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

DATE: August 12, 1988
TIME: 9:00 A.M.
PLACE: State Office Building
Conference Rooms A, B, and C
75 Aupuni Street
Hilo, Hawaii

ROLL CALL

Chairperson William W. Paty called the meeting of the Board of Land and Natural Resources to order at 8:25 a.m. to take up administrative-housekeeping items only. The following were in attendance:

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

ABSENT AND EXCUSED: Mr. J. Douglas Ing

STAFF: Mr. Manabu Tagomori
Dr. Calvin Lum
Mr. Michael Shimabukuro
Mr. Roger Evans
Mr. Ronald Bachman
Mr. Charles Supe
Mr. Glenn Taguchi
Mr. Lawrence Okazaki
Mrs. Geraldine M. Besse

OTHERS: Johnson H. Wong, Esq., Deputy Atty. Gen.
Mr. Peter Garcia (Dept. of Transportation)
Ms. Deborah Abreu (Item C-1)
Mr. Mike Burke (Item F-20)
Mr. Robert J. Steinert (Item F-27)
Mr. David Bills (Item H-1)
Mr. Joseph Vierra (Item H-2)
Mr. Ryther L. Barbin (Item H-3)
Mr. Albert Fukushima (Item H-4)
Mr. George Houghtailing (Item H-4)
Hon. Hiram Kamaka (Item H-6)
Mr. Bill Austin (Item H-7)
Mr. Ron Glover (Item H-7)
Mr. Robert Kapuni (Item H-7)

MINUTES: The minutes of June 24, 1988, were unanimously approved as circulated (Arisumi/Kealoha).

ADDED ITEM

Upon motion by Mr. Apaka and a second by Mr. Kealoha, the following item was added to the agenda:

Item C-2 -- Filling of Position No. 08282, Wildlife Management Assistant III, Island of Kauai

The following administrative-housekeeping items were considered:

ITEM C-1 SELECTION OF DEBORAH ABREU AS CONSULTANT TO DIVISION OF FORESTRY AND WILDLIFE FOR THE ESTABLISHMENT OF THE HAWAII STATEWIDE TRAIL AND ACCESS SYSTEM (NA ALA HELE)

ACTION Unanimously approved (Kealoha/Arisumi).

ITEM D-1 PERMISSION TO ENTER INTO CONTRACT FOR CONSULTANT SERVICES, JOB NO. 4-OW-P, PUMP AND CONTROLS FOR KULIOUOU WELL, OAHU

ACTION Unanimously approved (Kealoha/Arata).

ITEM D-2 PERMISSION TO HIRE AN ARCHITECTURAL CONSULTANT FIRM, TO PREPARE CONSTRUCTION PLANS AND SPECIFICATIONS FOR JOB NO. 64-KF-A KAUAI DLNR BASEYARD IMPROVEMENTS, LIHUE, KAUAI

ACTION Unanimously approved (Kealoha/Arata).

ITEM D-3 PERMISSION TO HIRE ENGINEERING CONSULTANTS TO PROVIDE CONSTRUCTION MANAGEMENT FOR VARIOUS WATER AND LAND PROJECTS STATEWIDE

ACTION Unanimously approved (Kealoha/Arata).

ITEM D-4 PERMISSION TO HIRE ENGINEERING CONSULTANTS TO PROVIDE CONSTRUCTION MANAGEMENT FOR VARIOUS FORESTRY AND WILDLIFE PROJECTS STATEWIDE

ACTION Unanimously approved (Kealoha/Arata).

ITEM D-5 APPOINTMENT AND CERTIFICATION OF SOIL AND WATER CONSERVATION DISTRICT DIRECTORS

ACTION Unanimously approved (Kealoha/Arata).

ITEM E-3 REQUEST TO FILL POSITION NO. 12802, ON A LIMITED TERM APPOINTMENT (LTA) BASIS, HAWAII PARKS SECTION

ACTION Unanimously approved the limited term appointment of Bentley Kawakami to Position No. 12802 (Arata/Kealoha).

ITEM E-4 FILLING OF POSITION NO. 24118E, ARCHAEOLOGIST II, HISTORIC SITES PROGRAM

ACTION Unanimously approved the appointment of Nancy McMahon to Position No. 24118E, Archaeologist II (Arata/Kealoha).

ITEM F-1 DOCUMENTS FOR CONSIDERATION

Item F-1(a) UNIVERSITY OF HAWAII REQUEST FOR CONSENT TO AMENDMENT OF SUBLEASE, GENERAL LEASE (G.L.) NO. S-4191, KAOHE, HAMAKUA, HAWAII

Item F-1(b) ISSUANCE OF REVOCABLE PERMIT (R.P.) TO JOSEPH NAKOA SAROL, GOVERNMENT LAND OF KAHAKULOA VALLEY, WAILUKU, MAUI

Mr. Shimabukuro asked to amend the commencement date to September 1, 1988, and to delete recommendation 1, as the permit was cancelled administratively at the request of the permittee.

Item F-1(c) ISSUANCE OF R.P. TO PIONEER MILL CO., LTD., GOVERNMENT LAND OF LAHAINALUNA SCHOOL LANDS, LAHAINA, MAUI

Item F-1(d) ASSIGNMENT OF GRANT OF EASEMENT NO. S-4373, WILLIAM C. COLE AND HEATHER M. COLE TO HALEAKALA SCHOOL, INC., KEALAHOU, MAKAWAO (KULA), MAUI

Item F-1(e) ISSUANCE OF R.P. TO ASHIMINE'S SALES AND SERVICE, LOT 428, SAND ISLAND, HONOLULU, OAHU

ACTION Mr. Kealoha moved to approve Items F-1(a), -1(b) as amended, -1(c), -1(d), and -1(e). Seconded by Mr. Arata and unanimously carried.

ITEM F-5 COUNTY OF HAWAII REQUEST FOR CANCELLATION OF EXECUTIVE ORDER NO. 3043, NAMOKU-HAINA, HAMAKUA, HAWAII

ACTION Unanimously approved (Arata/Kealoha).

ITEM F-6 COUNTY OF HAWAII REQUEST FOR CANCELLATION OF EXECUTIVE ORDER NO. 2898, WAIAKEA, SO. HILO, HAWAII

ACTION Unanimously approved (Arata/Kealoha).

ITEM F-7 DIRECT SALE OF PERPETUAL NON-EXCLUSIVE EASEMENT AND RIGHT OF ENTRY FOR ACCESS, WATER, AND UTILITY PURPOSES, MOOLOA, HONUAULA, MAKAWAO, MAUI

ACTION Mr. Shimabukuro asked for deferral of this item because the applicants wish to build a water storage tank; rather than issue an easement, the land should be parcelized, he stated.

ITEM F-16 DEPT. OF AGRICULTURE REQUESTS EXTENSION OF LEASE AGREEMENT COVERING STATE LANDS AT KAAKAUKUKUI, HONOLULU, HAWAII

ACTION Unanimously approved (Kealoha/Arata).

ITEM F-24 RENEWAL OF LEASE OF OFFICE SPACE FOR THE DEPT. OF HEALTH, HILO HOSPITAL HOME HEALTH SERVICE, KEALAKEKUA, HAWAII

ACTION Unanimously approved (Arata/Kealoha).

ITEM F-25 LEASE OF OFFICE SPACE FOR THE DEPT. OF LABOR AND INDUSTRIAL RELATIONS, OFFICE OF COMMUNITY SERVICES, WAIANAE, OAHU

ACTION Unanimously approved (Kealoha/Arata).

ITEM F-26 RENEWAL OF LEASE OF OFFICE SPACE FOR THE DEPT. OF HEALTH, KALIHI-PALAMA COMMUNITY MENTAL HEALTH CENTER, HONOLULU, OAHU

ACTION Unanimously approved (Kealoha/Arata).

ITEM F-27 LEASE OF OFFICE SPACE FOR DEPT. OF COMMERCE AND CONSUMER AFFAIRS, CABLE TELEVISION DIVISION, HONOLULU, OAHU

ACTION Unanimously approved (Kealoha/Arata).

ITEM F-28 AMENDMENT OF LEASE OF OFFICE SPACE FOR THE DEPT. OF HEALTH, PLACEMENT AND CONTINUING SERVICES, HONOLULU, OAHU

ACTION Unanimously approved (Kealoha/Arata).

ITEM F-29 AMENDMENT OF LEASE OF OFFICE SPACE FOR THE DEPT. OF HEALTH, COUNTY/STATE HOSPITALS DIVISION, HONOLULU, OAHU

Mr. Shimabukuro asked that the following amendments be made: (a) the rental figure should read $6,206.00, and the additional rent figure should be $248.24, the total rent figure being $6,454.27; and (b) the Department of Health has agreed to pay $46,988.00 upfront for extraordinary improvement costs to renovate the office.

ACTION Unanimously approved as amended (Kealoha/Arata).

ITEM F-30 MODIFICATION OF LEASE OF OFFICE SPACE FOR THE DEPT. OF HUMAN SERVICES, HONOLULU, OAHU

ACTION Unanimously approved (Kealoha/Arata).

ITEM F-31 LEASE OF OFFICE SPACE FOR THE DEPT. OF CORRECTIONS, HONOLULU, OAHU

ACTION Unanimously approved (Kealoha/Arata).

ITEM F-32 LEASE OF OFFICE SPACE FOR THE DEPT. OF THE ATTORNEY GENERAL, LITIGATION DIVISION, ASBESTOS UNIT, HONOLULU, OAHU

ACTION Unanimously approved (Kealoha/Arata).

ITEM G-1 REQUEST TO FILL POSITION NO. 24160, CLERK TYPIST I, TEMPORARY APPOINTMENT OUTSIDE OF LIST, OAHU

ACTION Unanimously approved the appointment of Solomon B. Caba to Position No. 24160, Clerk Typist I, Temporary Appointment Outside of List, Oahu (Kealoha/Arata).

ITEM G-2 REQUEST TO FILL POSITION NO. 38265, CLERK TYPIST I, TEMPORARY APPOINTMENT OUTSIDE OF LIST, OAHU

ACTION Unanimously approved the appointment of Susan S. Okamoto to Position No. 38265, Clerk Typist I, Temporary Appointment Outside of List, Oahu (Kealoha/Arata).

ITEM G-3 REQUEST TO FILL POSITION NO. 38263, CLERK TYPIST I, TEMPORARY APPOINTMENT OUTSIDE OF LIST, OAHU

ACTION Unanimously approved the appointment of Marc F. Viglielmo to Position No. 38263, Clerk Typist I, Temporary Appointment Outside of List, Oahu (Kealoha/Arata).

ITEM J-1 MOTOR COACH GROUND TRANSPORTATION SERVICES (AIRPORT SHUTTLE BUS), LIHUE AIRPORT, KAUAI

ACTION Unanimously approved (Kealoha/Arata).

ITEM J-2 LEASE - VENDING AGREEMENT, MAIN TERMINAL LOBBY, HONOLULU INTERNATIONAL AIRPORT, OAHU (FIRST INTERSTATE BANK OF HAWAII)

ACTION Unanimously approved (Kealoha/Arata).

ITEM J-3 RIGHT-OF-ENTRY, SOUTH RAMP, HONOLULU INTERNATIONAL AIRPORT, OAHU (FEDERAL AVIATION ADMINISTRATION (FAA))

ACTION Unanimously approved (Kealoha/Arata).

ITEM J-4 AMENDMENT NO. 1 TO LEASE NO. DOT-1-70-18, HONOLULU INTERNATIONAL AIRPORT, OAHU (AIR NEW ZEALAND, LTD.)

ACTION Unanimously approved (Kealoha/Arata).

ITEM J-5 AMENDMENT NO. 24 TO LEASE NO. A-62-19, HONOLULU INTERNATIONAL AIRPORT, OAHU (UNITED AIRLINES, INC.)

ACTION Unanimously approved (Kealoha/Arata).

ITEM J-6 CONSENT TO SUBLEASE, EWA CONCOURSE, GROUND LEVEL, HONOLULU INTERNATIONAL AIRPORT, OAHU (JAPAN AIR LINES CO., LTD., DYN CORP./DYNAIR CORP.)

ACTION Unanimously approved (Kealoha/Arata).

ITEM J-7 APPLICATION FOR ISSUANCE OF R.P. 4484, 4485, 4486, AIRPORTS DIVISION

ACTION Unanimously approved (Kealoha/Arata).

ITEM J-8 APPLICATION FOR ISSUANCE OF R.P. 4473, 4497, 4496, AIRPORTS DIVISION

ACTION Unanimously approved (Arata/Kealoha).

ITEM J-9 RENEWAL OF R.P. 2066, ETC., AIRPORTS DIVISION

ACTION Unanimously approved (Arisumi/Kealoha).

ITEM J-10 ISSUANCE OF R.P., HARBORS DIVISION, KEEHI LAGOON COMMERCIAL SUBDIVISION, HONOLULU, OAHU (ALOHA TOOL AND RENTAL INC.)

ACTION Unanimously approved (Kealoha/Arata).

ITEM J-11 ISSUANCE OF R.P., HARBORS DIVISION, MAALAEA BOAT HARBOR, MAUI (PINEAPPLE HILL RESORT, LTD.)

ACTION Unanimously approved (Arisumi/Arata).

ITEM J-12 ISSUANCE OF R.P., HARBORS DIVISION, KAWAIHAE HARBOR, HAWAII (KAWAIHAE TERMINALS, INC.)

ACTION Unanimously approved (Arata/Kealoha).

ITEM J-13 ISSUANCE OF R.P., HARBORS DIVISION, THIRD DECK, PIER 11, HONOLULU HARBOR, OAHU (MATT WILLIAMS DBA WILLIAMS' PHOTOGRAPHY)

ACTION Unanimously approved (Kealoha/Arata).

ITEM J-14 ISSUANCE OF R.P., HARBORS DIVISION, PIER 21, HONOLULU HARBOR, OAHU (PETROSPECT, INC.)

ACTION Unanimously approved (Kealoha/Arata).

ITEM J-15 ISSUANCE OF R.P., HARBORS DIVISION, KEWALO BASIN, HONOLULU, OAHU (LOUIS AGARD, DBA MARINE SUPPLY & EXCHANGE)

ACTION Unanimously approved (Kealoha/Arata).

ITEM J-16 CONTINUANCE OF R.P. H-82-994, ETC., HARBORS DIVISION

ACTION Unanimously approved (Kealoha/Arata).

ADDED ITEM C-2 FILLING OF POSITION NO. 08282, WILDLIFE MANAGEMENT ASSISTANT III, ISLAND OF KAUAI

ACTION Unanimously approved the appointment of John Sanchez to Position No. 08282, Wildlife Management Assistant III, Island of Kauai (Apaka/Kealoha).

RECESS: The Chairperson called a recess from 9:05 to 9:15 a.m.

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

ITEM H-1 CDUA FOR AN AFTER-THE-FACT 125,000-GALLON WATER STORAGE RESERVOIR (KONA VILLAGE PARTNERSHIP; GRAY, HONG, BILLS & ASSOCIATE, INC.)

Mr. David Bills, who represented the applicants, appeared before the Board stating that he had read the submittal and the applicants were prepared to pay the fine; however, he stated that while a mistake was made in this case CDUAs have been obtained for other work in the area. Mr. Bills further stated the applicants had brought the the violation to the department's attention.

ACTION Unanimously approved as submitted (Arata/Apaka).

ITEM H-6 CDUA FOR A MOBILE CONCESSION AT SANDY BEACH PARK, OAHU (DEPT. OF PARKS AND RECREATION, C&C OF HONOLULU)

Mr. Evans stated that the staff recommends approval; however, there is disagreement on one particular condition, the specific location of the mobile concession within the park. The City wants space right next to the beach; the staff recommends an area further mauka. Mr. Evans stated he believed they could resolve the problem under Condition No. 4.

Mr. Evans pointed out that Condition No. 9 would grant the land use for a mobile concession for five years. This would allow the State, as well as the City, to see how well something like this will work, he said. At the end of five years, either party may terminate the CDUA or the CDUA could be renewed. Mr. Evans stated five years was recommended because the City may decide to put this out to bid. If there are problems with the concessionaire, the City may give only a one-or two-year contract; this would give the City some flexibility.

In response to a question from Mr. Apaka, Mr. Hiram Kamaka answered that there were two aspects of monitoring: (1) compliance with the terms of the concession agreement, and (2) service.

Mr. Kealoha asked whether the maximum period for five years meant the maximum period of the use was for five years. Mr. Evans answered in the affirmative--unless the City or State come back before the Board. Mr. Evans stated that Condition No. 9 was a "safety valve" for the department.

Mr. Evans stated they are attempting to determine a specific site. Mr. Kamaka presented photos of the proposed site, which is across the way from the restrooms. He also stated that it would be more convenient for the beachgoers to have the concession at that site. Mr. Kealoha stated that when the Board took up concessions at Hanauma Bay, Kapiolani Park and the Zoo, the State never dictated where the concession should be. Being on conservation land, he felt that the most appropriate site could be resolved by Condition No. 4.

However, with respect to Condition No. 9, Mr. Kealoha indicated that the Board would be dictating the term of the use and not necessarily the term of the contractual agreement between the City and the concessionaire.

ACTION Mr. Kealoha moved for approval with the deletion of Condition No. 9; seconded by Mr. Arata. Motion unanimously approved as amended.

ITEM H-4 CDUA FOR AN AFTER-THE-FACT SEAWALL, FILL, AND PORTION OF A BEACH COTTAGE ON STATE-OWNED LANDS AT HOLUALOA, NO. KONA, HAWAII (WENDELL, SUE & EVELYN FOO; COMMUNITY PLANNING, INC.)

Mr. Evans stated that the recommendation is for removal of the cottage because of encroachment.

By way of background, Mr. Evans stated the after-the-fact application is the result of a withdrawal that the Board previously allowed. One of the conditions of the withdrawal was that a hole be placed on each side of the seawall in order that the public would have passage over the land; however, that has not been done.

Mr. Evans stated that the facts have been developed through discussions with Mr. Houghtailing and Mr. Fukushima; however, they are unable to agree on the conclusion. Mr. Evans noted the case was a difficult one, and the parties were required to reconstruct the facts. The case should have been resolved ten years ago, he stated.

He stated that applicants submitted a proposed finding that there is no encroachment on conservation land and requests the Board allow them to purchase the remnant lands fronting parcel 32. Applicants admitted that they unintentionally committed a violation.

Mr. Evans then began a chronology of the case. He stated that the key is the 1968 Ashford decision, which stated that property rights are determined by the law in existence at the time such rights are vested. Mr. Evans stated that applicants claim that the 1961 tax map key 7-6-16, parcel 12, showed an area of .53 acres. From the OCEA perspective, he stated, it is true but what needs to be pointed out is the Land Court Application 1858, which has been submitted to the Land Court.

Mr. Evans continued saying that the application was submitted to the State Land Court based on work done on the ground between 1960-66. The surveyor went out on the property at that time, walked the property and developed the shoreline boundary. Mr. Evans said it was submitted to the surveyor in 1966, approximately, and the high water mark at that point in time was delineated as pointed out on the exhibit by Mr. Evans. The high water mark, he said, had a different definition than the high water mark of today.

Mr. Evans stated the application was submitted in 1966; however, it has not been adjudicated. When the application was submitted to the court, it was submitted as an advance copy, subject to change. Mr. Evans continued that if the court, at the time of application adjudicated the case, it would have been the law. He indicated what is claimed to be the Foo property. At the time of the survey, there was no seawall and no house, he stated.

Additionally, the applicants suggest that on March 2, 1964, on page 2, number 2, of applicant's submittal, Wayne and Jean McNicoll sold the parcel to Vera Foo and Velma Foo. Mr. Evans stated that OCEA has a problem with the statement that the McNicolls sold the parcel to the Foos, the reason being that they are of the opinion that the McNicolls did not own the parcel to sell to the Foos. The Foos, he continued, had a private transaction with the McNicolls. The basis for OCEA's disagreement with that statement is an August 25, 1970, title search on the property. Through previous association with the searching of titles in the area, the title searcher stated that relative to the McNicolls, "There is no record to substantiate this claim." The title searcher went on to say that Evelyn Foo and others " . . . are without good, sufficient title to the subject area under immediate examination." Based on the statement that McNicolls sold the property to the Foos, that is probably true, Mr. Evans stated; however, it is the staff's belief that the McNicolls never owned the property, and that belief is based on the 1970 land title search.

In October 1966, the Foos obtained a building agreement.

On February 10, 1969, a landfill complaint was made by an adjacent property owner, Max Feug. Applicants further claim that the 1969 photos reveal that the area is located on a portion of the original parcel 12. Mr. Evans stated that the adjacent site is really, on one side, a graveyard, and on the other side is the Bali Hai. Applicants also asked to introduce the July 8 map as evidence, to be verified, and OCEA agreed it should be introduced.

Mr. Evans stated that the applicants indicated that the files show a report made in 1969 by Mr. Herbert Texeira, the Kona harbor attendant, showing the left fill area on a sketch which verifies the scene as shown on the Feug picture and is located on the Kailua side of the Foo house

and is not the subject area being considered by the Board. The property in question, Mr. Evans said, on the Foo complaint was 7-10-14:11. This parcel is parcel 32, and the staff will show a series of transactions that occurred in 1969. Mr. Evans pointed out that the basic complaint was on parcels on 11 and 12. He is attempting to separate the two properties and deal with parcel 12. In 1969, he stated, Mr. Foo was told not to do any further filling until he obtained a permit from the Corps of Engineers. Mr. Evans stated that the harbor attendant at that time made tissue sketches of the fill. OCEA made a "photocopy," which matched parcel 12 exactly with the 1970 land title report. Parcel 12 clearly shows that in 1969 the fill was created, Mr. Evans said. On the maps, he indicated the old government road and Alii Drive and the fill area. He said the focus in on parcel 32 also.

Applicants state that in February of 1969 they obtained a building permit to build the seawall, which they did. They claim it is not the same area referred in the 1969 picture and the sketch. OCEA feels it is the same area because it is the same tax map key.

Applicants further claim that on March 6, 1969, the Chairperson of the Department of Land and Natural Resources, Mr. Kido, sent a letter to the Foos asking them to cease and desist fill operations and to restore the property below the high water mark. Mr. Evans noted the following points: the DLNR at that time sent them a cease and desist letter, and the Foos received it because of Mrs. Foo's signature on the certified mail receipt. Mrs. Foo responded to the letter saying that Mr. Texeira of the Harbor Board had called her attention to it. Her opinion was that the high water mark should be the highest tide without waves hitting the shore. She indicated she had no plans to build the wall except to protect her filled lands.

On May 20, DLNR informed her the department received her letter and gave her a copy of the State Supreme Court decision relative to the seaward boundary in the Ashford case. She was advised that any registered surveyor should be familiar with the mechanics for determining the seaward boundary in accordance with the ruling. It was suggested to her, Mr. Evans stated, that her surveyor coordinate the matter with the State survey people.

A suggestion is made in number 10 of Mr. Houghtailing's statement that the County of Hawaii Public Works boundary worksheet was made to develop the parcel for taxation. Mr. Evans stated it was made for taxation and not for the certified shoreline boundary. It does show the high water mark between the Hind property and the State church property for the pending Land Court Application. OCEA believes the County used the pending, non-adjudicated Land Court Application done in 1969 by the County but Ashford was handed down in 1968. Additionally, he stated, when the County did it they were aware that it was an advance sheet, subject to change. The data included in the pending Land Court Application, applicants claim, was verified by the State Surveyor. Mr. Evans stated he agrees but as he pointed out it was submitted to the court prior to Ashford and subject to change.

In number 11, the applicants suggest that based on the County boundary worksheet, a parcel map was prepared on October 7, 1969, depicting the high water mark along the Foo property. OCEA does not agree because the Foos are referring to another map, the one which was done for the sole purpose to identify parcel 1 and remnant A as the State of Hawaii as owner. The map shows the old government road, Alii Drive and a space between the old government road and Alii Drive. The old government road is surveyed on the map and is found to be parcel 1; the remnant is

considered parcel A, Mr. Evans stated, and was the purpose of the map. When the map was made it reflected what was in existence at the time, which was the seawall and the dwelling. Half of the dwelling, he went on, is located on the old government road; the other half is located makai of the old government road.

Applicants also stated under number 11 that the parcel map was used by the Taxation Map Bureau to revise the shoreline boundary on the 1970 tax map. Mr. Evans stated they do not believe this to be so--that parcel 12 runs from the makai land. He stated OCEA believes there is a change that parcel 12 became two parcels: parcel 12 and parcel 32 but it was not because of the tax map but because of erosion. The erosion is evident on the current tax map, he said. Mr. Evans pointed out on the map parcel 12, State of Hawaii, the church property, which was parcel 13, entirely mauka of the shoreline. The current tax map, he said, reflects that even the State of Hawaii's property has eroded so the State does not have the same property as it had before.

Applicants go on to state that the 1970 State shoreline interpretation is in conflict with the shoreline depicted upon the County boundary work sheet of September 18, 1969, and the map pending for the Land Court Application. They further suggest that the boundaries were drawn by the surveyor at that time during the summer showing the summer survey going through part of the property and a winter survey as he indicated on the map. It is in conflict because one map was done in 1970 after the Ashford decision and the other prior to that.

Applicants conclude that the real property tax rolls reflect that they have paid taxes on the property and is consistent with their claim.

Mr. Evans stated that he has met with the surveyor, Mr. Weeks, and the interview was taped. Mr. Evans said they discussed the County map to determine the government road and remnant A.

Mr. Evans asked Mr. Weeks, "Could you tell me what was makai?" His reply was, "There was no dwelling on the North side of the Hind property . . . the old road, before the Alii Drive was built . . . from that old road down to the ocean that was just the high water mark, came right over the road, many times. I mean the seas did . . . the house is built on the old road and below the old road . . . was the ocean came right up and across the old road many times and the old road was just a sand road that sometimes you got stuck, you gotta get out and push your car before the Alii Drive was built."

Mr. Evans stated that the staff concluded that what they are suggesting is consistent throughout in that the old road turned out to be sand and what was makai of the old road was water. The high water mark, he continued, was not there--that the high water mark was the old road. The staff also found that in 1986 the property next to the Foos, which is still awaiting Land Court, had been certified as the shoreline by the then chairperson. The survey was conducted for Bali Hai.

Mr. Evans apprised the Board that as a part of the work done the argument was made that in 1964-65 Mr. and Mrs. Foo were the owners of the property. The staff went back to the 1961 tax map key and although the Foos claim they own .59 acres the 1961 records relative to this specific parcel show ownership "unknown." It is the same acreage and same location, Mr. Evans said.

Mr. Evans further stated that he has a memo from a deputy general whose opinion it was that the State owned all that land. Mr. Evans, therefore, asked the Board to sustain OCEA's recommendation based on all the evidence that the property is owned by the State and there is encroachment on conservation land.

In response to a query from Mr. Kealoha, Mr. Evans answered that all of the maps belong to the State except for two which applicants submitted. Mr. Kealoha stated his belief that Mr. Evans should have used his own submittal and evidence to show the boundaries of the conservation district and not relied on the applicants'. Mr. Kealoha stated that Mr. Evans had not proven the boundaries and only dealt with the mauka side of the alleged conservation boundary and that State evidence was not presented to indicate the conservation boundaries.

Mr. Kealoha asked whether Mr. Evans could present the State's latest shoreline certification. He answered that the State has not done one. Mr. Kealoha stated that under the statutes if the determination of the shoreline is unclear, the applicant could request a waiver. Mr. Kealoha again pointed out that the exactness of the shoreline has not been proven. Mr. Evans stated that the reason is because the applicant took the two maps into the State Surveyor, which is the normal process, and asked the State Surveyor to certify them as the certified shoreline. The State Surveyor's position, he said, is "No, we will not." The reason for that is because of the encroachment. Absent that, he said, the applicant is now coming before the Board and asking the Board to do it. If the Board approves, then the State Surveyor will certify it as altered shoreline.

Mr. Kealoha asked whether the State Surveyor did not certify it because of encroachment or whether it was after reading OCEA's submittal that there may be a probable encroachment. Mr. Kealoha stated that he's inclined to believe the latter because the State Surveyor himself did not conduct the survey. Therefore, he could not, would not and should not certify someone else's survey. Mr. Evans stated that the State Surveyor went on the property and physically found the encroachment, but none was done on parcel 32.

The same surveyor who did the next property was asked--"Would you testify in court?" His reply was, "Yes."

Then he was asked, "What was makai of the old government road"

His answer, "It was the high water mark. It was water."

Mr. Kealoha stated that he did not believe the surveyor said it was the high water mark. Mr. Evans clarified that the surveyor had stated that it was all government land, the waves were going over the road.

Mr. Kealoha stated that he felt this should be referred to the Attorney General's Office. Mr. Evans concurred that one of the options that had been discussed was the referral to the Attorney General's Office on the question of ownership. Mr. Kealoha stated that the issue was the conservation boundary, not ownership, as the applicants had conceded that they did not own a portion of the land, that they may have to go to court for the stone wall also. That could be prevented if the exactness of the conservation boundary could be established, Mr. Kealoha noted.

Mr. Evans stated that the water is on the makai side of the property, which is the Bali Hai property. Mr. Kealoha then asked if Mr. Evans could show the most seaward point of that boundary. Mr. Evans pointed out that it cut through the wall and so indicated on the 1986 map. Mr. Kealoha then asked to be shown the makai-most point of the Bali Hai boundary when they applied to the Land Court. Mr. Evans pointed out the boundary prior to Ashford.

Mr. Paty clarified the issue that encroachment itself involves the determination of ownership and with respect to the CDUA regardless of ownership determining the conservation boundary. For the CDUA a determination is required of the conservation boundary regardless of ownership.

Mr. Houghtailing claimed that Mr. Evans took his report out of context. He stated that the Foos were cited for encroaching on parcel 32. He stated they looked at the 1964 application which shows the boundary to the Foo wall; then the County's work sheet to determine the parcel map. The County ran the boundary, he said, along where the seawall is now and tied that in with another point that was certified--the Kailua side and the Keauhou side. The County, he went on, shows the shoreline running along what is now the Foo boundary. That is the evidence. He said the State Tax Office took that map and with that map began to formulate what would be the tax area using the seaward boundary. He said their map has not been certified by the State.

Regarding the violations, he pointed out the house was on parcel 32, which is part of parcel 12. He said the best map there is is the County work sheet, used by both the County and the State.

In answer to a question from Mr. Kealoha, Mr. Houghtailing stated that the County conducted the survey in 1969. Applicants have also conducted a shoreline survey after the CDUA was filed.

Mr. Fukushima from Community Planning confirmed that a survey was conducted on July 8 and submitted on July 19 as requested by the Board. In answer to Mr. Kealoha's question, Mr. Fukushima stated that the survey has not been presented to the State Surveyor because of the encroachment allegation. Mr. Houghtailing said that the encroachment must be cleared before the State Surveyor will look at it. Mr. Houghtailing stated that the other evidence is the County work sheet and the fact that the County issued the building permit in 1966.

Mr. Houghtailing stated that they have not gone to Land Use for a conservation boundary. Mr. Fukushima stated that before the LUC proceeds the survey has to be certified by the State Surveyor and concurred by the BLNR. This has been the process in other projects.

Mr. Kealoha stated that he felt the Board should not consider anything else except the conservation district after-the-fact boundary. He believes that the question of ownership and violation with respect to the old government road, where the house is situated is on the urban side and should be referred to Land Management or the Attorney General.

Mr. Arata moved that the Board direct the State Surveyor to certify the boundary of parcel 32 and present to the Board the facts at the next meeting to determine disposition.

In response to a question from Mr. Kealoha, Mr. Shimabukuro stated that the State Surveyor makes a recommendation but it is certified by the Chairperson. The Board could request the Surveyor but the survey would not be certified if there is evidence of any kind of encroachment unless the Chairperson requests an exception that it be certified because there is a boundary question.

Mr. Wong voiced his concern on whether the shoreline certification will help determine the conservation district or ownership unless the certification will be the same as the conservation line. Mr. Shimabukuro stated his belief that that was the Land Use Commission position. Mr. Wong stated he believed it necessary to go to Land Use.

Mr. Wong advised that the Board may want to deny the application. Applicants could then resubmit.

The application expires on September 28. Mr. Wong suggested that there was confusion over the facts and suggested that the case be turned over to the Attorney General's Office to sort out the facts and determine the ownership and the conservation boundary to the shoreline.

Mr. Paty suggested that the matter be referred to the A.G.'s office for advice on how best to proceed and whether the Board should determine ownership.

ACTION — Mr. Arata moved that the matter be referred to the Attorney General's Office for expeditious advice on how best to proceed. The motion was was seconded by Mr. Kealoha and unanimously carried.

RECESS: The Chairperson called a recess from 10:55 a.m. to 11:09 a.m.

ITEM F-20 — REQUEST FOR PERPETUAL NON-EXCLUSIVE EASEMENT FOR DITCH, PEDESTRIAN WALKWAYS, LAGOON, AND CULVERT PURPOSES, COCO PALMS RESORT, WAILUA, KAUAI

Mr. Shimabukuro pointed out that there are 12 violations of $500 each. He stated that the present owner is Wailua Associates; however, Amfac Incorporated, the previous owner, is responsible for obtaining the easements.

Mr. Mike Burke appeared before the Board and noted that the only problem Amfac had was with the amount of the penalty of $6,000. He stated that they brought the matter of violations to the State's attention in a letter to Sam Lee, Kauai Land Agent.

Mr. Kealoha noted that this is not the first violation. A few years ago the museum was situated on a portion of conservation land.

Mr. Apaka noted that for 12 years the State was liable for the bridges crossing the lagoons and that the State could not forfeit the fine. Mr. Burke pointed out that some of the improvements decrease the State's liability.

ACTION — Mr. Apaka moved for approval of the staff's recommendation with an amendment reducing the fine to $4,000. The motion was seconded and unanimously carried.

ITEM F-23 — COUNTY OF KAUAI REQUESTS WITHDRAWAL FROM G.L. S-4222 AND ISSUANCE OF EXECUTIVE ORDER FOR ADDITION TO KEKAHA SANITARY LANDFILL, KEKAHA, KAUAI

Mr. Shimabukuro stated that the withdrawal involves 63.18 acres as an addition to the sanitary landfill. He stated that the County indicated a total of 135 acres ultimately are needed for approximately 30 years.

Mr. Kealoha asked when they would start utilizing the property. Mr. Shimabukuro stated he would need to obtain the information. Mr. Burke stated that the property is not in sugar cane but is used for irrigated pasturing. He expressed his basic agreement with Mr. Kealoha that the land be phased in. He stated that he has not been able to confer with the Kekaha manager who is out of town.

Mr. Shimabukuro indicated that the acreage would be adjacent to the present landfill and that the County would probably have to get Department of Health approval first to establish the landfill. Mr. Paty stated that there was concern about dumping of car bodies.

ACTION Mr. Apaka moved to defer to the next meeting on Kauai in order to allow the County's input on some of the Board's concerns and would also allow for Amfac's discussion with Kekaha Sugar. The motion was seconded by Mr. Arisumi and unanimously carried.

Mr. Kealoha suggested that maybe the matter of the County's intentions and a phase in could be worked out.

ITEM H-3 CDUA FOR AN AFTER-THE-FACT COMMERCIAL MOORING OFFSHORE OF KAHANA, MAUI (MR. RYTHER L. BARBIN)

Mr. Evans stated that he had a change in recommendation because the County has issued an SMA in terms of a clearance. Staff is now asking "(b)" on page 9 be deleted and that page 10 be added. Mr. Barbin asked for a reduction in fine in that the applicant did not put the mooring in place and was not aware of the violation until the cease and desist notice.

ACTION Mr. Arisumi moved for approval as amended with a further amendment by reducing the fine to $100; seconded by Mr. Apaka and unanimously carried.

ITEM H-2 CDUA FOR DRAINAGE IMPROVEMENTS AT ONELOA BEACH, KAPALUA, MAUI (KAPALUA LAND CO., LTD.; BELT COLLINS & ASSOCIATES)

Mr. Joe Vierra, representing the applicants, appeared before the Board.

ACTION Unanimously approved (Arisumi/Kealoha).

ITEM H-7 VIOLATION OF LAND USE WITHIN THE CONSERVATION DISTRICT OFFSHORE OF THE ISLAND OF MOLOKAI (OCEA)

Because of numerous and conflicting testimony at the Molokai meeting, the item was deferred. Mr. Evans stated that the staff reviewed and analyzed the testimony and based on this review, Based on the above, new recommendations are being presented. He stated that a new CDUA had been received for processing but because of the pending matter it was returned to the applicants. Mr. Evans also pointed out that additional public complaints were received that the raft was back in the water.

Mr. Kealoha questioned Mr. Evans about item A-2-d regarding the windsurfing class on the beach. He answered that the tourists would receive lessons before going into the water. In answer to another question, Mr. Evans stated that under B-1, the 11 violations occurred on submerged land--the use of the mooring. Mr. Evans stated that underwater photos were not taken. Other pictures exist showing the boat next to the mooring and without the mooring.

Mr. Evans stated that the applicants claim they were not moored on the stated dates. The dates came from a number of different sources, he said, including the public, DLNR enforcement personnel, and letter complaints. A number of dates were alleged but the evidence were clearer on the dates indicated.

Mr. Bill Austin, of Aloha Voyages, appeared before the Board. He explained that there is no mooring at present; the mooring has been pulled. They are now anchoring where the old mooring was located but closer to the reef and that the raft is out there. Mr. Austin asked for clarification of issue 3, page 2, on acceptance of the December 1987 date; Mr. Evans says that date is accepted and the recommendation was adjusted accordingly.

Mr. Austin stated that when notice of violation was given they placed an anchor. From that time on, he said, they have used divers, who will testify as to their activities. He said they had left an anchor at the bottom to pick up and use. The only cease and desist notice is on the large transmission, which he claims they responded to. He believes there was some confusion during the time period between the citations because during that month they had left the anchor at the bottom, with a line coming off the deck.

Mr. Ron Glover stated that the two divers started in early December. Three others have been with them since the beginning of the operations and reside on Maui; however, they believed that the testimony of the two divers would have been sufficient.

Mr. Kapuni stated that the raft is out there and that they are anchoring. He stated that they complied after the first notice of violation. using divers. Mr. Kapuni stated that Mr. Composto is harrassing them with letters to the public along with documents. Mr. Kapuni stated they are doing something good for the community, looking to the future. He admitted to the earlier mooring--prior to the violation notice.

In answer to a question from Mr. Arisumi, Mr. Kapuni stated they removed the raft because of a complaint to DLNR. They did remove it to land for maintenance and took it back out.

Mr. Austin stated that he spoke with Dona Hanaike, who said to leave the raft and they would tow it out. He told her that it couldn't be done without the raft breaking up. Instructions, he said, had been given to the boat operator to break it up, to bring hammers and hatchets to break it up. His position was that he wanted to leave it anchored; she said the issue would be decided in court. She stated she was going to take it. Either they had to remove it or it would be destroyed. Mr. Austin stated that it was removed to save the equipment.

Regarding Tony Composto, he stated that the evidence is incomplete and one-sided. On his affidavit that they had set a mooring, what Mr. Composto saw was the setting of the two anchors they set for Kona weather.

He went on to say that Aloha Voyages, he and Mr. Glover had made a commitment to Molokai some time ago. They have spent a lot of money and ask for a reduction of the fine as they are on the verge of bankruptcy and that the fine would do it.

Mr. Glover stated they had a problem with the State's fact-finding--how it was secured, who in the State documented the mooring and how the evidence was obtained. He believes the State is relying on affidavits from the public, which he feels has a vendetta. He stated they don't want to see them in the area. Procedures to get rid of them have failed and because they have failed it has resulted in the heavy complaints to DLNR. He submitted it was a severe fine and the Board should review who documented the evidence; whether it was the State or individuals on the beach.

He further stated it was an unjust fine because they know they are not in violation.

Mr. Glover presented a schematic of what could be viewed from the beach, more like what the affiants saw from the beach. The schematic is also larger-sized than what would be seen from the beach. He claimed that by his demonstration it would be virtually impossible to determine whether there was anchoring or mooring. For that reason, they believe that the complaints and affidavits are unfair and impossible.

Mr. Kapuni said that the snorkling is his own business.

Mr. Austin stated that they are anchoring near the reef in a dredged-out area, about 15-20 feet deep. There is a little sand shelf.

He stopped mooring once the notice was served but an anchor was left on the bottom and they would hook up to the anchor. About a month later, he said, they received another notice of violation.

Mr. Austin stated that anchoring amounts to 40 minutes in a five-hour operation, but mooring is much more efficient.

Mr. Kapuni stated they applied for a mooring after they were noticed.

Mr. Evans stated that their interpretation of mooring is that anything other than dropping and picking up, weighing anchor, would be considered mooring.

Mr. Kealoha asked Mr. Austin what type of application they applied for given Mr. Glover's definition of mooring and anchoring. He replied they filed an application for mooring. Regarding the transmission, he said it was designated as a mooring device.

Mr. Austin stated they were unaware at the time that they were in violation or that it was conservation. Mr. Kealoha stated that Mr. Glover had testified at the Molokai meeting that he was familiar with marine rules and regulations.

Mr. Austin said that over the years, since at least 1966, it was the custom to use anyone else's mooring.

Mr. Arisumi moved for a reduction of the fine of Aloha Voyages to $4,000 and $1,000 to Mr. Kapuni, with a suspension of the fine for one year.

Mr. Kealoha asked Mr. Arisumi whether, in light of the applicants intent to file for a CDUA permit for mooring, both fines could be suspended for the same period of time, the reason being that apparently the offenders were unclear as to whether they were mooring or anchoring. Mr. Kealoha continued stating that the offenders apparently had found a convenient spot and it was unclear to him whether the vessel was moored or anchored, as indicated by Mr. Glover's schematic.

RECESS: At the request of Mr. Kealoha, the Chairperson called a five-minute recess at 12:25 p.m.

ACTION Mr. Arisumi withdrew his original motion and moved that Ocean Charters be fined $4,000, $2,000 to be paid within 90 days from this date and suspending the remaining $2,000, with the understanding that Ocean Charters files for a mooring permit; and Mr. Kapuni be fined $1,000, $500 to be paid within 90 days from this date and suspending the remaining $500, with the understanding that he files for a CDUA for his snorkling business. The motion was seconded by Mr. Kealoha and unanimously carried.

To clarify a question from Mr. Glover, Mr. Kealoha stated that in this matter, the Board is dealing with use on State submerged land and if and when approved, the applicants are confined to one mooring.

ITEM E-1 REQUEST TO CHANGE PARK NAME FROM KAMOA POINT STATE HISTORICAL PARK TO KEOLONAHIHI STATE HISTORICAL PARK, NORTH KONA, ISLAND OF HAWAII

ACTION Unanimously approved (Arata/Kealoha).

ITEM E-2 WEST HAWAII AUTO ASSOCIATION REQUEST TO HOLD A CAR SHOW AT THE KONA AIRPORT STATE RECREATION AREA, HAWAII

ACTION Mr. Supe stated that Mr. Don Kawabata asked to have his request withdrawn.

ITEM E-3 See page 2.

ITEM E-4 See page 2.

ITEM E-5 REQUEST TO ERECT A TENT CITY IN THE WAILOA RIVER STATE RECREATION AREA, ISLAND OF HAWAII

Mr. Supe stated that the Veterans of Vietnam War. Inc., has scheduled their national conference in Hilo, November 9-12, 1988. The Hilo Post will host the event. Mr. Kealoha asked that Mr. Supe check on whether the group was registered as a charitable organization as it would make a difference in conditions set by the Board.

It is anticipated that 3,000 people will attend the convention and are looking for housing. Mr. Supe stated that 660 hotel rooms have been set aside.

The plan for tent city is a contingency plan in the event they are unable to find adequate housing. The veterans are asking to use a certain section of Wailoa River State Park. They are looking for an area close to a shopping center and dining facilities, and restroom/shower facilities.

Mr. Paty asked whether the veterans had considered other alternate sites. Mr. Supe indicated that the veterans had requested use of the National Guard facility, but the response was "no." Upon being contacted, General Lum informed the group that they had a budget to consider and would require permission from the DOD.

ACTION Mr. Arata moved to have this request deferred for a month. Seconded by Mr. Kealoha, who asked for the specifics as to the number involved in tent city, traffic, etc.

ITEM F-1 See page 2.

ITEM F-2 MICHAEL G. MENTNECH, ET AL., REQUEST FOR WAIVER OF PERFORMANCE BOND REQUIREMENT, GL.L. NO. S-4640, PANAEWA FARM LOTS, WAIAKEA, SO. HILO, HAWAII

ACTION Unanimously approved (Arata/Kealoha).

ITEM F-3 CONVEYANCE IN FEE TO HOUSING FINANCE AND DEVELOPMENT CORP. FOR LOW-MODERATE INCOME HOUSING PROJECT, LALAMILO, SO. KOHALA, HAWAII

ACTION Unanimously approved (Arata/Kealoha).

ITEM F-4 CANCELLATION OF G.L. NO. S-4639, KAAPAHU, HAMAKUA, HAWAII

ACTION Withdrawn.

ITEM F-5 See page 3.

ITEM F-6 See page 3.

ITEM F-7 See page 3.

ITEM F-8 SALE OF PASTURE LEASE AT PUBLIC AUCTION COVERING GOVT. LAND OF WAILUA-NUI, HANA, MAUI

ACTION Unanimously approved (Arisumi/Arata).

ITEM F-9 DIRECT SALE OF A PERPETUAL NON-EXCLUSIVE EASEMENT FOR REPAIR AND MAINTENANCE OF EXISTING SEAWALL FRONTING PARCEL IDENTIFIED BY TMK 3-9-11:06, WAIOHULI-KEOKEA HOMESTEADS AND BEACH LOTS, KIHEI, WAILUKU, MAUI

ACTION Mr. Arisumi moved to amend the amount of the fine to $200; seconded by Mr. Apaka. Motion carried with dissenting vote by Mr. Kealoha.

ITEM F-10 DIRECT SALE OF EASEMENT COVERING PORTIONS OF SHORE, SHORE WATERS, AND SUBMERGED LANDS AT LAHAINA, TMK 4-5-01:03, LAHAINA, MAUI

ACTION Unanimously approved (Arisumi/Arata).

ITEM F-11 DIRECT SALE OF NON-EXCLUSIVE EASEMENT FOR UTILITY PURPOSES AND CONSTRUCTION RIGHT OF ENTRY TO COUNTY OF MAUI, HOOLEHUA-PALAAU HOMESTEADS, HOOLEHUA, MOLOKAI, TMK 5-2-04: POR 16

ACTION Unanimously approved (Arisumi/Arata).

ITEM F-12 STAFF RECOMMENDATION TO LEASE AT PUBLIC AUCTION, LOT 18, HAUULA HOMESTEADS, TMK 5-4-14:03, KOOLAULOA, OAHU

ACTION Unanimously approved (Kealoha/Arata).

ITEM F-13 HAWAII COMMUNITY DEVELOPMENT AUTHORITY REQUESTS CONVEYANCE IN FEE, GRANT OF PERPETUAL NON-EXCLUSIVE EASEMENTS AND CONSTRUCTION RIGHT-OF-ENTRY FOR KAKAAKO COMMUNITY DEVELOPMENT DISTRICT, IMPROVEMENT DISTRICT II, KAKAAKO, HONOLULU, OAHU

ACTION Unanimously approved (Kealoha/Arisumi).

ITEM F-14 DIRECT SALE OF REMNANT, STATE ABANDONED ROADWAY AT COLLEGE HILL TRACT, HONOLULU, OAHU

ACTION Unanimously approved (Kealoha/Apaka).

ITEM F-15 AMENDMENT OF R.P. NO. S-6562 TO ATOZ, INC., KAALAWAI, KAPAHULU, HONOLULU, OAHU

Mr. Shimabukuro requested that the submittal be amended to reflect the correct name as Kahala Housing, Limited Partnership.

ACTION Unanimously approved as amended (Kealoha/Apaka).

ITEM F-16 See page 3.

ITEM F-17 AMENDMENT TO PRIOR BOARD ACTION RE; ISSUANCE OF R.P. TO PACIFIC TRUCKERS ASSOC., INC., TMK 9-9-12:47, AIEA, EWA, OAHU

ACTION Unanimously approved (Kealoha/Arata).

ITEM F-18 STAFF RECOMMENDATION TO WAIVE OPTION TO REPURCHASE, LOT 8, WAIMEA HEIGHTS RESIDENTIAL SUBDIVISION, WAIMEA, KAUAI

ACTION Unanimously approved (Apaka/Kealoha).

ITEM F-19 REQUEST FOR PERPETUAL NON-EXCLUSIVE EASEMENT FOR ACCESS PURPOSES OVER PORTION OF LOLO AND NIHO ROADS RIGHT-OF-WAY AT KALAHEO HOMESTEADS, SECOND SERIES, KALAHEO, KAUAI

ACTION Unanimously approved (Apaka/Kealoha).

ITEM F-20 See page 13.

ITEM F-21 TERMINATION OF R.P. NO. S-6200 AND ISSUANCE OF NEW PERMIT TO DOUGLAS KAKUDA CONTRACTORS, INC., TMK 1-6-04:02, WAIMEA, KAUAI

ACTION Unanimously approved (Apaka/Kealoha).

ITEM F-22 COUNTY OF KAUAI, DEPT. OF WATER, REQUEST RIGHT-OF-ENTRY TO STATE LANDS AT KALAHEO, KAUAI

Mr. Shimabukuro asked to amend the tax key no. on page 1 to read: 2-4-04: parcel 5, and on page 2 under "recommendations,": 2-4-04: parcel 5.

ACTION Unanimously approved as amended (Apaka/Kealoha).

ITEM H-5 CDUA FOR AN AFTER-THE FACT COMMERCIAL BOAT MOORING AT KAHANA, MAUI, HAWAII (MR. BILL SIMPSON)

Mr. Evans stated that the submittal was sent to Mr. Simpson, who, thereafter called the department with some questions. He picked up additional documentation; however, Mr. Simpson was not present.

ACTION Mr. Arisumi moved to defer the application to the next meeting on Maui; seconded by Mr. Apaka and unanimously carried.

ADJOURNMENT There being no further business, the Chairperson adjourned the meeting at 1:27 p.m.

Respectfully submitted,

Geraldine M. Besse
Secretary

APPROVED:

/s/ WILLIAM W. PATY

WILLIAM W. PATY, Chairperson
Board of Land and Natural Resources