

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

* DATE: July 6, 1988 *
* TIME: 6:00 P.M. *
* PLACE: Hawaii National Guard Armory *
* Kaunakakai, Molokai *

* DATE: July 8, 1988 *
* TIME: 9:00 A.M. *
* PLACE: Lahaina Civic Center *
* Lahaina, Maui *

ROLL
CALL:

Chairperson William W. Paty called the July 6, 1988 meeting of the Board of Land and Natural Resources to order at 6:05 p.m. The following were in attendance:

MEMBERS: Mr. Moses W. Kealoha (arrived 7:10 p.m.)
Mr. John Arisumi
Mr. Herbert Arata
Mr. Herbert Apaka
Mr. William W. Paty

Absent & Excused

Mr. J. Douglas Ing

STAFF: Mr. Roger Evans
Mr. George Harada
Mrs. LaVerne Tirrell

OTHERS: Mr. Johnson Wong, Deputy A.G.
Ms. Napua Kaupu, Willie Kaupu, Ms. Colette Machado,
Larry Swenson, Bernard Schwind, Ms. Donna
Uahinui, Ron Glover, Tom Bridge, Will Webster,
Ms. Debbie Sullivan, Bill Kapuni, Ms. Wilma
Grambush, Allen Reynolds.

VIOLATION OF LAND USE WITHIN THE CONSERVATION DISTRICT OFFSHORE OF THE ISLAND OF MOLOKAI.

Mr. Paty informed the audience that this was not a public hearing but a hearing for the board wherein staff, through Mr. Evans, would present their findings and recommendation after which time the parties concerned will be able to present their side. Others wishing to comment will also be given the opportunity to do so, just as long as it relates to the specific violation presented by staff.

Mr. Evans explained that the issue to be presented is the violation of land use that occurred specifically between February 1, 1987 and June 7, 1988. Staff will not be presenting any merits relative to whether or not the operation on-going during that period of time did or did not have merit. The only issue staff is concerned with is whether or not that operation was in compliance with the State law at the time it was occurring.

In terms of background, Mr. Evans said that Ocean Charter Services, which does business as Aloha Voyages, was incorporated on September 12, 1966. Prior to its incorporation, the business was conducted as a joint venture.

Also, Bill Kapuni's Snorkel Adventure is a sole proprietorship, Ocean Charter Service established July 1, 1986 operating with General Excise License No. 20056481.

Mr. Evans said that because of complaints received by staff, the Division of Conservation and Resource Enforcement (DOCARE) was asked to conduct an investigation on February 1, 1987. As a result of that inspection, a Notice to Cease and Desist the illegal activity in the conservation district, was issued on May 1, 1987 to both the President of Ocean Charter Service and Mr. Bill Kapuni.

On June 2, 1987, a second Notice and Order was issued to Mr. Kapuni. The specific Notice to Ocean Charter Service, Inc. related to the installation of a commercial mooring on State-owned submerged land in the Resource Subzone of the Conservation District without the required approval of the department. The Notice to Mr. Kapuni also included the conducting of windsurfing lessons on the beach, which is state-owned lands. Subsequent to the issuance of the Notices, the windsurfing lessons on the beach stopped. However, use of the commercial mooring continues to date.

Mr. Evans said that although Aloha Voyages did recognize that there was a state law and they demonstrated that recognition by submitting what was an after-the-fact application, the mooring was initially accepted for processing and was later returned to them. The reason was that they had initially represented that they had complied with staff's Cease and Desist letter. Subsequent public complaints indicated that they did not. On August 5, 1987, the "Kapunis" were again informed of the potential sanctions of any "user" of these illegal moorings.

Responding to Mr. Kapuni's request for a Molokai Special Use Permit under consideration by Maui County for a Molokai luau at Pukoo, Mr. Evans said that on March 28, 1988, staff indicated that insofar as the proposal by Mr. Kapuni made reference to the mooring, and the use of the mooring was represented as an integral part of the proposal, staff viewed the mooring as the vehicle for access to the fastland portion. Staff took the position that absent any commercial mooring approved by the board, there was no legal access.

As a result, said Mr. Evans, both Ocean Charter Service, Inc., dba Aloha Voyages and Bill Kapuni Snorkel Adventure are, together, tied to the use of the mooring. Firstly, through the use of the Aloha Voyages transporting people from Maui to Molokai to the mooring and Bill Kapuni's Snorkel Adventure gaining their commercial participants through the use of the mooring as an illegal access to their onshore endeavors.

Mr. Evans said that staff concludes that the illegal mooring is the object by which both entities, although separate and individually owned, are bound together as one and cannot be separated. Following are the violations cited by staff:

VIOLATIONS

- A. Prior to the May 1 and June 2, 1987 Cease and Desist
 1. Ocean Charter Service, Inc.
 - a. Responsible for four illegal moorings. (29)
 - b. Use of an illegal mooring. (2)
 2. Bill Kapuni's Snorkel Adventure
 - a. Responsible for attaching floating platform to mooring. (2)
 - b. Using illegal mooring ("hosts" of tourists departing from mooring). (2)
 - c. Windsurfing class on beach. (2)
- B. Subsequent to the June 2, 1987 Notice, Ocean Charter Services, Inc., in conjunction with Bill Kapuni's Snorkeling Adventure, engaged in the illegal use of the illegal mooring on:
 1. June 4, 5, 6, 9, 11, 12, 18, 23, 26, 27, 1987
July 4, 1987 for 11 violations of land use. (7,8,26)
 2. August 6, (trip 108) 15, (trip 114) 1987
December 8, (trip 164) 1987
March 12, 1988 (trip 32) for 4 violations (10, 26, 29).

Mr. Evans recommended that the board declare and find:

- A. 1. Under Chapter 171 and 199-7, HRS, as amended, that the vessel Machias using the illegal mooring on state-owned Conservation District lands without board approval to be a public nuisance and thus subject to seizure in accordance with Chapter 199-7, HRS, as amended.
 2. That prior to June 2, 1987, Ocean Charter Service, Inc., engaged in two (2) separate illegal uses of the illegal mooring on state-owned Conservation District land at Pukoo, Molokai; a violation of Chapter 171, HRS, and 183-41, HRS.
 3. That prior to June 2, 1987, Bill Kapuni's Snorkeling Adventure engaged in three (3) separate illegal uses of state-owned Conservation District land at Pukoo, Molokai; a violation of Chapter 171, HRS, and 183-41, HRS.
 4. That subsequent to June 2, 1987, Ocean Charter Services, Inc. and Bill Kapuni's Snorkeling Adventure engaged in fifteen (15) separate illegal uses of State-owned Conservation District land at Pukoo, Molokai; a violation of Chapters 171, HRS, and 183-41, HRS.
- B. 1. That the Board impose a financial sanction relative to A-2 upon Ocean Charter Services, Inc. in the amount of \$2,000.00 (\$1000 x 2 violations).
 2. That the board impose a financial sanction relative to A-3 upon Bill Kapuni's Snorkeling Adventure in the amount of \$3,000.00 (\$1000 x 3 violations).
 3. That the board impose a financial sanction relative to A-4 upon Ocean Charter Services and Bill Kapuni's Snorkeling Adventure in the amount of \$15,000.00 (\$1000 x 15 violations).
- C. 1. That failure to remit these financial sanctions relative to Section B in the total amount of \$20,000.00 to the Department within a period of sixty (60) days, our department be directed and the Department of Attorney General be requested to pursue the matter through any appropriate means including the incorporation of Section A, and, all administrative costs to the State.

Mr. Evans informed the board that he did receive a letter dated June 30, 1988, from Colette Machado expressing concern over this particular action and is prepared to make those concerns known.

At Mr. Apaka's request, Mr. Evans explained the difference between mooring and anchoring. He said that unless an anchor is dropped from the boat or skip and picked up by the boat or skip when leaving the area, then the act would not be one of anchoring, but of mooring. Mr. Apaka asked whether this was the Federal or State's position. Mr. Evans replied that it was the State's position.

In answer to Mr. Apaka's question as to what constituted the violation for snorkeling, Mr. Evans explained that the mere act of someone snorkeling in the water constitutes no violation. What constitutes the violation is the use of illegal access to that water. In this case the illegal access being the illegal use of the illegal mooring.

Referring to Mr. Kapuni's letter of April 22, 1988, Mr. Arisumi asked Mr. Evans if what was being said in the letter was not so and that they were still using the mooring. Mr. Evans explained that, except for March 12, 1988, the dates June 4, 5, 6, 9 and 11 were all 1987 dates. The letter from Mr. Kapuni is dated April 22, 1988 rather than 1987; however, the statements that they are using, re anchoring, just as a point of information, on Friday of last week our DOCARE people went out to the site and pulled the anchor up and the anchor was a transmission line. Staff's position is that this is a mooring.

Mr. Arisumi asked, "then they are still using the mooring?" In reply, Mr. Evans said that February 1, 1987 through June 7, 1988, and considering the specific dates coming before the board as violations, the answer would be yes.

Mr. Apaka asked whether any amounts were mentioned when the cease and desist orders were served. Mr. Evans said that the ceases and desist orders which were issued on May 1 to Mr. Willard Austin indicated that should he fail to cease such illegal activities immediately and restore the premises to its natural state, the department would seek a court order to enforce the law and to include a \$500.00 fine per day, per violation, in addition to all administrative costs, after receipt of this NOTICE AND ORDER. Mr. Evans said that there was a follow up to a second notice which was sent June 2, 1987 to Mr. Kapuni stating exactly the same thing. There was an additional follow up to Mr. Austin from the State where it is indicated that we would seek the financial sanction of \$500 fine as well as an additional one sent to Ms. Sandie Kapuni on August 5, 1987 stating that any user of these illegal mooring buoys is subject to a fine of \$500 per day of use.

Mr. Arata asked whether the 20 violations were all documented with sufficient proof and evidence to hold in court. Mr. Evans felt that they are not what was represented to staff by people in the community. For example, staff is in receipt of an affidavit as part of the documentation that is coming to the department which shows 171 separate uses of what they had in the visual proceedings. Considering that, staff narrowed it down to this amount, which they feel is a conservative amount.

Mr. Paty asked Mr. Evans whether he had any comments regarding the Land Use Commission Special Use Application by Mr. Kapuni for the Molokai Luau at Pukoo, Molokai. Mr. Evans said that there was a submittal which was submitted to the County. As a part of the County's process, they asked DLNR for comments on the proposal. Staff reviewed the permit application and pointed out to them that the proposal did not involve the conservation district in terms of their permit. However, the proposal did make reference to this mooring so staff advised the county that they needed to be aware that our records showed that no commercial mooring had been approved by the Land Board and also this applicant, insofar as the use of a mooring, is represented as an integral part of the proposal (C. Economic "Molokai/Luau/Mooring"). Staff viewed the mooring as a vehicle for access to the fastland portion. Absent any legal access (commercial mooring approved by the Land Board), staff would be hesitant in suggesting or recommending approval. In terms of the next action which staff became aware of informally was that the county had denied that permit request and along with that denial a deadline was given to cease operations.

Mr. Paty asked, "whose property was the luau held on?" "Was that private land?" Mr. Evans said that it was private property that was not under the ownership of Bill Kapuni but representation was that some private arrangements were made. However staff did not get into the extent of the arrangements inasmuch as DLNR was not involved.

Mr. Paty asked whether continuous monitoring had taken place on the dates the violations occurred. Mr. Evans said, no. There was not just times that were determined. What it was, in one instance for example, staff drew upon the enforcement officers investigation which included discussions with people involved. Another time staff drew specifically upon an affidavit that was submitted by separate, individual members of the public which received a notary seal. Mr. Evans continued explaining the various sources which staff drew upon when they put together what they felt were conservative violations. There may have been additional violations but those listed were the ones which staff felt very comfortable with.

Mr. Paty understood that there was a CDUA for this. Mr. Evans said that staff did write to Mr. Austin on July 31, 1987 who then presented an application which was circulated through the department for review. Upon completion of this review staff would determine the acceptability or non-acceptability of the application. The application was subsequently returned to Mr. Austin of Aloha Voyages. On October 7, 1987 staff did follow and stated to him that by his letter he indicated that he was in compliance with our Order. However, contrary to his statements staff determined that his vessel at Pukoo Harbor tied up to the existing illegal mooring within the harbor and that the 16' x 16' raft was for all intensive purposes illegally moored within the harbor. He was then informed again that he must comply with the written orders to cease and desist. In answer to Mr. Paty's question, Mr. Evans said that at one time staff did entertain the application based upon the representations made. As part of the review the department found out that the representations were not valid and as such the application was turned down.

Mr. Apaka asked whether a Cдуа was submitted by Bill Kapuni. Mr. Evans said no. Staff had only one concern with Mr. Kapuni and that was windsurfing on the beach. He did stop after he received staff's letter to stop.

Mr. Apaka asked about the status of the mooring, or anchoring as of today. Mr. Evans did not know inasmuch as the matter before the board only goes up to June 7.

When asked by Mr. Paty if he wanted to testify, Mr. Austin invited the board to the other end of the room to review his illustration of what they actually did. He then continued to explain the situation as he saw it.

Mr. Austin added that his Special Land Use Permit had expired on May 5th and the DLNR staff had reported that it was used after that but he indicated that it was not used after the permit expired. They have continued to do what they were doing before but do not have the use of the land.

Much discussion continued between Messrs. Arata and Austin with respect to the business, number of people employed, salaries, etc. Mr. Arata also asked Mr. Austin what he thought about the Molokai Community Plan. Mr. Austin felt that the Plan was put together with a great deal of pride and hope, false hope. They have known for at least 20 years that agriculture was wrong. The Plan which was done in 1984 calls for agriculture as the first economic base for Molokai. With the moving of Del Monte the only thing that Molokai has is tourism. He continued with respect to his opinion of the Plan.

Mr. Paty asked Mr. Austin if he wanted to comment on staff's recommendation. Mr. Austin had no comment. He felt that staff's interpretation is that they are mooring, he could not understand the recommendation. However, he said that when they were first told to stop using the mooring they did.

Relative to a question raised earlier, Mr. Paty said that Mr. Austin had given him to understand that they were not attached to the transmission block. He then asked Mr. Evans how the violations were determined and who determined them. Mr. Evans explained that the violations were determined on one criteria -- "is this vessel anchoring or is this vessel mooring?" During the time frame that this was under consideration, staff, when they looked at that criteria, determined that the boat was moored and not anchored. Of the four illustrations presented by Mr. Austin, Mr. Evans said that No. 4 would be the only one he would feel comfortable in saying that it was not a violation. All the others he viewed as mooring.

Mr. Paty asked whether someone could dive into the water to see if it was hooked up or not. Mr. Evans said that the determination of whether or not there was something on the bottom was on the basis, primarily, of the initial report that was received from DOCARE who, based on public complaints, went out and interviewed a number of parties that were involved. Also, staff had, from the public, statements where individuals were mangling, for example an affidavit of one individual, statements made in October 10, 1987 they began using new warning procedures. There would also be crew members diving near the boat, anchor would be dropped, and the divers would work for 10 minutes or so to secure the anchor. During this process the boat would be approximately a boat length away from the mooring site. When the crew members came up and gave the o.k. signal, the floating platform would be brought into position and the passengers would disembark. As such, the statements made were that the Machias crew must be mangling, or attaching anchors to the mooring. It was based on these kinds of representations to staff that the violations were determined, but only during the time frame indicated.

Mr. Paty remarked that he had a hard time determining how staff can address this if they did not have someone take a look at it as opposed to having someone with field glasses or a neighbor reporting on this. Mr. Evans said that staff relied on reports from DOCARE and affidavits received from individuals. Mr. Paty still wondered how, if they are not down there on the bottom, could it be determined that it was hooked. Mr. Evans suggested that this particular part of the case was relatively circumstantial as opposed to direct observation.

Making reference to the fourth paragraph on page one of the submittal, Mr. Kealoha asked if that determined ownership of the mooring. It says that on June 2, 1987 a Notice was issued to Mr. Kapuni relating to the installation of a commercial mooring on State-owned submerged land in the Conservation District without the required approval of the department. Mr. Evans said that a January 4, 1987 Investigation Report from DOCARE indicated that Mr. Kapuni is responsible for the mooring raft being permanently anchored off the shore, within the water of Pukoo, and that the shoreline and waters fronting Pukoo is being used to conduct commercial activities (windsurfing, kayaking, snorkeling). Mr. Kealoha said that his question was whether Kapuni owned the mooring. Mr. Evans answered no. After further discussion on the mooring, Mr. Kealoha then asked Mr. Evans if it could be assumed that the mooring belonged to the State. Mr. Evans answered yes. Being that the board had no further questions for Mr. Evans, Mr. Paty called the following people forward to testify:

NAPUA KAUPU: A Pukoo resident for all of her life said that they did a lot of fishing in this area which is now called Pukoo Lagoon. During the years 1975-76 there was no mooring in the area. The area was not murky and they were able to catch squid along the reef. She said that she witnessed Bill Kapuni floating in the ramp from another area east of the area. She said that she moved from the area in 1975 but still went back to fish and there was no engine in the area. She said that she was not against Bill Kapuni's program because jobs are needed on Molokai but she asked that they do things honestly. Also she would prefer that this be done in another area. She reiterated that the engine was not there in 1975-76. In answer to Mr. Kealoha's question as to whether she had seen the engine on the bottom, Mrs. Kaupu said that she had not but her husband did.

WILLIE KAUPU: Testified that the engine was not always there but was brought in from another area.

COLETTE MACHADO, first of all disagreed with Mr. Austin that the Molokai Plan is a false hope for the people of Molokai. She said that she witnessed divers going overboard with tanks, who appear to stay underwater for at least 5 to 10 minutes. She observed last Friday, the day after the mooring was pulled, Saturday he comes back, anchors and they try to unload their passengers. As to the question of who owns the mooring, she said that Aloha Voyages and Bill Kapuni's Snorkeling Adventures have used it everytime they have come in. She continued informing the board of the various activities she had witnessed and also presented Mr. Evans with a letter dated June 30, 1988 voicing her concerns, together with a log of the dates and times she witnessed their illegal activities. She also supported staff's recommendation.

LARRY SWENSON, a neighbor of Mr. Kapuni said that he was told by Mr. Kapuni sometime in early March or April of 1986 that he had plans to bring a transmission from a bulldozer and put it in as a mooring at Pukoo Harbor. He said that he was going to do this with help from friends from Maui who had a large boat.

BERNARD SCHWIND: Commented on Capt. Austin's remarks. Firstly, he felt that he was just responding to the economic need on Molokai. He said that he doesn't feel that the reliance of Molokai on agriculture is realistic. However, he said that he saw some statistics that indicate agriculture has come a long way since they got into diversified agriculture. He said that up until July 1, 1988 they were actually mooring the boat.

DONNA UAHINUI: Stated that this operation has been going on for at least two years. They say it doesn't create an environmental problem -- it certainly does. This area was a prime limu area and fishing ground and this has been disturbed by the operations which have been going on there. She disagreed with Mr. Austin's feelings about the community plan. She also felt that they had no respect for the rules and the laws. They have always applied after-the-fact.

RON GLOVER, vice-president and part owner of Aloha Voyages said that back in 1986 they decided to come to Molokai from Oahu. They decided to go over to east Molokai because there was already a tour operation. They did come over and initially assumed a lot -- possibly too much. He went on to explain how they started their business on Molokai and how they decided to settle at Pukoo. He said that this transmission was about 3/4 ways

from their boat so they did moor. When they found out that they were in the wrong they started doing things to do it right. Even though it was after-the-fact they did try to make it right. They were told that if they did not process the mooring application they would still be in violation. Mr. Glover continued presenting his case and explained further the situation as noted on the illustrations on the blackboard. He concluded that he could not understand how DLNR could impose a \$20,000 fine on the say so of some people standing on the beach watching them pull the vessel up and stopping and say that they are mooring instead of anchoring. Mr. Arisumi said that the \$20,000 fine was for violations that took place since 1987. Mr. Glover said that in 1987 when they were aware that they were in violation they ceased.

Mr. Kealoha asked Mr. Glover what kind of Land Use Permit was issued to him by the County of Maui and for what purpose. Mr. Glover said that they were issued a Special Land Use Permit to operate on Gene Duvauchelle's property for operating a tour.

TOM BRIDGE, scuba dive instructor with Aloha Voyages said that they dropped anchor every time he worked on the boat since 12/1/87 and he would dive down to set the anchor and never did he ever hook up to a mooring. He said that to have someone from the shore say that they can see what someone is doing in the water to hook up is ridiculous.

WILL WEBSTER, a diver with Aloha Voyages said that since 12/1/87 when he first arrived on Molokai he was told not to attach to the mooring. He said that in the seven months he has worked with Aloha Voyages he has not seen this transmission. People have said that they see people in the water for 15 minutes but he has never taken more than 5 minutes in the water.

In reply to Mr. Arata's question that he had never seen the transmission, Mr. Webster replied again that he had not.

DEBBIE SULLIVAN, formerly of Bishop Museum said that when she was there she did a lot of work at the site. She and Dr. Devaney, a Marine Biologist at the time, visited the site in 1976, 1977 and 1979 and at that time they did find the transmission in the area. So the transmission was used by other boaters.

Mr. Arisumi asked Ms. Sullivan when was the last time she did any diving in the area. She said that she had snorkeled in the area about two weeks ago and witnessed the boat's anchor as well as the very large machinery down there.

On one dive, asked Mr. Arata of Ms. Sullivan, you said that you were able to recognize this transmission, anchor or whatever. She said yes. He thought it strange that she goes on one dive and see that and someone who works there for two years has never seen it. I'm not sure, maybe it's the sand shifting, but she said that she did see it in 1976, 1977, 1978 and 1979.

WILMA GRAMBUSH: For the record, wanted to say that Roger Evan's recommendation was the result of a lot of evidence in investigating this issue as to whether they are mooring. She said that the Land Board has the responsibility of protecting the tax payers of Molokai -- they should not be used and the land board should not allow people to just do what they wish to do for business purposes -- anchoring, mooring or what have you.

ALLEN REYNOLDS: Testified in favor of Bill Kapuni and did not think that Kapuni should be blamed for the decline of the fish. He felt that Kapuni's business is small and does not disturb anything in the area.

BILL KAPUNI: He stated for the record that staff's position is that Aloha Voyages is the only group out there. However, he said that there are a lot of other commercial activities taking place out there. He then presented slides showing their operation from Maui to Molokai.

Mr. Kealoha asked Mr. Kapuni about his snorkeling adventure. Mr. Kapuni stated that he did apply for his tax license but whenever he conducts any snorkeling activities or rents out equipment, it involves Aloha Voyages. Discussion continued between Mr. Kealoha and Mr. Kapuni as to where he his vessel was hooked up. Mr. Kapuni said that he did not need to anchor his vessel inasmuch as he just rents out equipment and gives instructions.

Mr. Kealoha remarked, "you say you don't use that transmission?" Mr. Kapuni replied that they throw the anchor out.

Referring to the kayaks which were shown on the slides, Mr. Kealoha asked, "has anyone made you aware of the conservation district boundaries on the sand?" Mr. Kapuni said, yes but replied also that the pictures were very old.

Mr. Arisumi stated that after listening to all the testimony tonight he was confused and asked that this matter be deferred in order to allow him more time to make a better decision. It seemed obvious that the testimonies tonight were one against the other and he wanted to get better information in order to make a fair decision. Mr. Kealoha agreed.

ACTION:

Mr. Arisumi moved to defer this matter to the first meeting in August. Motion carried unanimously with a second by Mr. Kealoha.

RESOLUTION:

The board adopted unanimously a Resolution commending Mr. George Harada for his more than 26 years of service with the Division of Water and Land Development and extended their best wishes in his well deserved retirement and good health and happiness in his future endeavors. Mr. Harada retired as Irrigation District Manager of the Molokai Irrigation System on June 30, 1988.

RECESS:


The meeting was recessed at 9:30 p.m. and will reconvene to consider the remaining items on the Agenda on Friday, July 8, 1988, 9:00 A.M., at the Lahaina Civic Center, Lahaina, Maui.

Respectfully submitted,



Mrs. LaVerne Tirrell
Secretary

APPROVED:



WILLIAM W. PATY
Chairperson

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

DATE: July 8, 1988
TIME: 9 A.M.
PLACE: Lahaina Civic Center
Lahaina, Maui

ROLL CALL: Chairperson William W. Paty reconvened the meeting of the Board of Land and Natural Resources at 9 A.M. The following were in attendance:

MEMBERS: Mr. J. Douglas Ing
Mr. Moses W. Kealoha
Mr. John Arisumi
Mr. Herbert Arata
Mr. Herbert K. Apaka, Jr.
Mr. William W. Paty

STAFF: Dr. Calvin Lum
Mr. Ralston Nagata
Mr. Michael Shimabukuro
Mr. Roger Evans
Mr. Eddie Ansai
Mr. Keith Keau
Mr. Skippy Hau
Mr. Meyer Ueoka
Mr. Randy Awo
Mrs. Geraldine M. Besse

OTHERS: Johnson H. Wong, Esq., Deputy Atty. Gen.
Mr. Peter Garcia, Dept. of Transportation
Mr. Clancy Greff (Item E-1)
Mrs. Leimomi Lum (Item E-2)
Ms. Eva Kim (Item E-2)
Meredith Ching, Esq. (Items F-1-h, -i, -j, and
-k)
Mr. Roger Vargas (Item F-10)
Mr. William Fisher (Item H-1)
Robert Smolenski, Esq. (Item H-5)
Mr. Ken Hermansen (Item H-5)
Mr. Jim Aotaki (Item H-5)
Mr. Louis S. Macknik (Item H-5)
Meyer Ueoka, Esq. (Item H-6)
Mr. and Mrs. Crispino Omlan (Item H-6)
Mr. and Mrs. Hermogenes Omlan (Item H-6)
Dr. Yoneo Sagawa (Item H-7)

MINUTES: Upon motion by Mr. Ing and a second by Mr. Kealoha, the minutes of the meeting of May 27, 1988, were approved as circulated.

ADDED ITEMS: Upon motion by Mr. Ing and a second by Mr. Kealoha, the following items were added to the agenda:

Item E-2 -- Approval of Grant-in-Aid for the Mookini Luakini Foundation, Inc., Oahu

Item E-3 -- Filling of Groundskeeper I, Position No. 6814, Iolani Palace Grounds, Oahu Park Section

Item F-18 -- Lease of Office Space for the Department of Corrections, Island of Hawaii

Item H-12 -- Approval of a Personal Service Contract for Mr. Susumu Ono, Consultant

Items on the agenda were considered in the following order to accommodate those applicants present at the hearing:

CDUA FOR AN AFTER-THE-FACT DECK AND PROPOSED DECK EXPANSION AT LAHAINA, MAUI, HAWAII - FILED BY MR. MEYER M. UEOKA, AGENT FOR CRISPINO AND HERMOGENES OMLAN

ITEM H-6

Mr. Evans asked to modify the staff's recommendation. On page 5, he stated, the staff asks that the Board find several violations and provide for fines. Under number 2, he asked that the finding that the deck is not in compliance with section 171-6 and section 183-41, Hawaii Revised Statutes, as amended, be amended by deleting reference to section 183-41. The same reference under number 3 should also be deleted. Under number 4, he asked to delete the reference to section 183-41 and the \$500 fine.

Mr. Ueoka, representing the Omlans, stated that his clients submit that there is a violation. However, he said they have no knowledge as to when the deck was erected. He asked the Board to look at all the facts and mitigating circumstances--that the fine may be excessive and that some consideration should be given to the applicants.

Mr. Evans stated that there are numerous problems in the Front Street area, and the applicants have come in for compliance and for the expansion of the area onto State-owned land. He stated that the staff research indicates the violation occurred prior to the enactment of the conservation district law, which was enacted in 1964; therefore, he said anything transpiring subsequent to that law would be considered a violation with a fine of \$500.

In answer to a question from Mr. Kealoha, Mr. Evans stated that the violation was discovered in response to a State survey done because of "problems" relating to encroachment all along Front Street. As a result of the survey, he said, there was an indication that this particular property was in violation, along with others, of encroachment. Applicants were notified. They then came in with the application in an attempt to comply with the law. Mr. Kealoha stated he preferred to invoke the fine but suspend it until such time as another violation occurs. Mr. Evans stated that the alternative is available to the Board, and this has been done in the past.

Mr. Ueoka indicated that Crispino Omlan is 85 years old, and Hermogenes Omlan, his brother, is 81 years old. He stated they came from the Philippines in the early 1930's and were employed on the plantations. They then left and operated a pool hall at the present location. They leased the property, then purchased the property in 1957. Mr. Ueoka said that when they purchased the property, the deck extended from the property end to the next property. In 1946 the tidal wave removed a great portion of the deck until only 449 square feet remains. He stated they have photos showing the deck and foundation.

Mr. Ueoka continued, saying that when the Omlans learned they were in violation, they immediately applied for an after-the-fact CDUA. He said he believed they were law-abiding citizens. He stated they are both unable to read and write, married at a late age, and in fact Hermogenes Omlan has a one-year old child. He further stated that in their late years they are now faced with this problem and the fine. He stated they admit to the encroachment but (1) claim they are not the ones who built the deck, and (2) the Omlan families are using the deck as a place to hang clothes. There is no commercial use of the property and, therefore, no income is derived from use of the property, and (3) the applicants ask that the Board take into consideration the mitigating circumstances.

In response to a question from Mr. Arisumi, Mr. Ueoka stated that the applicants who were present have reviewed the submittal and do not have any qualms about it. He said he realized the staff has a responsibility but it is up to the Board to take into consideration all the facts and circumstances, and they are asking for leniency. He also stated that he did not believe the Omlans would violate any other rules and regulations of the Land Board. He stated they are now abandoning their request to repair the damaged portion of the deck.

ACTION

Mr. Arisumi moved for approval with the suspension of the fine to \$100. The motion was seconded by Mr. Ing and unanimously approved as amended.

Mr. Kealoha asked for clarification of the land ownership. Mr. Ueoka stated that they are unable to ascertain if at one time the land was privately owned. He stated that formerly there was a law on accretion that enabled an individual to apply for the portion that has been increased by wave action; however, he stated the law was no longer in existence. He then indicated on the map the alleged State land and the area of encroachment. He stated they are now asking to lease that portion.

ITEM H-5

CDUA FOR CONSTRUCTION OF A 53-FOOT ANTENNA TOWER AND EQUIPMENT BUILDING AT HALEAKALA, MAUI - FILED BY KING BROADCASTING COMPANY (DBA KHNL-TV), AGENT: SMOLENSKI AND WOODSELL

Mr. Evans stated that there are a number of facilities in proximity to the proposed site, KMAU, KAIH, KGMB, KMEB, KMRT, and NOAA, a weather station. He also stated it is approximately one-quarter mile away from a known threatened and endangered species. The applicants propose to operate Channel 15 on Maui, which would rebroadcast Channel 13 programs from Oahu. It would operate two microwave solid disk antennas mounted between the 12,000 - 24,000 levels. They would be unmanned and maintenance would be on an occasional basis. As part of the process, a public hearing was held on Maui, Mr. Evans stated. He also stated that the applicant had an FCC license. This is pointed out to indicate differences in functional responsibilities. With the representation that the FCC had issued a license and the staff's belief that the basic issue is a land use issue, his office hesitated to proceed further and felt that the concerns should be addressed before the FCC as the more appropriate body. He stated that subject to the public hearing and public comments, it is his staff's recommendation to approve the project, subject to a number of conditions. He stated that a specific concern relates to frequency interference to both the University and the Air Force. Conditions 14 and 15 on page 12 address those concerns in that the applicant must prepare and submit to the Department for assessment a frequency and power interference capability study. The applicant is also asked to take appropriate measures to ensure that interference does not occur during the test period.

Mr. Robert Smolenski, attorney for King Broadcasting and Channel 13, appeared before the Board and introduced Ken Hermansen, vice president and chief engineer of King Broadcasting, and Jim Aotaki, chief engineer for Channel 13. He stated that they were proposing a one-year interim period to put up a temporary facility and to show that there would not be interference or any other adverse effects.

Mr. Ing stated that one of the major concerns was the power level to be used. Mr. Smolenski stated that the FCC allows UHF to use a higher power level and King Broadcasting anticipated operating at 750 kilowatt. Mr. Evans stated that the applicants feel the project will work although the calculations have only been done on paper; however, it was their judgment to spend the resources and proceed. Should the Board approve, during the testing period, physical measurements would be made on the ground--how far it goes, what kinds of power are necessary, where the antennas should be mounted.

In response to a question from Mr. Evans, Mr. Smolenski stated he spoke with an Air Force representative that morning who stated they had no problems with the interim use. Mr. Paty asked Mr. Smolenski about his discussion with the University and the Air Force and whether the project had been reviewed with them. Mr. Hermansen answered that he had two meetings with the Air Force relating to a slight relocation of the facility to help mitigate some of their concerns. As to the University, he stated, he has only responded by letter because he has been unable to discuss this with UH personnel. He stated he believes that the points raised in letter to UH would relieve their concerns. Mr. Hermansen stated that once the facility is operating, they would confirm through instrumentation, whether or not there is interference. On that basis, he said, they would be willing to operate at a lower level.

In response to a question from Mr. Paty, Mr. Hermansen stated that the FCC's position is that any new facility must address reasonable complaints of interference. He stated that by law they are required to address those complaints.

Mr. Evans stated that he was contacted by Mr. Hall's office of the University, that on behalf of the astronomy people he wanted to have a copy of the submittal to make a judgment on whether he should attend the Board meeting. As far as the Air Force concerns, Mr. Evans stated that one way to focus could be if they were operating a particular program with a particular set of parameters. The problem was that there is a lot of experimental projects in this general area. That was one of the reasons why it was felt that the FCC would be the more appropriate body.

Mr. Louis S. Macknik representing the Institute of Astronomy of the University of Hawaii, stated for the record:

"1. The University of Hawaii was not consulted in the normal State agency review process and was put in the position to respond very quickly after the May 12 public hearing.

"2. The technical issues are complex and a response to the stands taken by King Broadcasting (after the initial IFA letter to the chairman) is simply not feasible on the time scale of the BLNR's deadline to act on this application.

"3. It is important to note that the referenced CDUA calls for an increase by more than a factor of ten, in radiated power, over any presently operating facility on Mt. Haleakala. Consider increasing the speed limit from 55 MPH to 700 MPH!

"4. There are solid technical grounds for our concern that the proposed broadcast facility will seriously impact, and probably terminate, ongoing research at The University of Hawaii and USAF operated facilities on Mt. Haleakala.

"5. Approval of this CDUA will raise grave concern for the long term future of the research environment on Mt. Haleakala. It will certainly seriously impact The University of Hawaii efforts to develop Mt. Haleakala as a viable alternative to Mauna Kea for many projects.

"6. Although there is continuing evaluation of the level of interference this facility will generate on Mauna Kea, it is clear that this single broadcast facility will raise interference levels in the Mauna Kea Science Reserve to the currently established limits. Allowing a single transmitter to so impact the Mauna Kea environment, even on a test basis, will unquestionably confuse the clear State policy that the astronomical properties of Mauna Kea are a State and national resource to be preserved for future generations.

"7. The University of Hawaii strongly opposes any interim operating permit for this transmitting facility. The issues raised by this CDUA will only become more intense if the transmitter causes fatal interference to science operations but is integral to a commercial operation with commitments to advertisers.

"8. The potential interference to The University of Hawaii and USAF sponsored operations is a land use issue. Radio frequency interference to science operations will occur within BLNR leased areas and is a Hawaii, not an FCC issue.

"9. The University of Hawaii prefers that the BLNR reject this application outright and permit the University and other concerned parties to work with King Broadcasting on reasonable alternatives which would best serve the public, the state, and our country for personal, commercial, and scientific enterprise.

"10. If test phase is used, interference will have to be evaluated, and it will be more than just interference that could be measured for field strengths or how strong the signal is. It will be necessary to evaluate the reduction and efficiency of computers and other equipment that are in the vicinity so it's not just simply a case of a measurement phase. It will have to evaluate the operation, production, and the impact on the science facilities.

"The previous consideration with the FCC on the interference it might cause has only been with communication services. It doesn't seem to have been any evaluation of the interference to non-communications type facilities, which we are in Science City."

In answer to a question from Mr. Arisumi, Mr. Macknik stated that UH does not have communication facilities. He further stated that the radio and TV stations operating there at present are currently causing interference with their equipment. He said, for example, yesterday they had gone to the Observatory to install a new intercom in one of the domes. When it was turned on, it was totally useless because of the interference--from Channel 3 they believe. He further stated that their TV cameras sometimes become totally inoperative because of the other television signals.

The University alleged they had not been given timely notice; however, Mr. Evans pointed out that there was a representative at the May 12 meeting. Mr. Macknik stated that prior to May 12 the University was never contacted. Mr. Evans further stated that a public notice was published in the newspaper stating that interested parties could review the application on file and the maps. Mr. Evans pointed out that the State Telecommunications Division was asked to review the CDUA but would check to see whether all the users were notified. Mr. Kealoha, however,

pointed out that the entire burden is not on OCEA--a certain amount of responsibility lies with the interested parties, and, therefore, could not see how the University could state that they were not contacted or had the opportunity to review the application. Mr. Macknik stated that all the individuals contacted were in the communications system. Mr. Ing pointed out that the University, as a landowner, would have received notice, and would have to sign the application. The processing commences thereafter, Mr. Evans stated.

ACTION Mr. Arisumi moved for deferral to the next meeting on Oahu, July 22, 1988. The motion was seconded by Mr. Arata and unanimously carried.

Mr. Smolenski asked that the matter not be deferred because Mr. Macknik was at the public hearing. It was suggested that they get together. Since the initial discussions, Mr. Macknik stated he was no longer involved in the discussions and that all discussions should be directed to the director, Mr. Don Hall. Mr. Smolenski stated they have been unable to meet with Mr. Hall although Mr. Smolenski, after several attempts, did speak with Mr. Hall on June 17. Mr. Hall informed him that objections and the response by the University objecting to the application was prepared by the National Radio Astronomy Observatory in Charlottesville. It was handled in this manner as UH did not have the capability to analyze it and that the objection was based on a worst-case-analysis. The Observatory was supposed to inform them if they needed additional information. Mr. Smolenski basically agreed that the University was just "protecting our flanks." Mr. Smolenski stated that he felt the University had ample opportunity since May 12 to respond to comments.

Mr. Paty stated that the deferral would allow the University because of their concern to review this application with the applicants.

ITEM E-2 APPROVAL OF GRANT-IN-AID FOR THE MOOKINI LUAKINI FOUNDATION, INC., OAHU

ACTION Unanimously approved (Arata/Arisumi).

Mrs. Mookini asked to show renderings of future plans.

ITEM F-1-h ISSUANCE OF REVOCABLE PERMIT TO ALEXANDER & BALDWIN, INC., POR. OF THE GOVT. LAND WITHIN THE KOOLAU FOREST RESERVE (KEANAE LICENSE), MAUI

and

ITEM F-1-i ISSUANCE OF REVOCABLE PERMIT TO ALEXANDER & BALDWIN, INC., POR. OF GOVT. LAND WITHIN THE EASTERLY POR. OF THE KOOLAU FOREST RESERVE (HONOMANU LICENSE), MAUI

and

ITEM F-1-j ISSUANCE OF REVOCABLE PERMIT TO ALEXANDER & BALDWIN, INC., POR. OF THE GOVT. LAND WITHIN THE KOOLAU FOREST RESERVE BETWEEN PUOHOKAMOA AND HONOPOU STREAMS (HUELO LICENSE), MAUI

and

ITEM F-1-k ISSUANCE OF REVOCABLE PERMIT TO EAST MAUI IRRIGATION COMPANY, LIMITED, POR. OF THE GOVT. LAND WITHIN THE EASTERLY POR. OF THE KOOLAU FOREST RESERVE (NAHIKU LICENSE), MAUI

Mr. Shimabukuro stated that the above items are for revocable permits pending the review of long-term leases.

ACTION Unanimously approved (Arisumi/Arata).

ITEM H-7 REQUEST TO AMEND Cдуа OA-1552A FOR THE LYON ARBORETUM AT MANOA, OAHU

Mr. Evans stated that Lyon Arboretum is asking to widen the existing road by three to seven feet. Three small trees would be removed in the process, and they have received approval from Paradise Park.

ACTION Unanimously approved (Ing/Kealoha).

ITEM H-3 Cдуа FOR MODIFICATION OF EXISTING RESIDENTIAL DWELLING, KANEOHE, OAHU - FILED BY DHYANA MARKLEY, AGENT FOR MARILYN MITCHELL

Mr. Evans stated that this application was for the modification to an existing two-story residential structure in the general subzone, and the project would include a number of items as noted on page 2. The total square footage involves 1,387 square feet.

ACTION Unanimously carried (Ing/Kealoha).

ITEM F-10 DIRECT LEASE OF STATE LAND AT HANAPEPE TO U.S. DEPARTMENT OF AGRICULTURE, AGRICULTURE RESEARCH SERVICE, TAX MAP KEY 1-8-08:35, HANAPEPE, KAUAI

Mr. Shimabukuro stated that this was a request for the direct lease of State land to the U.S.D.A. for the purpose of research of fruit fly eradication technology. The property is approximately 6 acres, which was previously approved by the Board for public auction. However, since that time, the University and the U.S.D.A. have asked for use of the site. Therefore, Mr. Shimabukuro stated they would like to rescind the public auction authorization and give a direct lease to the U.S.D.A.

Mr. Shimabukuro stated they initially wanted to subdivide the property but it would take some time so they have decided to lease the property and later subdivide the property. Mr. Kealoha suggested that they lease only a small portion and continue to work on the possibility of going out to public auction on the remainder of the six acres. Mr. Shimabukuro responded that they would be unable to do that as they would not be able to give the U.S.D.A. a lease as the property would not be properly subdivided.

Mr. Roger Vargas from the U.S.D.A. appeared before the Board. He stated that they received Congressional funding to conduct pilot field studies on the island of Kauai. One of the tests would be eradication and insect sterile release and a facility was needed close to the field. They were faced, he said, with building a new facility or finding existing space. He said he felt they needed three-fourths of the present structure. He said the money has been set aside to refurbish the facility, and they have only four months left.

Mr. Vargas stated that a portion would be used by the U.S.D.A. and another portion would be shared by other participating groups, such as the University of Hawaii. The UH received similar funding to conduct a similar study on Kauai. Others in the industry have expressed an interest in cooperating with them on the project. Mr. Vargas stated that they are not interested in establishing permanent laboratory space but want to establish eradication techniques and identify any environmental impact problems that may come up and resolve them and then turn the project over to the State.

Mr. Shimabukuro stated he would amend the submittal to at least one-half of the property or whichever way it can be subdivided.

In response to a question from Mr. Apaka, Mr. Vargas stated the project concerns the entire the State of Hawaii. Studies, he said, indicate that the project must start at one end of the chain. Kauai was chosen because of previous studies done on the island. If successful, the State of Hawaii would follow-up on the project and complete the work through the island chain. Mr. Vargas stated that the project was a difficult undertaking but felt that the attempt has to be made because of the need for diversification of agriculture in the State, the fruit fly being a major agricultural problem. He stated he felt it in the public interest to solve the fruit fly problem or at least make the attempt.

Mr. Vargas stated that they received seed money of \$150,000 per year for five years. They entered into an agreement with the University, which provided facilities at the Wailua Experiment Station. They have two scientists and five technicians currently there and it was hoped they would receive additional funding to enlarge the program. The actual appropriation needed for this program did not come until this year. They have talked with community people and a number of articles appeared in the newspaper on the plan. The results, Mr. Vargas said, have been positive. Mr. Apaka stated his concerns of using Kauai for experiments and wanted to know why they could not use the Wailua site. Mr. Vargas answered that the present program is at Molowaa and is a four-year testing program. The military at Barking Sands advised they could use some of their facilities but would have to build a new facility. Mr. Vargas stated that the money should be used in solving the problem instead of putting up new facilities. Mr. Vargas stated that there are very strict regulations on conducting research programs. He stated he had to submit a report to the EPA on any negative side effects in detail; however, the Hanapepe project deals only with sterile flies. Mr. Vargas stated that they were interested mainly in the building and did not need the entire 5.84 acres. They wanted half of the building with the University possibly sharing the other half and were interested in approximately the two front acres as well. He said one of the problems was the assumption of liability and maintenance of the entire area; therefore, the U.S.D.A. would be satisfied with a smaller area.

ACTION

Mr. Apaka moved for approval of the lease as amended to include a right of entry and parcelization. The motion was seconded by Mr. Kealoha and unanimously approved.

ITEM H-1

CDUA FOR THE DEVELOPMENT OF A FRESHWATER SPRING AT HAIKU, MAUI, HAWAII - FILED BY MR. WILLIAM FISHER

Mr. Evans stated that the application is for a spring in the limited subzone. The applicant would use approximately 100 square feet of 3-1/2 acres, and the parcel is landlocked. Access to the spring would be through the applicant's parcel. It is proposed to draw water from the spring on the land and pump it back up a pali to irrigate a tropical flower farm on his property. Mr. Evans stated that while he is not doing any commercial business now, it was a possibility that he would do so in the future. Mr. Evans stated that approval is recommended as a master CDUA. Other individuals would need to use another water source and obtain their own individual water licenses and Water Commission approval.

Mr. William Fisher, applicant, appeared before the Board. He stated that the major use of the spring was for his flower farm, and there will be no digging on the property and that the electrical and plumbing work will be done by professional people.

Mr. Fisher stated that he understands the conditions of the application.

ACTION Unanimously approved (Arisumi/Arata).

ITEM E-1 REQUEST PERMISSION TO USE A PORTION OF HAENA STATE PARK PARKING LOT FOR NA PALI ZODIAC TOUR BOAT CUSTOMERS

Mr. Nagata asked to withdraw this request because the Office of Conservation and Environmental Affairs advised that this requires an amendment to the CDUA. Mr. Evans stated that in the 1982 CDUA process for Haena State Park reference was made to public parking but no reference to commercial parking so it would require State Parks to amend their CDUA, the Na Pali Coast Master Plan.

Mr. Nagata said that notice was given to Mr. Greff by the private owner to have his clientele park elsewhere. Mr. Greff has asked to park at Haena in an area that is unimproved, which is about 1/4 mile away from the beach. The area is little used, Mr. Nagata said, and would eliminate the congestion at Tunnels. Mr. Nagata stated that he has given Mr. Greff permission to park there from the beginning of June, with the understanding that the matter would have to go before the Board for approval of a long-term permit. Mr. Nagata stated that if a CDUA is required the process would take approximately six months.

Mr. Greff appeared before the Board. Mr. Greff noted that over the last 12 years his clients have used the area at the end of the road for parking. He said that a school bus has been hired at \$22,000 for three months to go into the area. He has never been informed that a CDUA was necessary in his 12 years there.

Mr. Ing stated that he didn't think Mr. Greff or his customers needed a CDUA or an amendment for parking. The question, he said, is whether he can run the shuttle to pick up customers in the parking lot. Mr. Greff stated commercial buses do go into some State parks, such as at Kokee, as well as smaller shuttle tours, without permits. Mr. Ing asked for an Attorney General opinion on whether a CDUA is required of State Parks, stating that Mr. Greff may continue use of Haena State Parks parking until the issue was resolved.

ACTION Mr. Apaka moved for deferral until the end of August, 1988, which would give the Attorney General sufficient time to render an opinion. In the meantime, applicant is permitted to use Haena State Park for parking. The motion was seconded by Mr. Kealoha and unanimously carried.

RECESS The Chairperson called a recess from 11:20 a.m. to 11:32 a.m.

ITEM J-1 SHOWER AND LOCKER ROOM CONCESSION, HONOLULU INTERNATIONAL AIRPORT, OAHU

ACTION Unanimously approved (Ing/Kealoha).

ITEM J-2 APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 4474, 4482 AND 4483, AIRPORTS DIVISION

ACTION Unanimously approved (Ing/Kealoha).

ITEM J-3 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 1 TRANSIT SHED, KAHULUI, MAUI (McCABE, HAMILTON & RENNY CO., LTD.)

ACTION Unanimously approved (Arisumi/Arata).

<u>ITEM J-4</u>	ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 40, HONOLULU, OAHU (DON'S MAKIKI SERVICE)
ACTION	Unanimously approved (Ing/Kealoha).
<u>ITEM J-5</u>	ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 23, HONOLULU, OAHU (MANNA PRO CORPORATION)
ACTION	Unanimously approved (Ing/Arata).
<u>ITEM J-6</u>	ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KEWALO BASIN, HONOLULU, OAHU (MR. GORDON R. HOWARD)
ACTION	Unanimously approved (Ing/Arata).
<u>ITEM C-1</u>	APPROVAL OF ISSUANCE OF LICENSE TO HANA RANCH FOR A COMMERCIAL SHOOTING PRESERVE
	Dr. Lum stated that the the ranch will begin the project with ring-neck pheasants. The ranch said that the preserve will be open to all and kamaaina rates may be considered.
	Dr. Lum asked to amend item #2, last sentence, to read "banded" birds instead of "unbanded."
ACTION	Unanimously approved as amended (Arisumi/Arata).
<u>ITEM D-1</u>	PERMISSION TO ENTER INTO A CONTRACT WITH THE HAWAII ECONOMIC OPPORTUNITY COUNCIL FOR THE SOLAR HAY DRYING FACILITY, PANAWEA, HAWAII
ACTION	Unanimously approved (Arata/Arisumi).
<u>ITEM E-3</u>	FILLING OF GROUNDSKEEPER I POSITION NO. 6814, IOLANI PALACE GROUNDS, OAHU PARK SECTION
ACTION	Unanimously approved the appointment of Benjamin Kamalani to Groundskeeper I Position No. 6814 (Ing/Kealoha).
<u>ITEM F-1</u>	<u>DOCUMENTS FOR CONSIDERATION</u>
Item F-1(a)	ISSUANCE OF REVOCABLE PERMIT TO HIGASHI'S INCORPORATED, PORTION OF KEKAHA DRAG STRIP, KEKAHA, WAIMEA (KONA), KAUAI
Item F-1(b)	CONSENT TO ASSIGNMENT OF 1/3 INTEREST OF JOAN C. PRATT, GENERAL LEASE NO. S-5055, LOT 7, PUU KA PELE PARK LOTS, WAIMEA, KAUAI
Item F-1(c)	CONSENT TO TWO ASSIGNMENTS OF GENERAL LEASE NO. S-4989 TO JULIET RICE WICHMAN, AKA JULIET ATWOOD WICHMAN, DECEASED, LOT 33, KOKEE CAMP SITE LOTS, WAIMEA (KONA), KAUAI
Item F-1(d)	CONSENT TO ASSIGNMENT OF GENERAL LEASE NO. S-5069 TO NANCY P. SEAT, LOT 30, PUU KA PELE PARK LOTS, WAIMEA, KAUAI
Item F-1(e)	ISSUANCE OF LAND LICENSE TO KAUAI SAND AND GRAVEL, INCORPORATED, PORTION OF GENERAL LEASE NO. S-4222, KEKAHA, KAUAI
	Mr. Shimabukuro added a condition that licensee obtain a right of entry in writing and submit a release of liability form from Kekaha Sugar.
Item F-1(f)	CONSENT TO ASSIGNMENT OF GENERAL LEASE NO. S-3599 TO TADAO KIMURA, LOT 22, KANOELEHUA INDUSTRIAL LOTS, WAIAKEA, SO. HILO, HAWAII

Item F-1(g) OLU KAI, LTD. REQUEST FOR REVOCABLE PERMIT, PUA A 1ST, NO. KONA, HAWAII

In response to a question from Mr. Kealoha regarding the \$5 rate, Mr. Shimabukuro stated that that was the prevailing rate in Kona. Mr. Kealoha asked for a deferral of the item to give staff adequate time to review the parking fee structure.

ACTION Mr. Apaka moved for approval of Items F-1(a), (b), (c), (d), (e) as amended, (f) and deferral of Item F-1(g). Seconded by Mr. Kealoha and unanimously carried.

ITEM F-2 REQUEST FOR PERMISSION TO CONSTRUCT AN ADDITIONAL FARM LABOR DWELLING, LOT 14-A, LALAMILO FARM LOTS, LALAMILO, SO. KOHALA, HAWAII (LARRY NAKAMOTO APPLCN).

ACTION Unanimously approved, subject to verification of applicant's correct last name (Arata/Arisumi).

ITEM F-3 ISSUANCE OF EXECUTIVE ORDER AND RIGHT OF ENTRY TO DEPARTMENT OF TRANSPORTATION, KANAPALI SHORES AND SHOREWATERS AND SUBMERGED LAND, KANAPALI, LAHAINA, MAUI

The purpose of the executive order, Mr. Shimabukuro stated, is to give the Department of Transportation sole jurisdiction of the designated shores and shorewaters. This would eliminate some of the confusion over the jurisdiction of the area.

In response to Mr. Kealoha, Mr. Shimabukuro stated that OHA revenue would be the same as presently set up for Airports and Harbors Divisions of the DOT.

ACTION Mr. Kealoha moved that the item be deferred until the question of revenues to OHA is set up. The motion was seconded by Mr. Apaka and unanimously carried.

ITEM F-4 REQUEST TO AMEND CHARACTER OF USE PROVISION, GENERAL LEASE NO. S-4340 TO AKEA FARMS, PARCEL B, MOLOKAI FARM LOTS, HOOLEHUA-APANA 2, MOLOKAI

Mr. Shimabukuro stated that the applicant is requesting to go into truck crops. He was unable to amend the character use of the lease but H.B. 1604, Act 159, allows the Board to do so.

Mr. Kealoha voiced concern about the lease rental. Mr. Shimabukuro stated that the lease rent would be increased subject to appraisal.

Mr. Kealoha noted that scientists from the University of Hawaii and agriculture experts recommended against macadamia nut growing on Molokai, especially in Hoolehua because of weather conditions. Mr. Kealoha stated that because of the character use change, others might be interested in bidding on the property, which would better serve the public interest. Mr. Paty stated that Mr. Curtis was the second largest employer on the island and has an integrated operation and to break it up would adversely affect agricultural output. Mr. Kealoha noted that Mr. Curtis has grown different crops over the years; however, Mr. Paty pointed out that Mr. Curtis has been growing the nuts for some years.

ACTION Mr. Arisumi moved to approve; seconded by Mr. Ing. Motion carried with dissenting vote of Mr. Kealoha.

ITEM F-5 PERMISSION TO NEGOTIATE WITH CONSULTANT(S) TO COORDINATE THE CONVERSION OF AGRICULTURAL REVOCABLE PERMITS TO LONG TERM LEASES, STATEWIDE

ACTION Unanimously approved (Ing/Kealoha).

<u>ITEM F-6</u>	OUT-OF-STATE TRAVEL REQUEST FOR LAND MANAGEMENT ADMINISTRATOR TO ATTEND WESTERN STATES LAND COMMISSIONERS ASSOCIATION (WSLCA) ANNUAL CONFERENCE AT SANTA FE, NEW MEXICO
ACTION	Unanimously approved (Ing/Kealoha).
<u>ITEM F-7</u>	EXTENSION OF CABIN CONSTRUCTION REQUIREMENTS FOR GENERAL LEASE NO. S-5082, LOT 53, PUU KA PELE PARK LOTS, WAIMEA, KAUAI
ACTION	Unanimously approved (Apaka/Ing).
<u>ITEM F-8</u>	IWAO NONAKA REQUEST FOR EXTENSION OF EMPLOYEE-RESIDENCE IMPROVEMENT REQUIREMENT OF GENERAL LEASE NO. S-5113, HANAPEPE, KAUAI
ACTION	Unanimously approved (Apaka/Kealoha).
<u>ITEM F-9</u>	DEPARTMENT OF HAWAIIAN HOME LANDS FOR CONSTRUCTION RIGHT OF ENTRY, IWIPOLINA AND AKEKEKE ROADS, KEKAHA, KAUAI
ACTION	Unanimously approved (Apaka/Kealoha).
<u>ITEM F-10</u>	See page 16.
<u>ITEM F-11</u>	RENEWAL OF LEASE OF OFFICE SPACE FOR THE DEPARTMENT OF CORRECTIONS, CRIMINAL INJURIES COMPENSATION COMMISSION, HONOLULU, OAHU
ACTION	Unanimously approved (Kealoha/Arata).
<u>ITEM F-12</u>	LEASE OF OFFICE SPACE FOR THE DEPARTMENT OF HUMAN SERVICES, PUBLIC WELFARE DIVISION, KAUNAKAKAI, MOLOKAI
ACTION	Unanimously approved (Ing/Arata).
<u>ITEM F-13</u>	LEASE OF OFFICE SPACE FOR THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES FOR USE BY STATE AGENCIES ASSIGNED BY THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES, HONOLULU, OAHU
ACTION	Unanimously approved (Ing/Kealoha).
<u>ITEM F-14</u>	RENEWAL OF LEASE OF OFFICE SPACE FOR THE DEPARTMENT OF HEALTH, EMERGENCY MEDICAL SERVICES SYSTEM, KAUNAKAKAI, MOLOKAI
ACTION	Unanimously approved (Arisumi/Arata).
<u>ITEM F-15</u>	LEASE OF OFFICE SPACE FOR THE DEPARTMENT OF LAND AND NATURAL RESOURCES, DIVISION OF AQUATIC RESOURCES, WAILUKU, MAUI
ACTION	Unanimously approved (Arisumi/Arata).
<u>ITEM F-16</u>	LEASE OF OFFICE SPACE FOR THE DEPARTMENT OF HEALTH, MENTAL HEALTH DIVISION, HONOLULU, OAHU
ACTION	Unanimously approved (Ing/Kealoha).
<u>ITEM F-17</u>	LEASE OF OFFICE SPACE FOR THE DEPARTMENT OF HUMAN SERVICES, WEST HAWAII SOCIAL SERVICES UNIT, KAILUA-KONA, HAWAII
ACTION	Unanimously approved (Ing/Kealoha).
<u>ADDED ITEM F-18</u>	LEASE OF OFFICE SPACE FOR THE DEPARTMENT OF CORRECTIONS, ISLAND OF OAHU
ACTION	Unanimously approved (Ing/Kealoha).

ITEM G-1 REQUEST TO FILL POSITION NO. 38262, CLERK TYPIST I, TEMPORARY APPOINTMENT OUTSIDE OF LIST, OAHU

ACTION Unanimously approved the appointment of Kellee T. Takeshita, Clerk Typist I, Position No. 38262, Temporary Appointment Outside of List (Ing/Kealoha).

ITEM H-1 See page 17.

ITEM H-2 Deferred until next Board meeting at applicant's request.

ITEM H-3 See page 15.

ITEM H-4 CDUA TO REMODEL EXISTING RESIDENTIAL STRUCTURE, TANTALUS, OAHU - FILED BY BARTLEY AND SOULAN M. CAHOON

Mr. Evans asked that the Board decide whether requests such as this one which did not change the land use could be handled administratively by his office in conjunction with the Chairperson.

ACTION Unanimously approved (Apaka/Kealoha).

ITEM H-5 See page 14.

ITEM H-6 See page 11.

ITEM H-7 See page 15.

ITEM H-8 REQUEST FOR APPROVAL OF OUT-OF-STATE TRAVEL

ACTION Unanimously approved (Ing/Arata).

ITEM H-9 REQUEST FOR APPROVAL TO ENTER INTO FOUR RESEARCH CONTRACTS WITH THE UNIVERSITY OF HAWAII (SEAWEEDES)

and

ITEM H-10 REQUEST FOR APPROVAL TO ENTER INTO FOUR RESEARCH CONTRACTS WITH THE UNIVERSITY OF HAWAII (HANDS-ON EDUCATION)

and

ITEM H-11 REQUEST FOR APPROVAL TO CONTRACT WITH THE RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII

Mr. Evans asked that the above three items be considered together as they all involved research contracts with the University of Hawaii.

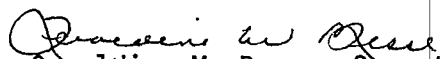
ACTION Unanimously approved (Apaka/Ing).

ADDED
ITEM H-12 APPROVAL OF A PERSONAL SERVICE CONTRACT FOR MR. SUSUMU ONO, CONSULTANT

ACTION Unanimously approved (Arata/Arisumi).

ADJOURNMENT There being no further business, the Chairperson adjourned the meeting at 12:20 p.m.

Respectfully submitted,


Geraldine M. Besse, Secretary

APPROVED:


WILLIAM W. PATY, Chairperson