the Department of Land and Natural Resources (DLNR), the Board of Land and Natural Resources (BLNR), the Department of Accounting and General Services (DAGS), and the Department of the Attorney General.

Mr. Evans asked to include the second change as added Condition No. 6, as follows:

6. That a fine of \$500.00 per day for the period August 27, 1980, the date that the cease and desist letter was received, to today be imposed for willfully failing to comply with Condition No. 4 relating to the stopping work and notifying the department in the event that human bones are discovered, for a total of \$43,000.

Mr. Higashi questioned the revoking of the Grant of Easement. He didn't see the relationship between the easement as a penalty to the actual violation of conservation land.

Mr. Evans said staff is concerned because when the easement was granted, the board specifically stated that the public is going to have the use. He said they may have a change of attitude on the part of the persons to whom the easement was granted, and they are making statements that they may have to restrict the easement to the public.

Mr. Higashi said that should be addressed separately. He said this easement and the violation are not related.

Mr. Kealoha said he was inclined to agree with Mr. Higashi that we should not include the revocation of the easement as part of the recommendation because the urban area should be completely separated from the conservation area.

Mr. Ono said under Items B.2 and B.3, the recommendation says the starting dates for the fines are August 27. He asked why was that date selected if there was such a violation.

Mr. Evans said that was the date they received the cease and desist notice. It has come to his attention, however, that that was not the first written notification. The first notification, with the board's requirements, was in February of this year, when we notified them of the board approval. So this August 27 date is rather a conservative date that they used, Mr. Evans said.

Mr. Ono said may be the intent of the new act was to use the date the party was notified about his specific violation. If you don't start correcting the specific violation, the clock starts running as of that day.

Mr. Kealoha expressed his concern about restoring the place to as near as possible to its original form. What measures can we take to have this place restored?

Should the board approve this particular aspect, Mr. Evans said the division staff would get together with our engineers and discuss possible ways to meet the conditions of the board.

Mr. John Kay, President of ADM, was the next speaker. He said ADM is the planner and developer of Poipu Kai. He said the violations occurred on the property that they don't own. He said they seem to be the ones who are always pointed out as being responsible for the property that they don't even own. He said there is absolutely no reason for ADM, or any of its affiliated companies, to want to remove sand from the beach parcel.

He said they bought this property from Grove Farm with the full knowledge that it was zoned conservation in order to dedicate a portion of it to public park. He said they knew that they couldn't do anything with it, except to clean it up and make it look good. He said Greg Kamm, who is their project manager, has been working with DLNR staff for sometime to get a permit to trim trees, clean up debris, pick up trash, etc. He said there was no urgency for them to do this for any kind of private gain, but simply to make it suitable for public use. He said the area is used by the public now.

He noted from the staff report that all notices of violations were properly given at the time of violation to the violators--Poipu Sands and its contractors. He said they are not their contractors, and they were not notified that sand and rocks were being removed from their property until two weeks after the incident. He wished they were notified because if they had known about it, they would have stopped it immediately, by police action if necessary. He said they don't want this kind of adverse publicity. He said obviously work was done on the site without proper permits.

Mr. Kay further stated that the press reported that Mr. Clinton Shiraishi received his oral permission. He said he hasn't talked to Mr. Shiraishi for a year, and never about this matter.

Mr. Higashi said when ADM applied for the easement, it was one area under ADM. Subsequent to that, part of the parcel was sold to Poipu Sands.

Mr. Kay said they sold that land to Poipu Sands about two years ago.

Mr. Stanley Kuriyama, attorney for ADM, said one of the points that he was going to raise was concerning the revocation of the easement which leads to the whole Poipu area. He said hearing the board's comments, the board does not deem appropriate to address this matter at this time. Mr. Ono said not at this time.

Mr. Kuriyama said in determining the violations recommended by the staff, in terms of the monetary fines, he said reference is made in each instance to "willfully failing" to comply with certain conditions. He said at no time was ADM aware of the violation until cease and desist order was served upon them, which occurred after all of these violations had occurred. The violations, if in fact it exists by the staff's report, were done apparently by a third party.

On August 15, 1979, ADM wrote to Poipu Sands Limited Partnership specifically stating no work will commence until all proper permits are secured. Mr. Kuriyama said there is not much more that you can do than to tell a party not to do something, and if they do it against your instructions, and without any other proof that ADM was in any manner responsible, he didn't see how any of the evidence that the staff states can leave the board to the conclusion that there was a willful violation of any of these regulations by ADM.

Mr. Kuriyama added that there are certain conditions which ADM was obligated to perform and observe. Those conditions were addressed to the "applicant" He said the applicant did not violate any of those conditions. So under the circumstances, he said it would be very difficult for the board to find that a willful violation, at least by ADM, of these rules and regulations and various conditions, have occurred.

On the point about restoring the land, Mr. Kuriyama said the chairman is absolutely correct in his interpretation that whether or not the land had been improved or not has nothing to do with the violation.

He said in the board's consideration of what remedy should be taken or ordered to restore the land, the present condition of the land should be taken into account.

Mr. Kuriyama raised a possible legal question. In his review of Section 183-41, HRS, there is an enforcement provision which says in part that such regulation (meaning departmental regulation) may be enforced by court order at the suit of the department, or of the owner of the real estate, directly affected by the regulation. Mr. Kuriyama said any person violating this section, or any regulation adopted in accordance with this section, shall be fined no more than \$500.00. He also reviewed the department regulation (Reg. 4) which was dated June 25, 1978. The only sanctionable provision that he sees is related to the revocation of permit. He also reviewed the penalty provision which relates to any person, firms or corporations violating any of the provisions of this regulation shall be fined not to exceed \$500.00.

He said the restorative action would be appropriate. He thought the board may want to examine the statutory basis for its authority to order such an action.

Mr. Kealoha said under Section 183, the board has not discounted the fact Mr. Rego did the actual grading, etc.

Mr. Higashi said Mr. Kuriyama also mentioned "applicant." He reminded Mr. Kuriyama that subsequently there was a transfer. In our process this will bring out who was responsible, he said.

In going back to Item H-6, Mr. Hong stated that Mr. Shiraishi, on behalf of Grove Farm, has said that none of the allegations in regard to cutting down trees in the conservation district are true, that all of the trees were cut in the urban area.

Mr. Evans said based on their investigative reports of the complaints that came in indicated and supported that they were in the conservation district.

Mr. Higashi said first of all we should address the issue of who actually is doing all this work--cutting the trees and removing the sand.

Mr. Ono said we have been consistent throughout our actions and have directed all inquires at the land owner.

Mr. Kealoha said the question is whether or not the land owner and the applicant are the same party. The board's concern was expressed at the time when the CDUA for consolidation of the urban and the conservation lots was being considered. He said at that time it was not clear in his mind whether we had three different owners. Now we are dealing with two different land owners from the original application, he said.

Mr. Evans said for Item H-6, Grove Farm is clearly the land owner, as evidenced by the corporate exhibits received from the Department of Regulatory Agencies. For Item H-7, he said land ownership changed hands in May of this year. Grove Farm sold the land to the Housing Group. According to the corporate exhibits from the Regulatory Agencies, Mr. Evans said The Housing Group listed as officers, among others, John Kay, Jr., Gregory Kamm and Diana Gervais. ADM International listed as its officers, among others, John Kay, Jr., Gregory Kamm and Diana Gervais.

Poipu Kai Association listed as officers, among others, John Kay, Jr. and Gregory Kamm. According to Mr. Kay, Poipu Kai is an association of owners that takes care the greenbelt, or the common areas, within the project.

Mr. Evans said Poipu Sands Partnership listed as general partner Western Shores Apartment. Western Shore Apartments, Inc.'s exhibit shows that Mr. Shiraishi is the President and Secretary.

Mr. Evans said when the board originally approved the request for the easement, it came in under the name of Poipu Beach Company and we were not able to find any records of Poipu Beach Company, but staff was able to identify that the Poipu Beach Company was associated with The Housing Group, the current land owner.

Mr. Hong asked whether we cite the land owner for the violations that he is unaware of, if someone trespasses on his land and commits the violations.

Mr. Evans said we do and gave an example of what our approach has been in the past. During the summer months, especially where you have campers going into unobstructed land areas and setting up tents on the property, Mr. Evans said we have gone directly to the owner owner and we have had some success on that.

Mr. Higashi felt that we should refer this matter to the attorney general's office.

Mr. Johnson Wong said at this point he was inclined to agree with Mr. Hong. There is some question as to whether we can hold the owner responsible. In this case it looks as though Poipu Sands and Rego Trucking are clearly in violation.

Mr. Kealoha said the application filed with DLNR should not be relieved because they are the ones who made the application, and not Rego Trucking.

Mr. Ono said in the Kaneohe Bay study this question came up, whether to go after the property owners or the people renting it. The decision was that we go after the property owners, so all of our correspondence were directed at the property owners. Mr. Ono said he didn't see any difference between the Kaneohe Bay study and this case.

Mr. Wong said if you own a piece of property and some people going in and trespasses and if there is any violation, you cannot hold the property owner responsible. If the property owner authorized it, then you can hold the property owner responsible.

Mr. Higashi said he would like the third party to come up to answer some questions.

Since the board has been meeting since 9:10 this morning, Mr. Kealoha suggested that the board take a 10-minute recess.

The board reconvened at 12:10 P. M. after a short break.

Mr. Higashi said evidently one more party is involved in this case and asked whether Poipu Sands can make a statement on this matter.

Mr. Clinton Shiraishi spoke on behalf of Poipu Sands Limited Partnership. He said the recommendation of the staff is to have the guilty party, or parties, reimburse the expenses incurred by the state. They would request that a breakdown be submitted so they would know exactly where the expenses were and whether they are responsible.

With respect to the Grant of Easement, Mr. Shiraishi said a suggestion was made by the staff that it be rescinded. He said it would practically be impossible to do this because they have bona fide purchasers now of values within the Poipu Kai, and these persons have purchased without knowledge of any of these alleged violations.

Mr. Shiraishi addressed the two issues: the removal of the rock wall and the mining of the sand.

He said the stone wall ran through almost the entire length of the property, perhaps 900 feet or so, and the wall continued on through a portion of ADM property and a small part of it within the conservation district. As stated earlier, in connection with the SMA use permit, they felt that clearing up the area was in a way doing a favor to the county because the county had intended to acquire that place and convert it to a public park. He said the stone wall was very unsightly and it was no benefit to them so they removed the wall within their property. Insofar as ADM's portion was concerned, he said they asked them for permission, which was granted to them in the way of a letter dated August 15, 1979, a copy of which was distributed to the board members. That permission was granted to them, subject to certain conditions.

Mr. Higashi asked whether they have subsequent written notice to proceed.

Mr. Shiraishi said no. They knew there were certain conditions, and they were also aware at that time that Poipu Kai was trying to obtain the necessary approval from DLNR, and that a grading permit must also be secured. They were also aware of the fact that in the County of Kauai if you wish to grade an area of more than one acre you have to apply for a grading permit. He said the area in the conservation district is substantially less than one acre in size. That is the reason they did not apply for a grading permit.

After one year having gone by, and on August of this year, one of their agents did go down to ADM and talked to one of their representatives. Mr. Shiraishi said it was his understanding that it was okay to proceed with the removal of

the rock wall, which is within ADM property, and Mr. Rego was hired by Kenneth Shioi & Co. to do the job. Mr. Shiraishi said Kenneth Shioi & Co. was their general contractor.

With respect to the removal of the sand, Mr. Shiraishi said when they were informed that sand was being mined from within the conservation district, he personally went down to the job site, together with their project engineer, and a representative of Kenneth Shioi Contractor, and did tell the subcontractor to stop the work. They also directed him to restore the sand which was removed.

He said it is true that work continued even after this verbal order to stop, but most of the mining thereafter came from the urban district. He noticed that some of the photographs taken by and submitted by the staff that the sand came from the urban district.

Mr. Shiraishi continued that the DLNR staff alleges that these violations were "willful." He said he didn't know how to assure the board there was no intention on their part to be "willful." He was sure that ADM wasn't.

He said much of this could have been avoided had DLNR staff, upon learning of any violation, came up front and told them that they were doing something wrong. He said they were never given this opportunity.

Mr. Ono said on that point, Mr. Shiraishi is putting the burden on the staff. The fact is, they knew what the conditions were because if they didn't know, the CDUA would not have been filed. The fact that application was filed indicates that they were aware that certain conditions had to be met before they can proceed.

Mr. Shiraishi said he didn't mean in that sense. He meant it with respect to the specific violations.

Mr. Ono said because this is in conservation district, they knew about Regulation No. 4. They knew about grading permit. They knew about the SMA.

Mr. Ono made further reference to Mr. Shiraishi's comment pertaining to the Grant of Easement. Mr. Shiraishi's opinion was that we should not take action to rescind the board's action. There were certain conditions attached to the granting of the easement, and if those conditions are violated, he said the state has every right to consider rescinding its action. It isn't a guarantee for life, or in perpetuity.

Mr. Yamamoto asked how many yards of sand were taken from the area.

Mr. Shiraishi said he has no way of estimating.

Mr. Kuriyama wanted to state for the record that no oral permission was given by Mr. Kay. ADM had nothing to do with this removal of the rocks which Mr. Shiraishi referred to.

Mr. Shiraishi said he was just informed that he made a statement that Grove Farm removed the trees. He said if he said that he was mistaken. Grove Farm did not remove the trees.

Mr. Kealoha said for Item H-6 for the violations within the state conservation district, he would like to include Poipu Sands, Louis Rego and Kenneth Shioi & Company, subcontractors for Poipu Sands.

Mr. Kealoha also stated that it wasn't unreasonable for the applicant to ask for a breakdown for the administrative costs, and this should be included in the submittal.

Mr. Ono said the attorney general's office should get involved, not only in reference to the penalties, but also review the entire matter wherever legal implications may be found, and that the attorney general's office render an opinion on it.

The board was in unanimous agreement with Mr. Ono's comment.

Mr. Shiraishi suggested that if this matter is going to be referred to the attorney general's office that they would be pleased to meet with whoever is assigned to this task and come up with proposed findings of facts.

ACTION Mr. Kealoha moved, Mr. Higashi seconded, and the board unanimously approved Item H-6 as recommended by staff, with the following amendments:

1. Include the names of Kenneth Shioi & Co. and Louis Rego, subcontractors for Poipu Sands.
2. Include the breakdown for the administrative costs.
3. Refer the matter to the attorney general's office, not only in reference to the penalties, but also to review the entire matter wherever legal implications will be found.

Mr. Yamamoto moved, Mr. Higashi seconded, and the board unanimously approved Item H-7 as recommended by staff, with the following amendments:

1. Add Condition A.12 - That failure to stop work upon discovery of human skull constitutes a violation of Condition No. 4 of the Land Board approval on February 22, 1980
2. Add Condition B.6 - That a fine of \$500 per day for the period August 27, 1980, the date the cease and desist letter was received, to today be imposed for willfully failing to comply with Condition No. 4 relating to the stopping work and notifying the department in the event that human bones are discovered, for a total of \$43,000.
3. Add the three conditions which were included in the motion under Item H-6.

The board recessed for lunch at 12:50 P. M. and resumed the meeting at 1:45 P. M.

The board took up the items in the following order to accommodate those people in the audience:

ITEM F-15 THE EPISCOPAL CHURCH IN HAWAII APPLICATION FOR SEWAGE AND DRAIN-AGE EASEMENT, KALAUAO, EWA, OAHU

ACTION Unanimously approved as submitted. (Kealoha/Hong)

Item F-1-1 RESUBMITTAL - MARK DEVELOPMENT, INC. APPLICATION FOR A LAND LICENSE, KEKAHA, KAUAI

This was deferred at the last meeting. Mark Development, Inc. has asked for a land license in order to get sand and filled material from the Kekaha Borrow Pit. A question arose on the royalty rates for the sand.

Mr. Detor said they have since re-examined and looked at comparables. They have amended the previous submittal to the extent that the rate for the sand be at \$3.00 per cubic yard rather than the \$1.00 recommended earlier.

A question on how the staff was going to monitor the amount that is to be taken came up. Mr. Detor said the applicant would have to notify the land agent prior to taking the sand. He said we are not able to weigh it or anything like that.

The reason Mr. Kealoha asked this question is, like the Olowalu Cinder pit on Maui, the applicant comes in and ask for certain amount. We give them permission and we let them store them on the site, and we don't even have storage charges.

Mr. Hong asked whether the suggested rate of \$3.00 is average, low or on the high side.

Mr. Detor said it would depend where the sand is taken to because you would have to take into consideration the distance. He thought this \$3.00 to be average.

Mr. Kealoha asked whether this sand is top, medium or low grade.

Mr. Detor said this is not the fine grade sand that you use it for cement.

Mr. Dick Hirata, from the Hawaii Housing Authority, said although you don't have complete control, he believed there can be some control if you ask for invoices from the company.

Mr. Detor pointed out to the board Condition No. 8 which says no stockpiling of material shall be permitted in the particular area or at the disposal area.

Mr. Kealoha asked how they are going to monitor the amount taken. For this particular application, the applicant is asking for only 1,200, but if you don't set the precedence now, Mr. Kealoha said you will have a problem. When you have a guy coming in for 20,000 cubic yards and we give him storage space for one year. What happens if you have five people coming in and you have 100,000 cubic yards committed, and they come in at their pleasure?

Mr. Lee said in the past to try to keep that situation from getting out of hand, they have recommended that one license be granted at any one time so that they can monitor it properly. He added that on the week of December 1, they have already arranged for the state surveyor to do a topographical survey of that pit, so from that topo they can establish a grading plan and that will enable them to measure within some degree after that what is going on.

Mr. Kealoha said the plan that Mr. Lee discussed would make it easier for the staff to monitor.

ACTION Mr. Yamamoto moved to approve Item F-1-1 with Condition No. 10 amended that this license shall not extend beyond two months from the date of issuance. Mr. Hong seconded and the motion was unanimously carried.

ITEM F-7 TRACY LAY REQUEST FOR PERMISSION TO ERECT DWELLING ON LOT NO. 17, LALAMILO FARM LOTS, LALAMILO, SOUTH KOHALA, HAWAII

Mr. Lay has requested permission to construct an additional dwelling on the

subject lot. Mr. Detor explained that additional dwellings can be constructed on the property, but only with board's permission. The board's policy in the past has been to allow only additional dwellings to be constructed if they were for employee farm workers.

This particular lot was sold to Mr. and Mrs. Mack Okura when the original disposition took place. Mr. Lay purchased the property from the Okuras. The Okuras had already constructed a small dwelling on the property which Mr. Lay presently resides today. What they would like to do is let the farm workers live in this house and construct another residence on the property to live.

Mr. Detor said Mr. Lay is presently not farming himself. It is out on a share-cropping arrangement with a farmer in the vicinity. However, Mr. Lay has informed the staff that he will be going into protea production. He is presently doing windbreak planting, some 4,000 feet of it.

Mr. Detor said the house is 825 square feet. The minimum requirement is 800 square feet.

ACTION Mr. Higashi moved for approval, Mr. Yamamoto seconded and the motion was carried.

Mr. Ono voted against this motion to be consistent with the position he has taken in the past on similar requests.

Mr. Lay briefly addressed the board and informed the board that he is sincere with his request.

ITEM F-10 H. M. H. INC. APPLICATION FOR RADIO TOWER AND ACCESS ROAD EASEMENT, LAHAINA, MAUI

This was an application by H. M. H. Inc. for an easement for radio tower on Maui, across government land at Lahaina, which is leased to Pioneer Mill. Pioneer Mill has no objection to this request. What is involved is the installation of four telephone poles and a radio tower for mobile telephone and paging service purposes.

Mr. Detor informed the board that the applicant is a utility so they do qualify for a direct disposition.

Mr. Ono was concerned about the visual impact and asked to see the sketch.

Mr. Detor didn't have a sketch with him but said the visual impact is not going to be one that would be drastic.

The representative for the applicant said it would be somewhat visible from the road, no doubt about that.

Mr. Kealoha asked whether our forestry people can hook up their lines on that. The representative said yes.

Mr. Ono said he would still be interested in seeing a sketch. He just wanted to know what it is going to look like from down below.

Mr. Detor explained that one of the conditions for the right of entry is the submission of the plot plan for approval showing the location, etc.

ACTION Mr. Kealoha moved for approval, subject to the chairman's approval of the detailed plans of the line, size and shape and dimensions of the pole. Mr. Higashi seconded and the motion was unanimously carried.

ITEM F-17 HHA REQUEST FOR CONVEYANCE OF ADDITIONAL LAND FOR KAUHALE AUPUNI O'KULIOUOU PROJECT, KULIOUOU, HONOLULU, OAHU

Mr. Dick Hirata of Hawaii Housing Authority addressed the board and gave a brief background on this matter. He said three parties were originally involved-- the DLNR, HHA and the Board of Water Supply. All were reluctant to take over this property because of possible liability. Originally HHA wanted all of the 50+ acres, with the hope that the subject parcel would be turned over to the Board of Water Supply. However, the BWS did not want it so HHA reluctantly took over.

Mr. Kealoha suggested that a reverter be included in the conveyance. Mr. Detor said a reverter is included. However, as far as the land is concerned, Mr. Detor said they would prefer not to keep it because of potential liability.

ACTION Unanimously approved as submitted. (Kealoha/Yamamoto)

ITEM F-18 STAFF RECOMMENDATION FOR EXTENSION OF TIME WITHIN WHICH TO SATISFY CONSTRUCTION DEADLINE, GENERAL LEASE NO. S-4574 COVERING LOT 15 OF THE BRODIE LOTS AT HANAPEPE, KAUAI

At the September 12, 1980 meeting, the board deferred action on Mr. and Mrs. Robert Lear's request for a two-year extension construction deadline connected with his lease, covering Lot 15 of the Brodie Lots at Hanapepe, Kauai.

The basis of the board's deferral was listed as follows:

1. The lease premises were overgrown and showed no signs of activity.
2. The building plans had not been submitted.
3. The department's file on the lease did not indicate that the lessee attempted to secure financing over the past two years and nine months.

The building time runs out at the end of this month. Staff has been in touch with Mr. Lear since the board action and he has made several points, which were listed in the submittal. First of all, he did have the front portion of the property cleared, but not the back. Secondly, during the time of his lease, he made numerous attempts to arrange for placing a building on the property, but these attempts fell through because he couldn't get financing. Thirdly, he had purchased a retail store for his wife, which he has since gotten rid of because his wife got ill which required him to operate the store.

Staff recommended that the board give him a one-year extension instead of the two that he has asked for, subject to him furnishing us, within ninety days from the date he is notified of the extension, the items listed under Recommendations 1 to 4.

ACTION Mr. Yamamoto moved, seconded by Mr. Higashi, and the board unanimously approved Item F-18 as submitted.

ITEM B-1 OUT-OF-STATE TRAVEL (GUAM) REQUEST FOR HENRY SAKUDA

ACTION Unanimously approved as submitted. (Higashi/Yamamoto)

APPROVAL OF COOPERATIVE GAME DEVELOPMENT AND MANAGEMENT
AGREEMENT WITH CASTLE AND COOKE, INC., ISLAND OF LANAI, MAUI
COUNTY

ITEM C-1

ACTION Unanimously approved as submitted. (Higashi/Yamamoto)

AGREEMENT OF MUTUAL AID BY AND BETWEEN THE COUNTY OF MAUI
AND THE STATE OF HAWAII

ITEM C-2

ACTION Unanimously approved as submitted. (Yamamoto/Higashi)

APPOINTMENT OF DISTRICT FIRE WARDENS FOR DISTRICTS NOS. 3 AND 6,
ISLAND OF KAUAI

ITEM C-3

Mr. Yamamoto asked why the plantation people are always being recommended.

Mr. Landgraf explained that the plantation has the trucks, the equipment, the workers, etc. If a fire occurs, they have the resources to go out and attack the fire.

ACTION Mr. Yamamoto moved, seconded by Mr. Hong, and the board unanimously approved the appointment of Mr. James A. Russell, Field Superintendent of Lihue Plantation Co., Ltd. for District No. 3 and Mr. Lindsay Faye, Jr., President and Manager of Kekaha Sugar Co., Ltd. for District No. 6.

ADDED

ITEM C-4

REQUEST FOR OUT-OF-STATE TRAVEL FOR CARL T. MASAKI

Mr. Landgraf said since Mr. Masaki's wife is employed by China Airlines, he can go on a pass and we don't have to pay for his plane fare. The per diem requested is approximately \$330.00. Mr. Landgraf suggested that this submittal be amended to the extent that the board approve, if necessary, an amount of \$264.50 which would be his cost to come back. He said there is always a possibility that Mr. Masaki may have a problem on his return trip.

ACTION Unanimously approved as amended. (Kealoha/Yamamoto)

FILLING OF VACANT PARK CARETAKER II POSITION, WAILOA RIVER STATE
PARK, HAWAII PARKS SECTION

ITEM E-1

ACTION On Mr. Higashi's motion and seconded by Mr. Yamamoto, the board unanimously approved the appointment of Mr. Stanley Saragosa to Position No. 12799, Park Caretaker II, assigned to the Wailoa River State Park.

FILLING OF A PARK CARETAKER II POSITION, KALOPA STATE RECREATION
AREA, HAWAII PARKS SECTION

ITEM E-2

ACTION On Mr. Higashi's motion, and seconded by Mr. Yamamoto, the board unanimously approved the appointment of Mr. Paul Kealoha to fill Position No. 32290, Park Caretaker II, assigned to the Kalopa State Recreation Area.

FILLING OF PARK CARETAKER II POSITION, MAUNA KEA STATE PARK,
HAWAII PARKS SECTION

ITEM E-3

ACTION On Mr. Higashi's motion and seconded by Mr. Yamamoto, the board unanimously approved the appointment of Duane Koji to fill Position No. 32291, Park Caretaker II, assigned to the Mauna Kea State Park.

ITEM E-4 FILLING OF A PARK CARETAKER II POSITION, LAVA TREE STATE MONUMENT AND MACKENZIE STATE PARK, HAWAII PARKS SECTION

ACTION On Mr. Higashi's motion and seconded by Mr. Yamamoto, the board unanimously approved the appointment of Jose Tabajunda to fill Position No. 32292, Park Caretaker II, assigned to the Lava Tree State Monument, MacKenzie State Park, and Kalapana Canoe Landing site.

(See pages 2 to 6 for Item E-5.)

ITEM F-1 DOCUMENTS FOR CONSIDERATION

HAWAII

Item F-1-a ASSIGNMENT OF LEASE

KOICHI SOGA and RYOKO SOGA, husband and wife, Assignor, to ANTHURIUMS OF PAHOA, INC., a Hawaii corporation, Assignee - Parcel A, portion of Nana-wale Forest Reserve, Part 3, Kaniahiku, Puna - GL No. S-4279

Item F-1-b ASSIGNMENT OF SUBLEASE

ROBERT N. HERKES, Assignor, to HERBERT Y. ARATA, Assignee - Portion of government land of Waiakea, bounded by Kamehameha Avenue, Lihikai Street and Banyan Drive, Waiakea, South Hilo.

This was a resubmittal. The board in July 1980 consented to an assignment of a sublease covering the restaurant from Mike Dietz to Bay Shore Realty Investment. At that time staff had submitted it as an assignment to Herbert Y. Arata but at that meeting it was amended to go directly to Bay Shore Realty Investment. Mr. Detor said he was informed that it is now their intention to assign it to Herbert Arata rather than to Bay Shore. Arata will later on assign it to Bay Shore Realty Investment.

The purpose of this submittal was to amend the previous one to have the consent cover the assignment of the lease to Herbert Arata and then to Bay Shore.

Mr Detor said the day before yesterday he talked to the attorney who is handling it for Mike Dietz. He has requested that consent go only to Herbert Arata at this time.

Staff recommended that the board amend its action of July 11, 1980 under agenda Item F-1-a by approving the consent to the assignment of the sublease to herbert Arata.

Mr. Higashi expressed a possible conflict of interest in this case and chose not to participate in any action taken by the board on Item F-1-b.

Item F-1-c TRANSFER

ROBERT T. SHIRAI and JANE S. SHIRAI, tenants in common, to ROBERT T. SHIRAI - Lot 46, University Heights Residential Subdivision, Third Increment, Waiakea, South Hilo - SSA No. S-5514 (Land Patent Grant No. S-15,479)

MAUI

Item F-1-d REVOCABLE PERMIT

SERVICE CONTRACTING COMPANY - Portion of government land situate at Kaanapali, Lahaina - for storage of equipment and materials - \$25.00 per month

Mr. Detor said this land is currently under a lease to Pioneer Mill and they have indicated no objection.

Mr. Ono asked whether 30% of this \$25.00 goes to Hawaiian Homes, and asked Mr. Detor to check it out since this is additional lease rent.

OAHU

- Item F-1-e REVOCABLE PERMITS
HATTORI CONSTRUCTION CO., INC. - Lot 119, Sand Island, Honolulu - \$157.50 for storage and work space
- Item F-1-f PENTAGRAM CORP. (Burger King) - Chapel Lane - former roadway at Kuwili, Honolulu - for access to and from parking area - monthly rental to be determined by staff appraisal

The site is presently being used as an access to and from Burger King's fast food operation. The fee owners of the abutting lands (lessors to Pentagram Corp.) earlier requested that Chapel Lane be sold to them as a remnant since it was no longer used as a roadway. Mr. Detor said DOT, however, recommended that we retain the roadway parcel because of the possibility that it may be needed for future highway improvements for the Iwilei area.

Mr. Detor said you cannot tell that this is a lane. It looks like part of Burger King's parking lot.

Mr. Ono expressed his concern about anybody taking away a lane and incorporating it into their parking lot. The way it looks now, it is for Burger King's exclusive use.

Mr. Kealoha said he would like to defer this matter and refer it to the attorney general's office to re-establish the road. He said at the time of the sale before these people (Burger King) renovated the place, a short wall was still there. Someone may have removed the sign.

The board had no objection in deferring this matter, as suggested by Mr. Kealoha, and the matter referred to the attorney general's office for review.

- Item F-1-g WATANABE & KONDO, INC., and HARRY AZUMI & ASSOCIATES - Lot 510 Sand Island - for business and storage - \$127.50 per month
- Item F-1-h E. N. NAGAO, LTD., General Contractor - Lot 531-B (portion of former Lot 531), Sand Island, Honolulu - for storage - \$262.50 per month
- Item F-1-i AKIRA YAMAMOTO PAINTING, INC. - Lots 512 and 514, Sand Island - for covered storage of painting equipment, supplies and materials - \$391.50 per month
- Item F-1-j C & S CRANE & RIGGING, INC. - portion of the filled area of Kaliawa Fishery, Kalihi-Kai, Honolulu - for office and construction baseyard (storage and maintenance of mobile cranes, rigging equipment and machinery) - \$1,616.00 per month

There was a brief discussion regarding fencing. Mr. Kealoha asked whether the fence would revert to the state, or can they remove it after the permit is cancelled. Mr. Detor said they can remove it. Mr. Kealoha brought out a case at Iwilei which was discussed by the board earlier.

Mr. Detor wasn't positive on this case. He said he will check it out to see whether the same condition exists here.

KAUAI

Item F-1-k ASSIGNMENT

RODNEY U. SONODA, unmarried, and ROY R. CAMPOS, JR., whose wife is Earleen Claire Campos, as joint tenants, assignors to WILLIAM J. SANCHEZ, as his separate property, assignee - Parcel B-1, Kainahola Pasture Land, Waipouli and Kapaa - GL No. S-4277

(See pages 20 and 21 for Item F-1-1.)

HAWAII

Added
Item F-1-m MORTGAGE

RAYMOND J. IWATA and JEAN R. IWATA, husband and wife, to the FEDERAL LAND BANK OF SACRAMENTO, a corporation - Lot 23, Keonepoko Iki Farm Lot Subdivision (Pahoa Agriculture Park) - GL No. S-4626

ACTION Mr. Kealoha moved to approve Item F-1-b as amended. Mr. Hong seconded and the motion was carried. Mr. Higashi did not vote on this item because of a possible conflict.

Mr. Kealoha moved to approve Item F-1-i as submitted, Mr. Hong seconded, and the motion was carried. Mr. Yamamoto did not vote on this item because of a possible conflict.

The board, on Mr. Hong's motion and seconded by Mr. Kealoha, unanimously approved rest of Item F-1 as presented.

ITEM F-2 AINA OLU ASSOCIATES APPLICATION TO PURCHASE ABANDONED ROAD SEGMENT, KIOLAKAA-KEAA HOMESTEADS, KAU, HAWAII

ACTION Unanimously approved as submitted. (Higashi/Yamamoto)

ITEM F-3 HAROLD M. ITO, ET AL, APPLICATIONS TO PURCHASE ABANDONED RAILROAD RIGHT-OF-WAY SEGMENTS, WAIAKEA, SOUTH HILO, HAWAII

ACTION Approved as submitted. (Yamamoto/Kealoha)

Mr. Higashi indicated a possible conflict and did not vote.

ITEM F-4 COUNTY OF HAWAII REQUEST FOR CONVEYANCE OF UNUSED ROAD REMNANT, MANIENIE, HAMAKUA, HAWAII

ACTION Approved as submitted. (Higashi/Yamamoto)

Mr. Hong did not vote on this item citing a possible conflict.

ITEM F-5 DOH REQUEST FOR APPROVAL OF ISSUANCE OF R. P. (BY DOH) COVERING PORTION OF THE KONA HOSPITAL, KEALAKEKUA, NORTH KONA, HAWAII

ACTION Unanimously approved as submitted. (Higashi/Yamamoto)

ITEM F-6 RUSSELL HATADA REQUEST FOR EXTENSION OF TIME WITHIN WHICH TO SATISFY BUILDING REQUIREMENT, LOT 3, UNIVERSITY HEIGHTS, WAIAKEA, SOUTH HILO, HAWAII

Mr. Higashi questioned the expiration of December 17, 1980, for the six months' extension.

Mr. Detor explained that we cannot go further than that date. He said the would have to come back to the board with a recommendation for another six months' extension.

Mr. Ono asked whether Mr. Hatada filed his application on time and the staff did not submit to the board for action, or did he fail to file. He asked the staff to check who was at fault for the delay in bringing this matter to the board's attention.

ACTION Unanimously approved as submitted. (Higashi/Yamamoto)

(See pages 21 and 22 for Item F-7.)

ITEM F-8 DEBORAH WARREN REQUEST FOR EXTENSION OF TIME WITHIN WHICH TO SATISFY BUILDING REQUIREMENT, LOT 8, KURTISTOWN HOUSELOT SUB-DIVISION, OLAA, PUNA, HAWAII

ACTION Unanimously approved as submitted. (Higashi/Yamamoto)

ITEM F-9 JOINT REQUEST BY HAWAIIAN TELEPHONE CO. AND HAWAIIAN ELECTRIC LIGHT CO., INC. FOR RIGHT OF ENTRY TO CONSTRUCT OVERHEAD LINE SYSTEMS ALONG MANA ROAD IN PUUKAPU, WAIMEA, SOUTH KOHALA, HAWAII

ACTION Unanimously approved as submitted. (Higashi/Yamamoto)

(See pages 22 and 23 for Item F-10.)

ITEM F-11 KIHEI CANOE CLUB REQUEST FOR AMENDMENT OF PREVIOUS BOARD ACTION (7/25/80, AGENDA ITEM F-1-D) AUTHORIZING ISSUANCE OF REVOCABLE PERMIT COVERING LAND AT KIHEI, MAUI

Mr. Kealoha wanted to know whether this was on the grass area. Mr. Detor said it is on the grass area, not on the beach.

There was a discussion on the restroom facility. Question was whether it is open to the general public, and who is going to maintain it.

Mr. Detor said it is open to the general public and the canoe club has to maintain it.

Mr. Kealoha said that should be included as a condition because if the people complain about the smell, they would have to remove it.

ACTION Unanimously approved as discussed above. (Kealoha/Higashi)

ITEM F-12 DOT REQUEST FOR ACQUISITION OF LICENSE FROM U. S. NAVY FOR USE OF HUT 92 J TUNNEL AT KANEOHE MARINE CORPS AIR STATION, KANEOHE, OAHU

ITEM F-13 HHA APPLICATION TO PURCHASE HIGHWAY PARCELS H-17-A AND H-18-A OF THE LUNALILO FREEWAY, FAP NO. F-59(2), SECTION "H", HONOLULU, OAHU

ITEM F-14 STAFF RECOMMENDATION FOR CANCELLATION OF R. P. NO. S-5679-A COVERING LOT 541, SAND ISLAND, HONOLULU, OAHU

(See page 20 for Item F-15.)

ITEM F-16 C&C OF HONOLULU BOARD OF WATER SUPPLY REQUEST FOR PIPELINE
EASEMENT, WAIPAHU, OAHU

ACTION Items F-12, F-13, F-14, and F-16 were unanimously approved as submitted.
(Kealoha/Higashi)

(See page 23 for Items F-17 and F-18.)

ITEM F-19 RESUBMITTAL - STAFF RECOMMENDATION FOR SALE OF LEASE AT PUBLIC
AUCTION COVERING LAND AT KAPAA, KAWAIHAU, KAUAI

This was a proposal to sell an agricultural lease covering two former leases
which were cancelled.

Mr. Detor was in receipt of a memo dated November 20, 1980 from Kauai
District Forester Ralph Daehler to Kauai Land Agent Sam Lee. Mr. Daehler
said he reviewed this submittal and suggested that it would be wise to restrict
the area to non-animal agricultural uses and not allow pasturing of animals
on the land because of problems of boundary survey, fence construction and
maintenance, and the adjacent proximity to a municipal water supply.

Staff goes along with Mr. Daehler's suggestion and recommended that the
submittal be amended to prohibiting grazing of animals.

ACTION Unanimously approved as amended above. (Yamamoto/Kealoha)

ITEM F-20 GREGORY BRIDGES REQUEST FOR AMENDMENT OF PREVIOUS BOARD ACTION
(9/12/80 AGENDA ITEM F-1-G) CONSENTING TO ASSIGNMENT OF GENERAL
LEASE NO. S-4080, LOT 92, KOKEE CAMP SITE LOTS, KOKEE, KAUAI

ACTION Unanimously approved as submitted. (Yamamoto/Higashi)

ITEM F-21 DLIR REQUEST FOR APPROVAL OF RENEWAL OF LEASE OF OFFICE SPACE
IN THE WAIPAHU SHOPPING VILLAGE, WAIPAHU, OAHU

ITEM F-22 EXECUTIVE OFFICE ON AGING REQUEST FOR ACQUISITION LEASE COVER-
ING ROOMS 303, 305, 307, 309, 311, AND 313 OF THE BETHEL-PAUAAHI
BUILDING, HONOLULU, OAHU

ITEM F-23 DSSH REQUEST FOR ACQUISITION OF LEASE COVERING OFFICE SPACE AT
770 KAPIOLANI BOULEVARD, HONOLULU, OAHU

ITEM F-24 DSSH REQUEST FOR ACQUISITION OF LEASE COVERING PORTION OF THE
2ND FLOOR OF THE STANDARD FINANCE BUILDING, HONOLULU, OAHU

ITEM F-25 GOVERNOR'S AGRICULTURAL COORDINATING COMMITTEE REQUEST FOR
APPROVAL OF RENEWAL OF LEASE COVERING ROOM 205 OF THE TANI BUILD-
ING, HONOLULU, OAHU

Mr. Hong had one comment to make on Item F-22. He said there are quite a
few agencies who are leasing office spaces from the International Management
Corporation. It seemed to him that each agency is doing it individually. He
asked whether there is some way that we could coordinate this and possibly
look into the area of leasing the entire building.

Mr. Detor said they will discuss this matter with the Department of Account-
ing and General Services.

- ACTION The board, on Mr. Kealoha's motion and seconded by Mr. Hong, unanimously approved Items F-21 to F-25, respectively, as submitted.
- ADDED REQUEST FOR LEAVE OF ABSENCE WITHOUT PAY - PATRICIA A. PRUETT
ITEM F-26 (POSITION NO. 15952, CLERK STENO II)
- ACTION Unanimously approved as submitted. (Higashi/Yamamoto)
- RESULTS OF PUBLIC AUCTION SALE HELD ON OCTOBER 31, 1980 ON THE
ITEM Z-1 ISLAND OF HAWAII
- Mr. Detor said three Olaa Summer Lots at Volcano were offered for sale on October 31, 1980. Only one was sold at the upset price and the other two were unsold. Mr. Detor said there are a total of ten lots available now that could be disposed of but there are no takers.
- ADDED RESULTS OF PUBLIC AUCTION SALE HELD ON NOVEMBER 20, 1980 ON THE
ITEM Z-2 ISLAND OF KAUAI
- An auction sale was held yesterday on Kauai where three lots were offered and all three were sold at the prices shown on the report which was circulated to the board members.
- Mr. Detor pointed out that the house and lot at Kekaha was repurchased by the state and was offered at public auction earlier but nobody bid on it. That parcel was the subject of board discussion some months ago. Mr. Detor said, as suggested by Mr. Higashi, we changed the format and put it on a thirty-year amortization schedule, and it was sold for \$91,000. The upset price was \$65,000. So it worked.
- ADDED
ITEM G-1 REQUEST FOR OUT-OF-STATE TRAVEL FOR CHARLES F. NEUMANN
- ACTION Unanimously approved as submitted. (Higashi/Kealoha)
- CDUA FOR CONSOLIDATION AND RESUBDIVISION USE AT HUALUA, KEALA-
ITEM H-1 HEWA, NORTH KOHALA, HAWAII (KOHALA CORPORATION)
- ACTION Mr. Higashi moved for denial. He said the reason is that the concept of maintaining Kohala in large agricultural lands for major agricultural use is one of the priorities for the people of the County of Hawaii. Mr. Kealoha seconded, and the motion to deny was unanimously carried.
- CDUA FOR SINGLE FAMILY DWELLING USE AT HAENA, KAUAI (DONALD D.,
ITEM H-2 EDNETTE L., AND CAROL A. CHANDLER)
- ACTION Unanimously approved to deny as recommended by staff. (Yamamoto/Higashi)
- CDUA FOR CONSOLIDATION AND RESUBDIVISION USE AT HONOMU, SOUTH
ITEM H-3 HILO, HAWAII (SAM I. ISHIGO)
- Mr. Kealoha suggested a field inspection on this.
- Mr. Evans said Mr. Kealoha's comment is well taken, but we do have an expiration date of December 9, 1980.
- Mr. Ono suggested that the board take tentative action and have the inspection take place between now and the 9th.

Mr. Johnson Wong said the board can give conditional approval, subject to field inspection. In the alternative, the board could deny and require the applicant to resubmit it.

ACTION Mr. Higashi moved, seconded by Mr. Kealoha, and the board unanimously approved Item H-3 as submitted, subject to field inspection to be conducted by staff and/or board member, before December 9, 1980.

(See page 6 for Item H-4.)

ITEM H-5 VIOLATION OF LAND USE WITHIN THE STATE CONSERVATION DISTRICT AT HAENA, KAUAI

Staff recommended a penalty of \$100.00 fine and \$200.00 for administrative costs. Mr. Evans explained why staff was recommending a \$100.00 fine instead of the normal \$500.00. He said the current land owner was not the land owner when the violation occurred.

Mr. Yamamoto said the current land owner knew there was an illegal cottage there when he bought it. Mr. Evans said he couldn't say the current land owner knew about it that it was illegal the day he bought it, but he found out about it.

Mr. Yamamoto said the fine should be \$500.00.

Mr. Ono said the request that Mr. Clinton Shiraishi made on a previous request on the breakdown of the administrative costs is a legitimate one. He asked the staff to incorporate all the details in the future submittals how they arrived at the administrative costs.

ACTION Unanimously approved as amended above. (Yamamoto/Hong)

(See pages 6 to 20 for Items H-6 and H-7.)

Mr. Evans said those matters that were taken up this morning (Items H-6 and and H-7) were a result of the entire department in a cooperative effort. Mr. Ono expressed the board's appreciation for Mr. Evans' work and the work of the other members of the staff.

ITEM J-1 METERED TAXICAB SERVICES LICENSE AND AGREEMENT, GENERAL LYMAN FIELD, HAWAII (HILO AIRPORT TAXI ASSOCIATION, INC.)

ACTION Unanimously approved as submitted. (Kealoha/Hong)

ITEM J-2 APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS, AIRPORTS DIVISION

ACTION Unanimously approved as submitted. (Hong/Yamamoto)

ITEM J-3 APPLICATION FOR ISSUANCE OF REVOCABLE PERMIT, NONCONFORMING USE, AIRPORTS DIVISION, HONOLULU INTERNATIONAL AIRPORT, OAHU (STATE OF HAWAII, DEPARTMENT OF TRANSPORTATION, AIRPORTS, DIVISION)

ACTION Unanimously approved as submitted. (Hong/Kealoha)

ITEM J-4 AMENDMENT TO LEASE NO. N6274278RP00039 (FORMERLY NF (R)-3210), PORT ALLEN, KAUAI (U. S. NAVY)

ACTION Unanimously approved as submitted. (Yamamoto/Kealoha)

ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, OFF SAND ISLAND
ACCESS ROAD, NEAR KEEHI LAGOON, HONOLULU, OAHU (DEMOLITION
ENGINEERING, LTD.)

ITEM J-5

Mr. Kealoha asked where the rent for the illegal land fill go to. Mr. Garcia believed that it has been going into one of the harbors' special funds.

Mr. Kealoha said there is a question on the ownership of the illegal land fill area. He said we should have a meeting with DOT with respect to that and other parcels. Mr. Garcia said this is the only parcel that was in the illegal land fill area.

Mr. Ono said there was quite a stringent guideline as to what you can do and what you can't do in the court settlement. He questioned whether that was a violation of that settlement.

ACTION

Mr. Kealoha moved to approve Item J-5, Mr. Hong seconded, and the motion was unanimously carried.

Mr. Kealoha said the board was not aware that there was a permit issued on this illegal landfill, and he questioned DOT's authority to issue a permit for the use of this area, or any part of that illegal fill. He suggested that DOT get together with DLNR and discuss this matter and settle the rents collected because it may have some effect on the court case.

Mr. Ono asked Mr. Garcia to take Mr. Kealoha's concerns back to his department.

ITEM J-6

ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, HILO HARBOR,
HAWAII (U. S. COAST GUARD AUXILIARY)

ACTION

Unanimously approved as submitted. (Higashi/Yamamoto)

ITEM J-7

CONTINUANCE OF REVOCABLE PERMITS, HIGHWAYS DIVISION

ACTION

Unanimously approved as submitted. (Hong/Kealoha)

- - -

Mr. Higashi said recently the Airports Division closed Leilani Street that leads to the airport and to the old National Guard area in Hilo. According to Mr. Frank Kamahale, the airport manager at Hilo General Lyman Field, the reason they are closing this road is that they are not in the business of maintaining the road.

Mr. Higashi said on numerous occasions we asked DOT to return to this department all of that land Puna side of that road leading to the airport for future general planning and industrial use. To this date, he said, we have not heard anything.

Mr. Higashi said he would like to move that the board instruct the chairman to formally write a letter requesting DOT to return those lands to DLNR.

Since this matter was not on the agenda, Mr. Ono didn't think such a formal request can be made at this time. However, he asked Mr. Garcia to take Mr. Higashi's message back to his office.