

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

DATE: February 12, 1982
TIME: 10:00 A.M.
PLACE: DLNR Board Room
Kalanimoku Building
Honolulu, Hawaii

ROLL
CALL

Chairman Susumu Ono called the meeting of the Board of Land and Natural Resources to order at 10:00 a.m. The following were in attendance:

MEMBERS

Mr. Stanley W. Hong
Mr. Takeo Yamamoto
Mr. Roland Higashi
Mr. Thomas Yagi
Mr. J. Douglas Ing
Mr. Susumu Ono

STAFF

Mr. Henry Sakuda
Mr. James Detor
Mr. Libert Landgraf
Mr. Roger Evans
Mr. John Corbin
Mr. Roy Sue
Mr. Takeo Fujii
Mrs. LaVerne Tirrell

OTHERS

Deputy A.G. William Tam
Mr. Edwin Auld, Mr. Rod Burgess, III,
and Mr. Steven Cunha (Item F-9)
Mr. David Higa (Item F-13)
Mr. John Loomis (Item H-4)
Mr. Charles Pietsch and Mr. Bob Leinau
(Item H-7)
Mr. Neal Pivar (por. of F-11)
Mr. Peter Garcia, DOT

Mr. Ono apologized for starting the meeting at 10:00 a.m. instead of 9:00 a.m. He explained that we normally start at 9:00 a.m.; however, because the public notice which was sent out listed the time of the meeting as 10:00 a.m., the meeting had to be delayed an hour.

MINUTES:

Mr. Hong moved for approval of the December 18, 1981 minutes as circulated but asked that action on the January 18, 1982 minutes be deferred to the next meeting. Motion carried unanimously with a second by Mr. Yagi.

ADDED
ITEMS

Mr. Hong moved to add the following items to the agenda. Mr. Yagi seconded and motion carried unanimously.

Administration

Item H-11 -- Request for Public Hearing for Use of Land Within the Protective Subzone of Conservation District and for Commercial Purposes.

Item H-12 -- Request for Reconsideration to Board decision on CDUA OA-7/27/81-1405 for Proposed North Halawa Valley Alignment by the Department of Transportation.

Mr. Higashi asked if it was in order to put Item H-12 back on the agenda. Mr. Ono explained that we had gotten a request from DOT and that the board would be making a decision whether to consider or not reconsider the application.

Items on the agenda were taken up in the following order to accommodate those people present at the meeting:

ITEM E-2

REQUEST BY PATRICIA BEGGERLY FOR RIGHT OF ENTRY TO CONDUCT RESEARCH IN KAHANA VALLEY STATE PARK, OAHU.

This work is being proposed by Patricia Beggerly as part of her Doctorial dissertation and Mr. Sue felt that this study would be valuable to the department in their future development of the Valley for park purposes.

ACTION

The Board unanimously granted a right of entry to Mrs. Patricia Beggerly for her requested research purposes, subject to the coordination requirement described in the submittal and to such other limitations that the Chairman may require. Mr. Ing asked also that these type of activities be coordinated with the Kahana Valley Board when such board becomes effective. (Ing/Hong)

ITEM H-10

CDUA FOR TRANSMISSION LINE EASEMENT USE OF ALL LAND BETWEEN KAHUKU AND WAHIAWA, OAHU (WINDFARMS, LTD.).

Mr. Evans said that the transmission line will be a part of the energy project which Windfarms is establishing and that Windfarms did do an EIS which was acceptable to the department.

A public hearing was held in Honolulu at which time concerns were expressed by members of the Wahiawa Community. As a follow-up, a public meeting was held in Wahiawa to give the residents in the area a chance to give their input as to their feelings about the transmission line.

Evans explained that staff did receive a wide degree of input. These concerns were broken down into several different areas -- those that were land use concerns and those that were non-land use. Staff also reviewed the matter in terms of the objectives of our resource subzone and our protective subzone and, in its analysis, feels that the proposed transmission line, where it passes through the resource subzone, is a compatible use with the objectives expressed.

Staff asked that the board approve the line but that the line traverse only the resource subzone and not enter into the protective subzone. We have had communication from the applicants, said Evans, who said that they have been looking to the military and that agreement has been reached with the military such that they no longer will have a need for the line to go through the protective subzone.

In answer to Mr. Ing's concerns regarding alignment of the transmission line and the possibility of it running into endangered plants and animals in the area when the survey is conducted, Evans said that the final alignment of the plan would be subject to departmental approval. So if its the case that a particular endangered specie or endangered plant were to be found to exist as a result of the survey, we could have our DOFAW people make whatever decisions are required to protect that particular specie.

Could there be a requirement that a survey be submitted first before the proposed alignment is sought, asked Mr. Ing?

Sounds like a good idea, said Mr. Evans. Submittal of such a survey could be required.

ACTION

Mr. Hong moved for approval of staff's recommendation to approve, subject to the conditions listed in the submittal, as amended. Mr. Yamamoto seconded and motion carried. Mr. Ono did not vote on this item.

Mr. Ono asked that Mr. Evans sit down with the representative of the Wahiawa Community to explain how staff had arrived at their recommendation for approval.

ITEM H-4

CDUA FOR COMMERCIAL AGRICULTURAL USE AT LAHAINA, MAUI (PIONEER MILL CO.,LTD.

Evans said that a public hearing was held on Maui regarding this application and, at that time, it did become evident that some grading had occurred on the property and further that there may have been a misunderstanding on the part of the applicant in terms of that grading. Although staff did feel that there was a misunderstanding on the part of the applicant, a violation was, nevertheless, found; however, staff is recommending that it be mitigated out.

Evans called to the board's attention the fact that the County of Maui had expressed an interest in the property for firing range purposes. However, considering the purpose and intent of the conservation district, staff felt that an agricultural use was more appropriate than a firing range.

Mr. Ing noticed on page 10 of the submittal that employees were permitted to hunt on the land and asked why it was restricted only to employees.

Mr. John Loomis of Amfac explained that the employees have a gun club and the privilege is restricted only to those employees. He knew that hunting was taking place on the adjoining land, but he did not realize that they were also hunting on this particular parcel.

Evans said that should the board entertain staff's recommendation for approval, there would be a required follow up of land disposition which Land Management would then bring back to the board.

ACTION

Mr. Yagi moved for approval as recommended by staff. Mr. Yamamoto seconded and motion carried unanimously.

ITEM H-7

AMENDMENT TO CDUA FOR WAIMEA FALLS PARK RECREATIONAL USE AT WAIMEA VALLEY, OAHU.

Basically, said Mr. Evans, four things are being requested:

1. A waste water treatment plant;
2. An extension to the existing restaurant;
3. The establishment of a snack bar at the end of the trail near the pool at Waimea Falls; and
4. A convention center on the property.

In terms of staff's field inspection, said Evans, this appears to be a very good project which has been carefully planned and managed. Accordingly, staff is recommending approval of the first two items. The reason staff is recommending approval to the expansion of the existing project is that in the past the applicant, with staff's concurrence, has been using a tank to handle the overflow out there. This, staff feels, is a natural germination of the business use and we feel that it does keep with the board's original approval of the restaurant use which it gave back in 1975.

Back in 1975, the initial application came before the board with the recommendation by staff for approval of the park but that no restaurant be allowed. The board, however, approved construction of the restaurant provided that all the commercial facilities were kept in essentially a centralized area.

In terms of the snack shop near the pool, and in terms of the convention center, there is a difficulty inasmuch as these buildings are in the Limited Subzone area. Therefore, at the present time staff is recommending denial of these last two items.

You keep referring to a convention center, said Mr. Hong. However, the submittal talks about a dining facility -- so what is a convention center?

Office space was to be given to community groups so I foresaw the facility to be more than a dining facility.

But a convention center, asked Mr. Hong? I picture a convention center to be something like the Blaisdell Center where large crowds congregate for an organized meeting of some kind so I think a convention center may be extreme.

I think one of the things that came to my mind when I said convention center is that there would be a thousand seats in the facility so I had perceived it as more than a dining facility.

Mr. Hong said that he pictured it to be more like a pavilion where luaus and things of that sort would be held and he would take issue with the characterization of a convention center.

Plans showing the four items mentioned in the submittal were presented to the board by Mr. Charles Pietsch, president of Waimea Falls Park.

Mr. Pietsch pointed out that the first item, which is the sewage treatment plant, will be located near the visitation center and total treatment capacity provided will be a maximum of 25,000 gallons per day. The expansion will have the capacity to accommodate 2600 people per day.

The second item, which is the restaurant dining expansion, will be in the approximate location of the existing tented seating area. This new addition will be linked to the existing snack bar and upstairs restaurant via covered trellised walkways.

The third item, which staff is not recommending approval on, is an extension of our existing food facility. This is an existing structure in a sense that the same roofed area will continue to be utilized.

The existing tram depot located at the upper terminus of the tram road will be converted into a small snack/refreshment center as a convenience to the park visitors and provide food and beverage service to visitors near the falls.

Mr. Pietsch said that there has been an average of 1200-1300 visitors each day to the park and there has been a demand by the visitors to allow them to buy hotdogs, cokes, hamburgers, etc. up at the waterfall area. This snack shop will not be located at the fall area but will be located at the turnaround where the tram trip terminates. Right now, what we do to satisfy the visitor demand is to have portable containers set up in the area on a picnic table.

In answer to Mr. Hong's question, Mr. Pietsch said that this facility is about 3/4 mile from the present visitor facility where the fee is paid to enter the park. People spend approximately three hours to visit the park.

Are you proposing new restroom facilities for this area, asked Mr. Higashi? No, said Pietsch. The restroom facility that we presently have are portable.

The park, to date, said Mr. Pietsch, has not been turning a profit and if we are to be successful and continue park growth, we have to try to turn a profit. This cannot be done if we do not meet the needs of our visitors.

Do you plan to serve liquor in this area, asked Mr. Ono? Yes, said Pietsch. The whole park is under a liquor license right now and all the food and beverage is administered by a concessionaire.

The fact that you will 1) be serving liquor near the pool area and 2) the restroom facility is approximately 200 yards away -- isn't that going to pose a sanitary problem, asked Mr. Ono?

This is a fluid situation, said Mr. Pietsch. Most of these people will be coming from the falls area and will be headed towards the area where the halaus perform and this is also where the restroom facilities are. This will not be an area where people congregate to eat or drink like in a bar or a restaurant. Portable restroom facilities are available about 3/4 way up the hill from this facility. The food for the snack center will be prepared in the main facility and then carted up to the tram area to be served.

In answer to Mr. Yagi's question, Pietsch said that another portable restroom could be placed nearby.

My next question, said Mr. Ono, is what happens after this. You say that you have to accommodate the visitors yet somewhere along the line this apparently will become so commercialized that we will have to draw the line.

We first came before the board in 1974, which is when the first visitor facility was approved. In 1975, we came back and presented a master plan which incorporated the entire 1800 acres and again what was approved in 1975 was a concept of what we felt the park would become. This is not something that could be done in one, two or three years. Of the 1800 acres under the master plan, only about 300 acres have actually been utilized in the sense that we are restoring historical sites or putting in endangered gardens, etc. As we proceed further mauka of the waterfall area, we will be drawing more and more people further into the valley --

providing greater recreational experiences. For example, the master plan envisions about 120 vacation cabins, synonymous to what goes on at Haleakala. This includes hiking, picnicking, horseback riding -- anything that could take place in a recreational area. This is an evolutionary process and something that I suspect will be coming to the board over the years as we justify the need for increased facilities.

There is not only justification or the need for increased facilities, I don't want you to lose sight of the fact that this is conservation land, said Mr. Ono.

I accept that, Mr. Chairman, and I would like to think that Waimea Corporation has done an excellent job in keeping with this concept. I think we have taken every step to insure that the conservation of the valley is not only retained but opened up to public use. Before we became involved it was nothing more than a hale koa forest run on a month to month lease with people swimming in the pool -- that was it. I think we have delivered what we said we would do initially in 1972 and all we ask is that we are able to continue to work with the staff and the board on an evolutionary process.

I have no disagreement that you have done a good job. However, the work you are doing has been done in the conservation district and there are certain limitations as to how far you can go in developing that particular area and no matter how meritorious or how diligent your plan is there are certain limitations in meeting the demands of the visitors. There will come a time where you, or the board, will have to draw a line. Unless the classification of the lands are changed from conservation, we will still have that limitation.

In answer to Mr. Ing's question, Mr. Pietsch said that they would commence construction as soon as they could afford it.

Wouldn't the applicant be required to commence construction within a year should we approve this project, asked Mr. Higashi?

If it is the case that the board does approve, it will be subject to certain conditions in the administrative rules and one of these conditions is that commencement of the project shall be initiated within one year and completed within three, said Mr. Evans.

Mr. Higashi stated that he would like the applicant to be aware of this timetable.

Mr. Pietsch said that he was not aware of this and explained that when the Master Plan was approved it was really a concept that was approved.

True, said Mr. Higashi, but we are now talking about specifics.

There was also concern some time ago about inadequate parking. Has any action been taken to expand this parking lot, asked Mr. Higashi?

Bob Leinau, General Manager of the park, said that what they do during peak periods of the year is hire parking attendants who make sure the cars are parked as close to each other as possible so space is not lost. We have not had a parking problem since then. During extreme peak periods, like when we have a makahiki, the police come down and supervise and even then there has never been a problem.

Are all the people parking within your property during these peak periods, asked Mr. Higashi? Yes, said Leinau.

The fourth item is the new dining pavilion. As a part of the park's long term development plan, the need for a larger and separate dining/bar facility is anticipated to handle the influx of increased visitor traffic and provide luau and banquet facilities for larger gatherings.

This area is shown on the master plan and at the time that we feel this added facility is justified, we will come back and seek the board's approval, said Mr. Pietsch.

We do not believe that this is an open-ended approval because it is subject to approval by the board and also by the staff. But we would like to locate this facility on the master plan.

I am a little confused as to how the master plan operates for this particular project. We usually deal with approval of a specific structure, as opposed to master plan structures, stated Mr. Ing.

Back in 1975, explained Mr. Evans, the CDUA incorporated a number of different things -- the restaurant, which is already there; some cabins were going to be built, etc. and these things, once they were approved by the board, were approved as a part of a plan. The four items before the board this morning were not on that particular plan and the applicant would like to add these things to said plan.

Doesn't the one year requirement start only at the time the construction plans are approved, asked Mr. Higashi?

Generally, explained Evans, the time frame starts from the time the CDUA is approved by the board. That is a condition of "use" approval.

At the time the master plan was first approved by the board, said Mr. Ono, I have to assume that some analysis in carrying capacity and intensity of use of the valley was done before the plan came before the board. If we continue to add on things without looking at the whole master plan again, then the original decision as the years go by will be hard to rely on. I feel that everytime a change is requested, we should look at the whole valley again. Unless we do this, the original master plan loses its meaning and integrity.

I have been listening to the pros and cons of this matter and I have had an opportunity also to visit and walk this park and I am quite impressed with what they have done with the natural geography of the environment and the maintenance of the master plan, said Mr. Hong. While bearing in mind what the Chairman has said with regard to maintenance of the Conservation District, which I am in agreement with myself, I do believe also that as a privately owned valley we must balance what kinds of activities go in there because it is a major visitor destination area. I feel that it has been maintained and balanced in a very high level in order to keep that proper balance. I do think that this request is meritorious, and I speak for myself, I believe also that any viable business must have the opportunity to view what it can do profitably now, and in the future, so that its planning can be based on that profitability. For myself, I am in favor of the request and I am ready to put those items before us to a vote.

The four items come in four separate parts so I would suggest that we consider each item individually, said Mr. Ono.

1. Sewage Treat Plant - Unanimously approved. (Hong/Yamamoto)
2. Restaurant/Dining Area - Unanimously approved. (Hong/Ing)
3. Tram Depot Refreshment Center - Moved for approval by Mr. Hong. Mr. Ing seconded and motion carried. Mr. Ono voted no for the reason that he objected to liquor being served in that area, especially since it is so close to the waterfall area.
4. New Dining Pavillion - Unanimously approved. (Hong/Yamamoto)

I think the applicant should be aware of the board's concerns about having restrooms adjacent to the tram area where the refreshments will be served, said Mr. Ing.

Mr Higashi asked also that should any amendments come in, the board should have the opportunity to discuss the master plan and its projections.

ITEM H-9

CDUA FOR NON-CONFORMING SINGLE FAMILY USE AT KA'U, HAWAII.

This request was previously submitted to the board and was denied for the reason that the State Attorney General's opinion concluded that they must recommend denial of said CDUA since Bishop Estate did not fulfill the requirement for a legal subdivision under County of Hawaii ordinances and, therefore, the lot was not an existing legal conforming lot prior to January 31, 1957.

The applicant applied again on August 24, 1981 for non-conforming single family use of the subject parcel. Based on an opinion from the Hawaii County Corporation Counsel, the State Attorney General's office submitted a revised opinion stating, in essence, that the proposed subdivision is now legally "grandfathered".

ACTION

Unanimously approved as submitted, subject to the terms and conditions listed in the submittal. (Higashi/Ing)

ITEM F-13

DEPARTMENT OF TRANSPORTATION AND DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT REQUEST FOR JURISDICTIONAL TRANSFERS OF VARIOUS PARCELS OF LAND AT FORT ARMSTRONG AND PIER 39, HONOLULU, OAHU.

This jurisdictional transfer will allow for the orderly development of the Fort Armstrong area by DPED for Foreign Trade Zone use and the Pier 39-40 area by DOT for inter-island barge and tug facilities.

ACTION

Upon motion by Mr. Hong and a second by Mr. Yagi, the board unanimously voted to:

- A. Approve of and recommend to the Governor issuance of an executive order withdrawing the 19.490 acre site now set aside to DPED from the operation of Executive Order No. 2212.
- B. Approve of and recommend to the Governor issuance of an executive order setting aside the 19.490 acre site withdrawn above to the DOT for maritime and maritime related purposes, subject to the existing 50 year lease from the Department of the Army to the State of Hawaii (Land Office Deed No. S-22,304).
- C. Approve of and recommend to the Governor issuance of an executive order withdrawing portions of the land now set aside to the DOT by Governor's Executive Order No. 1903, 2087 and 2278.

- D. Approve of and recommend to the Governor issuance of an executive order setting aside Parcels 1 through 4 together with roadway Easements "A" and "B", shown outlined in red and green, respectively, on map labeled Land Board Exhibit B to the DPED for Foreign Trade Zone purposes.
- E. The foregoing withdrawals and reset aside by the Governor cited in "A", "B", "C" and "D" above shall be subject to disapproval by the State Legislature in any regular or special session next following the dates of the withdrawal and reset aside.

ITEM F-9

DEPARTMENT OF HEALTH REQUEST FOR EXECUTIVE ORDER SETTING ASIDE LAND AT FORT ARMSTRONG, HONOLULU, OAHU.

Not too long ago, stated Mr. Detor, the board took action to accept conveyance from the U.S. Government of the old public health facility which is being operated by the DOH. As a follow up of the board's action to accept conveyance, DOH is now requesting an executive order setting aside the area to their management.

How did the federal government acquire this property, asked Mr. Ing?

This originally was ceded land. However, in 1964 the State quitclaimed its interest to the U.S., so what the federal government is doing now is treating it as though it were federal fee simple land rather than ceded land so they are following a different procedure in returning it to the state than they do for ceded land. Ceded land, when the federal government use ceases, automatically comes back to the state without any strings. In this particular case, because there is a quitclaim executed by the State back in 1964, they are treating it as federal fee simple land.

Was this the only parcel quitclaimed to the State in 1964, or were there others, asked Mr. Ing? There were others said Detor. There was one in the Kau area on the Big Island which was originally ceded land and they have taken the same position there by treating it as fee simple.

In this case, the board accepted it back because there was an urgency to get the Health Department going. However, we have written to the Federal government calling this to their attention -- saying that we accept it because of the urgency but that we still have concerns that it should not be treated as fee simple property, but as ceded land. There is no immediate thing going right now, but maybe 10 years from now the State may decide to use the area for another purpose. Under the terms of the quitclaim, we have to return the property or pay them off. Our contention is that the State shouldn't have to pay for it since it was ceded land to begin with.

In answer to Mr. Ing's question, Detor said that there was no consideration when the property was quitclaimed to the Federal government.

Why has the federal government restricted the use for health purposes only, asked Mr. Hong?

Detor said that it was returned for this purpose so that the health functions could continue.

Deputy A.G. Bill Tam said that perhaps he could clear up one thing. He explained that there are two different Acts involved and one long Tradition which the federal government is not clear about. There is a 1949 Real Property Surplus Act, which is the way the federal government disposes of most of its property. They are handling this under rules and regulations by which they dispose of federal property.

In 1963, there was a Revised Conveyance Procedure Act which effectively amended the administration act which said that when ceded lands which have been set aside were returned they should come back free. A U.S. Attorney's opinion says that this would not apply to federal lands, but it does apply to territorial property which was subsequently set aside.

There is also a Tradition from the Trust established by the 1898 Annexation Treaty which says that all these lands in trust would go to the people of this state. I do not think the federal government has a clear idea of how that Trust has actually been applied as to ceded lands, so there is confusion between those three Traditions as to what lands are included and what are not. Perhaps these need to be resolved since this is not the only incident. There are going to be a great deal of other lands involved.

In 1964, when the Conveyances Act became effective, in effect the federal government came to the state and said that I want you to grant to us in fee or on long term leases with no dollar consideration or we're going to keep the land -- so there was a large exchange of land in 1964. About 64,000 acres was actually returned to the State but then immediately leased back to the federal government for 65 years at a dollar a year consideration.

What is to prevent them from transferring back under the Omnibus Act as opposed to the Reconveyance Act, asked Mr. Ing?

The question, said Tam, is which supercedes. If we accept the 1964 Act then they are saying that we will not treat ceded lands under any special conditions and if the Reconveyance Act, which is a part of the Admissions Act, supercedes that, then it controls the Omnibus bill and, this would be the way to convey it. So the question is which law applies.

At the time the State accepted the conveyance, was this office involved, asked Mr. Ing?

Detor said that Deputy A.G. Dona Hanaike handled the transaction.

Was the issue addressed as to what vehicle they were using to transfer the property, asked Mr Ing?

It was largely handled through the DOH and the Governor's office so I'm not sure, said Detor.

Detor read in part a letter from Mr. George Yuen, Director of the Department of Health regarding the transfer of this property. In essence, Yuen said that he did not feel that the State should be required to pay for the land as distinguished from the building under the buy-out provision at this time. Yuen goes on to say -- the State Board of Land and Natural Resources is accepting the quitclaim deed as submitted instead to allow the DOH to proceed as soon as possible with the program relocation described in their proposal of September 17, 1981. He stated that it was his understanding that the DLNR will be allowed to explain their concerns at a later date. So, said Detor, the State is on record and there have been conversations with the GSA people.

Mr. Ono said also that they had verbally agreed to our processing the deed, but with our reservations recorded.

Do you have this verbal agreement in a memo in the file, asked Mr. Hong?

No, said Detor.

Mr. Hong suggested then that the person who had this conversation memorialize it and attach it to this letter.

Mr. Rod Burgess, III, OHA Trustee, testified that OHA's concerns were two-fold:

1. An analytical research conducted by our OHA staff has disclosed that the larger parcel B, 62,621 square feet, is ceded property, and therefore, the property should be returned in fee without restrictions directly to the State of Hawaii by the federal government under the provisions of Public Law 88-233, which is an amendment to the Statehood Act P.L. 86-3.
2. If the property is returned to the State of Hawaii under Public Law 88-233, OHA would make a timely request to this Land Board for assignment of the subject property to OHA for a permanent administrative building. As you probably know, OHA is now temporarily leasing space in the Kawaiahao Plaza building at a high rental cost.

Moreover, we believe that the federal government's conveyance of the subject ceded property to the State via the Omnibus Budget Reconciliation Act of 1981, P.L. 97-35, was an improper disposition and should have been conveyed under the applicable P.L. 88-233 for a direct conveyance to the State without restrictions, except for payment of fair market valuation of the improvements thereon.

We further believe that the acceptance of such conveyance by the State as opposed to conveyance by P.L. 88-233, may establish improper precedents, thereby affecting the future disposition of surplus ceded property by the federal government in contravention to the spirit and intent of the 1959 Admission Act.

We request conveyance of the subject property to the State of Hawaii pursuant to the applicable provisions under Section 5 of the Statehood Act of 1959. That is, P.L. 88-233.

We also request information on other situations where the federal government returned land to the State of Hawaii other than through Section 5(e) and its amendment P.L. 88-233.

It is utterly amazing how layer after layer of bureaucratic rules and regulations change in various state and federal statutes, and their resulting interpretation continue to alienate the Hawaiian from his own aboriginal lands.

I would like to interject here that we further request that the executive order, which is the item on the agenda this morning to have this parcel set aside to the DOH, be denied until the inappropriate method of the quitclaim to the State is rectified and that these lands are properly conveyed under P.L. 88-233.

The reason we make this request now, said Burgess, is that we feel that we were not properly notified of your October 23, 1981 meeting when the issue was first put on the agenda. Some of the things I would like to comment on relative to the October 31 meeting was that the testimony given

at your board meeting was oral and that there was no documentation -- which is the method that we use in critiquing which issues we might want to state positions on, and there was no document that we could obtain in order to present testimony at that time. There appeared to be some confusion as to exactly what it was that the board authorized at that meeting. I read from your minutes: "Mr. Detor said that the public health office is phasing out some of their programs and that the State DOH is working with them to take over some of the functions as soon as there is space within the building. Accordingly, Mr. Detor asked that the board authorize the Chairman to work out details should it be possible to get the DOH into that building."

In answer to Mr. Hong's question, Mr. Detor stated that this was the meeting where the quitclaim was authorized.

Steve Cunha of OHA also stated his views regarding the transfer of this property back to the State.

Mr. Edwin Auld, Administrator for OHA, talked about all the frustrations he has endured over the past year working with OHA with regard to this subject and stated that we should get others involved, including our Congressional Delegation, to try and establish a set procedure as far as the return of ceded lands to the State are concerned.

Mr. Ing asked that this item be deferred until we can get an opinion from the Attorney General's office regarding the reconveyance procedure and what, if anything, can be done about that.

Mr. Detor didn't think that it would be too much of a problem to issue the executive order at a later date since the DOH is already in the building. However, whether this document is needed in order for them to obtain any federal funds, Detor did not know.

Since the door is still open, said Mr. Ono, I think we should pursue this matter by getting a clarification on the federal level as soon as possible. If we wait too long, that open door may eventually be closed.

ACTION

It was moved by Mr. Ing that this item be deferred and referred to the Attorney General's Office for an opinion regarding any legal ramifications, and for review of the quitclaim deed. Mr. Hong seconded and motion carried unanimously.

Portion of
Item F-11

REVOCABLE PERMIT NO. S-5669, EQUIPMENT REPAIRS SERVICE, SAND ISLAND, OAHU.

In its review of the Oahu permits at the last meeting, the board approved continuance of said permits but not the rates since Mr. Ing was not at that meeting. At the same time, said Mr. Detor, one of the permits which was held by Equipment Repair Service (listed on page 8 of Exhibit C) for land at Sand Island was pulled out since they were in bankruptcy proceedings.

Mr. Tam explained that Equipment Repair Service had filed bankruptcy last year. After they filed bankruptcy, the Land Board revoked the permit. Under Federal bankruptcy law, there is a stay of all proceedings so that particular permit could not be revoked.

In November, when the Oahu permits came up for review they were deferred to December and then again deferred to January. In bankruptcy court, GENDOCK, Corporation expressed their wishes to purchase the stock of Equipment Repair Service and succeed to the revocable permit. However,

said Tam, revocable permits are not assignable. Therefore, they have an offer to pay a very large percentage of the back rental, which they otherwise would not have to pay in order to succeed to this stock.

Neal Pivar of GENDOCK, Corporation explained that they had offered originally to purchase the stock through bankruptcy court free of any liens and clear of all back debts for \$7500.00. This was accepted by court. However, we did not know at the time what the back rental consideration was and we just recently found out that there is some \$10,000 in back rental due prior to bankruptcy up until December 31, 1981. Of the \$7500, we had suggested \$3581 go to the State, plus another \$4370, which comes to a total of \$7951, to clear all back rents, contingent, of course, upon the bankruptcy court issuing us the stock which also holds the permit.

Would you be willing to pay off the additional bill of \$2500 owing over a period of time -- details as to the period of time to be worked out -- asked Mr. Hong?

Mr. Pivar said that he would have to talk to his principals. As it stands now, we are putting out \$11,950 for something we only offered \$7500 for.

Would you like more time to think about this proposal, asked Mr. Hong?

I would certainly like to talk to my lawyer. Maybe something can be worked out but I am disinclined to pay another \$2500. It seems like we had a contract which has been changed after the fact.

ACTION

The board deferred action on this submittal (R.P. No. S-5669, listed on page 8 of Exhibit C) until the next meeting in order to give Mr. Pivar time to discuss the matter of the back rent with his lawyer, and with his partners.

ITEM F-5

LAHAINA CHRISTIAN FELLOWSHIP APPLICATION FOR LEASE COVERING LAND AT HONOKOWAI, LAHAINA, MAUI.

The applicant proposes to use the subject parcel for congregational meetings, church offices, counseling center, nursery and/or pre-school facilities.

Pioneer Mill Co., Ltd., lessee to the areas in question, has concurred to the applicant's request. No reduction in lease rental will be involved in the required withdrawal of the parcel to be leased from G.L. No. S-3588.

ACTION

Finding the areas in question to be economic units in terms of the use to which they will be put, upon motion by Mr. Yagi and a second by Mr. Yamamoto, the board unanimously voted to:

- A. Authorize the withdrawal of the requested lease area from the operation of G.L. No. S-3588 to Pioneer Mill Co., Ltd.
- B. Approve the direct sale of a lease covering the subject area for church and related purposes under the above-listed terms and conditions, subject to the terms and conditions listed in the submittal.
- C. Authorize the sale of the subject 12-ft.-wide easement to the applicant for ingress/egress purposes subject to the terms and conditions listed in the submittal.
- D. Approve a right of entry to the parcels in question to Lahaina Christian Fellowship subject to the terms and conditions as listed in the submittal.

ITEM B-1

ADOPTION OF CHAPTER 73 - "FISH AGGREGATING DEVICES," TITLE 13,
ADMINISTRATION RULES.

The proposed chapter 73 is intended to prevent user conflicts at, as well as losses and damages to, the State's fish aggregating devices in Hawaiian waters. It will prohibit any person from attaching, mooring or tying a boat or other watercraft to any fish aggregating device, or to board, damage, remove or destroy such device, except as permitted by the Board (or its authorized representative) for maintaining, operating, repairing, developing, monitoring, or other activities.

ACTION

The Board unanimously voted to adopt the proposed Chapter 73, Title 13 Administrative Rules entitled "Fish Aggregating Devices" as submitted, and designate the Chairman of the Board and/or the Director of the Division of Aquatic Resources as its authorized representative to approve of activities otherwise prohibited by Section 73-13-2." (Hong/Yagi)

ITEM B-2

PERMISSION TO ADVERTISE FOR BIDS - JOB NO. 7-OM-15, PUMPHOUSE REPLACEMENT,
ANUENUE FISHERIES RESEARCH CENTER.

ACTION

The board unanimously approved the advertising of bids for the pumphouse replacement project, subject to approval from the Governor. (Yagi/Yamamoto)

ITEM C-1

HAWAII WILDLIFE PLAN, THIRD DRAFT

Mr. Landgraf explained that this third draft was being distributed to the board merely for information purposes. Upon receipt of final reviews, the plan will be further amended as appropriate and formally submitted to the board for acceptance as a planning and policy document.

ITEM C-2

PLANT SANCTUARY (SESBANIA ARBOREA) LICENSE AGREEMENT NO. 132 WITH THE
HAWAIIAN HOMES COMMISSION

Hawaiian Homes has issued a license and agreement for the Board of Land and Natural Resources' signature to allow protection of the 'ohai' on approximately 12 acres of land at Kamiloloa, Molokai.

Hawaiian Homes is not able to manage this area to afford protection to these plants, but has consented to allowing our department to maintain the area as a plant sanctuary.

ACTION

The board unanimously approved this request for License Agreement No. 132 with the Hawaiian Homes Commission. (Yagi/Yamamoto)

ITEM C-3

FILLING OF SECRETARY II, SR-12, POSITION NO. 2916, HAWAII.

This position became vacant with the retirement of Mrs. Kikue Nishioka on December 21, 1982.

ACTION

The Board unanimously approved the selection of Debra Nakano to fill Position No. 2916. (Higashi/Yagi)

ITEM D-1

FILLING OF GENERAL LABORER I POSITION, WAIMEA IRRIGATION SYSTEM

ACTION

The board unanimously approved the hiring of Mr. Roosevelt Naungayan to fill the General Laborer I position as outlined in the submittal. (Higashi/Ing)

ITEM D-2

SOIL AND WATER CONSERVATION DISTRICT DIRECTORS.

Mr. Fujii asked that Edward Kanahele Farmer's name be deferred from the appointment list until the question of whether or not a State employee can serve is clarified.

ACTION

The Board, upon motion by Mr. Higashi and a second by Mr. Yamamoto, unanimously voted to 1) defer Mr. Edward Kanahele Farmer's appointment until the question as to whether or not a State employee can serve as director is clarified and 2) approved the appointment and certification of the following persons for the terms shown below to serve as directors of the respective Soil and Water Conservation Districts:

<u>District</u>	<u>Name</u>	<u>Elected/Appointed</u>	<u>Term to End</u>
Mauna Kea	Earl Spence	Appointed	6/30/84
Waiakea	Deferred		
Molokai-Lanai	Alfred Oshiro	Elected	6/30/84
	Raymond Foster	"	"
	Shogo Ogata	"	"

ITEM E-1

PERMISSION TO ADVERTISE FOR BIDS, JOB NO. 23-HP-24, PAVILION, KONA AIRPORT STATE PARK, KAILUA-KONA, HAWAII.

This project consists of constructing a large pavilion with a seating capacity of 600 individuals for parties, community events and cultural programs.

ACTION

Unanimously approved as submitted, subject to approval by the Governor. (Ing/Higashi)

ITEM E-2

REQUEST BY PATRICIA BEGGERLY FOR RIGHT-OF-ENTRY TO CONDUCT RESEARCH IN KAHANA VALLEY STATE PARK, OAHU.

(See page 2 for Action)

ITEM F-1

DOCUMENTS FOR CONSIDERATION

Item F-1-a

MAKAI NURSERY request for consent to MORTGAGE SUBLEASE covering portion of G.L. No. S-4445, Panaewa Farm Lots, 2nd Series, Waiakea, So. Hilo, Hawaii.

Item F-1-b

BOYER CONSTRUCTION CO. application for REVOCABLE PERMIT covering portion of the Nawiliwili Harbor Disposal Area, Nawiliwili, Kauai.

Item F-1-c

PETE QUINATA application for REVOCABLE PERMIT covering land at Papaaea-West, Makaiwa, Hamakualoa, Maui.

Item F-1-d

JAMES R. JONES application for REVOCABLE PERMIT covering land at Waianae Valley, Waianae, Oahu.

Mr. Detor asked that the following amendments be made to Item F-1-d:

1. Correct monthly rental from \$7375 to \$737.55; and
2. Change area from 8 acres to approximately 11 acres.

Item F-1-e

KEITH MERRILL SMITH request for consent to SALE OF LEASEHOLD by AGREEMENT OF SALE, G.L. No. S-4078 covering Lot 90, Kohee Camp Site Lots, Waimea, Kauai.

ACTION

Unless otherwise noted, the above documents were unanimously approved by the board. (Yagi/Yamamoto)

ITEM F-2

STAFF RECOMMENDATION FOR AMENDMENT OF PRIOR BOARD ACTIONS ON EASEMENTS FOR ACCESS PURPOSES INVOLVING PROPERTIES IN WAIMEA, SO. KOHALA, HAWAII.

Mr. Detor called to the board's attention the fact that over the past several years the board has authorized a number of actions with the single objective to provide access to this private property identified as TMK 6-4-01:114, situated at Waimea, Hawaii.

An opinion from Deputy Attorney General dated June 8, 1981 states that the homestead road in question, including the gravel road through the public cemetery from which TMK 6-4-01:114 and 124 (another property owned by the Davises) have direct access, "...has been in existence and in use since time immemorial. All of the people in this area have used this road as a public road." The memorandum goes on to state that "In view of the foregoing, it is the opinion of the undersigned that said Parcels 114 and 124 have legal access through the Homestead Road to Mamalahoa Highway."

However, said Mr. Detor, he did not know whether the County of Hawaii would accept Deputy A.G. Lee's opinion.

ACTION

The board, upon motion by Mr. Higashi and a second by Mr. Yamamoto, unanimously voted to:

- A. Rescind all authorizations approved under agenda Item F-5, dated October 12, 1979, and agenda Item F-4, dated December 19, 1980.
- B. Grant a right of entry to the owners of TMK 6-4-01:114 and 124 for purposes of improving, maintaining and repairing as necessary the homestead roadway over and across the public cemetery, identified as TMK 6-5-04:7, subject to the conditions listed in the submittal.

ITEM H-8

MAUI LAND & PINEAPPLE COMPANY, INC. REQUEST FOR HOLDOVER TENANCY, G.L. NO. S-3681, NAPILI 4 & 5, LAHAINA, MAUI.

The lessee is currently cultivating pineapple on the subject premises and has requested continued tenancy to the area in question which is being studied by the staff for possible leasing at public auction in the near future.

ACTION

The board unanimously approved a one (1)-year holdover of General Lease No. S-3681 at the lease rental of \$3,580 per annum. (Yagi/Yamamoto)

ITEM F-3

HALEAKALA RANCH COMPANY REQUEST FOR HOLDOVER TENANCY, G.L. NO. S-3682, MAKAWAO, MAUI.

ACTION

The board unanimously approved a one (1)-year holdover of General Lease No. S-3682 at the present annual lease rental of \$1,650.00 subject to such other terms and conditions as may be prescribed by the Chairman. (Yagi/Yamamoto)

ITEM F-4

RESUBMITTAL - MAUI ELECTRIC COMPANY, LIMITED & HAWAIIAN TELEPHONE COMPANY APPLICATION FOR ELECTRIC & TELEPHONE TRANSMISSION LINE EASEMENT, NAPILI 4 & 5, LAHAINA, MAUI.

ACTION

Finding that the subject area is an economic unit in terms of the intended use and also that Maui Electric Company, Ltd. and Hawaiian Telephone Company do not have suitable land of their own for the proposed use, the board, upon motion by Mr. Yagi and a second by Mr. Yamamoto, unanimously voted to:

- A. Approve the direct sale of the subject easement to Maui Electric Company, Limited and Hawaiian Telephone Company for the above-described purposes subject to the terms and conditions listed in the submittal; and
- B. Authorize a right of entry to Maui Electric Company, Limited and Hawaiian Telephone Company to the subject area for the above-described purposes, subject to the conditions listed in the submittal.

ITEM F-5 LAHAINA CHRISTIAN FELLOWSHIP APPLICATION FOR LEASE COVERING LAND AT HONOKOWAI, LAHAINA, MAUI.

(See Page 13 for Action)

ITEM F-6 MAUI ELECTRIC COMPANY, LTD., REQUEST FOR AMENDMENT OF PREVIOUS BOARD ACTION (4/24/81, AGENDA ITEM F-6), AUTHORIZING SALE OF EASEMENT AT NAPILI, LAHAINA, MAUI.

At it's meeting of 4/24/81, the board amended its actions of two previous meetings to include relocation conditions relating to the County of Maui Department of Water Supply's responsibilities in this respect.

ACTION The board unanimously voted to further amend its actions of September 23, 1977 and October 24, 1980 under agenda Items F-12 and F-8, respectively, by authorizing the foregoing "limitation" of the County of Maui Department of Water Supply's relocation costs. (Yagi/Yamamoto)

ITEM F-7 LEILANI KAI ASSOCIATION OF APARTMENT OWNERS REQUEST FOR RIGHT OF ENTRY FOR LANDSCAPING AND MAINTENANCE OF A PORTION OF THE GOVERNMENT BEACH RESERVE AT KIHEI, MAUI.

Sometime in 1976, the applicants in question, who were unaware of the need for a formal right of entry, proceeded to landscape and maintain the subject area which is a portion of the Government Beach Reserve at Waiohuli-Keokea Beach Homesteads, Kihei, Maui. Our Maui District Land Agent advises that the parcel is beautifully maintained and recommends board approval to an after-the-fact right of entry to the applicants.

ACTION Unanimously approved as submitted, subject to the terms and conditions listed in the submittal. (Yagi/Yamamoto)

ITEM F-8 MAUI LAND & PINEAPPLE COMPANY, INC. REQUEST FOR HOLDOVER TENANCY, G.L. NO. S-3681, NAPILI 4 & 5, LAHAINA, MAUI.

ACTION The board unanimously approved a one (1)-year holdover of General Lease No. S-3681 at the lease rental of \$3,580 per annum. (Yagi/Yamamoto)

ITEM F-9 DEPARTMENT OF HEALTH REQUEST FOR EXECUTIVE ORDER SETTING ASIDE LAND AT FORT ARMSTRONG, HONOLULU, OAHU.

(See Page 12, for Action)

ITEM F-10 HAWAII PAINTING & WALLCOVERING, INC. REQUEST FOR CHANGE IN LOT ASSIGNMENT AND KANO TRUCKING CO. APPLICATION FOR R.P., SAND ISLAND, HONOLULU, OAHU.

Mr. Ing asked if DLNR had any policy as far as allowing a present permittee to expand to an adjacent piece of property.

Detor said that it depended on the circumstances. At present, there are no hard and fast policies as far as giving property to the next person on the list.

Mr. Hong said that if we continue to let people expand their properties then we are just making a mockery of the waiting list.

Mr. Ono asked that Mr. Detor at least come up with a general guide as to the disposal of property.

ACTION

The board, upon motion by Mr. Ing and a second by Mr. Hong, unanimously voted to:

- A. Authorize a change in lot assignment of Revocable Permit No. S-5874 issued to Hawaii Painting & Wallcovering, Inc. from Lot 516-B to Lot 516-A commencing retroactive to February 1, 1982 with all other terms and conditions of Revocable Permit No. S-5874 to remain the same.
- B. Authorize issuance of a revocable permit to Kano Trucking Service covering a 10,000 sq. ft. parcel of land on Sand Island identified as Lot No. 516-B, subject to the terms and conditions listed in the submittal.

ITEM F-11

RESUBMITTAL - REVIEW OF RENTAL RATES APPLICABLE TO REVOCABLE PERMITS COVERING STATE LAND ON THE ISLAND OF OAHU.

ACTION

Action was taken in five parts as follows:

1. Exhibit "A", General Island-Wide Permits - Unanimously approved as submitted. (Ing/Hong)
2. Exhibit "B", Waimanalo - Unanimously approved as submitted. (Ing/Hong)
3. Exhibit "C", Sand Island - Deferred to the next Oahu board meeting, at which time new rental rates are to be submitted.
4. Exhibit "D", Kahana Valley - Unanimously approved with the amendment that minimum rental is to be increased to \$10.00 per month. (Ing/Hong)
5. Exhibit "E", Maunalaha Homesite - Unanimously approved as submitted. (Ing/Hong)

ITEM F-12

FILLING OF POSITION NO. 12077, DISTRICT LAND AGENT, OAHU.

It was the concensus of the board that when anyone is appointed to a key position such as this one, that his performance be monitored very closely during the probationary period.

ACTION

The board unanimously approved the appointment of James C. Lam to fill Position No. 12077, District Land Agent, Oahu effective February 16, 1982. (Hong/Yamamoto)

ITEM F-13

DEPARTMENT OF TRANSPORTATION AND DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT REQUEST FOR JURISDICTIONAL TRANSFERS OF VARIOUS PARCELS OF LAND AT FORT ARMSTRONG & PIER 39, HONOLULU, OAHU.

(See Pages 8 and 9 for Action)

ITEM F-14

U.S. ARMY WESTERN COMMAND REQUEST FOR RIGHT OF ENTRY FOR TRAINING EXERCISE, PAALAA UKA, WAIALUA, OAHU.

The board, upon motion by Mr. Ing and second by Mr. Yagi, unanimously granted the U.S.A. Department of the Army a right of entry to the subject property to use as a drop zone for an airborne (parachute) assault and training exercises during the period of June 6 to 15, 1982, subject to the terms and conditions listed in the submittal.

ITEM F-15

CITY AND COUNTY OF HONOLULU, BOARD OF WATER SUPPLY, REQUEST FOR DRAIN LINE EASEMENT, PUNCHBOWL, HONOLULU, OAHU.

The Board of Water Supply plans to install an 18-inch drain line across Dole Park that will eliminate the reoccurrence of an unfortunate incident involving the discharge of water from the Punchbowl Reservoir that caused extensive damage to the neighborhood garden plots.

ACTION

Upon motion by Mr. Yagi and a second by Mr. Yamamoto, the board unanimously voted to:

- A. Approve to grant the City and County of Honolulu, Board of Water Supply a perpetual non-exclusive drainage easement covering the subject area, subject to the terms and conditions listed in the submittal; and
- B. Approve to grant the City and County of Honolulu, Board of Water Supply a right of entry to the proposed easement area for construction purposes, subject to the conditions listed in the submittal.

ITEM F-16

THOMAS HORMEL REQUEST FOR AMENDMENT TO PREVIOUS BOARD ACTION (AGENDA ITEM F-1-a, 12/4/81) AUTHORIZING ISSUANCE OF R.P. AT KAPAA, KAUAI.

ACTION

The board unanimously approved the requested amendment with the understanding that all other terms and conditions approved by the Board under Item F-1-a shall remain the same. (Yamamoto/Yagi)

ITEM F-17

DEPARTMENT OF TRANSPORTATION REQUEST FOR EXECUTIVE ORDER SETTING ASIDE LAND FOR KUHIO HIGHWAY IMPROVEMENTS, WAILUA, LIHUE, KAUAI.

ACTION

The board, upon motion by Mr. Yamamoto and a second by Mr. Yagi, unanimously voted to:

- A. Authorize the withdrawal of approximately 17,217 square feet from the operation of General Lease No. S-4412 without a reduction in the basic lease rent. Exact area to be determined by DAGS, Survey Division; and
- B. Subsequent to A. above, approve recommending to the Governor issuance of an executive order placing the aforementioned area under the management and jurisdiction of the Department of Transportation for highway purposes, subject to the condition that upon cancellation of the executive order and/or abandonment of the premises for highway purposes, the premises shall be restored to a condition acceptable to the Department of Land and Natural Resources.

ITEM F-18

DONALD L. BODINE AND JAMES G. HAGER APPLICATION FOR ACCESS EASEMENT, KALAHEO, KAUAI.

Mr. Detor explained that these people cannot get to their property and are therefore requesting an easement.

These people feel also that the County of Kauai's ownership of Naau Road is a matter of dispute and that it may be shown eventually that said road as it is located today could be on private property.

ACTION

The board unanimously authorized the award of a perpetual, non-exclusive easement for access purposes as is described in the submittal, subject also to all conditions listed in said submittal. (Yamamoto/Yagi)

ITEM F-19

DALE MATSUMURA REQUEST FOR EXTENSION OF TIME WITHIN WHICH TO CURE BREACH, G.L. NO. S-4648, KAPAA, KAUAI.

ACTION

The Board, upon motion by Mr. Yamamoto and a second by Mr. Yagi, unanimously voted to extend the cure of default period from January 15, 1982 to March 14, 1982, with the understanding that the lessee shall pay all back rents due by March 14, 1982, the new deadline date. In the event the lessee fails to comply with the above, the board authorized:

1. Cancellation of G.L. No. S-4648 effective March 15, 1982.
2. Retention of all sums heretofore paid under G.L. No. S-4648 as liquidated damages.
3. Demand payment of \$5,800.00 from First Insurance Company of Hawaii, Ltd. under Bond No. HA 52-38364.
4. Request the Attorney General or a private collection agency to collect all monies due the State under G.L. No. S-4648.

ITEM F-20

CALEDONIO ERLANDIZ REQUEST FOR TERMINATION OF REVOCABLE PERMIT NO. S-5746 AND WILLIAM CORREA, JR. APPLICATION FOR REVOCABLE PERMIT COVERING THE AREA, HANAPEPE, KAUAI.

ACTION

The board, upon motion by Mr. Yamamoto and a second by Mr. Yagi, unanimously authorized the termination of Revocable Permit No. S-5746 to Celedonio Tony Erlandiz effective January 31, 1982 and the issuance of a new permit for residential purposes to William Correa, Jr., for the premises identified as being a portion of Lot 64, Hanapepe Town Lots, First Series, TMK 1-9-10:por. 32, subject to the terms and conditions listed in the submittal.

ITEM F-21

STAFF RECOMMENDATION FOR PUBLIC AUCTION SALE OF A LEASE COVERING LOT 22, WAILUA RICE & KULA LOTS, WAILUA, LIHUE, KAUAI.

ACTION

Finding the area to be an economic unit in terms of the intended use, and finding also that the subject area is not now suitable for hunting nor will become so during the term of the lease, the board, upon motion by Mr. Yamamoto and a second by Mr. Yagi, unanimously voted to:

- A. Authorize the Chairman of the Board, commencing May 2, 1982, to issue a month-to-month permit for pasture purposes to Manuel S. Andrade or his designee at a monthly rental to be derived by staff appraisal if issuance of a permit is deemed necessary or desirable at the expiration of General Lease No. S-3705.
- B. Approve the public auction sale of a lease for pasture purposes under the terms and conditions listed in the submittal.

ITEM F-22

STAFF RECOMMENDATION FOR PUBLIC AUCTION SALE OF A LEASE COVERING PASTURE RESERVE C, KALAHEO HOMESTEADS, 2ND SERIES, KALAHEO, KOLOA, KAUAI.

Finding the area to be an economic unit in terms of the intended use and finding also that the area is presently unsuitable for hunting, the board, upon motion by Mr. Yamamoto and a second by Mr. Yagi, unanimously voted to:

- A. Authorize the issuance of a revocable permit to Mr. Alfred Andrade covering the above-described area for pasture purposes commencing retroactive to January 27, 1982 at the monthly rental of \$30.00.
- B. Approve the public auction sale of a lease for pasture purposes under the terms and conditions listed in the submittal.

<u>ITEM F-23</u>	<u>DEPARTMENT OF HEALTH REQUEST FOR APPROVAL OF CANCELLATION OF LEASE COVERING OFFICE SPACE AT 570 AUAHI PLACE, HONOLULU, OAHU.</u>
ACTION	Unanimously approved as submitted. (Yagi/Yamamoto)
<u>ITEM H-1</u>	<u>CDUA FOR SURVEY OF FRUIT FLY ON PRIVATE AND STATE-OWNED LAND AT HANAIEI, KAWAIHAU, LIHUE, KOLOA, AND WAIMEA, KAUAI.</u>
ACTION	Unanimously approved as submitted, subject to the terms and conditions listed in the submittal. (Yamamoto/Yagi)
<u>ITEM H-2</u>	<u>CDUA FOR INSTALLATION OF A 900-GALLON PER MINUTE WATER AND RELATED INFRASTRUCTURE ON STATE-OWNED LANDS AT HANAPEPE, KAUAI.</u>
ACTION	Unanimously approved as submitted, subject to the terms and conditions listed in the submittal. (Yamamoto/Yagi)
<u>ITEM H-3</u>	<u>TEMPORARY VARIANCE FOR FOLIAGE PENETRATION BATTLEFIELD RADAR TESTS (FOLPEN BSR RADAR SYSTEM) AT KOPAKAKA RIDGE AND MAKAHA RIDGE, KOKEE STATE PARK, WAIMEA, KAUAI.</u>
	Exactly what is a Foliage Penetration Battlefield Surveillance, asked Mr. Ono?
	As I understand it, said Mr. Evans, radars will be set up in various areas and what they are trying to find out is whether the beam which is emitted from this radar can penetrate the leaves on a particular tree.
	Mr. Ono voiced his concerns about these type of tests and felt that the military should tell us what the effects are, if any.
ACTION	Deferred until the next meeting at which time the military can come in and explain what these tests are all about and what effects, if any, there might be.
<u>ITEM H-4</u>	<u>CDUA FOR COMMERCIAL AGRICULTURAL USE AT LAHAINA, MAUI.</u>
	(See Page 3 for Action)
<u>ITEM H-5</u>	<u>CDUA FOR ACCESS AND UTILITY EASEMENT ON PRIVATE PROPERTY AT KOOLAULOA, OAHU. (MR. & MRS. PAUL CANTANZARRO).</u>
ACTION	Unanimously approved as submitted, subject to the terms and conditions listed in the submittal (Ing/Hong)
<u>ITEM H-6</u>	<u>CDUA FOR INSTALLATION OF VITRIFIED CLAY PIPE GRAVITY FLOW SEWER LINE, HONOLULU, OAHU (KAMEHAMEHA SCHOOLS).</u>
ACTION	Unanimously approved as submitted, subject to the terms and conditions listed in the submittal. (Higashi/Ing)
<u>ITEM H-7</u>	<u>AMENDMENT TO CDUA FOR WAIMEA FALLS PARK RECREATIONAL USE AT WAIMEA VALLEY, OAHU.</u>
	(See Page 8 for Action)
<u>ITEM H-8</u>	<u>PERMISSION TO CONTRACT WITH THE U.H. COLLEGE OF TROPICAL AGRICULTURE AND HUMAN RESOURCES TO CARRY OUT A PROJECT IN PRAWN AQUACULTURE ENGINEERING.</u>
	(See Page 16 for Action)
<u>ITEM H-9</u>	<u>CDUA FOR NON-CONFORMING SINGLE FAMILY USE AT KA'U, HAWAII</u>
	(See Page 8 for Action)

ITEM H-10

CDUA FOR TRANSMISSION LINE EASEMENT USE OF CONSERVATION LAND BETWEEN KAHUKU AND WAHIAWA, OAHU (WINDFARMS, LTD.).

(See Page 3 for Action)

ADDED
ITEM H-11

REQUEST FOR PUBLIC HEARING FOR USE OF LAND WITHIN THE PROTECTIVE SUBZONE OF CONSERVATION DISTRICT AND FOR COMMERCIAL PURPOSES.

Mr. Evans asked that CDUA HA-1430, which is a request by the University of Hawaii for subdivision on Hale Pohaku, Hawaii, be added to the list shown in the submittal.

Mr. Higashi asked that this CDUA request also be added to the list scheduled for the March 24th public hearing in Hilo.

This would make four applications to be considered, said Mr. Evans.

Then we should consider starting the hearing at 5 p.m., said Mr. Higashi.

ACTION

The board, upon motion by Mr. Higashi and a second by Mr. Ing, authorized scheduling of the following hearings for the proposed use and also authorized the chairman to prepare and forward the hearing notice to the applicants and other affected persons.

<u>CDUA</u>	<u>APPLICANT</u>	<u>LOCATION</u>
OA-1433	C&C of Honolulu	OA-4-6-15:1
OA-1431	C&C of Honolulu Dept. of Parks & Recreation	OA-3-9-12:2,12,16
HA-1430	University of Hawaii	Hale Pohaku, Hawaii

ADDED
ITEM H-12

REQUEST FOR RECONSIDERATION TO BOARD DECISION ON CDUA OA-7/27/81-1405 FOR PROPOSED NORTH HALAWA VALLEY ALIGNMENT BY THE DEPARTMENT OF TRANSPORTATION.

The Legal Aid Society by letter dated January 26, 1982 requested reconsideration of the Board's January 8, 1982 action on CDUA OA-7/27/81-1405 for a proposed North Halawa Valley Alignment by the Department of Transportation.

I understand also, said Mr. Evans, that subsequent to the receipt of this request a complaint was filed in District Court challenging among other aspects, the Board's authority to make such a decision.

ACTION

Mr. Yagi moved for approval of staff's recommendation that the board not reconsider its previous position in the matter of CDUA OA-7/27/81-1404. Mr. Yamamoto seconded and motion carried. Mr. Ing. opposed.

ITEM J-1

APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS, AIRPORTS DIVISION.

ACTION

Unanimously approved as submitted. (Hong/Yamamoto)

ITEM J-2

RENEWAL OF REVOCABLE PERMITS, CONFORMING USE, AIRPORTS DIVISION.

ACTION

Unanimously approved as submitted. (Yagi/Yamamoto)

ITEM J-3

ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 2C SHED, HONOLULU HARBOR, OAHU (HAWAIIAN SUN PRODUCTS, INC.)

ACTION

Unanimously approved as submitted. (Higashi/Ing)

ITEM J-4 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KAWAIHAE HARBOR, KAWAIHAE, HAWAII (BREWER CHEMICAL CORPORATION).

ACTION Unanimously approved as submitted. (Hong/Yamamoto)

ITEM J-5 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, MAALAEA SMALL BOAT HARBOR, MAUI (MAUI PETROLEUM, INC.).

ITEM J-6 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, MAALAEA SMALL BOAT HARBOR, MAUI (MAUI PETORLEUM, INC.).

ACTION Mr. Yagi moved for approval of both Items J-5 and J-6 as submitted. Mr. Yamamoto seconded and motion carried unanimously.

ITEM J-7 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, ALA WAI BOAT HARBOR, HONOLULU, OAHU (WAIKIKI YACHT CLUB).

The Waikiki Yacht Club (WYC) is proposing to construct additional moorings within the additional water area at their cost. The WYC will also be responsible for obtaining all necessary permits (CDUA, SMA, etc.) from the applicable governmental agencies in conjunction with the construction of the additional moorings. However, the applicant would like to get approval of the revocable permit before going through the CDUA process.

ACTION The board, wanting to take a closer look at the operations of the Waikiki Yacht Club e.g. their membership requirements, deferred taking action at this time.

ITEM J-8 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KAWAIHAE HARBOR, KAWAIHAE, HAWAII (YOUNG BROTHERS, LTD.).

ACTION It was moved by Mr. Yagi that this request be approved as submitted. Mr. Hong seconded and motion carried. Mr. Ing disqualified himself from acting on this item.

ITEM J-9 CONTINUANCE OF REVOCABLE PERMITS, HARBORS DIVISION, PERMIT NO. H-77-613, ETC.

ACTION Mr. Hong moved for approval of this request. Motion carried with a second by Mr. Yamamoto. Mr. Ing disqualified himself from acting on this item.

ITEM J-10 CONTINUANCE OF REVOCABLE PERMITS, HARBORS DIVISION, PERMIT NO. H-78-687, ETC.

ACTION It was moved by Mr. Hong that this request be approved as submitted. Mr. Yamamoto seconded and motion carried. Mr. Ing disqualified himself from acting on this item.

ITEM J-11 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, ALOHA TOWER, HONOLULU, OAHU (ALOHA TOWER DEVELOPMENT CORPORATION).

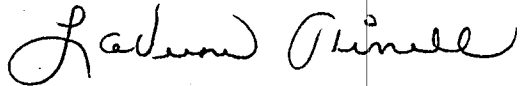
ACTION Upon motion by Mr. Hong and a second by Mr. Yamamoto, the board approved this request as submitted. Mr. Ing disqualified himself from acting on this item.

OTHER BUSINESS Mr. Ono said that several of the board members have been concerned about Marriot's operation at the airport. Accordingly, he thought it would be appropriate if the board could make an on-site visit to look over their operations. The board would also like to take a look at their pricing structure and how they arrived at these prices.

ADJOURNMENT

The meeting adjourned at 2:00 p.m.

Respectfully submitted,



LAVERNE TIRRELL
Secretary

APPROVED:



SUSUMU ONO
Chairman

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