

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

DATE: August 26, 1988
TIME: 9:00 A.M.
PLACE: Kalanimoku Building
Room 132, Board Room
1151 Punchbowl Street
Honolulu, Hawaii

ROLL CALL: Chairperson William W. Paty called the meeting of the Board of Land and Resources to order at 9:05 A.M. The following were in attendance:

MEMBERS: Mr. J. Douglas Ing
Mr. Moses W. Kealoha
Mr. Herbert Arata
Mr. Herbert Apaka
Mr. William W. Paty

Absent & Excused

Mr. John Arisumi

STAFF: Mr. Bob Merriam
Mr. Manabu Tagomori
Mr. Ralston Nagagta
Mr. Mike Shimabukuro
Mr. Roger Evans
Mr. Wendell Kam
Mrs. LaVerne Tirrell

OTHERS: Ms. Dona Hanaike, Deputy A.G.
Mr. Randall Young, Deputy A.G.
Mr. Peter Garcia, D.O.T.
Representative Reb Bellinger, Messrs.
Fred Trotter, Ben Matsubara, Creighton Matoon,
Charles Reppun, Samuel Rowland, John Reppun,
Glenn Jenkins, Tomasi Tokuaifu, Mesdames Cathleen
Matoon, Muriel Seto, and Jane Tokuaifu (Item D-1)
Ms. Tamar Chotzen (Item E-1)
Mr. Richard Armstrong (Item F-3)
Mr. Ray Mundo, Charles & Helen Smith (Item F-11)
Mr. Yoshihara (Item F-12)
Mr. Doug Meller, Ms. Livia Wang (Item F-13)
Mr. Glen Koyama and Ms. Pamela Larson (Item H-3)
Mr. David Bills (Item H-5)
Messrs. Ben Kaito & George Houghtailing (Item H-7)

Mr. Paty informed the audience that there were those present wanting to address the Punaluu problem but that there were also others who wanted to have their items considered before the Punaluu matter so they would not have to sit through the Punaluu situation. The Board, therefore, would try to strike a balance to the extent possible.

ADDED
ITEMS

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

Item D-3 -- Award of Construction Contract, Job No. 35-MW-L, Kula Water System Improvements, Maui.

Item D-4 -- Filling of Position 09811, Irrigation System Supervisor, Waimanalo Irrigation System.

Item J-16 -- Consent to Assignment of Lease, Harbor Lease No. H-83-2, Kona Fuel & Marine, Inc., Honokohau Boat Harbor, Hawaii.

MINUTES: The minutes of July 6, 1988 and July 8, 1988 were unanimously approved as circulated. (Arata/Apaka)

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

ITEM E-1 APPROVAL OF GRANT-IN-AID FOR THE HAWAII NATURE CENTER, INC., OAHU.

ACTION Unanimously approved as submitted. (Ing/Kealoha)

ITEM F-3 STAFF RECOMMENDATION TO RESTRUCTURE LAND TENURE DEMISED UNDER REVOCABLE PERMIT NO. S-5491, KAU, HAWAII.

Mr. Kealoha felt that this item should be deferred until such time that staff can show the board how the parcels are subdivided and what ingress and egress would be used for the other parcels.

ACTION Deferred to the next meeting of the board.

ITEM F-12 REQUEST OF CASTLE & COOKE, INC. FOR PERPETUAL NON-EXCLUSIVE EASEMENT FOR PEDESTRIAN BRIDGE OVER AND ACROSS IWILEI ROAD, HONOLULU, OAHU.

Mr. Shimabukuro asked to amend this submittal by changing the width of the easement to approximately 25 feet wide, of which about 9 feet would be overlapping into the existing easement area.

ACTION Unanimously approved as amended. (Ing/Arata)

ITEM F-13 APPOVAL FOR ADOPTION OF CHAPTER 13-222, HAWAII ADMINISTRATIVE RULES ENTITLED "SHORELINE CERTIFICATION".

Mr. Shimabukuro asked to amend the second page of the submittal by changing the May 3, 1987 date to May 3, 1988 at Honolulu, Oahu.

Comments were made with respect to the Shoreline Certification as follows:

. Referring to Page 8, 13-222:10(c), where it says that "submission of the application shall constitute consent of the applicant to enter the premises during reasonable business hours", Mr. Ing felt that a statement to this effect should also be included on the application so that it is very clear that when they submit the application it will grant the State Surveyor to go onto the property to verify the shoreline.

. With respect to 13-222-11 where it says "that the applicant may request a waiver pursuant to this section", Mr. Ing said that he was unclear as what may be waived under this section and what the affect of that waiver may be.

Mr. Shimabukuro explained that the entire wording of Section 13-222-11, except for the last sentence where it says "that the applicant may request a waiver pursuant to this section", he was not sure whether this was a part of the law but the entire wording shown under the Section on this page is quoted from the statute.

Ms. Hanaike said that the intent for this last sentence was so the parties would not have to continually apply and then be told later that they don't have to get a permit. Ms. Hanaike said that the language could be clarified if it seemed unclear. Mr. Ing felt that the waiver should be modified with some explanatory language which says exactly what the waiver is being requested for.

- Section 13-222-12 calls for Public Notice, but does not specify the form of the public notice. Mr. Ing said that the only thing that is addressed is the mailing list.

Mr. Shimabukuro said that the way it is written now, it says that "public notice of the receipt of application" which means that when the notice of application is received, which is one form of public notice, and after it is certified, or rejected, there is a second public notice. "Fine", said Mr. Ing, "but will this public notice be published in a newspaper of general circulation three times or is it going to be posted on the property, or is it going to be mailed to the property owners within a 300 foot radius, etc.?"

Mr. Shimabukuro said that it is noted in the submittal, page 1, no. 7, that the Office of Environmental Quality Control agreed to publish the public notice in the OEQC Bulletin. Staff did not want to put the publication in the rule. Mr. Ing felt that EQC has its own set of rules and regulations and they publish twice monthly so if we are going to use their rules as a vehicle to establish public notice then we ought to cross reference their rules and regulations. Someone reading these rules will not know how to get notice unless he is on the EQC mailing list. Mr. Shimabukuro said that if they will let DLNR know that they want the publication then DLNR will refer this to EQC. The reason staff hesitated mentioning EQC in the rules is because EQC may decide at a later date that they no longer want to include our public notice in their Bulletin. Mr. Ing still felt that we should make a decision as to what form of public notice we will be using. Ms. Hanaike, at Mr. Paty's request, said that she would come up with some kind of wording to keep us covered legally.

- Referring to 13-222-26, which is the Appeal section, Mr. Ing said that there is a provision for requesting a Contested Case and there is a time in which the Contested Case must be requested. Mr. Shimabukuro said that time, which is 10 days, is consistent with another DLNR regulation for contested cases.

Mr. Ing said that the 10 days in the contested case regulation refers to the time there is published notice of the public hearing. In this case, there is no public hearing process and there is a different form. In the contested format notice is actually published. In here there is some other form of public notice, which is a mailing list and through the EQC bulletin. Mr. Ing said that he just wanted to make sure that the two systems are consistent. Ms. Hanaike said that she could do this.

Mr. Ing asked also why the "Petition for a Contested Case Hearing" was made a part of the rules. He felt that this makes the rule very cumbersome because if you change the form you have to change the rule. He suggested pulling the form out. He felt that forms are purely administrative and which may be modified or changed. If this is put in with the rules, then you will have to change the rules everytime you want to change the form.

Mr. Doug Meller, presenting testimony on behalf of Life of the Land, asked that the present draft of the proposed rules governing certification of the shoreline not be adopted. They felt that the proposed Chapter 122 of Title 13, contained three major defects. These defects, and the suggested solutions, were outlined in their written testimony dated August 26, 1988, and made a part of the August 26, 1988 Board of Land and Natural Resources Folder.

Ms. Livia Wang, Attorney for the Native Hawaiian Legal Corporation, testified on behalf of her client, Mervin Napeahi, a native Hawaiian fisherman residing in Kona. She said that the final draft of these rules were not made available for public review. She said that when she requested a copy of the final draft she was told that it would not be made available until after this meeting so it would be very difficult to make very thorough comments. She did say, though, that Mr. Shimabukuro was very accommodating and actually read portions of the draft to her over the phone.

Ms. Wang said that her client had two objections to the rules. First, under § 13-222-26(c), a person who requests a contested case hearing on the certification of a shoreline is required to submit a survey map prepared by a registered land surveyor depicting the shoreline advocated by the petitioner, in addition to submitting a written application for a contested case hearing.

Secondly, her client felt that certain provisions for public review and comment on shoreline certification applications should be expanded. She urged that the rules allow post-marking to constitute delivery, as is done in many other administrative and judicial rules. Otherwise, Rule § 13-222-12 should allow for a public comment period of at least twenty days from the date of public notice as opposed to fourteen days, since comments must be in writing and must be received by the State Surveyor within this time period. It is unrealistic to expect a member of the public to go to a district office, review the application, make a site visit, document and write up objections and have such comments mailed and received by the State surveyor within fourteen days.

Ms. Wang asked also that markers placed in the ground to mark the proposed shoreline, pursuant to Section 13-222-16, be left in the ground until the shoreline is certified to aid members of the public, as well as the State surveyor, in inspecting the proposed shoreline location. A provision to § 13-222-16 should be added to this effect. This will also aid parties who contest a shoreline certification in presenting evidence to the Board.

Written testimony dated August 25, 1988 was also received from Ms. Wang to be filed in the August 26, 1988 Land Board Folder.

Mr. Kealoha asked, "in the case where you cannot get a State surveyor and you are suggesting a 20 day period, then what will happen to the applicant?" Ms. Wang said that the way the rules read that when you file a petition for a contested case hearing you have ten days to do that. With the petition, you are also required to submit a survey map. She assumed that if your map is not with your petition then the petition will not be accepted so they are suggesting that the petition is contention in terms of why the shoreline as certified is wrong and that a person be able to include other types of evidence to back that contention -- either photographs of the wash of the waves going mauka of the certified shoreline or old survey maps, affidavits, etc.

ACTION

Deferred. Mr. Ing asked that there be further review of the rules based upon the comments raised today.

ITEM H-1

CDUA FOR A TELECOMMUNICATIONS FACILITY AT KAMEHAME RIDGE, OAHU (GENERAL TELCOURIER, INC.).

Mr. Evans asked to amend as follows:

- . With respect to Condition No. 4, page 11, that the word "wood" be added before the words "singular poles".

Referring to Condition No. 17, page 12, Mr. Kealoha asked whether the applicants were prepared to start work within the one year period. Mr. Evans said that this was the representation made to staff.

Mr. Kealoha moved to approve as amended; Mr. Arata seconded.

Mr. Glen Koyama, representing the owner, said that in regards to Conditions 4 and 5, the proposed facility now involves a steel structure so this condition, which would change the form of the antenna, may result in a re-review of the FCC inasmuch as this is a structural change from the original application and may delay the project so they may not be able to start the project within a year. They also felt that the original proposal for a steel structure was structurally sound and an easier type of structure to maintain. They were also aware of the visual concerns of the project and would be willing to make certain modifications as long as their FCC license was not jeopardized.

In terms of timetable, Mr. Kealoha asked Mr. Koyama how long this process would take. Mr. Koyama said that it usually takes between 9 to 11 months, or maybe even a year. In answer to Mr. Kealoha's inquiry, Mr. Evans said that they do have the right to extend the one year construction phase. Also, with respect to the wood, Mr. Evans said that there are four different applications today for telecommunications facilities at different sites and, in terms of environmental affects, Campbell Estate has put all of this stuff together in line with the Board's desires, and it is a requirement on their lands that it be wood. This is one of the reasons for requiring steel posts. In terms of the time frame, Mr. Evans said that two things can happen. One, the board can change that condition today, in terms of time, or alternatively the board could approve that condition as it is submitted and, if they get down to the deadline and they see that they are not going to make that one year, they can come back to the board at that time.

Ms. Pam Larson, Attorney for the applicant, said that one additional concern which the owner had is that using the shorter woodpoles, technically, would not serve their purpose as well as the taller steel towers as originally proposed.

Mr. Kealoha said that staff's contact and communication states clearly that the landowner is concerned about the type of materials used. Ms. Larsen said that the landowner, Bishop Estate, has reviewed the plans and approved it on this particular land. Mr. Evans said that staff could only represent to the Board, absent any communication from Bishop Estate to DLNR, that all Bishop Estate was granted was permission to process the application by signing as landowner. It was Campbell who voiced concern with the steel poles.

Mr. Kealoha amended his original motion by moving to approve as recommended by staff, particularly with respect to Condition No. 4, the word "wood" is to be deleted and Condition No. 17 to remain as is. This way the applicant would have no problem with the FCC. Ms. Larson said that as she understood it, this would require three separate poles. Condition No. 4 asked for a single tower and what they wanted were several shorter poles.

Relative to Condition No. 5 which reads that the height shall be no more than twenty feet above the ridgeline, with total heights no more than 55 feet from the ground surface, Mr. Evans said that the reason for this condition is because of representation made by the applicant at the public hearing, which is shown on page 9. Mr. Koyama explained that this was an alternative which the owner was asked to come up with but his preference is still for a steel structure.

ACTION

Mr. Kealoha withdrew his earlier motion and asked Mr. Evans to go over Items H-1, 2, 3 and 4 with the applicant with respect to the height of the pole, the type of poles, etc. and then come back to the board for consideration later in the meeting. (See also pages 15 and 16.)

ITEM D-1

REVIEW OF STREAM CHANNEL ALTERATION PERMIT, PUNALUU STREAM, KOOLAULOA, OAHU.

Mr. Tagomori explained that this alteration permit was issued by the Board on April 12, 1985. In addition to the alteration permit of 1985 there have been two other emergency permits issued to the applicant and staff was here to review all of the applications as contained in Item D-1 which covers the background, the investigation which focuses on stream impact, flood control benefits. Staff did come up with some options, conclusions and recommendations. Mr. Tagomori said that the applicant and other interested parties were present this morning to testify.

Mr. Tagomori started with some visual aids, covering the background where the permits were issued. Shown were photographs and a chronology of the events which took place from November 1, 1984 e.g. emergency work authorization, site visits and progress reports made by staff and also with the U. S. Corps of Engineers, etc.

Mr. Paty asked when the work to straighten out the stream was done. Mr. Tagomori said that it was done during the period February-April, 1988. In any case, all work ceased on March 12th. Mr. Tagomori said that staff did prepare a report dated June 1988. As to when the channel was constructed, Mr. Tagomori said that staff did make an error in summarizing the conclusions in the submittal. In the report it says that the channel was cut prior to the New Year's flood. That information is an error. The work that was done was reviewed and in terms of the flood benefits, staff still feels that it does not alter staff's conclusions on the flood issue.

Mr. Tagomori continued that several meetings were held with the applicant, the U. S. Corps of Engineers, and others who have provided other information and staff focused their investigation basically on the stream impacts and the flood control benefit. Staff feels that the impact to the stream and the fish habitat issue -- in terms of the habitat, the work that was done did impact, in terms of disturbing the natural habitat. However, staff did look at the restoration work and in trying to analyze the various options to take from here, staff concluded that additional work would further disturb the habitat area and felt that last week's investigation out in the field did prove that the current channel had begun to stabilize itself in terms of the habitat in the stream.

What you're saying, said Mr. Paty, is that restoration to its original configuration would further disturb what is now being developed? Mr. Tagomori said that it would further disturb the habitat of the fish life contained in the stream.

Mr. Paty asked if we knew how long the old stream alignment was in place. Mr. Tagomori said that the applicant had shown staff several pictures and staff agrees with them that the stream has meandered over a period of time and their records go back to the early 1900's. Looking at the sub-straight in the new channel vs. the old channel, a similarity of the sub-straight material such as cobblestones, etc. can be seen.

Analyzing the stream from the flood angle, Mr. Tagomori said that the original channel was not necessarily in a definite cut as it is today. It was more like a shallow and wide channel. Comparing what was there before as opposed to what is there now, staff concludes that the channel now has a greater capacity to carry flood waters through that section. Staff feels that there will be a greater flood protection benefit by leaving the channel the way it is.

Mr. Ing asked whether any of staff's engineers had done any volume or float calculations based upon the former stream bed cross section and the present one. Mr. Tagomori replied that they had not, in terms of hydrologic study to determine different flood frequencies. Staff just estimated work such as calculate the channel size, etc. Mr. Ing asked what basis was used to determine the former channel cross section. He was curious as to how staff arrived at the conclusion that the present channel can move more water than the former channel. Ms. Sherrie Adams explained how they came to this conclusion. What the cross section is today and what it was six months ago she did not know. As to saying that the new channel moves more water, Mr. Tagomori said that this was determined from some fast, estimated calculations. However, one of staff's recommendations is that the applicant come in with a plan of work to provide staff with answers to some of the questions raised because it will entail detailed hydrologic engineering analysis.

Staff considered the following options to stabilize the stream:

1. Leave the stream in its present alignment and condition.
2. Restore the stream channel to its former meandering alignment.
3. Leave the stream in its present alignment and complete the shaping of the channel and stabilization of the stream embankments.

Staff, said Mr. Tagomori, concluded that:

1. There have been no violations of emergency channel alteration work.

In answer to Mr. Paty's question, Mr. Tagomori said that the emergency work referred to is for the piece mauka of the rectangle parcel.

2. The maintenance work of KACo has exceeded that described in its permit and has occurred outside of the areal limits of the channel proper shown in the permit application. Therefore, a violation of the terms of the permit has occurred.
3. Restoration of the stream to its former meandering course is likely to again disturb aquatic species.
4. The new channel has flood control value owing to its increased carrying capacity.
5. Option 3 would best mitigate those impacts arising from the permit violation. This option will minimize further harm to instream uses, prevent further siltation of the estuary, and will, in time, allow Punaluu Stream to satisfactorily recover its ecological values.

Staff recommended that the Board:

1. Require KACo to temporarily halt all work within the Punaluu Stream channel, but allow the company to complete emergency work under SCAP-EMER-OA-2.
2. Find KACO. in violation of Chapter 176D, HRS, and its implementing Administrative Rule 13-167, for exceeding the limits of the work specified in SCAP-OA-7.
3. Assess the maximum fine allowed under the law, a sum of \$1000.00, for violating the terms of the permit.

4. Require KACo to submit a Plan of Work detailing specific actions to be undertaken, including plans to stabilize all critical streamside areas, as determined by DLNR, to minimize erosion and siltation and mitigate potential injury or damage and compliance with Condition 4 of SCAP-OA-7 requiring maintenance clearing near the mouth of the stream, and a schedule for their timely completion. The Plan of Work would be submitted to and be approved by DLNR before any work is undertaken. The Plan of Work should include an Environmental Assessment prepared in accordance with Chapter 343, HRS.
5. Allow the present stream alignment to remain for its beneficial flood value and to minimize further impact to aquatic habitat and species.

Mr. Ing asked Mr. Tagomori if the more conservative approach wouldn't be to require that an environmental assessment be done and, based upon the impacts disclosed by the assessment, to then make a recommendation as to whether or not the current stream alignment should be retained. Because the environmental assessment has not been done, we don't know what impacts could result from that increased flow. If there is increased flow and that flow somehow is not able to escape to the sea either because of the bend of the river just mauka of the bridge or because of the bridge itself it could result in flooding on the Kahuku side of the stream bed near the mouth of the stream where there are several residents. Because these studies have not been done we do not know if that may be the case, given the increased flow. This is the reason Mr. Ing felt that no recommendation should be made at this point as to whether or not the current stream bed should be maintained or whether the former stream bed should be restored or some other mitigation measures taken.

Mr. Tagomori felt that staff's recommendations essentially followed that logic. Except, said Mr. Ing, where staff is recommending that the current stream bed be retained -- that is where he departs. He reiterated that he would prefer no recommendation be made until completion of the environmental assessment.

Mr. Kealoha asked Mr. Tagomori why there were no comments in the submittal from the Aquatic Resources Division with respect to the habitat; the Transportation Department with respect to the bridge capacity and the road capacity and also from the EPA, OEQC, U.S. Corps of Engineers or the National Fish and Wildlife Service. He wondered also, with respect to the exit of the bridge, what would happen to the State's liability if the same alignment is allowed. We don't know what the bridge will hold. He did not feel that staff could support any of their observations with any hard data. Mr. Kealoha also did not feel that an environmental assessment was adequate. He felt that an environmental impact statement should be made. Even though staff has said that the present alignment would alleviate flooding, they do not say whether this would be on both sides of the stream or wherever.

In response to Mr. Kealoha's questions, Mr. Tagomori said that as far as the agency review, it has always been staff's practice to circulate the application before a permit is issued. In terms of this item, staff did request internal review and the Division of Aquatic Resources did comment. That may be so, said Mr. Kealoha, but the board did not see these comments.

As far as hard data with respect to the impact, the bridge, etc., Mr. Tagomori did admit that they did not have this data. Staff's position was that since this would entail detailed hydrologic studies they are opting the applicant to provide this information e.g. preparing the environmental assessment and a plan of study before work is started.

Mr. Apaka asked about the nature of the complaints that were received. Mr. Tagomori stated that the the complaint, basically, was that the work was done outside of the natural meandering stream. A formal complaint was received from Creighton Matoon, Chairman of the Koolauloa Neighborhood Board. Another letter was also received from the Amercian Assn. of University Women citing the same situation.

Mr. Paty invited the applicant to come forward.

Mr. Ben Matsubara, representing Koolau Agriculture Company, said that their company, since acquiring the lease for the subject property from Bishop Estate in 1984, has been involved in a program to preserve, maintain and utilize the property for agriculture use. Part of this program involves control of Punaluu Stream so that it would not continue to overrun and erode agricultural productive land and to manage and maintain the stream in a manner similar to that previously conducted by the plantation. When Kahuku Plantation ceased using the property in the late 60's for sugar cultivation, the stream maintenance program also ceased. Over the last 15-18 years, the stream, without maintenance has become overgrown and constricted in many areas which has caused major flooding problems between periods of heavy rainfall. The flooding of Punaluu Stream has not only affected agricultural activities of Koolau Ag Park but also posed a threat to the health, safety and welfare of the tenants. On many occasions the flooding has extended from the boundary of the property and affected the safety and property of the general public. A prime example of this, said Mr. Matsubara, is when the stream overflows onto Kamehameha Highway and closes the highway to traffic. There have been reported incidents from Park Personnel responsible for maintaining the park, that the telephone poles set up as boundary markers to separate the park from the highway, float in the water, creating a hazard to traffic during these periods of flooding.

Mr. Matsubara continued that his client's concern with the stream's threat to agricultural activities and personnel prompted him to embark upon a stream maintenance program similar in nature to that conducted by the Plantation in an attempt to prevent the flooding threat during periods of heavy rainfall. It was with this preface and intent that Koolau Agriculture undertook the measures which the board's present inquiries concern. He said that his client's purpose and intent was to protect lives, property and the land from damage posed by the stream. Permits were obtained to undertake this program and his client believed that he had the requisite authority to undertake this program to minimize flooding hazards. Unfortunately, a difference of opinion has arisen as to whether or not the work undertaken goes beyond the scope of the issued permit. Mr. Matsubara said that his client's primary concern is to resolve the problem as opposed to contesting it because he firmly believes that his goal to reduce and minimize hazards would be jeopardized if time was consumed for testing an issue rather than resolving it.

Mr. Fred Trotter, owner of Koolau Agriculture Company, said that he was an employee of Kahuku Plantation Company for almost ten years and was responsible for these lands during the plantation years so he does have first hand knowledge of stream maintenance that occurred during that time. He said that his conversation with former employees led him to believe that the stream had not been maintained since approximately 1965 - 1985. He said that cleaning up the stream was a contractual obligation between himself and the Trustees of the Bernice Pauahi Bishop Estate that he return the property to its former condition. His reasons also were 1) to prevent flooding; 2) prevent loss of life and property; 3) prevent soil erosion which had occurred in massive quantities over this period of time; 4) attempt to utilize agricultural land that had been cultivated in the past that was previously flooded whenever there was rain.

To show that this concern was not just one he dreamt of, Mr. Trotter said that between the period 1985-1988 there were three people killed at Sacred Falls Valley as a result of flash floods that can occur in this area. He said that this area is much like the area of Kau, Naalehu and Pahala, where if it rains in the mountains water can come down without your knowledge. Twice during that period tourists were killed and a local girl and her child were swept out to sea and never found. Using the map on the wall, Mr. Trotter continued to illustrate his point to the Board.

Mr. Trotter continued that at no time did he feel that they were violating their permits. If they were in violation, then they would stand corrected. He also presented some pictures to the board to help them recognize the condition which they inherited when they signed the lease with Bishop Estate in 1985. He said that no work was done prior to this and went on to explain why they did what they did to stop the water. He pointed out that the so-called original rivers were built by them in 1985 as a means of stopping the water. There was no way of telling the extent of the river because it was so badly overgrown. He explained further why certain things happened because of this. They were trying to contain the river.

Referring to questions raised by Messrs. Ing and Kealoha, Mr. Trotter explained that at the bottom reaches of the stream is an obstruction which was never touched by them -- he refused to touch it unless all government agencies agreed. From all information they could gather, it was either an obstruction that occurred because of the depositing of the material. As the water hits that, it goes over into those houses which are built practically on the edge of the river today.

Mr. Trotter said that the original river was simply a flood plain which existed over all of the land and there was no possible way anyone could cultivate this land with that condition because as the river rose it went over the land. He felt that this was a river out of control and he felt that he had an obligation to do the work he did. He did not ask the government for any help except for some understanding and to help him get the permits to do the work. He spent his own money to do what he thought was his responsibility and if he did something wrong he was certainly here to try and amend that.

Much discussion continued between Messrs. Ing and Trotter as to the work which was done by the applicants during the period 1985 to 1988.

Mr. Ing asked Mr. Trotter if he was of the understanding that the work was being done under the original permit which was issued in 1985. Mr. Trotter said that it was his understanding that the permit renewal of that original 1985 permit had in it the realignment of this stream. It was very clearly worded. That permit renewal did not simply ask the Board to remove the old permit but to address what they had found so, in his opinion, it broadened the scope of the request not to just a renewal but to renewal with additional things that they could do. Mr. Ing asked whether additional drawings, or things of that nature were submitted.

Mr. Matsubara clarified that it was not in the request for extension that the work was described but it was in the request for emergency permit between Punaluu Stream Channel which was submitted to the Board on February 4, 1988. Mr. Ing said that the Board was of the understanding that that only addressed the upper reaches where the 10-inch pipe was. Mr. Matsubara said that in the application itself, in the description of work to be done and what area it covered, one it was to return the stream channel to the location existing prior to the January 1, 1988 storm damage; two, realign the stream to minimize future damage; three, remove trees and other debris from the stream channel. This was the description of work.

Referring to Paragraph 5, which requests statement of project, purpose and desirability and environmental impacts, Mr. Matsubara said that listed were: 1) prevent further damage to a resident, which was the resident in the mauka area that was being threatened; 2) prevent future damage to other residences along the stream channel; 3) prevent damage to Kamehameha Highway Bridge over Punaluu Stream due to debris being washed down during the next storm. They then added that this was a request to expand the work area authorized by Permit No. SCAP-OA-7, which was the earlier permit that had been issued. Along with that application they submitted a map delineating the area, which was in question and photos of what was being done.

Mr. Ing wondered why it was staff's understanding that the emergency work was to be done mauka and the applicant's understanding was that the work would be done in the area where the two channels straighten. Mr. Matsubara felt that this was just an honest difference of opinion. He believed that when his clients put in the provision as to the statement of what they wanted that this was a request to expand the work area authorized by Permit SCAP-OA-7.

Mr. Paty invited others wishing to testify on the Punaluu Stream to come forward.

Representative Reb Bellinger, whose district includes the Punaluu Area, said that this has been a project which has resulted in a great deal of concern in his particular district. He felt that the board brought out many good questions this morning. Another thing he felt that should be looked at also in terms of their exposure, is to do a risk assessment as a way to review what course of action the board decides to pursue e.g. how much of a risk situation are we going to be facing if there are heavy rains. Also, he thought it would be important for the board, in making its decision, to include the evaluations and comments made by the U.S. Corps of Engineers and the EPA.

Ms. Dee Dee Letts, Chair of the Water and Transportation Committee for the Koolauloa Neighborhood Board No. 28, testified as follows:

"The Neighborhood Board would like to raise the following questions and Observations for the Board of Land and Natural Resources (BLNR) consideration prior to decision making on this issue:

'1) Were other divisions within DLNR asked to comment on the impact of the actions by KACo., specifically as regards impacts on submerged lands, recreational uses, etc.?

'2) Why are no Findings of Fact in the report? It appears that on many key issues the staff took the word of KACo rather than do appropriate research. Findings of Fact dealing with the questions of a) whether or not the project actually has improved flood conditions for any property other than KACo's, b) the impact of canalization upstream on the narrower neck and bridge close to the outlet, c) whether or not there is a cobble bed in the new channel, d) were the "appropriate measures" required of KACo to reduce turbidity by the DLNR implemented and d) impacts on recreational uses of the stream, etc.

'3) Was the work authorized by the permits inspected prior to granting the one year extension on January 22, 1988.

'4) Is there any evidence of stream fauna returning to the new channel?"

Ms. Letts continued:

"The Neighborhood board would also like to call BLNR's attention to the responses received from other agencies concerning the stream diversion/canalization, which we have attached. These comments all note that Punaluu Stream is of high biological quality. All the comments support restoration of the stream to its natural course. These comments are offered by the United States Department of Interior, Fish and Wildlife Service; the United States Department of Commerce, National Marine Fisheries; and the Army Corps of Engineers is still investigating the violations but the indications from their investigative report are that required stream restoration is likely. The County Department of Land Utilization is also considering action under Shoreline Management if they are not satisfied with the Army Corps actions. The Neighborhood Board has also attached for BLNR's information our unsolicited comments on DLNR's staff report dated August 2, 1988. A representative of the Neighborhood Board also contacted DLNR staff to discuss the problem and share pictures and video tapes of flooding in the area they were told that it was not necessary and no meeting was granted. It also bears mentioning that KACo refused to allow any of the above noted agencies access for a site inspection of the work done.

'The Neighborhood Board also asks BLNR to consider the following:

' 1) Because the stream is of environmental and habitat importance these violations and any proposed remedies should be addressed by the Water Commission.

' 2) KACo's Chief Executive Officer's knowledge due to his history in sugar and in formulating the water code goes well beyond that of the ordinary citizen in this area. It is therefore not unreasonable to assume that he knew what actions were or were not covered under the granted permits.

' 3) Although the Army Corp's investigative report has been available to DLNR nowhere in the staff's report is it mentioned or referred to.

' 4) The subject property is currently on the market and if sold such sale may negate any enforcement action forthcoming.

' 5) The recommendations of the staff report if adopted by DLNR in effect grant an after the fact permit for a flood control canalization which our Neighborhood Board feels is beyond the authority of the BLNR and rests with the Army Corps of Engineers.

'In closing we would urge the BLNR to request the staff to do further Fact Finding, consult with the Army Corps on recommendations and jurisdictional questions, refer the issue to the Water Commission for study and recommendation and finally consider that the violation exists everyday until the issue is resolved and that any fine should reflect this."

Ms. Letts also reiterated the Board's position which is 1) return Punaluu Stream to its natural meandering configuration; 2) impose a just meaningful sanction upon the responsible parties; 3) recommend that an assessment be made of the stream, ocean and reef ecosystems to determine extent of impact and what corrective measures can be taken; 4) hold a public hearing so that governmental agencies, community organizations, special interest groups and individuals are afforded an opportunity to discuss comment and suggest the appropriate course of action to be taken. She added that, in listening to the presentations, a lot of the siltation that has occurred is a result of the raw dirt banking which is directly attributable to the channelization.

When you say that it should go back to it's natural course, what would you say is it's natural course, asked Mr. Paty?

Ms. Letts said that a flood plain meandering stream does move. It's natural course is determined by where it flows and where it was flowing at the time is where they would like to see it returned to. But it does not mean that in 10 years it will still be in the same place.

Mr. Ing said that the applicant had done work on this stream since 1985 and he was just curious, from Ms. Letts experience of living out there, whether or not she agreed with Mr. Trotter's statement that since he built the berm on the Kahana Valley side there has been no overflowing of the waters into Kahuku Park. Ms. Letts said that since the work was completed there have been no major floods. As far as her experience in the area, the impact on the beach park has been great from the siltation -- you can no longer swim or squid out there because of this. As far as flooding, there is probably a very good chance that there will not be flooding on KACo's land in the future if this is allowed to remain. However, she felt that it would be detrimental to all of the properties on the Kahuku side of the stream that do not have this 30 foot berm built up on top of the 30 foot channel.

Mrs. Cathleen Mattoon of the Koolauloa Neighborhood Board testified that KACo. and the Bishop Estate have set forth as a goal the use and control of Punaluu Stream and other surface and subsurface waters. She said that this purpose of controlling water was made abundantly clear by both Messrs. Trotter and Jenkins, his engineer. Additionally, KACo. purposely acted to divert the stream so as to alter the lands and created a protected oasis while creating a most dangerous situation for the lands and homes on the opposite bank as well as at the mouth of the stream. It's lands are now attractive, drains and is developable.

Ms. Mattoon also called the Board's attention to an old plot plan which was prepared for the Land Use Commission when they did boundary reviews in 1974. It was a plan for development of this area as proposed by George Sakota and approved by Bishop Estate. She asked that the board take a look at the drainage channel and KACo's section which says "Area B" - agriculture to urban, 117 acres. She said that this whole purpose was to dry this land, make it developable and make it valuable. She said that this plan was not even presented at the 1974 hearings before the commission. Also, she felt that the only way to support all of the water from the Punaluu Stream was to take out the property along the mouth of the stream and probably enlarge the bridge as well.

Ms. Mattoon felt that to accept the destruction of the stream would allow taking of all of the Punaluu water without regard to instream flow limits because there will be no stream or streamlife to protect. This will, in effect, allow KACo and Bishop Estate to achieve their first goal, which is total control of the water in Punaluu Valley.

Their second concern has already been confirmed by an ad offering the land to a buyer or investor, said Ms. Mattoon. She voiced concern that this stream, as it appears with the new ditching, is the way it was during plantation days. Ms. Mattoon said that she is 56 years old and has always lived in the area and seen the stream. The plantation did work on the stream and the meandering stream always did remain. It does wander but the flood plain maps shows the area in which it should be allowed to wander.

Mr. Creighton Mattoon informed the board of their experiences the night of the January 1st flood and said that he did see heavy flooding that night. Mrs. Mattoon pointed out the subject area on the map.

Ms. Muriel Seto of Hawaii's Thousand Friends asked the Board to hold a contested case hearing on this matter. Their independent review of the outrageous and illegal depredations committed on Punaluu Stream by Koolau Agricultural Co., Ltd., confirmed that staff's recommendations are too paltry, weak, and unacceptable, if similar activities are to be discouraged elsewhere on Oahu or in the State. They recognize that the Board has limited powers but they urged that the Board impose the maximum penalties available.

Ms. Seto said that the allowable \$500 per day per infraction should be assessed, accompanied by complete restoration of Punaluu Stream. Anything less would be a travesty.

Mr. Ing informed Ms. Seto that there is an application form which needs to be completed before a contested case hearing can be held.

Mr. Charlie Reppun, a Waiahole Valley farmer, clarified that when Mr. Ing was talking about the berm that Mr. Trotter said that he built which helped to prevent the 1985 flooding, he believed that the subject berm is at the upper end to keep the water from going to the Kaneohe side. In the 1988 storm this did stop the water on one side but the question is whether this same berm did not cause more flooding on the other side. What the people are greatly concerned about is the affect of the long straight channel which goes right down to the ocean. Mr. Trotter's concern for flooding was valid, but he was not thinking about the purpose of a flood plain and the purpose of a meandering stream and how that affects both streamlife and oceanlife.

Mr. Samuel Rowland, a resident in the area, pointed out his property on the map and explained where the floods took place. He said that when Mr. Trotter dug the diversion stream he did not build a berm towards Kahuku but towards the Kahana side. Because of what Mr. Trotter did Mr. Rowland said he doesn't have any more flooding in his area and, accordingly, asked that the Board give Mr. Trotter favorable consideration.

Mr. Tokuaifu, a landowner who has lived in the valley since 1971, testified that the flooding in January 1988 rose two feet higher than normal. Prior to that the water only rose one foot high when it flooded. He attributed the higher rise to the channelization of the stream. The greatest danger he sees is the danger to the marine life because of sedimentation. Because of the stream being straight he felt that there would be greater force of water and erosion. He felt that, in order to avoid this, the stream would have to be returned to its former condition or have the berms heightened on both sides.

Ms. Lola Mench, speaking for the Sierra Club, Hawaii Chapter, recommended restoration of the stream. Although the original report was issued, she felt that it is now the responsibility of the Water Resource Management Commission to deal with this issue and therefore felt that there should be input from this Commission before the Board makes a decision. The Sierra Club is very much concerned about the impact on the ocean and setting a precedence in allowing illegal actions to continue.

Mr. John Reppun, a member of the Kahaluu Board, said that their board has taken no position on this. What they have seen over the last 10 or 15 years is that flood plains, which have gone out of production, essentially been ruined as a flood plain. What they have is an ongoing flood control project for which the government will forever pay. He felt that what Fred Trotter has attempted to do is protect his use of the Flood Plain for his generation or for the duration of his time on the land but what is happening is that those sediments are no longer spreading out over the flood plain thus interrupting the ongoing production of the Flood Plain and

the stream can no longer contribute to it. Instead, all of the nutrients and sediment will be sent out to the ocean and wasted as well as cost waste to the reef and bay area. This should be one of the major concerns and he is definitely against the straightening of the stream.

Mr. Ing told Mr. Reppun that he was confused with his point about converting the flood plain into a drainage canal. What he understood from others that testified was that back in the 50's that area was cultivated and water did not flow over the berm and plain was maintained. He wondered whether or not there was a flood plain.

Mr. Reppun said that back when that area was being cultivated there were auwais and ditches throughout the whole flood plain that carried water so it's not quite true when they say it did not overflow.

Glen, who grew up in the valley of Punaluu in the 30's, 40's and 50's said that his family were ranchers in the area and his mother was a teacher at Hauula School and he could not see all bad with what Mr. Trotter has done and felt that the stream should be left as it is. His family felt that because of the new stream, some of the danger has been alleviated.

Mr. Dan Jenkins, an employee of Pacific Asian Inc., testified not in favor of KACo. but as a landowner. He pointed out on the map what happens when the waters come down, where it goes and some of the problems. He said that in 1969, when all of this area was under cultivation, all of the drainage ditches were dug out and cleaned, today they are all overgrown.

Mrs. Irene Tokuaifu was not happy to see that a cement channel had been built in Punaluu.

ACTION

Mr. Ing moved to defer this item inasmuch as there was a request from the Thousand Friends for a contested case. Mr. Kealoha seconded, motion carried unanimously.

Mr. Ing suggested that the board not take any action until the Attorney General's Office has received the written application from the Thousand Friends at which time the Board can make a determination as to whether or not a contested case is appropriate in this situation.

ITEM H-2

CDUA FOR A TELECOMMUNICATIONS FACILITY AT KOKO HEAD, OAHU (GENERAL TELCOURIER, INC.)

ACTION

Deferred to the September 10, 1988 meeting. (Kealoha/Ing)

ITEM H-1

CDUA FOR A TELECOMMUNICATIONS FACILITY AT KAMEHAME RIDGE, OAHU (GENERAL TELCOURIER, INC.)

(See also Pages 4, 5 and 6.)

Mr. Evans said that what staff was able to do subsequent to the last discussion with the Board was to develop two things:

1. A review of the differences between what the proposal was by the applicant and how the staff had viewed the proposal.
2. What the staff was able to do, through some discussion, come up with what they felt were some reasonable compromises on H-1, H-3 and H-4.

Relative to H-1, the applicant proposes an 80-ft. steel tower, 21-ft. antenna or a total of 101 feet in height. That develops itself with a result of about 70 feet above the ridgeline and part of the rationale for that is that 35 feet of the tower is unavailable due through blockage by the ridgeline.

In terms of staff's review, they propose basically 3-4 55 ft. wood poles and that would place them 20 feet above the baseline. The primary reason for staff's proposal emanated from the public hearing when questions came up about alternatives because this thing as proposed was so high. Staff has not seen anything to change that proposal but they do envision some potential modification through a new recommendation No. 4 which would replace the existing recommendation 4 and 5 which was of primary concern by the applicant. Staff felt that if the Board would sustain a staff recommendation to delete 4 and 5, and replace it by the new recommendation no. 4, then staff felt that they could work it out.

Mr. Evans said that on each proposal submitted by the applicant, there is a structure on the ground that houses electrical generators, batteries, etc. and staff feels that that also must be respected in terms of the visual impact. With that in mind, staff asked that Condition No. 16 on page 12 be amended so that when the construction plans come in it is specific in requiring landscaping plans also. Mr. Evans said that as far as he knows, staff and the applicant are in agreement with the above changes.

ACTION

Mr. Kealoha moved to approve with the following amendments:

1. That Conditions 4 and 5 be deleted and replaced by a new Condition 4.
2. "That landscaping plans also be submitted" be added to Condition No. 16.

Motion carried with a second by Mr. Arata.

Mr. Ing was excused from acting on this item.

Ms. Larsen asked for clarification. As she understood the time frame, if they not able to work something out where they would not have to go back to the FCC and it would take more time, that an extension would be granted. Mr. Kealoha said that it would not be an automatic grant. They would have to come back with the request.

ITEM H-3

CDUA FOR A TELECOMMUNICATIONS FACILITY AT MOKAPU, OAHU (GENERAL TELCOURIER, INC.).

Mr. Evans said that landowner, Castle Trust, propose 121 feet total. Staff's recommendation is 3-4 wood poles, which is reduced from the original proposal by about 35 feet. Notwithstanding that, based upon discussions, that Condition 4 be replaced by a new Condition 4 which reads:

4. That the applicant shall submit to the board a revised conceptual site plan such that the antennal towers, poles and equipment building are visually and aesthetically developed in an area appropriately landscaped.

To be consistent, Mr. Evans asked that "landscaping plans" also to be added to Condition 15, right after the words "construction plans."

ACTION

Mr. Kealoha moved to approve as amended. Seconded by Mr. Arata, motion carried.

Mr. Ing was excused from voting on this item.

ITEM H-4

CDUA FOR A TELECOMMUNICATIONS FACILITY AT PALIKEA, OAHU (GENERAL TELCOURIER, INC.).

Mr. Evans said that they are looking for four antennas however one antenna will be for a State Radio Repeater. This is in response to comments received from the State Telecommunication people.

Mr. Evans asked that:

1. Condition No. 4 be deleted; and
2. That "landscaping plans" after the words "construction plans" be added to Condition No. 15.

ACTION

Mr. Keloha moved to approve as amended. Mr. Arata seconded, motion carried.

Mr. Ing was excused from voting on this item.

ITEM H-5

REQUEST FOR TEMPORARY VARIANCE FOR TRAIL CUTTING AND INVESTIGATE SURVEY AT KAALAEA, OAHU (KULA MANA NURSERY, LTD./MR. DAVID B. BILLS).

Mr. Evans said that the Board consistently has been reluctant, on a Temporary Variance, to allow anything but hand clearing so staff felt that they could recommend approval under the same kind of conditions. Mr. Bills, however, feels that his applicant can get a lot more done if he goes in with a tractor. Staff disagrees.

Mr. Kealoha asked what could be done in the event the applicant did use motorized vehicles. Mr. Evans said that a condition could be added that this Temporary Variance would be null and void and it would be a violation of the conditions of the permit subject to appropriate remedy.

Mr. Kealoha suggested a condition to that effect and that work will be stopped immediately. Motorizing is totally out. Mr. Evans said that he would do this.

ACTION

Unanimously approved with the amendment that should any motorized vehicle be used work will be stopped immediately and appropriate action taken. (Kealoha/Arata)

RECESS:

1:05 p.m. - 1:20 p.m.

ITEM H-7

CDUA FOR AN AFTER-THE-FACT-SEAWALL, FILL, AND PORTION OF A BEACH COTTAGE ON STATE-OWNED LANDS AT HOLUALOA, NORTH KONA, HAWAII (WENDELL, SUE & EVELYN FOO/COMMUNITY PLANNING, INC.).

Mr. Evans said that when the application came in under an after-the-fact basis everyone tried to find out what the facts were relative to the subject property. Staff went back to 1961 and found Bureau of Conveyance documents indicating that ownership was unaccounted for. In 1964, there was a document indicating transfer of the ownership from McNicoll to Foo and in 1965 there is an uncertified tax map indicating the approximate highwater mark. In 1966 staff found a building permit that was issued by the County for the Foo's beach Cottage. In 1969 there was a letter of complaint relative to illegal fill below the highwater mark. Also, in 1969, DLNR issued a memo on boundary certificate no. 168 which was dated 1893. The only thing that certificate said was that the seaward boundary is defined as beginning at the seashore. At that time this department also issued a cease and desist order for the unauthorized fill and further staff disputed through those correspondence the Foo's claim of ownership.

In 1969, Hawaii County did a map on the properties in question for the purpose of defining what they called Parcel 1 and Remnant A which is the old government road and a remnant. Staff went to the State Surveyor to show some adjacent properties to find out what exists out there. Through the years the shoreline now has been certified as mauka of the highwater mark but there has been no certified shoreline of the immediate property in question.

In 1970, the Department of Transportation, became involved in a second illegal fill on the property. That second illegal fill, from the Department of Transportation's perspective, wound up in the hands of the Comptroller who wrote that the survey of the highwater mark indicates encroachment below the shoreline. Also, there is a land title search on the property relative to ownership of the parcel. In that search they go into the Award and indicate that at one point and time it was unaccounted for and at one point and time the McNicoll's claimed ownership, which ownership was transferred to Foo. The Land Title Searcher concluded that McNicoll's claim was invalid and as such Mr. Foo has a cloud. Because of the way the process worked at that time, when there were violations, the DLNR would turn the case over to the A.G., which they did back in 1970 and the A.G. did issue an opinion that the State had ownership of both parcels that were involved and also that they had cited the Foo's.

In 1971, there was more fill and for about eight years nothing was done. Back in 1979 there is a letter from the Department of Accounting and General Services to DLNR relative to Foo's encroachment. Nothing happened until 1986 at which time there is a shoreline survey of Parcel 12 after Parcel 32, which is the uppermost parcel, was created. There was erosion which basically split the old Parcel 12 into two parcels.

In 1986 a shoreline certification did occur on the neighboring property. The history behind that is that in 1966 the physical work was done on the ground to have the neighboring property landcourted. It was sent over to landcourt. Between the time it was sent over to Landcourt, 1966 through today, it has never been acted on by the Land Court. It does show a point on the property for the Land Court Award, where there is a pin. Subsequent to 1966 there was a Supreme Court Decision (Ashford). Ashford stated that the certified shoreline would be at the highest reaches of the wave which is usually evident by the vegetation line. Had this been acted upon, staff would be speaking about this in a very different way. But because it was never acted upon, now we have the 1968 Ashford decision so subsequently here you see the earlier survey that was presented to the Land Court then there was a later survey done in 1971 which was not acted upon. From the map, Mr. Evans shows that, because of the Ashford Decision, where the shoreline was certified by the neighboring property. The property is certified midway down and stops at the Foes' seawall.

Given all the above considerations and all of the things to look at, Mr. Evans said that was, and relatively is, the basis for staff's recommendation.

Mr. Kealoha asked Mr. Evans if the above presentation was his order of chronology. Mr. Evans said that it includes State documents as well as the applicant's survey.

In 1969, Mr. Kealoha asked Mr. Evans if he remembered when the applicant applied for the permit to construct the wall. Mr. Evans said that this was done about February 26, 1969.

Mr. Kealoha asked about the location of the conservation district boundary during the period 1968-69 with respect to this specific site. Mr. Evans said that the conservation district boundary would be as defined in Ashford in terms of the narrator. In terms of the location on the ground at this piece of property, staff does not know because there is no certified shoreline survey. Determination of the conservation boundary, which Mr. Kealoha said he was concerned with, is not necessarily the owner's boundary. Mr. Evans said that staff's position is that in 1969 that it would be at the highest reach of the wave and/or vegetation line. Staff's basis for that statement is Ashford's Decision and the evidence

indicated in the letter to Mrs. Foo informing her of the violation. The same letter also informed them that Ashford would apply relative to the boundary. That is the narrative. Pictorially, said Mr. Evans, our records do not have a map indicating the conservation boundary.

Relative to this parcel, where was the boundary in 1970, asked Mr. Kealoha? Mr. Evans said that from 1969 through today, his answer would be the same -- "I don't know". Mr. Kealoha said that reference was made that the State Surveyor went out and determined that the wall encroaches on government lands -- he asked what year this took place. Mr. Evans believed that this was August, 1970 when DAGS made the statement that the recently completed stone masonry wall encroaches upon government land. Mr. Kealoha asked whether they had actually completed the survey. Mr. Evans said that the then state surveyor did go out on the ground on the Foo property and did a summer survey in which they indicated top wash of the wave in July and also what it probably was in the winter.

Mr. Kealoha wondered how, prior to 1970, no survey was conducted and to this day, no other survey was conducted. Mr. Evans said that he was informed that this was the extent of the State Surveyor's work and based upon this work when staff went and worked with the State Surveyor they seemed satisfied with all this work. Subsequent, there were discussions with the State Surveyor about having a survey presented to the State Surveyor for certification. The response from the State Surveyor was that they would not certify this because there is encroachment. Given that representation the applicant now comes to the board to have the State Certifier survey it. Mr. Kealoha asked if this remark by the State Surveyor was made because there is an encroachment or because there is a probable encroachment. Mr. Evans said that he indicated that a portion of the wall encroaches upon government land.

Mr. Kealoha asked about the County survey. Mr. Evans said that he did have this and their worksheet does not really address the makai boundary, but is relative to the old government road.

Getting back to the subject CDUA, Mr. Kealoha told Mr. Evans that he had asked him at the last meeting to see whether or not the Land Use Commission had established the conservation line with respect to this stonewall on this property. Mr. Evans said that he did check and this line was never established. Mr. Kealoha said that this is because we have to use the shoreline and that shoreline is not certified. Mr. Evans agreed.

Mr. Ben Kaito said that two submissions had been made to the board on this second application. The first one was in July and the second one on August 7th. They tried to respond point by point to the evidence that the State had submitted. The only problem was that from time to time they had other internal memos brought to their attention. He stated that Mr. George Houghtailing had their chronology of events and evidence and contracts in contradiction to the implications made by Mr. Evans.

Looking at the shoreline, Mr. Houghtailing said that they go back to the Land Court pin. This is something that is there, where the Land Court certified that this is the shoreline. Going back to the County, the County, in making a parcel map for the Alii Drive and the Alii Drive remnant. To do that, they have to look at the whole property. They then take known points along shore and they establish what is the shoreline boundary for the Foo property. That shoreline boundary was used by the State Taxation Division and used as a boundary for taxation purposes so they conclude, although there has never been a certification, but two points, which the County has used. So they do conclude that the Foo property did tie in with a known point and did tie in with a survey made by Government Survey to justify the land boundary.

Mr. Kaito said that this whole case stems from complaints made by two persons and, according to their research, on February 10, 1969 a complaint was made by property owner Mac Heu complaining that the Foo's were filling State lands. Mr. Evans also showed him a complaint filed February 12, 1969 by H. Teixeira who is a Kona Harbor attendant complaining about the same thing. On Mr. Heu's complaint, he attached a photograph showing the alleged landfill. Mr. Teixeira's complaint was accompanied by a sketch, again showing the area of the alleged fill. Because of the research which they have tried to make, they had a survey made by Harry Matsuo of Community Planning in July of this year to find out what the situation was. He recognized the opium tree which appears on Photograph No. 1. Using that Opiuma Tree as a base of reference, he found out that it appeared also in the Heu photograph. Using the photograph taken by Harry Matsuo in July, 1988 with the Heu photograph and the sketch made by Mr. Teixeira, Mr. Matsuo concluded that the alleged area of complaint occurred on an area of Parcel 32 which is not encompassed by the seawall and that the complaint area was on the Kailua side. Therefore, the cease and desist order which was filed by Mr. Kido March 6, 1969 did not refer to this area of seawall construction so that the allegations made at the previous hearing that the Foo's knowingly and intentionally and in defiance of the cease and desist order, they submit, has not been proven to be so. Mrs. Foo has maintained to them and they have communicated to the staff that in their minds the area of fill was away from the seawall area and that Mrs. Foo explained that her husband used to go fishing and he would leave his boat on this particular parcel of land and that because of the rocky nature of the land he had put in some gravel there. This, according to Mrs. Foo, is the basis for the complaint and it has nothing to do with the construction of the stonewall. Mrs. Foo's statement is borne out by Mr. Matsuo when he made an on-the-spot survey and took these pictures. If you were to compare the Heu's photographs with Exhibit I, which is their photograph, the opiuma tree becomes the reference point and therefore if their position on this is correct there is no knowing violation of any encroachment and that whatever happened subsequently in the construction of the seawall was based upon permits secured because at that time and he thought the return from the County Agency showed that no permit from the State was necessary. Mr. Evans conceded that the shoreline boundary and conservation boundary had been drawn so that the County agency was the only agency required to be permitted and the Foo's did so so that any allegations of filling does not have to do with this property but the adjoining land.

Mr. Kaito emphasized that since they are going back in time that they do concede that there has been considerable erosion over a period of time and they would like to cite that the Bali Hai property had their shoreline certified in 1974 and the Kailua boundary of the Bali Hai property was standard. If you were to look at the actual shoreline now of the Bali Hai property compared to the certified shoreline in 1974, the onsite observation will show that there has been considerable erosion. Also, in the case of the Foo property, on the Kailua side of the seawall, the land has eroded away so that the mauka boundary of the shoreline actually encroaches upon the old government road. Mr. Kaito emphasized that this is difficult to go backwards in time -- 18 years or more -- to try and reconstruct what the actual situation was. They feel that, based upon the maps which they have produced and submitted in Mr. Houghtailing's presentation of August 11, they show that there is a basis for them saying that the Foo's did build the wall on what was conceived to be at that time their own land.

With respect to Mr. Evan's point about the Attorney General's opinion about the ownership, they submit that the deed from the McNicoll's to the Foes, in 1964, was based upon Land Court Award 7713 and they maintain that as long as this award is not to the State of Hawaii but to a private person,

whoever it may have been, that the Foo's, by virtue of that 1964 deed and by actual possession for more than 20 years, have maintained the possession and ownership sufficiently to validate title to that parcel now.

Mr. Kaito said that they have also submitted the past history of Parcel 32. It had gone several changes in terms of shoreline boundaries as well as the area. Notwithstanding these changes, the Foo's have been paying taxes since 1964 up to the present time so that as to any other person, he did not think that they could claim any title better than the Foo's. Mr. Kaito stated that they certainly are not maintaining that they can claim adverse possession against the State but they are saying that the Land Court Award 7713 was to a private person from whom title subsequently derived through Mr. McNicoll. He felt that they do have valid title to the property in question and that the Attorney General's opinion referred to by Mr. Evans he felt was totally without foundation. Mr. Kaito submitted also the board documentation supporting their claims.

Mr. Kealoha felt that these violations, i.e. fill and the beach cottage on Alii Drive are clearly on urban land and not on conservation land. He asked Mr. Evans if he agreed with this. Mr. Evans said that a portion of the cottage, which lies on the old government road, he would say is on urban land. Mr. Kealoha said that we are only looking for the conservation boundary and then asked about when the wall was there. Mr. Evans answered that it was sometime subsequent to February, 1969 when they got the building permit for the seawall. Mr. Kealoha said that sometime later the board informed the applicant that there may be a possible encroachment on State land, etc. In this particular case, he felt that burden of proof lies with the State to establish the conservation line, which the State has not done yet. Mr. Evans agreed that we do not have a certified shoreline in the area.

ACTION

Mr. Kealoha moved that the applicant is not in violation of the conservation district with respect to the wall and that the violations incurred i.e. encroachment on Alii Drive and possibly ownership were referred to our Land Management section and that our action today only deals with the conservation boundary. Mr. Arata seconded.

Just for clarification, Mr. Ing said, assuming the vote goes for the motion, then the CDUA is not necessary? Correct, replied Mr. Kealoha.

Mr. Paty called for the vote; vote was unanimous, motion carried.

REQUEST FOR AN EXTENSION OF TERM, CONSENT TO SUB-SUB-AGREEMENT OF SALE, AND CONSENT TO ASSIGNMENT OF GENERAL LEASE NO. S-4093, LOT 44, WAIMANALO AGRICULTURE SUBDIVISION, WAIMANALO, KOOLAUPOKO, OAHU.

ITEM F-11

Mr. Shimabukuro explained that this lease was issued to Victor Gega and Harriet Gega back in 1976 and, subsequently, by series of Agreement of Sale and Sub-Agreement of Sale, the present users of the property are Mr. and Mrs. Charles Smith. The lease itself is still in the name of Harriet Gega. Unless the Sub-Agreement of Sale, or the Agreement of Sale, is fully paid up there will be no assignment of the lease. The request for an extension is from Mr. and Mrs. Charles Smith. They would like to make a mortgage to pay off everyone down the line and subsequently pay off the lease but the condition of the mortgage would depend on the State agreeing to extend the leasehold for an additional 32 years. The perspective mortgagee in this case is not the Smith's but the new purchaser, a Mr. Joseph Baker, who presently has no interest in the property.

Mr. Shimabukuro said that staff is making a negative recommendation inasmuch as the request itself does not meet certain legal requirements. Staff does not normally make a negative recommendation. However, in this case, a representative of Mr. and Mrs. Smith says that they would like to present their case to the board.

Mr. Shimabukuro called the Board's attention to Recommendation B., which, in the course of reviewing this request they had found that the Smith's had rented out the subject property to three separate people for a period of approximately six months. This is a violation of the lease terms. Mr. Shimabukuro asked that Recommendation B. 1., which states that they find Charles and Helen Smith in violation of Paragraph 44, General Lease No. S-4093 and that they be assessed a payment of \$15,152.64 covering all illegal rental revenue realized. He asked also that Recommendation 2. be retained, which is to assess Charles and Helen Smith a fine of \$1500.00 for an authorized use violation under Chapter 171, HRS.

Mr. Arata questioned the deletion of Recommendation B. 1. Mr. Shimabukuro replied that the reason for this request is because staff did not think that they had the legal right to collect this illegal rental.

Mr. Shimabukuro said that the Board's policy on extension of a lease on the basis of the mortgage loan has been that they will not extend a lease on the basis that the proceeds of the loan will be used for refinancing, as in this case. Another thing, said Mr. Shimabukuro, according to a letter from the mortgage company another condition of the loan would be that the lease form conform to FHA and VA requirements. The present lease document does not conform.

Mr. Ray Mundo, Attorney for the Smith's, said that the lease was originally purchased at an auction sale in 1967 and sold under Agreement of Sale for \$100,000 and sold again in 1984 to his client's, the Smiths, for \$125,000. The Honolulu Mortgage Company said that they would give the prospective buyer, Mr. Joseph Baker, an FHA loan for \$136,000 but he also required that there be a ten year extension beyond the term of the lease itself. Assuming that he takes the loan as of 1988 and there is a 20-year period of the loan itself, plus ten years, the lease term should run from 2018, which would be 51 years altogether, starting from 3/21/67. If the board would allow an extension of term until 2018, then it would only be a 51 year term and not go to the 55 year maximum. The other point, said Mr. Mundo, is that there is no way that any loan company would consider lending anyone any money without an extension of term. Additionally, Mr. Shimabukuro had informed him that most of the loan money had to go to improvement of the property. Mr. Mundo said that improvements are already on the property -- the house, kennels, etc. The Gega's, when they got this property, expended a little over \$5,000. If Mr. Shimabukuro is correct, that the board insist that most of the loan money go to the improvement of the property, this would require, since they have an agreement between the Baker's and the Smith's for \$145,000, \$290,000 and no bank is about to lend \$290,00 to do this.

Mr. Mundo continued that the Smith's are family people, with two children 17 and 15 years old and Mr. Smith earns about \$2,500 per mo. with expenses of about \$1035.00 per mo. to take care of this property plus a \$5,000 balloon payment. With only nine year still remaining on the lease he said that it would be unlikely that they will find a suitable buyer. Further, said Mr. Mundo, the board had approved the purchase of this land by Agreement of Sale. The title of the lease, of course, still remains with the Gega's but they have no interest in the land at this point except to protect their lease interest. Mr. Mundo said that the board has allowed two sales of the property without any improvements being added. He felt that there is an extreme hardship on the Smith's with this requirement of the monies having to be used for improving the property.

Mr. Shimabukuro read portions of a letter from Honolulu Mortgage:

"The overall lease term must be ten years beyond maturity of the loan (for a 30-year loan, there must be 40 years remaining overall).

"We have pre-qualified Mr. Baker for \$136,000 FHA loan, term at 10% for thirty years."

Mr. Mundo acknowledged this letter. However, he said there was a second letter dated July 17, 1988 addressed to Mr. Joseph Baker and in this letter Honolulu Mortgage qualifies him for a 20-year loan with the same ten year cushion at 10.5%. Mr. Shimabukuro said that he was not in receipt of this letter.

Mr. Ing informed Mr. Mundo that the lease is for thirty years and there is nothing in the lease that mentions any extension. Mr. Mundo agreed. However, he said that statute says that the board may, if there is an economic need, etc., approve an extension. He said that there was no constructive notice that, if in order to get a mortgage, that most of this mortgage would have to go to improving this property.

Mr. Ing told Mr. Mundo that the board had approved two prior agreements of sale but those did not seek extensions of the lease so that has nothing to do with what is under consideration today. Mr. Mundo said that they are only asking for an extension at this point. There were no earlier requests for an extension. Discussions continued -- Mr. Ing then said that the board did not put the Smith's in this predicament -- the Smith's put themselves there.

Mr. Smith said that he did not hold the the department or the board responsible for the financial situation that they are in now. When he purchased the property he was aware of the terms of the lease but he was given the impression that he would be given an extension based on FHA financing. During the time they were there they were unable to get equity loans, improvement loans, farm loans, etc. based upon the third party sub-agreement of sale and based upon the term of that lease. They found that they could go nowhere to expand their farm operation. They searched and found fee simple land and purchased it. They put someone in there to do the same operation which they were doing and then had a complaint filed against them stating that there were three illegal homes on this property. DLNR then wrote them a letter so they came in and met with them to say that there were not three separate homes on that property and the City and County clarified this. They came back to the State and were told that they would be found in default for not requesting permission to rent. They submitted a formal request to rent; a request to put the property up for sale; and a request for an extension -- six months ago. During that time they had met within this department people who were supportive of them and people who were not supportive. They heard conflicting points of view and they have proceeded under the recommendations of the people who they contacted in this department i.e. how to proceed to get an extension, etc. but they received no reply.

Mr. Smith continued informing the board of their predicament. Mr. Ing said that when the State enters into these leases the concept is that some type of agriculture or farm industry be developed not to be sold on the market like it has -- several times. This is not a residential-real estate property. This property was sold to try and develop an industry so he told Mr. Smith that his assumption that this property is free to market is wrong. The statute says that this property cannot be transferred unless you are in dire financial straits. He said that the State may not have answers to the questions posed by Mr. Smith.

Mr. Mundo said that he realized that the Smith's had put themselves in the the situation they are in but they did not understand when they did so that they were going to have some difficulty extricating themselves, which is one of the reasons they rented this property. They did not realize that they could not do so. He asked that the board make a deviation from their normal practice of not allowing extensions except for the purpose of improving the property.

Mr. Ing said that the difficulty of allowing this is that you would then open up the doors to everyone who might think that this is a solution to a problem. This is why the board looks back on past decisions and try to be consistent cause once you deviate then it becomes very difficult to hold the line on future requests.

After much discussion Mr. Ing concluded that if the Board took a vote today the extension would die. He suggested deferring this item in order to give the Smith's time to look at other avenues.

Mr. Kealoha felt this to be a good idea for the applicant. The thing unusual about this request, he told Mr. Smith, is that he is really appearing on behalf of Mr. Baker. Mr. Mundo said that he understood that the original lessee, Mrs. Gega, would be the only one who could request the lease.

ACTION Mr. Ing moved to defer action on this item to the next Oahu meeting in order to allow the Smiths to look at other alternatives. Motion carried with a second by Mr. Arata.

ITEM C-1 OUT-OF-STATE TRAVEL REQUEST FOR CALVIN W. S. LUM, DVM, ADMINISTRATOR, DIVISION OF FORESTRY AND WILDLIFE.

ACTION The board unanimously approved Dr. Lum's request to attend the NASF meeting in Eureka, California, September 11-15, 1988. (Kealoha/Arata)

ITEM C-2 OUT-OF-STATE TRAVEL REQUEST FOR RONALD L. WALKER, WILDLIFE BIOLOGY PROGRAM MANAGER, DIVISION OF FORESTRY AND WILDLIFE.

ACTION The board unanimously approved Ronald Walker's request to attend the 1988 Federal Aid Coordinators Workshop from October 10-14, 1988 at Coeur d'Alene, Idaho and also to meet with the Idaho Cooperative Wildlife Research Unit leader in Moscow, Idaho on October 17, 1988 (Kealoha/Arata)

ITEM D-1 REVIEW OF STREAM CHANNEL ALTERATION PERMIT, PUNALUU STREAM, KOOLAULO, OAHU.

ACTION Deferred. See Page 15.

ITEM D-2 PERMISSION TO ENTER INTO A CONTRACT WITH THE ESTATE OF JAMES CAMPBELL FOR DEMONSTRATION DESALTING PLANT, EWA, OAHU.

ACTION Unanimously approved as submitted. (Ing/Arata)

ADDED
ITEM D-3 AWARD OF CONSTRUCTION CONTRACT, JOB NO. 35-MW-L, KULA WATER SYSTEM IMPROVEMENTS, MAUI.

ACTION Unanimously approved as submitted. (Kealoha/Apaka)

ADDED
ITEM D-4 FILLING OF POSITION NO. 09811, IRRIGATION SYSTEM SUPERVISOR, WAIMANALO IRRIGATION SYSTEMS.

ACTION The board unanimously approved the appointment of Mr. Nobuo Nishida to Position 09871. (Ing/Arata)

<u>ITEM E-1</u>	<u>APPROVAL OF GRANT-IN-AID FOR THE HAWAII NATURE CENTER, INC., OAHU.</u>
ACTION	Deferred. See Page 2.
<u>ITEM F-1</u>	<u>DOCUMENTS FOR CONSIDERATION.</u>
<u>Item F-1-a</u>	<u>ISSUANCE OF REVOCABLE PERMIT TO CITIZENS UTILITIES CO., FOR ENVIRONMENTAL MONITORING STATION, HANAPEPE, WAIMEA, KAUAI.</u>
ACTION	Unanimously approved as submitted. (Apaka/Arata)
<u>ITEM F-2</u>	<u>AMENDMENT TO DIRECT SALE OF REMNANT, OLAA HOMESTEAD RESERVATION LOTS, PUNA, HAWAII.</u>
ACTION	Unanimously approved as submitted. (Arata/Kealoha)
<u>ITEM F-3</u>	<u>STAFF RECOMMENDATION TO RESTRUCTURE LAND TENURE DEMISED UNDER REVOCABLE PERMIT NO. S 5491, KAU, HAWAII.</u>
ACTION	Deferred. See Page 2.
<u>ITEM F-4</u>	<u>DIRECT SALE OF REMNANT, PORTION OF AN ABANDONED RAILROAD RIGHT-OF-WAY, WAIAKEA HOMESTEADS LOTS, SO. HILO, HAWAII (APPLICANT: ROBERT OSHIRO, ET AL)</u>
ACTION	Unanimously approved as submitted. (Arata/Kealoha)
<u>ITEM F-5</u>	<u>DIRECT SALE OF REMNANT, PORTION OF ABANDONED RAILROAD RIGHT-OF-WAY, KAAUHUUHOMESTEADS, NO. KOHALA, HAWAII (APPLICANT: LARRY E. & MARIANNE TAYLOR).</u>
ACTION	Unanimously approved as submitted. (Arata/Kealoha)
<u>ITEM F-6</u>	<u>DIRECT LEASE, WIAKEA, SO. HILO, HAWAII (APPLICANT: HILO AHRC HOUSING CORP.)</u>
ACTION	Unanimously approved as submitted. (Arata/Ing)
<u>ITEM F-7</u>	<u>ASSIGNMENT OF LEASE, TOKIO MIYASHIRO TOMIYASHIRO POULTRY AND HOG FARM, INC., PANAWEA FARM LOTS SUBDIVISION, WAIAKEA, SO. HILO, HAWAII, GENERAL LEASE NO. S-3954.</u>
<u>ITEM F-8</u>	<u>ASSIGNMENT OF GRANT OF EASEMENT, MARK & KIMBERLY P. HILL TO ALAN MAURICE CREED, WAIAMEA, SO. KOHALA, HAWAII, GENERAL LEASE NO. S-5000.</u>
ACTION	Items F-7 and F-8 were unanimously approved as submitted. (Arata/Kealoha)
<u>ITEM F-9</u>	<u>CONVEYANCE OF LAND TO THE CITY AND COUNTY OF HONOLULU, PORTION OF PALI HIGHWAY, FAP NO. BU061-1(6), FROM VINEYARD BOULEVARD TO BERETANIA STREET, HONOLULU, OAHU.</u>
ACTION	Unanimously approved as submitted. (Ing/Kealoha)
<u>ITEM F-10</u>	<u>ACCEPTANCE OF A DEPARTMENT OF THE ARMY SUBLEASE FOR MAUNA KAPU COMMUNICATION STATION SITE, CONTRACT NO. DACA 84-3-88-24, MAKAKILO, OAHU.</u>
ACTION	Unanimously approved as submitted. (Ing/Kealoha)
<u>ITEM F-11</u>	<u>REQUEST FOR AN EXTENSION OF TERM, CONSENT TO SUB-SUB-AGREEMENT OF SALE, AND CONSENT TO ASSIGNMENT OF GENERAL LEASE NO. S-4093, LOT 44, WAIMANALO AGRICULTURE SUBDIVISION, WAIMANALO, KOOLAUPOKO, OAHU.</u>
ACTION	Deferred. See Page 24.

<u>ITEM F-12</u>	REQUEST OF CASTLE & COOKE, INC. FOR PERPETUAL NON-EXCLUSIVE EASEMENT FOR PEDESTRIAN BRIDGE OVER AND ACROSS IWILEI ROAD, HONOLULU, OAHU.
ACTION	Approved as amended. See Page 2.
<u>ITEM F-13</u>	APPROVAL FOR ADOPTION OF CHAPTER 13-222, HAWAII ADMINISTRATIVE RULES ENTITLED "SHORELINE CERTIFICATION".
ACTION	Deferred. See Page 4.
<u>ITEM F-14</u>	DIRECT SALE OF PERPETUAL NON-EXCLUSIVE EASEMENT FOR CONSTRUCTION OF PROTECTIVE WALL AT MAKIKI, HONOLULU, OAHU, TAX MAP KEY 2-5-05:05.
ACTION	Unanimously approved as submitted. (Ing/Kealoha)
<u>ITEM F-15</u>	COUNTY OF KAUAI, DEPARTMENT OF WATER, REQUEST FOR CONSTRUCTION RIGHT-OF-ENTRY AND GRANT OF EASEMENT, KALAHEO, KAUAI.
ACTION	Unanimously approved as submitted. (Apaka/Kealoha)
<u>ITEM F-16</u>	COUNTY OF KAUAI, DEPARTMENT OF WATER, REQUEST FOR RIGHT-OF-ENTRY FOR WELL DRILLING AND TESTING PURPOSES, TAX MAP KEY 1-8-07:10, HANAPEPE, WAIMEA, KAUAI.
ACTION	Unanimously approved as submitted. (Apaka/Kealoha)
<u>ITEM F-17</u>	WESTIN KAUAI REQUEST FOR RIGHT-OF-ENTRY TO PERFORM PERIODIC MAINTENANCE OF KALAPAKI BEACH, NAWILIWILI, KAUAI.
ACTION	Unanimously approved as submitted. (Apaka/Kealoha)
<u>ITEM F-18</u>	LEASE OF OFFICE SPACE FOR THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS, WEST HAWAII DISTRICT OFFICE, KEALAKEKUA, HAWAII.
ACTION	Unanimously approved as submitted. (Arata/Kealoha)
<u>ITEM F-19</u>	RENEWAL OF LEASE OF OFFICE SPACE FOR THE OFFICE OF THE ATTORNEY GENERAL, OFFICE OF NARCOTICS ENFORCEMENT, HONOLULU, OAHU.
ACTION	Unanimously approved as submitted. (Kealoha/Apaka)
<u>ITEM F-20</u>	RENEWAL OF LEASE OF OFFICE SPACE FOR THE DEPARTEMNT OF HEALTH, MEDICAL HEALTH SERVICES DIVISION, AIR POLLUTION SECTION, HONOLULU, OAHU.
ACTION	Unanimously approved as submitted. (Kealoha/Apaka)
<u>ITEM F-21</u>	LEASE OF OFFICE SPACE FOR THE DEPARTMENT OF HUMAN SERVICES, PUBLIC WELFARE DIVISION, SENIOR COMPANION PROGRAM, HONOLULU, OAHU.
ACTION	Unanimously approved as submitted (Kealoha/Apaka)
<u>ITEM F-22</u>	DIRECT SALE OF RECLAIMED (FILLED) LAND AND CONVEYANCE OF EASEMENT AT LANIKAI, KAILUA, OAHU (APPLICANT: GLEN I. PAYTON, JR.).
	Mr. Shimabukuro asked to amend this submittal by adding a Recommendation D. wherein the applicant would be fined \$500.00 for encroaching.
ACTION	Unanimously approved as amended. (Kealoha/Apaka)
<u>ITEM F-23</u>	AMENDMENT OF GENERAL LEASE NO. S-5154 TO HAWAII ECUMENICAL HOUSING CORPORATION TO INCLUDE ON-SITE CHILD CARE SERVICES, OAHU.
ACTION	Unanimously approved as submitted. (Kealoha/Apaka)

- ITEM G-1 FILLING OF POSITION NO. 27299, ABSTRACTING ASSISTANT V, OAHU.
ACTION The board unanimously approved the appointment of Siong Wah Yee to Position No. 27299. (Kealoha/Apaka)
- ITEM G-2 FILLING OF POSITION NO. 15660, ABSTRACTING ASSISTANT V, OAHU.
ACTION The board unanimously approved the appointment of Wil J. Cabatic to Position No. 15660. (Kealoha/Apaka)
- ITEM H-1 CDUA FOR A TELECOMMUNICATIONS FACILITY AT KAMEHAME RIDGE, OAHU.
ACTION See Pages 4-6 and 15-16.
- ITEM H-2 CDUA FOR A TELECOMMUNICATIONS FACILITY AT KOKO HEAD, OAHU.
ACTION Deferred. See Page 15.
- ITEM H-3 CDUA FOR A TELECOMMUNICATIONS FACILITY AT MOKAPU, OAHU.
ACTION Approved as amended. See Page 16.
- ITEM H-4 CDUA FOR A TELECOMMUNICATIONS FACILITY AT PALIKEA, OAHU.
ACTION Approved as amended. See Page 17.
- ITEM H-5 REQUEST FOR TEMPORARY VARIANCE FOR TRAIL CUTTING AND INVESTIGATIVE SURVEY SURVEY AT KAALAEA, OAHU (KULA MANA NURSERY, LTD./DAVID B. BILLS).
ACTION Approved as amended. See Page 17.
- ITEM H-6 AUTHORIZATION TO APPOINT A PUBLIC HEARING MASTER TO HEAR ADMINISTRATIVE RULE AMENDMENTS.
ACTION Unanimously approved as submitted. (Kealoha/Apaka)
- ITEM H-7 CDUA FOR AN AFTER-THE-FACT SEAWALL, FILL, AND PORTION OF A BEACH COTTAGE ON STATE-OWNED LANDS AT HOLUALOA, NORTH KONA, HAWAII (WENDELL, SUE & EVELYN FOO/COMMUNITY PLANNING, INC.).
ACTION See Pages 17-21.
- ITEM H-8 OUT-OF-STATE TRAVEL REQUEST TO ATTEND ESTUARINE RESEARCH RESERVE (ERR) WORKSHOP.
ACTION The board unanimously approved Mr. Robert Lee's request to attend a NERR Workshop at the Padilla Bay (near Anacortes, Washington) from October 3-7, 1988. (Kealoha/Apaka)
- ITEM I-1 APPOINTMENT OF HUNTER EDUCATION INSTRUCTORS, ISLANDS OF OAHU & KAUAI.
ACTION Upon motion by Mr. Kealoha and a second by Mr. Apaka, the board unanimously approved the following appointments:
Oahu -- Jacob A. Rathman and Thomas M. Tanaka
Kauai -- Darline M. Rita
- ITEM J-1 NEGOTIATION OF RENT-A-CAR CONCESSION CONTRACT, WAIMEA-KOHALA AIRPORT, HAWAII (MANINI RENTAL CARDS, INC.).
ACTION Unanimously approved as submitted. (Arata/Apaka)

<u>ITEM J-2</u>	<u>AMENDMENTS TO RENT-A-CAR CONCESSION LEASES, LIHUE, AIRPORT, KAUAI.</u>
ACTION	Unanimously approved as submitted. (Kealoha/Apaka)
<u>ITEM J-3</u>	<u>AMENDMENT NO. 4 TO LEASE NO. DOT-A-84-28, GENERAL LYMAN FIELD, HAWAII (PACIFIC INTERNATIONAL SERVICES CORP.).</u>
ACTION	Unanimously approved as submitted. (Arata/Apaka)
<u>ITEM J-4</u>	<u>APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS (R.P.) 4489, ETC., AIRPORTS DIVISION.</u>
ACTION	Unanimously approved as submitted. (Kealoha/Apaka)
<u>ITEM J-5</u>	<u>ISSUANCE OF A CONTRACT FOR A RESTAURANT AND PARKING LOT, HARBORS DIVISION, KEWALO BASIN, OAHU.</u>
ACTION	Unanimously approved as submitted. (Kealoha/Arata)
<u>ITEM J-6</u>	<u>CONSTRUCTION RIGHT-OF-ENTRY, HARBORS DIVISION, SAND ISLAND CONTAINER FACILITY, OAHU (MATSON TERMINALS, INC.).</u>
ACTION	Unanimously approved as submitted. (Kealoha/Apaka)
<u>ITEM J-7</u>	<u>ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIERS 31-32, TRANSIT SHED, HONOLULU, OAHU (ROBERT WILLIAM LOVE DBA MARINE ELECTRICAL DESIGN).</u>
ACTION	Unanimously approved as submitted. (Kealoha/Apaka)
<u>ITEM J-8</u>	<u>ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KEEHI SMALL BOAT HARBOR, OAHU (CHRISTIAN MISSIONARY OUTREACH SOCIETY).</u>
ACTION	Unanimously approved as submitted. (Kealoha/Apaka)
<u>ITEM J-9</u>	<u>ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 24, HONOLULU, OAHU (HAWAII TUG & BARGE CORP.).</u>
ACTION	Unanimously approved as submitted. (Kealoha/Apaka)
<u>ITEM J-10</u>	<u>CONTINUANCE OF REVOCABLE PERMIT H-87-1426, ETC., HARBORS DIVISION.</u>
ACTION	Unanimously approved as submitted. (Apaka/Kealoha)
<u>ITEM J-11</u>	<u>ISSUANCE OF REVOCABLE PERMIT NO. HY-88-001, HIGHWAYS DIVISION, PORTIONS OF PARCELS 56 AND 96 UNDER VIADUCT OF KEEHI INTERCHANGE, OAHU (CONTAINER STORAGE CO. OF HAWAII, LTD.).</u>
ACTION	Unanimously approved as submitted. (Kealoha/Apaka)
<u>ITEM J-12</u>	<u>ISSUANCE OF REVOCABLE PERMIT NO. HY-88-002, HIGHWAYS DIVISION, MAUKA ARTERIAL, MCCULLY SEPARATION, OAHU (GILBERT P. & BEVERLY J. ANE).</u>
ACTION	Unanimously approved as submitted. (Kealoha/Apaka)
<u>ITEM J-13</u>	<u>ISSUANCE OF REVOCABLE PERMIT NO. HY-88-003, HIGHWAYS DIVISION, PORTIONS OF PARCELS 12 AND 12A OF INTERSTATE HIGHWAY, PEARL HARBOR INTERCHANGE, OAHU (DEPT. OF EDUCATION).</u>
ACTION	Unanimously approved as submitted. (Kealoha/Apaka)

ITEM J-14 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, FORT ARMSTRONG, OAHU
PACIFIC CONSTRUCTION CO., LTD.).

ACTION Unanimously approved as submitted. (Kealoa/Apaka)

ITEM J-15 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KEWALO BASIN, OAHU
(PACIFIC-TMR, DBA KEWALO MARINE).

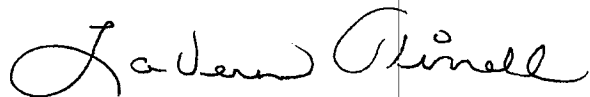
ACTION Unanimously approved as submitted. (Kealoa/Apaka)

ADDED
ITEM J-16 CONSENT TO ASSIGNMENT OF LEASE, HARBOR LEASE NO. H-83-2, KONA FUEL &
MARINE, INC., HONOKOHAU BOAT HARBOR, HAWAII.

ACTION Unanimously approved as submitted. (Arata/Kealoa)

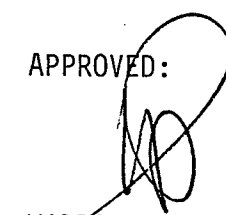
ADJOURNMENT: There being no further business, the meeting was adjourned at 3:50 p.m.

Respectfully submitted,



Mrs. LaVerne Tirrell
Secretary

APPROVED:



William W. Paty
Chairperson

lt