

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

DATE: August 23, 1985
TIME: 9:00 a.m.
PLACE: Board Room
1151 Punchbowl Street
Honolulu, Hawaii

ROLL CALL Chairperson Susumu Ono called the meeting of the Board of Land and Natural Resources to order at 9:05 a.m. The following were in attendance:

MEMBERS Mr. J. Douglas Ing
Mr. Moses W. Kealoha
Mr. Roland Higashi
Mr. Leonard H. Zalopany
Mr. John Y. Arisumi
Mr. Susumu Ono

STAFF Mr. Roger Evans
Mr. Libert Landgraf
Mr. Manabu Tagomori
Mr. John Corbin
Mr. Michael Shimabukuro
Mr. Charles Neumann
Mr. Ralston Nagata
Mr. Maurice Matsuzaki
Mr. Henry Sakuda
Mr. Archie Viela
Mrs. Anne Lo-Shimazu
Mr. Guy Chang
Mrs. Helen Hayakawa
Ms. Dorothy Chun

OTHERS Mr. Edwin Watson, Dep. Atty Gen.
Mr. Peter Garcia, DOT
Mr. Richard Gessler (H-3)
Mr. Daniel Sato (H-6)
Mr. Ralph Miller (H-6)
Mr. Gary Lee (H-8)
Mr. Allan Murakami (F-5)
Dr. Hall (F-3)
Mr. Hamilton Iida (H-2)

AWARDS

Chairperson Ono presented a 40-year Service Award to employee Mrs. Helen Hayakawa, Assistant Registrar in the Land Court of the Bureau of Conveyances. She was commended for her many years of faithful and conscientious service.

ADDED ITEMS

Upon motion by Mr. Ing and a second by Mr. Higashi, the Board voted unanimously to add the following items to the agenda:

Item C-1 Filling of Position No. 2950, Automotive Mechanic I, Island of Hawaii

Item H-14 Permission to Fill a Position of Microbiologist III, No. 21847E in the Aquaculture Development Program

Items on the Agenda were considered in the following order to accommodate those applicants present at the meeting.

ITEM H-3

UNAUTHORIZED CONSTRUCTION OF SEAWALL WITHIN CONSERVATION DISTRICT AT KANEOHE, OAHU, HAWAII TMK: 4-6-1:19

Mr. Evans presented details of the violation to the Board, with Staff's recommendation that the illegally built seawall be allowed to remain; that a fine of \$500 be assessed for unauthorized construction and an additional fine of \$500 for encroachment onto state land; and that the Division of Land Management to determine the question of disposition regarding approximately 1,440 square feet of filled area.

Mr. Ing informed Mr. Evans that the Board does not have a policy with regard to encroachment nor with regard to seawalls. The Board has taken each case by case basis and have fashioned its remedies and fines in accordance with the merits of each case.

Mr. Ono questioned Mr. Evans on staff's recommendation and the affect it will have on other land owners. Will it encourage others to build on State land and just pay a \$500 fine while improving their own property? Mr. Ono said this question is not for this particular case but for all in general when it comes to shoreline property.

Mr. Evans said that in this case, staff based their recommendation on two things, 1) input received from our Division of Aquatic Resources, they commented that it would probably do more damage to the environment to take it out than to leave it there; 2) physically the area is not readily accessible to the public. Those are technical considerations. Staff did not look at the broader question, the question asked by the Chairman, what will be the implications of allowing such a wall to remain.

Looking at the map, Mr. Higashi said there seems to be quite a difference between the rock wall and the certified shoreline. He asked if it were filled in that area. It appears like it's part of the property, is he landscaping it and maintaining it?

Mr. Evans said that there does appear to be some fill. The shoreline survey that they have shows that the wall goes both up and down and in and out from the actual shoreline itself which would be the private public property, so that part of the wall is on the private property and part of the wall is on State property. That the contour of the wall did not exactly follow the shoreline as it was certified.

Mr. Higashi said he had a question, was the fill made to look like part of his property or did he build the wall just to protect his property. Did he recognize that his property ends further back. How did he treat this area?

Mr. Evans said his understanding it's being treated like fast land.

Mr. Ono commented that the owner not only built the wall to protect his land but used it to enlarge the usable property. Mr. Evans replied in the affirmative.

Mr. Zalopany asked why did it take so long since June of 1980 when first cited to correct this matter.

Mr. Evans said that Mr. Gessler was cited in June, 1980 by the U.S. Corps of Engineers and as a result of that, staff went before the Board in 1981 with the matter and the matter was not resolved at that point because questions were raised and they are just coming back to the Board now. Actually in 1982 a CDUA was submitted to the Board and at that time the Board denied the application pending investigation and property inspection.

Mr. Richard Gessler said with regard to the matter of time delay, several years when this matter first came before the Board and he was invited to attend the meeting to respond, the dates given to him were incorrect and he arrived here a week later so he didn't have a chance to give any inclinations to the Board at that time.

Mr. Gessler said when he purchased this property he was led to believe that he was purchasing ocean front property with existing rights to deep water channel. He claims that at the time he purchased the property he had no knowledge that there was any land fill and that his property did not extend to the water's edge. He purchased the property in 1977 and said there was a survey done but he did not have a copy of the survey here. He said the pins were visible but the property was never occupied by the previous owner and was unoccupied for three years so there was much over growth. He mentioned that there was a large number of boulders blocking that particular access to the ocean. The one pin was down at the waters edge, the other pin he assumed was placed because the surveyor could not get quite down to the water's edge.

Mr. Ono pointed out that it is not a natural assumption, a pin is there for a reason and not because he could not get to the makai side that the surveyor would place it further mauka.

Mr. Gessler assumed that by law he would have to pay a fee to have professionals search out the title and discover any land disputes, any hidden traps as far as liens to this property, none of those discovered anything or did they mention anything to him. He said when he dug that trench down there and rolled those boulders in and poured in that cement, he absolutely without question thought that was his land and when he was later informed by this department that he was guilty of encroachment onto State land he was totally dumbfounded.

Mr. Ono said you admitted that you saw a pin, a surveyor's marker on the ground and yet you built the wall further seaward of the pin.

Mr. Gessler said one pin was on the water's edge and a hundred feet away a pin 15 feet back in, there were a large number of boulders and brush there, he assumed he had ocean front property.

Mr. Ing pointed out to Mr. Gessler that because he felt he bought ocean front property, was that the basis of his assumption. You say there was nothing in the sale document that says this is not ocean front property and therefore you are entitled to the land up to the water's edge? Mr. Ing pointed out that the only way you're going to determine the water's edge is, where the shoreline is, is by a shoreline survey, ultimately it's the survey you have to rely on and not the representation that you have ocean front property.

Mr. Gessler said that all he can say is that this is his first experience in purchase of land and he could do nothing but rely on the advice and what was given to him by those people representing him, the people in escrow and he just took it at face value. He still felt he not knowingly built on State land.

Mr. Zalopany asked him if he didn't ask the seller or his real estate agent just where the boundaries were at the time.

Mr. Gessler said the realtor's handed him the documents and he read them and that's what he had to go on. He thinks they weren't aware of it also. He said the existing maps and documentation are still in the Land Courts, still show the property as it was. He doesn't know how he would be able to discover any other way or reason to doubt this official record.

Mr. Ing said looking at the map it shows the 'v' shape of the shoreline but what I understand you to say is that you put the fill beyond.

Mr. Gessler said he didn't fill it. It was done 18 or 19 years ago and two property owners before he became involved with this property. He said when you stand there and you look at the property, there is no way that you could make any determination.

Mr. Ono asked him how did he align his trench.

He said he dug his trench about five feet back from the shoreline. He said he just put it parallel to the shoreline.

Mr. Ono said that you must have used some kind of judgement or basis for aligning the trench the way you did. You admit you saw the surveyor's pin or marker and that influenced you as to where you dug your trench.

Mr. Gessler said what he is trying to point out is that when that pin was placed there, there was a large pile of boulders there and that limited the access down to the water and it was his natural assumption that the guy couldn't get down 15 feet further to put the pin and he just put it there. He said he and his family were not there when the survey was done.

Mr. Kealoha questioned how many surveyor's pins were there.

Mr. Gessler pointed the areas on the map to indicate 4 pins.

Mr. Kealoha asked him if he got a County permit or any other permit, to which Mr. Gessler replied in the negative. After being cited by the Corps. of Engineers, Mr. Kealoha asked him if went to the County to get a permit for the wall.

Mr. Gessler said he applied for a permit with the Department of Land and Natural Resources.

Mr. Kealoha asked at the time of the citation from the Corps. of Engineers, "Did you make a second survey or did you attempt to make a second survey to see the actual boundaries of your property?"

Mr. Gessler said he did not because at that point in time, there was no question in his mind that that was his property and he did not know that until the matter came to this department.

Mr. Kealoha asked, "So till this day you still have not acquired a permit to construct (from the County) that wall?"

Mr. Gessler said that he didn't know that was required of the County.

Mr. Arisumi questioned the wall and the two adjacent walls of the neighbors.

Mr. Gessler said he built his wall first and then the neighbors built theirs.

Mr. Zalopany asked if he had the property surveyed recently.

Mr. Gessler said it was surveyed as a part of a lease conversion with the Bishop Estate about two and a half years ago.

Mr. Higashi asked where were the pins marked and Mr. Gessler said in the same place.

Mr. Ing moved for approval. Seconded by Mr. Kealoha.

Mr. Ono said he will be voting against the motion because he does have reservations about the impact on taking action like this. He felt that in this case especially, it's more than just a seawall to protect one's property. It really enlarges the parcel, the usable area quite significantly and he didn't feel we should use public lands for that purpose.

There being no further discussion, Chairman Ono called for a vote. There were three ayes and three nays. Motion does not carry.

Mr. Ing entertained another motion, that the submittal be approved except that the fee for the encroachment be a running fee. Mr. Ing then withdrew his motion.

For discussion purposes, Mr. Ing said that in the case that the Board heard on the northshore, a running fee for encroachment was imposed which escalated each year until such time that the wall was removed. In that case the board did not through disposition allow them an easement. If the board's

thinking is that the wall should be removed, then he would suggest that is one route that the board has taken in the past. His personal feeling on the matter is that this situation differs from that in the northshore case as there was a beach fronting the property that was both accessible and usable by the public, and in this case there is none. That's an option the board might want to consider.

Mr. Ono said even in this present case, that's an approach that he can support. He would leave the decision to the adjacent property owners if they want to leave their wall, they will have to pay a fee for the encroachment and if they want to stop the running encroachment penalty fee, then they have to remove the wall. The public's interest will be better protected.

Mr. Gessler wanted to make it clear, when one uses the term "wall", the wall is really a hole in the ground with some rocks there and is flush with the ground. You could literally sprinkle some dirt there and sprinkle some grass seed and you'd never know, it looks more like a walkway down there. It doesn't project above the ground, not even one inch, just a hole in the ground. With regard to removal issue it's nothing that sticks up, it's not visible.

Mr. Kealoha asked in clarification, when did he purchase the property and when did he build the wall.

Mr. Gessler said he purchase the property in 1977 and most likely built the wall two years later in the fall of 1979.

Mr. Arisumi asked him why did he build the wall when he said it only extended about an inch or so above the sand.

Mr. Gessler said it does not extend not even one inch above the ground level. He built it because there was evidence of about a foot of erosion occurring and he felt that he needed to stabilize the area down so that the erosion would not just eat away his entire yard. He dug a trench about 5 feet back of the water line, dumped a bunch of rocks in there and poured cement around it to tie it all together. He said his biggest mistake he didn't make was simply covering dirt on the top of it and seeding with grass. Nobody would never have known it was there. He claimed he did not level it, and said he did not put one shovel of fill in. He said the previous owner had dumped a pile of boulders on the ground on that side of the yard, that's what he used to get rid of the boulders. He dug a trench, rolled the boulders in and poured cement around. Again he claimed he did not do any fill, saying it was done 18-20 years ago.

ACTION

Mr. Ing moved that Mr. Gessler be fined \$500 for the unauthorized construction in the CDA violations and that he also be fined or required to pay a fee for encroachment of \$500 for encroachment up through 1985. In January 1986, the fee for 1986 be increased to \$600 and each year thereafter that the seawall remains, that it go up another \$100. So that in 1986 it would be \$600, in 1987 it would be \$700 and continuing on until such time that the seawall is removed from State land and the encroachment is eliminated. Seconded by Mr. Higashi, the motion carried unanimously.

DECLARATORY RULING REQUEST FOR WAIVER FAA COMMUNICATION FACILITY ON MT. KAALA, OAHU

Staff feels there is some uncertainty on this request and it is being brought to the board for a ruling. Staff's recommendation is that the board find the lease which was issued, established the current use and the work proposed by the FAA is an amendment.

Staff is asking that the board authorizes use subject to the five conditions listed in the submittal.

Mr. Ing asked for the difference in this procedure and a CDUA.

Mr. Evans said there was much difference in the procedure. There is a process for a CDUA or an amendment or an emergency authorization, or temporary variance. If it's a case of a bona fide emergency, staff has done in the past, recommend that the emergency authorization be granted. Generally, there is a condition in the emergency authorization that does allow the work to go on but requires the filing of an application with the understanding that there's no guarantee that their application will be approved. At present there is no existing CDUA on this parcel.

Mr. Ing asked if the FAA in its letter of July 31, 1985, indicates why they waited so long before coming before the board? Mr. Evans said no indication.

Mr. Daniel Sato, Assistant Sector Manager at the Honolulu airways facility sector located at the airport, answered Mr. Ing's question. He said that they were trying to put up three standing towers that didn't require any guy wires and when they purchased the antenna, the one that the FAA bought required these guys that apparently would fall outside of the property. Funding was a problem as far as the project getting started.

Mr. Ing said, "What you're saying is that, if it weren't for the guys you would have put up the towers anyway?"

Mr. Sato said yes, without seeking the board approval. He said the towers would have fallen completely in their property that they lease from the State. They would have to submit drawings to the board for review.

Mr. Ing said if you substantially improve your existing facilities which happens to be on land that you lease from the state which also happens to be in a protective subzone in the conservation district, procedure is still that you have to come in to the Planning Office to get approval.

Mr. Sato said the FAA plans to remove four 90 foot wooden poles with wooden platforms with two 90-foot steel towers that is about 3 feet x 3 feet in size, the steel platform on top.

Mr. Sato said his people have said when they have gone up on the poles, they notice it's deteriorating but they cannot pin-point the weak points on the platform. These towers hold the antennas that are used for communication with aircraft and this one is used as a back up for the one on Haleakala for aircraft coming from Molokai and for aircraft coming from the south and west. These towers are being used for air traffic control.

Mr. Ono questioned the need for additional land with the installation of the new equipment and did the agency assume that additional land would be provided.

Mr. Sato said he did not believe so. The need for additional land came up after the new type of antenna was purchased and the need to anchor the guy wires.

Mr. Ralph Miller, Real Estate representative, said they had hoped that upon approval of this waiver, that they would immediately come in for an amendment to their existing lease for easement for the guy wires. The lease provides them the right to renovate and to change out the existing buildings and antennas in order to properly maintain the facilities.

Mr. Ono had a question on Recommendation No. B-5. Assuming additional land is authorized, will this process require the Natural Area Reserves System Commission to act to make the action final.

Mr. Evans said, "yes", this will require formal action on the part of the Natural Area Reserves System Commission.

Mr. Ono said that item B. 5. would need to be amended.

Mr. Evans said in consideration of the deliberation of the board, staff would appreciate clarification. Although the FAA has requested a waiver, staff's analysis and write-up is not asking the board for a waiver of any rule.

Mr. Ing said he understands the request that this is authorized as an amendment of a grandfathered use.

Mr. Evans said that is correct and it is different from a waiver.

Mr. Ing said if this were an emergency situation, they could come in under the emergency provision of the emergency rules of Title 13 but at the same time submit an application for CDUA. He said he was particularly concerned here because this involves the protective subzone and he wasn't aware of the fact that the Natural Area Reserves was involved.

Mr. Ing said he would not be in favor of this submittal but would prefer that it be denied and that if it were an emergency, that it be processed under the emergency rule and that they submit a CDUA.

ACTION

Mr. Ing moved that the recommendation be denied but that the FAA be directed to process this application under the emergency rule and that if between now and that time the application is processed, if it is necessary to conduct repairs to the existing facilities, that they be allowed. Seconded by Mr. Zalopany, the motion carried unanimously.

Mr. Ono then instructed the representative of the FAA to work together with our Planning Office and Land Management Division.

RESUBMITTAL OF A CONSERVATION DISTRICT USE APPLICATION FOR ESTABLISHING AND IMPROVING SEVEN PUBLIC RECREATIONAL BEACH ACCESS EASEMENTS AT PAPOHAKU BEACH, MOLOKAI, HAWAII

Mr. Evans presented the resubmittal from the County of Maui. Staff has had the opportunity to discuss the matter with the Deputy Attorney General. Staff is recommending as before, to deny the application. They feel that approving the establishment of the easements may be construed as implicitly granting the very subdivision that the Board previously denied and insofar as the easements have not formally been established through the CDUA process, delineating or improving easements at this time is premature.

Mr. Arisumi said he understood that this matter is in court, as far as the designation of easements in conservation-zoned lands. Mr. Evans said that was correct.

Mr. William Tam said that at the current time, Kalua Koi Corporation has filed for an appeal. The case is in the Second Circuit, there's been no proceedings today on the matter and he has not had any communication with their attorney today on the matter. There are two legal issues, 1) the Land Court has a rule that says when they're going to grant a subdivision, they send the proposal to the County Planning Department if it's urban, agriculture or rural land for the county to look at first. They don't actually have language dealing with conservation land although the same rule should apply with greater force for conservation land so that the Land Court should in fact, send applications to subdivide conservation lands to the Planning Department to this Board. They have not in the past and it might be in the Board's interest to write to the Land Court and see if they should amend their rules. 2) Effectively, granting an easement across an open beach as the County has requested to actually fence it, may in fact, create a subdivision of that land which would be contrary to board's disposition earlier, not to subdivide open conservation land along the beach front even though that land is privately owned.

Mr. Arisumi asked if you subdivide the land and every property owner is responsible for their beach front land which is conservation land, and each individual takes care of their own area, what happens then?

Mr. Tam said that in fact becomes a series of small urban uses. The use may not be granted on it but the tendency for cutting up conservation land into smaller lots has a current tendency to urbanize it to create those uses. It would break up what is essentially a wide-open area that is adjacent to the public beach. That's for the board to decide but in previous actions it decided not to do that.

Mr. Watson explained that at the last Board meeting, the County of Maui representative was informed that under existing CDUA regulations, the landowners may maintain and keep his lands clear for safety purposes. The County was informed in respect to that aspect that they would not need a CDUA.

Mr. Ono added that at the last meeting the board agreed that administratively we could allow the property owners to do that and the legal question was to be settled in court, assuming there is no out-of-court settlement.

ACTION

Mr. Arisumi moved for approval. Seconded by Mr. Higashi

Mr. Ono made a suggestion that we communicate with Maui County and/or the landowner, and working with legal staff to see which party should get the notice that it's okay to do routine maintenance.

A representative from Maui County was present and wanted clarification on the routine maintenance.

Mr. Watson said the Board may inform the applicant, the County of Maui, that the landowner, which is Kalua Koi, does have the right to maintain its property. It is between the County and Kalua Koi if they want to let each other do it, as long as the County is informed that the landowner has a right to maintain its property to do ordinary maintenance and care of his property within the conservation district.

Mr. Ono called for the vote on Item H-13 as amended. Motion carried unanimously.

ITEM H-8

RESUBMITTAL OF A CONSERVATION DISTRICT USE APPLICATION FOR A NONCONFORMING SINGLE-FAMILY RESIDENTIAL USE AT WAIMEA, OAHU

Mr. Ing asked the applicant if he had a chance to review the conditions.

Mr. Lee said he did and he had no problems with them. Mr. Lee said regarding the fine, he said he really did not know he could not clean the yard. He said he did not remove anything no grading, just clean. He said when Hurricane Iwa came about two years ago, it knocked a lot of trees and vines down causing a hazard and dangerous condition for anyone walking through the property.

Mr. Ono asked Mr. Evans what has been the practice when it comes to nonconforming use where you had a structure previously and it is no longer there, request is to put up a new structure, can it still come under the nonconforming provision?

Mr. Evans said if there was a residence and the residence was nonconforming, and people were living there, and then the statute came in, and now they want to come in and put up a new residence and have it remain nonconforming, our position would be "no," it would have to be processed as a conditional use.

Mr. Evans said in this case there was a structure and back in 1961, our tax office reports a poor condition of a structure, no electricity, no plumbing, the walls are out, the roof is leaking and that it was just a dilapidated building overgrowth with bushes and no value.

Mr. Evans said all that remains there are some pipes out of the ground.

Mr. Lee said there were three structures which he knocked down because vagrants were moving in and causing problems.

ACTION

Mr. Ing moved for approval deleting Recommendations A. and C. Recommendation A provides for a fine and C provides for compliance of the fine. Motion was seconded by Mr. Higashi.

Mr. Ono said for the record, the reason for deleting the fine was because the clearing was done for maintenance and for safety reasons.

There being no further discussion, a vote was called for by the Chairman and motion carried unanimously.

STAFF RECOMMENDATION FOR SALE OF LEASE (WATER LICENSE) AT PUBLIC AUCTION, KOOLAU FOREST RESERVE AND HANAWI NATURAL AREA RESERVE, HANA AND MAKAWAO, MAUI

ITEM F-5

Mr. Michael Shimabukuro presented staff recommendation to sell at public auction water license covering some 32,000 acres on Maui.

Presently the area is under separate licenses, revocable permits and a general lease.

The term of the proposed license is for thirty years and rental reopenings at the end of the tenth and twentieth year.

Mr. Shimabukuro then stepped up to the map on the wall to point out the areas to the members of the board.

An environmental assessment has not been made yet but are in the process of such.

Mr. Higashi asked if anyone could come in and bid on these auctions or are there some pre-qualifications, ability to pay, etc.

Mr. Shimabukuro did not know of any law that would disqualify anyone from bidding except maybe for minors.

Mr. Ing asked if the lease proposals were for water rights from the state land.

Mr. Shimabukuro said that is correct.

Mr. Shimabukuro also mentioned that there is a court case suit filed by the Native Hawaiian Legal Corporation by some of the residents, pending in the courts.

ACTION

Mr. Arisumi moved for approval. Seconded by Mr. Zalopany the motion carried unanimously.

Mr. Alan Murakami from Native Hawaiian Legal Corporation asked to be heard. He said that they have a pending appeal on this administration decision which was denied. He was here to preserve his clients rights since this particular application covers virtually the same area and same rights as his client. He wished to serve notice and request a contested case hearing on this matter.

Mr. Ono said we will note it and take it under advisement.

Mr. Murakami requested leave to file a written petition.

Mr. Ono acknowledged his formal request subject to the submission of formal written petition and to be referred to the Attorney General's office for review.

Item F-1a

UNIVERSITY OF HAWAII REQUEST FOR CONSENT TO SUBLEASE PORTION OF GENERAL LEASE NO. S-3864, KEWALO BASIN, HONOLULU, OAHU

Hawaii Health Technologies is a general partnership formed by five local hospitals for the purpose of studying magnetic resonance imaging (MRI). They are requesting a two year sublease from the University of Hawaii to park a trailer containing a (MRI) next to the Hyperbaric Treatment Center in order to determine the usefulness of the equipment and the adequacy of the site.

ACTION

Mr. Ing moved for approval subject to the conditions as listed. Seconded by Mr. Kealoha, motion carried unanimously.

ITEM F-3

HAWAII ELECTRIC LIGHT CO., INC. (HELCO) AND UNIVERSITY OF HAWAII APPLICATION FOR EASEMENT TO SERVICE MAUNA KEA SUMMIT FACILITIES, KAOHE, HAMAKUA, HAWAII

Mr. Shimabukuro presented this request for grant of easement for power and communication purposes by Hawaii Electric Light Company, Inc., (HELCO) and the University of Hawaii. The power and communication lines are to run just below Hale Pohaku up to the summit.

A portion of this alignment is within the Mauna Kea Ice Age Natural Area Reserve. The Natural Area Reserves System (NARS) Commission met on Wednesday and they have already approved the alignment, subject to certain conditions which he wished to incorporate into this submittal. They were conditions No. 2, 3 and 4:

2. The requested 25-foot width of the easement is to be reduced as much as possible to what is actually required for construction and to a still narrower width as needed for maintenance purposes. The maximum reduction in width is to be as determined by negotiation by the University and DAGS with the Hawaii Electric Light Co.
3. There shall be no vehicular traffic on the easement. The exception to this condition is when a needed repair work requires the use of maintenance vehicles.
4. The University shall erect effective natural or artificial barriers at Summit Road intersections that will prevent illegal vehicular use of the easements. The University shall monitor and maintain the effectiveness of such barriers.

Mr. Shimabukuro said that he would like to make another amendment to the submittal, under Recommendation C, that is for approval to amend General Lease No. 4697 to allow for underground power and communication line uses within the road right-of-way.

At the present time he said the General Lease for the roadway is strictly for roadway.

Dr. Hall from the University said the underground distribution system at the summit which comes down the makai side is already built.

Mr. Ono asked Dr. Hall about the capacity of the line that is presently being put in.

Right now it is over capacitated and won't require another easement in the near future.

Mr. Higashi asked when is construction scheduled to start and how will it be funded or are funds available.

Dr. Hall said construction should start late fall and hopefully completion in late 1986. It will be funded by a combination of general obligation bonds, revenue bonds and contributions.

ACTION Mr. Higashi moved for approval as amended, to include the conditions of the Natural Area Reserves System Commission. Seconded by Mr. Arisumi, the motion carried unanimously.

ITEM E-2 RENEWAL OF GENERAL LEASE FOR FRIENDS OF HEEIA STATE PARK, INC.

Mr. Nagata presented the request for renewal of an existing lease for the Friends of Heeia State Park, Inc. with one additional condition authorizing a retail sales counter limited to sale of items related to the park program.

ACTION Mr. Ing moved for approval as submitted. Seconded by Mr. Kealoha, the motion carried unanimously.

ITEM H-9 CDUA FOR A MOBILE RADIO TELEPHONE COMMUNICATION SYSTEM AT KOKO HEAD, OAHU, HAWAII, TMK 3-9-12: 02, 04

ACTION Unanimously approved as submitted. (Ing/Higashi)

ITEM H-4 VIOLATION OF LAND USE WITHIN CONSERVATION DISTRICT AT IOLEKAA VALLEY, HAIKU, OAHU, TMK 4-6-15: 5, 10, 3

Mr. Evans presented staff's submittal of an alleged violation of land use within conservation district at Haiku, Oahu.

He said his office had received a specific request for deferral of this matter on behalf of one of the interested landowners. This party would like to have a private survey established which may prove differences between the State survey.

Staff has consulted the Department of Attorney General and were informed that this was a reasonable request with the understanding that if the matter

is deferred, the staff would like to go over the violation as well, so that it would not be resubmitted to the board automatically as it stands now.

Mr. Evans pointed out to the Board that in this case there were three notices to Cease and Desist issued to the particular party. However, the date of service of the notices is different from the date of issuance. There are constraints under Chapter 183-41 that specifically relate to when a \$500 a day fine could be recommended to the board. Staff would use this time to review the dates of issuance of the orders to Cease and Desist and the actual dates they were served.

ACTION Mr. Kealoha moved that the item be deferred as requested. Seconded by Mr. Zalopany.

In the discussion, Mr. Evans said the party did not specify a time limit as to when the survey would be done.

Mr. Watson suggested that the party be given a reasonable period of time.

Mr. Ono suggested sixty (60) days be given to expect a report back to the board.

Calling for a vote on the motion to defer with the request that a report be made to the board within sixty (60) days, motion carried unanimously.

REQUEST FOR APPROVAL TO ENTER INTO TWO AGREEMENTS WITH THE WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL (WPRFMC) AND THE RESEARCH CORP. OF THE UNIVERSITY OF HAWAII (RCUH) FOR CONTINUING A FY 1985-86 FISHERIES PROJECT: 1) SUPPORT TO THE DIVISION OF AQUATIC RESOURCES FOR COUNCIL ACTIVITIES AND 2) ADMINISTRATIVE SERVICES TO THE DIVISION OF AQUATIC RESOURCES

ITEM B-1

ACTION Unanimously approved as submitted. (Higashi/Zalopany)

FILLING OF POSITION NO. 27074, AQUATIC BIOLOGIST III, IN THE DIVISION OF AQUATIC RESOURCES (OAHU)

ITEM B-2

ACTION Mr. Higashi moved to approve the appointment of Mr. Glenn R. Higashi to fill Position No. 27074, Aquatic Biologist III in the Division of Aquatic Resources (Oahu). Seconded by Mr. Kealoha, the motion carried unanimously.

ADDED

ITEM C-1

FILLING OF POSITION NO. 2950, AUTOMOTIVE MECHANIC I

ACTION Mr. Higashi moved to approve the appointment of Mr. Sheldon Hayashi to fill Position No. 2950, Automotive Mechanic I, on the island of Hawaii, in the Division of Forestry and Wildlife. Seconded by Mr. Zalopany, motion carried unanimously.

ITEM D-1

REQUEST FOR AUTHORIZATION TO CONTRACT WITH THE UNIVERSITY OF HAWAII FOR THE IMPOUNDMENT OF WAIKELE STREAM WATER PROJECT, OAHU

ACTION Unanimously approved as submitted. (Kealoha/Higashi)

- ITEM D-2 REQUEST TO AUTHORIZE THE CHAIRPERSON TO SIGN THE CONSTRUCTION CONTRACT FOR THE KEKAHA DRAINAGE PROJECT, PHASE I, KIOWEA AND AUKUU ROAD DRAIN, KEKAHA, KAUAI
- ACTION Unanimously approved as submitted. (Zalopany/Kealoha)
- ITEM D-3 APPOINTMENT OF SOIL AND WATER CONSERVATION DISTRICT DIRECTORS, HAWAII AND OAHU
- ACTION Unanimously approved as submitted. (Higashi/Zalopany)
- ITEM E-1 REQUEST BY BUNKA NO IZUMI TO SELL A BOOK AT THE WAILOA CENTER, HILO, HAWAII
- ACTION Unanimously approved as submitted. (Higashi/Zalopany)
- ITEM E-2 RENEWAL OF GENERAL LEASE FOR FRIENDS OF HEEIA STATE PARK, INC.
- ACTION (See Page 13 for Action.)
- ITEM E-3 REQUEST TO USE A PORTION OF AINA MOANA STATE RECREATION AREA (MAGIC ISLAND) FOR A BIATHALON RACE COURSE
- ACTION Unanimously approved as submitted. (Kealoha/Zalopany)
- ITEM F-1 DOCUMENTS FOR CONSIDERATION
- Item F-1a UNIVERSITY OF HAWAII REQUEST FOR CONSENT TO SUBLEASE PORTION OF GENERAL LEASE NO. S-3864, KEWALO BASIN, HONOLULU, OAHU TO HAWAII HEALTH TECHNOLOGIES.
- ACTION (See page 12 for Action.)
- Item F-1b RANALEE PERREIRA DBA ABC WEE CARE PRESCHOOL APPLICATION FOR REVOCABLE PERMIT, KAAO, HONOKAA, HAMAKUA, HAWAII, TMK 4-5-01: POR. OF 11, consisting of 15.645 acres for Preschool facility purpose. Rental: \$250.00 per mo. commencing October 1, 1985.
- Mr. Shimabukuro requested to make one addition. Under Location and Area it shows 15.645 acres, the entire parcel is 15 acres and the area of the permit is approximately 6500 square feet.
- Mr. Ono instructed staff to be sure that applicant complies with all of the new requirements for day care facilities.
- Item F-1c DON R. RODGERS AND CASSANDRA P. RODGERS APPLICATION FOR REVOCABLE PERMIT, KANEOHE BAY, KANEOHE, OAHU, TMK: 4-5-47: 44, portion of submerged coastal lands, area of 256 sq. ft., more or less, to use existing State-owned boat pier for recreational boating purposes. Rental: \$11.00 per mo. commencing October 1, 1985.
- Item F-1d ANDREA CRONROD APPLICATION FOR REVOCABLE PERMIT, NANUE, NORTH HILO, HAWAII, TMK: 3-2-01: 06, containing 7.58 acres, for pasture purposes. Rental: \$25.00 per mo. commencing October 1, 1985.

Item F-1e

ROY S. SHIGENAGA AND H. EUNICE SHIGENAGA REQUEST FOR CONSENT TO ASSIGN G. L. NO. S-4637 TO PANAEWA TROPICALS, INC., COVERING LOT 20, PANAEWA FARM LOTS, 2nd Series, Waiakea, South Hilo, Hawaii.

Item F-1f

HAROLD CABBAB APPLICATION FOR REVOCABLE PERMIT, HANAPEPE, WAIMEA (KONA), KAUAI, TMK: 1-9-10:32, containing 4,150+ sq. ft., for single-family residence. Rental: \$117.00 per mo. commencing as soon as possible.

ACTION

Mr. Kealoha moved to approve Items F-1b through F-1f as amended. Seconded by Mr. Zalopany, motion carried unanimously.

ITEM F-2

HAWAII ELECTRIC LIGHT CO. INC. APPLICATION FOR EASEMENTS ACROSS GOVT. LAND IN SO. HILO AND HAMAKUA, HAWAII

Mr. Shimabukuro said this is a request for direct sale of easement to Hawaii Electric Light Co. and this is the cross island alignment for the 138kv line from Kaumana substation to Keamuku substation.

Mr. Shimabukuro requested to amend this submittal by adding the consideration. Recommend that the one time payment be made for the entire term and to be determined by independent appraisal and subject to review and approval by the Chairman.

He said the easement would be 150 feet wide and the listed properties are all State properties. Insofar as conservation district is concerned, it has been taken up by the Board and approved at prior meetings.

Mr. Higashi said he would be in favor but felt maybe this could be held up until the geothermal is on line or it could be tied into a time schedule. Because of the cost of the construction of the 138kv and rate base, he felt that consumers will be paying for the return of this investment which really is not being used. During the CDUA hearings they represented that they needed this to provide energy to the west end, geothermal would be cost of the energy.

Mr. Ing commented that they needed this for reliability too. They didn't have a way to get power over to the west end.

Mr. Higashi said they have three sources of power which goes from Hamakua, Kau, and over to satellite. He then addressed the deputy attorney general if there was any way this could be tied in.

Mr. Watson mentioned that a right-of-entry was given in February 1984. He asked if they had done any construction.

Mr. Higashi said just for survey purposes. Their time schedule for geothermal was supposed to be just around the corner, but obviously they've taken much longer to find the developer.

Mr. Watson said you're saying you want an easement subject to commencement to a later date down the road.

Mr. Higashi answered in the affirmative.

Mr. Kealoha suggested that this item be deferred to the next meeting so that staff can work with the A.G.'s office to work out some kind of language.

Mr. Shimabukuro said he would touch bases with the applicant and the A.G.'s office.

There being no objections, Chairman Ono deferred this item to the next meeting.

ITEM F-3 HAWAII ELECTRIC LIGHT CO. INC. (HELCO) AND UNIVERSITY OF HAWAII
APPLICATION FOR EASEMENT TO SERVICE MAUNA KEA SUMMIT
FACILITIES, KAOHE, HAMAKUA, HAWAII

ACTION (See Page 13 for Action.)

ITEM F-4 DIRECT SALE OF EASEMENT, LILOA WILLARD APPLICATION FOR WATER
TRANSMISSION LINE EASEMENT, KAIEIE HOMESTEADS, SO. HILO, HAWAII

ACTION Mr. Higashi moved for approval, Seconded by Mr. Zalopany.

Mr. Ono asked what action does the board need to take on the water itself, regarding the easement.

Mr. Shimabukuro said he tried to find out but could not get a definite answer as to who owns the water.

Mr. Higashi amended his motion to be subject to review of the Attorney General. Motion as amended was unanimously approved.

ITEM F-5 SALE OF LEASE (WATER LICENSE) AT PUBLIC AUCTION, KOOLAU
FOREST RESERVE AND HANAWI NATURAL AREA RESERVE, HANA AND
MAKAWAO, MAUI

(See Page 11 for Action.)

ITEM F-6 AMENDMENT TO PRIOR LAND BOARD SUBMITTAL (JANUARY 25, 1985,
ITEM F-15) AUTHORIZING CONVEYANCE OF STATE LAND TO HAWAII
HOUSING AUTHORITY FOR DEVELOPMENT OF LOW-MODERATE INCOME
HOUSING PROJECT, KALUAAHA, MOLOKAI, TMK 5-7-11: 11

ACTION Unanimously approved as submitted. (Arisumi/Zalopany)

ITEM F-7 DEPARTMENT OF LAND AND NATURAL RESOURCES, STATE PARKS
REQUEST TO SET ASIDE BY GOVERNOR'S EXECUTIVE ORDER (G.E.O.)
STATE-OWNED LAND AT KEAWAULA (YOKOHAMA) BEACH AND MAKUA
BEACH AREA, WAIANAE, OAHU, TMK 8-1-01: 06 (POR), 22, 14, 8 AND
18; AND 8-2-01: 01 FOR PARKS PURPOSES

ACTION Mr. Ing moved for approval. Seconded by Mr. Kealoha, motion carried unanimously.

- CITY AND COUNTY OF HONOLULU (BOARD OF WATER SUPPLY)
REQUEST FOR EXECUTIVE ORDER SETTING ASIDE RESERVOIR SITE
AND RELATED EASEMENTS, WAIMANALO, KOOLAUPOKO, OAHU
- ITEM F-8
- ACTION Mr. Ing moved for approval subject to conditions in the submittal.
Seconded by Mr. Kealoha, motion carried unanimously.
- STAFF RECOMMENDATION FOR PUBLIC AUCTION SALE OF A LEASE
COVERING LOT 3, KAPAA, RICE AND KULA LOTS, KAPAA,
KAWAIHAU, KAUAI
- ITEM F-9
- STAFF RECOMMENDATION FOR PUBLIC AUCTION SALE OF A LEASE
COVERING LOTS 13 THROUGH 16, 30-A, 31, 31-A, AND 32 OF THE
KAPAA HOMESTEADS, 1ST SERIES, KAPAA, KAWAIHAU, KAUAI
- ITEM F-10
- STAFF RECOMMENDATION FOR PUBLIC AUCTION SALE OF A LEASE
COVERING LOTS 1, 23, 24, 33-A, 34-A AND 35-A, HANALEI
HOMESTEADS, HANALEI, KAUAI
- ITEM F-11
- ACTION Mr. Zalopany moved for approval of Items F-9 through F-11. Seconded
by Mr. Arisumi, motion carried unanimously.
- DEPARTMENT OF HEALTH REQUEST FOR APPROVAL OF RENEWAL OF
LEASE OF COTTAGE AT 3420 KUHIO HIGHWAY, LIHUE, KAUAI
- ITEM F-12
- ACTION Unanimously approved as submitted. (Zalopany/Arisumi)
- DEPARTMENT OF HEALTH REQUEST FOR ACQUISITION OF LEASE
COVERING OFFICE SPACE IN THE POLYNESIAN BUILDING, HONOLULU,
OAHU
- ITEM F-13
- ACTION Unanimously approved as submitted. (Ing/Kealoha)
- DEPARTMENT OF SOCIAL SERVICES AND HOUSING REQUEST FOR
APPROVAL OF MODIFICATION OF LEASE COVERING OFFICE SPACE
AT 770 KAPIOLANI BLVD., HONOLULU, OAHU
- ITEM F-14
- Mr. Shimabukuro made two corrections in the third paragraph of the
submittal. On the third line where it mentions, "619 square feet of "...
it should read, "592 square feet"... and on the fifth line where it
reads, "of 6,001 square feet.", it should read, "5,974 square feet."
- ACTION Mr. Ing moved for approval as amended. Seconded by Mr. Kealoha,
motion carried unanimously.
- RESULTS OF PUBLIC AUCTION OF RECREATION-RESIDENCE LEASES
AT PUU KA PELE AND KOKEE, WAIMEA, KAUAI, HELD ON JULY 23-25, 1985
- ITEM Z-1
- Mr. Shimabukuro called the board's attention to the report of the results
of the public auction of the Kokee lots on Kauai.
- Report was accepted by the Board.

ITEM G-1

OUT-OF-STATE TRAVEL FOR CHARLES F. NEUMANN III

ACTION

Mr. Higashi moved for approval for Mr. Neumann to attend the 75th Annual Conference of County Recorders' Association of California in Ventura, California . Seconded by Mr. Zalopany , motion carried unanimously .

PERMISSION TO CONTRACT WITH THE UNIVERSITY OF HAWAII TO CARRY OUT A STUDY ON THE DEVELOPMENT OF DESIGN CRITERIA FOR MACROALGAL PRODUCTION SYSTEMS

ITEM H-1

ACTION

Mr. Ing moved for approval. Seconded by Mr. Kealoha, motion carried unanimously .

ADDED
ITEM H-14

PERMISSION TO FILL A POSITION OF MICROBIOLOGIST III, NO. 21847E IN THE AQUACULTURE DEVELOPMENT PROGRAM

ACTION

Mr. Ing moved for approval of the appointment of Mr. Ronnie Shimojo to fill Position No. 21847E, Microbiologist III in the Aquaculture Development Program. Seconded by Mr. Kealoha, motion carried unanimously .

ITEM H-2

RESUBMITTAL OF A VIOLATION OF ILLEGAL SEAWALL CONSTRUCTED AT 46-181 NAHIKU STREET, KANEOHE, HAWAII TMK: 4-6-22: 30

Mr. Evans presented the resubmittal of the violation to the Board. There were questions by the Board when this violation was previously submitted.

Staff is unable to answer the question as to how or why it was processed as a permitted use the first time. It appears that it was an error on staff's part to process it as a permitted use. The reason the request at this time is for approval, whereas staff's recommendation the last time was for denial, is that in between the two requests coming to the Board, an adjacent landowner had built a seawall. Staff came to the Board and recommended approval of that seawall and the Board approved the seawall sustaining staff's recommendation. Staff felt that at this time, it is reasonable to make some attempt at consistency and recommended approval. However, with the recommendation incorporating a fine and encroachment.

Mr. Ing asked if the adjoining property owner was involved with an encroachment.

Mr. Evans said, yes, the CDUA came in as an after-the-fact CDUA. He was not aware of the amount of the encroachment in that case.

Mr. Iida said the \$50.00 that his wife sent in apparently was for the CDUA fee and not for the fine as she thought.

Mr. Kealoha asked Mr. Iida if he had a chance to meet with the Planning Office staff since the last meeting. Mr. Iida said no.

Mr. Kealoha also asked Mr. Iida if he had a chance to review the conditions of this current submittal. Mr. Iida said yes.

ACTION

Mr. Ing moved that the fine of \$500 be imposed for unauthorized construction in the conservation district; that Mr. Iida be fined \$200 for encroachment up through 1985; that the encroachment, if it continues into 1986, be increased \$25 every year thereafter that the encroachment continues. In the event that he intends to remove the wall, it is of the understanding that it is not necessary to come in for a CDUA for removal. A copy of the disposition shall be filed with the Bureau of Conveyances.

Mr. Ono asked if the \$200 a year payment would be in lieu of land rental payment or would it be part of land rental payment with a built-in fine. Mr. Ing said this only takes into consideration the encroachment aspects; on the disposition side it traditionally has gone with an easement but the easement fee has been so nominal that it amounts to very little and it has always been a concern.

Mr. Ono said in clarification that it would mean another disposition step would be required, not only for this case but for the Gessler case.

Seconded by Mr. Kealoha, motion carried unanimously.

ITEM H-3

UNAUTHORIZED CONSTRUCTION OF SEAWALL WITHIN CONSERVATION DISTRICT AT KANEOHE, OAHU, HAWAII TMK: 4-6-1:19

(See Page 6 for action.)

ITEM H-4

VIOLATION OF LAND USE WITHIN CONSERVATION DISTRICT AT IOLEKAA VALLEY, HAIKU, OAHU, TMK 4-6-15: 5, 10, 3

(See Page 14 for action.)

ITEM H-5

AMENDMENTS TO CHAPTERS 13-1 & 13-2, ADMINISTRATIVE RULES

Mr. Evans said the amendments relate to the establishment of filing deadlines for contested case hearings; adds a new definition of hearing officer; updating our Conservation District subzone maps to reflect approved Land Use Commission district amendments and to correct previous mapping errors; and relating to the Board of Land and Natural Resources' authority to designate a hearing officer for Conservation District Use Applications.

There was much discussion as to the role of the hearing officer, does he mechanically conduct the hearing, or does he report directly to the board. How much flexibility does the Board have in appointing the hearing officer and can the Board delegate the Chairman to appoint hearing officers.

ACTION

Mr. Ing moved for approval of recommendations 1 and 3 only. Seconded by Mr. Higashi. Motion carried unanimously.

There being no objections, recommendations 2 and 4 were deferred for clarification as to the role the hearing officer will have.

ITEM H-6

DECLARATORY RULING REQUEST FOR WAIVER FAA COMMUNICATION FACILITY ON MT. KAALA, OAHU

(See Page 8 for action.)

ITEM H-7

CDUA FOR A COMMERCIAL TOUR OPERATION INCLUDING JET SKIING, CANOE PADDLING, WIND SURFING AQUA CYCLING, AND PICNICKING AT HARRIS ISLAND, KEEHI LAGOON, OAHU (SOUTH SEAS AQUATICS)

Mr. Evans explained the conditions listed in the submittal. He also requested to change the number of visitors from 33 to 100 in condition no. 5. This number per applicant will be determined by the Department of Transportation (DOT).

Much discussion followed as to the number of visitors that should be listed in the applicant's conditions and whether it should correspond with DOT's permit. Another matter of discussion was that should DOT cancel the applicant's permit, there should be a condition in the CDUA to declare it null and void should that happen.

Mr. Evans said another question came up as to whether camping is a permitted use. He would have to answer to applicant that camping is not a permitted use.

Mr. Ing suggested that this item be deferred. There being no objections, the item was deferred so that staff could review the application as to the number of visitors and respond to applicant on the question of camping.

ITEM H-8

RESUBMITTAL OF A CDUA FOR NONCONFORMING SINGLE-FAMILY USE AT WAIMEA, OAHU (GARY T.S. LEE)

(See Page 11 for action.)

ITEM H-9

CDUA FOR A MOBIL RADIO TELEPHONE COMMUNICATION SYSTEM AT KOKO HEAD, OAHU (R. M. TOWILL CO.)

(See Page 13 for action.)

ITEM H-10

CDUA FOR MARIJUANA ERADICATION FROM STATE-OWNED CONSERVATION DISTRICTS ON KAUAI (DIV. OF FORESTRY AND WILDLIFE)

Mr. Evans asked to make some changes to the submittal. Under Recommendation, condition no. 1 should read, "1. The designated implementing entity shall comply ..." whomever that may be.

Mr. Evans asked to add two more conditions. Those conditions would relate to the conditions in the statements that are made in the Environmental Impact Statement (EIS). There is a statement in the EIS that we will do certain specified things and these two additional conditions will reflect this. Condition No. 6 "That the applicant comply with conditions 1, 2, and 3 as stated on page V-7." Condition No. 7 "That the applicant comply with the 17 mitigatory measures in the tables, listed in Table V-4." Rather than listing each one, they are asking that the table basically be incorporated as to things that they would do.

He pointed out to the Board that this has been processed as a conditional use in all of the subzones, there was a public hearing because it was considered potentially a significant effect. The Department did require that an EIS be done, and an EIS on this project was accepted on August 19, 1985.

Mr. Ing asked what were the specific additions.

Mr. Evans said the specific additions would be the three statements as conditions on page V-7 and the 17 mitigatory methods on Table V-4.

Mr. Ing corrected Mr. Evans saying there were more than 17 methods listed.

Mr. Evans said that was correct and he would basically like this Table V-4 incorporated as conditions, all the different methods, that applicant comply with Table V-4.

Mr. Ono asked if the applicant had a chance to review the conditions and recommendations.

Mr. Evans said he was able to discuss this as well as engage in a review of these additional conditions with the applicant who has indicated that they would be acceptable in terms of the applicant's program.

Mr. Ing had some questions for the applicant relating to words in the EIS, i.e. Record Keeping. Would accurate records indicating date, time, place, location of the treated sites be maintained? The department's response was that there would be monitoring but it did not specify what kind of monitoring and there's nothing in the conditions that he read that relates to what type of record keeping would be made of the applications of this. How is this going to be done?

Mr. Landgraf said they have prepared an operation plan if this CDUA was approved and the operations were to go forward. They have an outline of an operational plan that would be followed and expanded. There is a section on record keeping and monitoring and as an example, it would indicate the record would record all that and necessary document operations. It would include treatment, site locations, the name and distance of the nearest town landmark, control method, time, etc. They do have a check list and also indicate the regrowth of vegetation after the spraying, the effects of wildlife if any, the chemical residue in the soil, etc.

Mr. Ing asked if for each application they would be recording the information prior to the spraying.

Mr. Landgraf said prior, during and after the spraying this would be part of the procedure.

Mr. Ing asked about the Natural Area Reserve and water shed areas. Are there any limitations on the amount or extent of use of chemicals in those areas.

Mr. Landgraf said the outline for the operations plan does specify what you can and what you can't do. It also specifies the amounts that will be applied, guidelines indicate ground and aerial applications, how close to water, how close to endangered species. It is anticipated that if this is approved that many of the areas that are covered in the conservation district, they can pre-determine the sensitivity. Sort of know when the marijuana is located, how sensitive that area is in terms of water supply and endangered species.

Mr. Ing said he does not see anything in the conditions that require the applicant to comply to the operations plan or incorporated.

Mr. Landgraf said they would not have a problem with such a condition.

Mr. Ing asked if the operation plan would cover the public notice aspect.

Mr. Landgraf was not certain of the details of the public notice.

Mr. Ing questioned who would be approving the operations plan and having the final say as to what is in the plan and what is not.

Mr. Landgraf said it was the intent of the user of the operation plan be the identified individual in the department to make the go or no go, whether the mission is on or not on. The operations plan would be the guideline of that individual.

Mr. Ing again asked he wanted to know who decides what the content of the operation plan is.

Mr. Landgraf said he assumed either the Chairman or the Board if preferred. He does have the outline that he could make available, the outline of what the specific details of the operation plan are.

Mr. Ing asked who would decide on changes in the plan, once the plan is in effect.

Mr. Landgraf said he thought it would be a policy of either the designated 'go or no go' person, or if the Board preferred otherwise.

Mr. Ing asked what happens if an agency who is supposed to be complying with the plan, doesn't comply with the plan?

Mr. Landgraf said he thinks as the responsible agency, they would have to take corrective measures and not allow them to participate in the activities.

ACTION

Mr. Ing moved for approval as amended, with the following additional amendments that the applicant complete it's operation plan prior to authorizing any application of chemicals, that the plan be submitted to the Chairman for review and approval and that the plan include, what if any notices to be given to the public, what disposition is to be made of complaints. Seconded by Mr. Higashi, motion carried unanimously.

Mr. Ono took this time to acknowledge the work of the consultant, Ms. Jacqueline Parnell in her fine work in moving this process along.

ITEM H-11

REQUEST FOR TIME EXTENSION ON CDUA FOR MARIJUANA ERADICATION
ON KAUAI (DIV. OF FORESTRY AND WILDLIFE)

Because of the action on Item H-10, Mr. Evans requested permission to withdraw this item. Item H-11 was a time extension relating to the EIS process.

ITEM H-12

CDUA FOR A STORM DRAIN OUTLET, LAHAINA, MAUI (MAUI
DEPARTMENT OF PUBLIC WORKS)

Mr. Evans requested to add a 7th condition to the submittal, "That the applicant comply with the seven conditions outlined by the Division of Aquatic Resources on pages 2 and 3." Inadvertently these conditions were not incorporated into the conditions.

Mr. Arisumi corrected Mr. Evans that there were only six conditions by the Division of Aquatic Resources.

ACTION

Mr. Arisumi moved for approval as amended. Seconded by Mr. Higashi, motion carried unanimously.

ITEM H-13

RESUBMITTAL OF A CONSERVATION DISTRICT USE APPLICATION FOR
ESTABLISHING AND IMPROVING SEVEN PUBLIC RECREATIONAL BEACH
ACCESS EASEMENTS AT PAPOHAKU BEACH, MOLOKAI, HAWAII

(See page 10 for action.)

ADDED
ITEM H-14

PERMISSION TO FILL A POSITION OF MICROBIOLOGIST III, NO. 21847E
IN THE AQUACULTURE DEVELOPMENT PROGRAM

(See Page 19 for action.)

ITEM J-1

APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 4050, ETC.,
AIRPORTS DIVISION

ACTION

Unanimously approved as submitted. (Kealoha/Higashi)

ITEM J-2

RENEWAL OF REVOCABLE PERMITS 2877, ETC., CONFORMING USE
AIRPORTS DIVISION

Mr. Garcia requested to withdraw the following RP's because they are all delinquent in their rentals:

RP-3764 Air Molokai, Ltd.
RP-3233 Transamerica Airlines
RP-3551 Leis Extraordinaire Intl. Inc.
RP-3922 Francis H. Akana

ACTION

Mr. Kealoha moved for approval with the exception of RP's 3764, 3233, 3551, and 3922. Seconded by Mr. Higashi, motion carried unanimously.

ITEM J-3 APPROVAL OF CONSENT TO SUBLEASE, HARBORS DIVISION,
HONOKOHAU BOAT HARBOR, HAWAII (GENTRY PACIFIC, LTD.)

ACTION Unanimously approved as submitted. (Higashi/Kealoha)

ITEM J-4 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 9
GALLERY, HONOLULU HARBOR, OAHU (AMERICAN HAWAII CRUISES)

ITEM J-5 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 9
ANNEX, HONOLULU HARBOR, OAHU (AMERICAN HAWAII CRUISES)

ACTION Mr. Kealoha moved for approval of Items J-4 and J-5 as submitted.
Seconded by Mr. Ing, motion carried unanimously.

ITEM J-6 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 39
HONOLULU HARBOR, OAHU (PACIFIC DOCK & STORAGE, INC.)

ACTION Unanimously approved as submitted. (Kealoha/Higashi)

ITEM J-7 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIERS "B-1"
(AIKANE VI) AND "W" (ALIALI KAI V), KEWALO BASIN, HONOLULU,
OAHU (AIKANE CORP.)

ACTION Unanimously approved as submitted. (Kealoha/Arisumi)

ITEM J-8 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, WAREHOUSE
NO. 6, NEAR PIER 22, HONOLULU HARBOR, OAHU (HAWAIIAN FLOUR
MILLS, INC.)

ACTION Mr. Ing moved for approval. Seconded by Mr. Kealoha, motion
carried unanimously.

 Mr. Garcia is to follow up and check with the Division of Forestry
and Wildlife if a permit was issued for any kind of eradication of
birds in that vicinity.

ITEM J-9 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KEWALO
BASIN, HONOLULU, OAHU (ZANETA, INC.)

ACTION Unanimously approved as submitted. (Ing/Kealoha)

ITEM J-10 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, WAREHOUSE
NO. 6, NEAR PIER 22, HONOLULU HARBOR, OAHU (ALFRED I. CASTILLO
DBA PAC. X. WHSE., CO.)

ACTION Unanimously approved as submitted. (Ing/Kealoha)

ITEM J-11 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KEEHI
COMMERCIAL SUBDIVISION, HONOLULU, OAHU (RICHARD WATANABE)

ACTION Unanimously approved as submitted. (Ing, Kealoha)

ITEM J-12 CONSENT TO SUBLEASE, LEASE NO. DOT-A-78-22, LIHUE AIRPORT,
KAUAI (HAWAIIAN AIRLINES, INC.)

ACTION Unanimously approved as submitted. (Ing/Higashi)

ITEM Z-1

RESULTS OF PUBLIC AUCTION OF RECREATION-RESIDENCE LEASES
AT PUU KA PELE AND KOKEE, WAIMEA, KAUAI, HELD ON JULY 23-25, 1985


(See Page 18.)

The Board adopted a resolution to commend Mrs. Laura C. Ching, Land Court Document Receiving Clerk I of the Bureau of Conveyances for her faithful and conscientious service for more than twenty-five years. Mrs. Ching will be retiring as of the thirtieth day of August 1985.

The Board also adopted a resolution commending Mr. Ford Okada, Park Caretaker II, of the Division of State Parks, Outdoor Recreation and Historic Sites for his faithful and conscientious service for more than twenty-three years. Mr. Okada plans to retire as of the sixth day of September 1985.

ADJOURNMENT: The meeting adjourned at 1:40 p.m.

Respectfully submitted,



Dorothy C. Chun
Secretary

APPROVED:



SUSUMU ONO
Chairperson

dcc