

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

DATE: FRIDAY, OCTOBER 11, 1991
TIME: 8:30 A.M.
PLACE: KEAUHOU BEACH HOTEL
HUALALAI II CONFERENCE ROOM
78-6740 ALII DRIVE
KAILUA-KONA, HAWAII

**ROLL
CALL**

Chairperson William Paty called the meeting of the Board of Land and Natural Resources to order at 9:55 a.m. The meeting was delayed due to lack of a quorum as the airflight of several Board members was delayed. The following were in attendance:

MEMBERS: Mr. Herbert Apaka
Mr. Christopher Yuen
Mr. T. C. Yim
Mr. William Paty

ABSENT & EXCUSED:
Mr. John Arisumi
Ms. Sharon Himeno

STAFF: Mr. Roger Evans
Mr. W. Mason Young
Mr. Ralston Nagata
Mr. Henry Sakuda
Mr. Andrew Monden
Mr. Glenn Taguchi
Mr. Charles Supe
Mr. Peter Hendricks
Ms. Dorothy Chun

OTHERS: Mr. Johnson Wong, Deputy Attorney General
Mr. Peter Garcia, Department of Transportation
Ms. Frances Yamada (Item H-4)
Mr. Lee Holmes (Item H-6)
Mr. Wayne Lu (Item H-6)
Mr. Sam Hall (Item H-6)
The Honorable Virginia Isbell (Item E-1)
Mr. David Fuyertes (Item E-1)
Ms. Charmaine Kamaka (Item E-1)
Mr. Jack Underwood (Item E-1)
Mr. Zachary Kanuha (Item E-1)
Mr. Curtis Tyler (Item E-1)
Ms. Jackie (Item E-1)
Ms. Mary Green (Item E-1)
Mr. Ernest Kanehailua (Item E-1)
Ms. Nora Black (Item E-1)
Mr. Bill Brodbeck (Item H-3)
Mr. Charles Wichman (Item H-2)

MINUTES Minutes of July 26, 1991 were approved as circulated. (Apaka/Yuen)

**ADDED
ITEMS**

Upon motion by Mr. Yuen and a second by Mr. Apaka, the following were added to the Agenda:

Item E-3 Permission to Execute a Memorandum of Agreement for Beach Maintenance Services

Item E-4 Request to Display Manufactured Housing for Legislature's Housing Summit on the State Capitol Grounds

Items on the agenda were considered in the following order to accommodate those applicants and interested parties at the meeting.

ITEM H-4 AMENDMENT REQUEST TO CONSERVATION DISTRICT USE PERMIT KA-2472, WATER SYSTEM IMPROVEMENTS AT KILAUEA, KAUAI, TAX MAP KEY 5-2-1:03; APPLICANT: NAMAHA FARM, INC.

Mr. Evans said that staff is bringing this Conservation District Use Permit back to the Board because there was a technical aspect which remained outstanding. That technical aspect being the requirement to subdivide the land in order for the water tanks to be placed. Staff is asking the Board to formally amend the CDUP to incorporate the idea for a subdivision.

Mr. Apaka asked if the exhibits were the ones submitted originally that indicated the location of the water tank and fencing area.

Mr. Evans said that was correct, the specific area and land in question was taken through the process in the public hearing.

ACTION Unanimously approved as submitted. (Apaka/Yuen)

ITEM H-6 TEMPORARY VARIANCE TO INSTALL A TELEVISION TRANSLATOR, SHELTER AND TOWER FOR A ONE-YEAR PERIOD AT HALEAKALA, MAUI, TAX MAP KEY 2-2-07:05; APPLICANT: KFVE JOINT VENTURE

Mr. Evans made his presentation of Item H-6 recommending that the Board approve the temporary variance subject to the conditions listed in the submittal.

Mr. Apaka asked if there were any other sites available within the complex desired.

Mr. Evans said that there were available sites, but whether they were available to this applicant he did not know.

Mr. Apaka asked if by allowing that applicant a temporary variance on the site, why can't they be allowed to remain.

Mr. Evans explained that by way of the statutes, it says the Board may approve a temporary variance for a period up to one year and so that is not renewable. If it's not renewable, by logic it would mean everything should be removed.

Mr. Yim questioned Mr. Evans on the comments made by Land Management on page 6, "In order to mitigate the impact of the multi-transmitters, plans are

pending for the relocation of all existing commercial transmitters to an area west of the subject parcel. Consequently, the applicant should be forewarned that relocation will most probably be necessary and will be at their expense." According to that statement, after one year they should be gone, they cannot stay there. He asked if that was correct.

Mr. Evans said that he was reading that correctly and the applicant is aware of it.

Mr. Lee Holmes, President of K-5 TV said with him this morning was Mr. Byron McCann, Chief Engineer. He said that Mr. McCann has a composite photograph showing the shelter and area of the site. He then continued to point out the different areas on the composite drawing/photograph. He also had another chart showing the height of the towers. They felt that the design would have no interference to the astronomers.

The Chairperson asked if he had seen and read the conditions. Also did he have any problems with the conditions.

Mr. Holmes said that they had seen the conditions and would like to have some relief on the road assessment if they're going to have to move in a year. He asked if it could be prorated. Should they have the assessment come at the eleventh month and they have to move a month later, they would like to have that on the record that they had asked for some relief in advance. They don't have a problem with the other conditions. They have looked at alternate sites. They do have a movable shelter, the tower can be taken down and the concrete pad broken up and hauled away. They prefer not to move obviously but they do understand the possibility.

Mr. Wayne Lu, Assistant Director of the Haleakala Division of the University of Hawaii Institute for Astronomy addressed the Board. One of their main concerns on Haleakala is that they want to decrease the level of electromagnetic interference at the Astronomical Site within the U.H.'s Science Reserve on Haleakala. Mr. Lu spoke of the different activities they hope to continue on Haleakala and commented on the proposed site as requested by KFVE. He also referred to a 1989 comprehensive research and data analysis relative to radio frequency interference (RFI) levels on Haleakala which was done by Communications Associates. Broadcasters are presently trying to determine what might be the most appropriate steps to take next. Mr. Lu did mention that they are not trying to push anyone off the mountain, rather they plan to definitively identify what the problem is and what might be a solution.

Mr. Sam Hall a communications specialist addressed the Board and talked about interference problems and other sites that were considered.

Mr. Apaka asked Mr. Lu, "What was the RFI reading at the site of the University in the study that was done in 1988-1989?"

Mr. Hall responded saying that what they actually did was measure from 5 different locations, because of the terrain, the average value was something in excess of 6,000 times, were considered an acceptable limit.

Mr. Yim's question was, "If all goes well in all areas timewise, when might that be for the relocation to specifically take place 2, 3, 4, 5 days?"

Mr. Lu said that as soon as they can project that, it would be beneficial because not only are there TV transmitters being proposed but there are other radio stations that want to go up there. There are TV stations that have made applications for the same area. Instead of them proliferating all around and causing further interference and conflict they would like to have this site as soon as possible.

Mr. Yim mentioned that right there are possibly 5 and how many more may be interested.

Mr. Lu said that there are probably 7 more applicants that will apply.

Mr. Yuen clarified that they were not proposing any additional conditions.

ACTION Mr. Yuen moved for approval with the conditions submitted by staff, with one modification, in case the group has to abandon the facility, they will be responsible for only the ordinary road maintenance, this would be Condition 13. The problem that was raised, if they had to move out in 30 days and all of a sudden a big maintenance project begins, they won't be assessed for that. Motion was seconded by Mr. Yim and motion carried unanimously.

ITEM E-1 **RIGHT OF ENTRY FOR THE COUNTY OF HAWAII TO SURVEY A PORTION OF THE OLD KONA AIRPORT STATE RECREATION AREA FOR A PROPOSED CANOE SHED FACILITY, KONA, HAWAII**

Mr. Nagata made his presentation of Item E-1 and gave staff's recommendation that the Board approve the County of Hawaii's request for right of entry to survey lands at Old Kona Airport State Recreation Area for a proposed canoe shed and clubhouse facility with a basic caution for use as compact an area as possible.

Mr. David Fuertes, Deputy Managing Director of the County of Hawaii speaking for the applicant explained some of their goals and objectives for this project to the Board. He said when they were contacted by Representative Isbell they felt it was a fantastic idea. Their office then contacted and invited all the canoe clubs in the area to inform them of the objectives of this project. Out of 6 canoe clubs, 5 came forward to say they needed a place to store their canoes. One club had a long term lease to store their canoes. He felt there were three areas to be addressed. 1) The present site in which three of the canoe clubs are being stored. 2) The canoe club has a need to preserve and perpetuate the Hawaiian heritage. 3) Incorporate a passive park with this canoe shed.

Mr. Fuertes continued to elaborate on the three areas citing different concerns regarding too small an area and unsafe conditions while working on new canoes or repairing of canoes. They feel the canoe sheds need to be preserved and perpetuated and incorporate an educational program. They are looking at 6 to 10 acres as a start where each canoe shed will have a place to store and repair their canoes.

Representative Virginia Isbell addressed the Board and read her testimony into the record. She spoke in favor of granting a right-of-entry to the County of Hawaii to that area of Old Kona Airport Park behind the Events Pavilion and adjacent to the old hangar building. She informed the Board that the legislature has appropriated funds for the construction of canoe sheds and clubhouses for canoe clubs which presently utilize the county buildings. She also mentioned how this will help perpetuate the Hawaiian heritage regarding canoes which brought the ancestors of the Hawaiian people to these shores. She said that the Kai 'Opua Canoe Club has an active program involving the youth and will soon be having classes in paddle making and rigging through the school Kupuna Program. She asked the Board for their favorable consideration of this request.

Mr. Yuen asked how much of an appropriation has been made.

Representative Isbell replied, "\$355,000.00." They have also been assured that the Kulani Prison inmates through their supervisor over there, that they would provide much of the labor to build it so that most of the money would go into materials. They've also received assurances from architects that they would be willing to help us on a very minimal amount hopefully to design it so that it would be in keeping with the area and still be a passive park.

Chairman Paty asked the County representatives what were their plans eventually for the present canoe sheds, the facilities on State property.

Ms. Charmaine Kamaka, County Director of Parks and Recreation said that they would be reroofing those buildings and it would be of general use or recreational purposes.

Mr. Jack Underwood, canoe paddler, member of Kai Opua Canoe Club and also coach of the boy crew also expressed being in favor of this request. He spoke of the international participation of canoe clubs last month. He said that they would like to get about 10 acres for the occupancy of the displaced clubs but also facilitate two other clubs that are looking for a home and future participants. They would need tool shed and maintenance areas and would like office and meeting room areas. Each club would like to have their own individual area and there would be need for parking. The parking area would need to be large enough for a trailer to turn and haul the canoes. Later they would like a common area and maybe a restaurant.

Mr. Underwood mentioned that the present tool sheds are in disrepair and possible fire hazards. He mentioned that the location of the old shed is at the main entrance to the Old Kona Airport area and it has a heavy traffic pattern and is dangerous right now. They would like it moved to a safer area.

Mr. Yuen asked how many canoes were there per club.

Mr. Underwood said that it varied with the amount of membership. The average club has about 8 canoes and maybe up to 12 canoes.

Responding to the Chair's question, he said that there are about 5 canoe clubs involved. Also the 7,000 square feet they are estimating per club would be the

footprint of the building and around the perimeter of the building would be areas to manipulate the canoes and they would like to have storage areas.

Chair Paty commented that the park system would like to have a balance of public uses of the area and be sure that it doesn't become a dominate feature that it becomes known as a canoe park rather than a park for all the people.

Mr. Nagata mentioned that he thought there was one club remaining in the original area and Mr. Underwood clarified that all clubs would be moving.

Mr. Zachary Kanuha of the Kai Opua Canoe Club gave a history of the canoe club back to 1930's. At one time they were located where the Hotel King Kam is today. Now they are looking for a place for a home for the canoe club. He also spoke of how the canoe program could have educational benefits for the young people of the community. He also asked for a favorable decision for the County for a right-of-entry.

Mr. Curtis Tyler, resident of Kona, active paddler, member of executive committee of the Kona Athletic Club speaking on behalf of the club and his family said they were in favor of the County's request for a right-of-entry for the area at the Old Kona Airport. He said that this area represents an excellent area for the proposed canoe clubs facilities and appears to be consistent with the overall planned usage of the park.

Mr. Tyler stressed that canoe paddling is a wonderful activity for children. He is a parent of two children involved in paddling and felt that they needed to look at the onsite and ongoing education that takes place within the paddling community on the daily basis during the season. The prospect of the elimination and the change of use of the existing facility without adequate replacement will create a great hardship for the clubs now utilizing these areas. He ended by saying, "your grant of the County's request for right-of-entry is a crucial first step in the process and I respectfully request your favorable consideration."

Ms. Jackie, secretary of the Kai Hitu Canoe Club said that they are the club that is presently occupying one of the State buildings located at the Old Airport on a month to month permit. With the County and the Legislature helping she felt it is a great opportunity for the canoe paddlers to relocate. On behalf of all the canoe clubs and the paddlers of Kai Hitu, Kai Opua as well as Liliuokalani and Kona Athletic Club she said they hoped that the Board would be in their favor.

Aunty Mary Green, President of the largest canoe club on the island of Hawaii, Kona Kai Opua extended her Aloha. She said that they have over 400 members in their club which include the keikis 9 years old and above. She gave a little background of her family's involvement in the canoe club and spoke of the many, many moves of the club trying to find a suitable location. She said that they were very happy they could work together with Representative Isbell and the County of Hawaii in locating a place at the Old Kona Airport. She gave a background of the many different activities of the canoe paddlers, of their races, regattas and practice sessions which included the majority of the Kona residents. She also ended her testimony with a plea that the Board approve the right-of-entry to the County of Hawaii.

Mr. Ernest Kanehailua, a member of the Queen Liliuokalani Canoe Club presented his testimony in favor of granting the County of Hawaii their request. He said that he felt the State should preserve the native Hawaiian Culture by allocating State lands which is Crown land taken by illegal overthrow of the Hawaiian Kingdom in 1893. He felt the State should aid to perpetuate the culture such as Hawaiian Canoes and Hawaiian or Polynesian construction, as well as a place to store the canoes, hold meetings and educate the community. He agrees that the shed should be of adequate size and looking at 15 acres. He said he would not talk about building as he felt they need the land to begin.

Ms. Nora Black, a member of Kai Opua Canoe Club said she had already heard from six of their members and on behalf of the other members not present and unable to testify, she asked that the Board please grant the right-of-entry to the County.

ACTION Mr. Yuen moved for approval for the right-of-entry to the County of Hawaii. Second by Mr. Apaka, motion carried unanimously.

ITEM H-3 **REQUEST FOR RECONSIDERATION OF FINE IMPOSED ON CONSERVATION DISTRICT USE PERMIT HA-811A, KAHAULOA, SOUTH KONA, HAWAII, TAX MAP KEY 8-3-5:16; PETITIONER: BILL BRODBECK**

Mr. Evans said that this was an item that staff wanted to bring back to the Board's attention. The Board previously acted on a CDUA and at that point in time what the staff recommended and the Board sustained, was a number of fines involved. Subsequent to that, they have had an opportunity to revisit the issue and the result of their revisiting the issue is that they need to acknowledge before the Board that first time around, staff did a lousy job. They failed to fully analyze the question of violation that was before them. Rather, what they did do was take a superficial look that basically said because the charges were there the individual was guilty and therefore fine him. They would like to come before the Board this morning and 1) Set the record straight publically and inform the Board that they will try not to let this happen again and the responsibility they need to be aware, the responsibility for this issue, lies with the administrator of the Office of Conservation and Environmental Affairs. They apologize to the applicant, and 2) the recommendation is to ask the Board based upon this morning's representation by staff to rescind the fines that the Board imposed as a result of staff's recommendation on this applicant.

Mr. Yuen's question referred to the submittal where it said, that the agent produced the verified documents from the County indicating the DLNR approval, the swimming pool was issued and that's exhibit 4. How does Exhibit 4 show that there was DLNR approval?

Mr. Evans said, "I believe it's because these plans which were approved by us, which were approved on this particular set, showed an existing swimming pool."

Mr. Yuen asked, "Would the County's building file show DLNR approval?"

Mr. Evans said, "We did go to the County Building Department and there was a signature on the building permit if I'm not mistaken."

Mr. Yuen referring to the submittal noticed that it said in July 1990 they made an amendment request to the CDUP and they're fined for the swimming pool, jacuzzi, a tile patio, and a pool equipment shed. He asked what were they requesting?

Mr. Evans said that they may have been requesting a time extension.

The applicant, Mr. Bill Brodbeck was present and informed the Board that he was here to answer any questions that they may have.

Mr. Yuen asked Mr. Broadbeck what was the reason for the application that was denied in 1990?

Mr. Broadbeck said that the application was for bedrooms and bathroom additions to the second floor of an existing house.

There was further discussion by the Board with staff regarding where the responsibility lies in a case where an applicant comes before the Board and does not realize there were illegal violations done by the previous landowner. Staff said that if there is a known or alleged violation, they will bring it before the Board and the Board will handle it in most probability on a case by case basis.

ACTION Unanimously approved as submitted. (Yuen/Apaka)

Item F-1-l Issuance of Revocable Permit to Piihonua Camp Corporation, Government Land at Piihonua, South Hilo, Hawaii, TMK 2-6-09:Por. 5

Mr. Young explained the details of the issuance of a revocable permit to Piihonua Camp Corporation.

ACTION Unanimously approved as submitted. (Yuen/Yim)

Item F-1-h Issuance of Revocable Permit to Sankyo Tsusho Co., Ltd. dba Mokuleia Land Company, Government Roadway at Mokuleia, Waialua, Oahu, TMK 6-8-03

Mr. Young made staff's presentation to the Board adding that should the Board approve this item, staff would like to amend the width of the road from 15 to 36 feet wide. He also mentioned that Condition 1. under Recommendation reads, "Permittee shall be responsible for ten (10) percent of the maintenance expense of the subject access road." Staff has been in contact and had discussions with the Division of Forestry and Wildlife and this is how they came up with the 10%. The 10% could be also done by in-kind service, for example, willing to provide equipment and manpower to help clean the road and do some patching.

Ms. Grace Kido, Attorney and agent for the applicant was present together with Jason Kim, General Manager and Larry Agena, Engineer from Belt Collins. Ms. Kido presented a map and pointed out the areas of exchange and she mentioned that Mokuleia Land Company would be responsible for the subdivision.

ACTION Unanimously approved as submitted. (Yim/Apaka)

**ADDED
ITEM E-3**

**PERMISSION TO EXECUTE A MEMORANDUM OF AGREEMENT FOR
BEACH MAINTENANCE SERVICES**

After his presentation of Item E-3, Mr. Nagata answered questions of the Board. Regarding the gates, he said that they open the gates from 9 a.m. to 8 p.m. On the island of Hawaii they've been closing the gates around 8 p.m. They're still trying to work it out with the County people so that the responsibility would be with the State Parks Division of DLNR. Right now the primary work will be trash pick up, keeping the toilet facilities clean and keeping the area clean.

Chairman Paty asked the County Parks and Recreation Director Charmaine Kalama if she had any comments. Ms. Kalama said that she felt this was a good cooperative agreement between the State and the County to provide a new beach for the public.

ACTION Unanimously approved as submitted. (Yuen/Yim)

**ADDED
ITEM E-4**

**REQUEST TO DISPLAY MANUFACTURED HOUSING FOR LEGISLATURE'S
HOUSING SUMMIT ON THE STATE CAPITOL GROUNDS**

Mr. Nagata said that a request had been received by staff from Representative Virginia Isbell to set up, display and remove "sample" manufactured housing on the State Capitol Grounds from October 23 through 27, 1991.

Mr. Nagata said that staff's recommendation was for the Board to approve the request to accommodate the Legislature's Housing Summit, with the understanding that under normal circumstances the grounds are not be used to facilitate commercial product displays.

Mr. Yim asked that as a matter of Board policy over the year's, what other activities has the Board approved for the use of the capitol grounds?

Mr. Nagata replied that generally they have approved small gatherings and things that have been delegated to DLNR like, commemorative trees.

Mr. Yim said that he was referring more to physical structures or activities.

Mr. Nagata said that if any activity were a major function that might create some controversy, basically they have been asked to bring these matters to the Board.

Mr. Yim said that he wondered if the Board would be setting a precedent should the Board approve this request, whether there would be other groups coming in with similar requests. He was concerned that the capitol grounds being such a beautiful place, the Board would be getting more requests.

Representative Virginia Isbell addressed the Board. She said that she understood the concerns just this year the Governor put up a homeless hut on the capitol grounds and the precedent was, it had to do with the homeless and housing issue. She said that she was the chairman of the House Housing Committee and was asked by others within the housing committee. She said there would be a Housing Summit on October 25-26. She said although they

would have all kinds of new ideas to streamline the permit process, many hundreds of ideas would be coming out of these meetings. There were different manufacturers of housing systems that have been contacted and asked if they would have some kind of a demonstration model to model. So far three have responded. The committee is looking at how fast a house can be built with materials of efficient and reasonable costs. They're trying to solve a housing issue and this is just one part of the Housing Summit. They've asked permission to put up some of these models, the smallest ones they have and in an area that does not impact upon the basement of the capitol. It would be put up just before the summit and taken down right afterward. It's mostly to show the State and the people here that there are alternatives to housing and the real nitty gritty will be after the Summit when they start working on legislation.

Mr. Yim commented, "Why must the location be at the State Capitol? Why can't it be on the Ward Avenue section of Neal Blaisdell Center where they did demonstrate a similar kind of housing and/or McKinley High School grounds or elsewhere, why must it be on the State Capitol grounds?"

Representative Isbell responded that the Housing Summit meeting will be held entirely in the Capitol on a tight day and a half schedule and that is the reason they would like to have it on the capitol grounds. She also mentioned that she had received the approval of the Speaker of the House.

Mr. Yim voiced his concerns that it was not the issue of the House Housing Committee, but the concern of being consistent and especially the location of the display. He said that he was only trying to minimize the concern in future Board meetings where the Board would have to make a decision.

Chairperson Paty commented that the concerns were well reflected in the record so that future requests of this nature if they do occur would be answered by conditions of concern.

Mr. Apaka asked Representative Isbell if heavy equipment would be used to erect the sample housing.

Representative Isbell replied, "No." She said that it would not be built over the parking areas and it was one of the requirements that was made very clear, that it must be on solid ground and the smallest model possible about 8' x 12'. Some of these could be used for the homeless homes, instead of the cabins that they're making out of plywood. It's a prototype model to show how they are put together and there will be one that would be brought up in on wheels and taken down and out on wheels. Nothing is really huge and humungus that's going to create a problem. Also they have to leave the lawn the way they found it.

Mr. Yim asked about the clean-up and liability and why it wasn't in the report.

Mr. Nagata responded that it will be in the permit itself. As far as liability, the State will be liable.

ACTION Unanimously approved as submitted. (Yim/Apaka)

CONSERVATION DISTRICT USE APPLICATION (CDUA) TO CONSOLIDATE AND RESUBDIVIDE LANDS IN ORDER TO REALIGN PROPERTY BOUNDARIES AT HAENA, HALELEA, KAUAI, TAX MAP KEYS: 5-9-01:POR. OF 3 (LOT 152) AND 5-9-01:POR. OF 24 (LOT 151); APPLICANTS: CHARLES R. WICHMAN, JR., ET AL

ITEM H-1

Mr. Evans related staff's Recommendation regarding A. Violation:

1. That the applicant be assessed a fine of \$500.00 each for four violations of Chapter 183-41 HRS, and Title 13, Chapter 2 of the Department's Administrative Rules, as follows:

- a. Toolshed
- b. Plastic water tank
- c. New concrete water tank
- d. PVC piping

A total of \$2,000 in fines.

2. Regarding the Application

I. Consolidation and Resubdivision:

That the Board approve the subject consolidation and resubdivision at Haena, Halelea, Kauai subject to the conditions as shown on page 9.

II. Toolshed, Plastic Water Tank, and Concrete Water Tank and Piping:

That the Board deny the toolshed, plastic water tank, and concrete water tank and piping unless compliance with Part A, "Violation," occurs, at which time the toolshed, plastic water tank, and concrete water tank and piping are approved subject to the following:

1. That the toolshed be removed once the new tool storage facility is completed;
2. That the exterior of the plastic water tank be painted to blend in with the environment;
3. That should the applicants seek and obtain approval from the Board in the future for a permanent structure to accommodate the purposes of the plastic water tank, that the existing plastic water tank be removed; and
4. That the applicant comply with the conditions set forth in Section B(I), "Consolidation and Resubdivision" of this submittal.

Mr. Evans informed the Board that the applicant has reviewed the submittal and the Recommendations and there is a revision on page 10 which refers to the wooden base. Staff has no difficulty in adding the wooden base. Looking at the paragraph under II. of the violation, between the words, "plastic water tank,

the wooden base, and concrete water tank" ...

And also on 3. after "that the existing plastic water tank be removed; the wooden base; and"

Chairman Paty asked when were the violations first noted.

Mr. Evans said they were noted during the CDUA process during the last five months. He said that this matter did not come before them as an application as a result of any violation or complaint.

Mr. Apaka asked the applicant when did he have these so called items that are violations.

Mr. Wichman said over a number of years. The wooden toolhouse is a 4' x 8' plywood box is actually somebody's container shipped from the mainland in the mid 1970's. They placed it on the property on the ground. The plastic water tank is a portable tank set on the ground which can be removed at any time. The wooden base they're asking to consider today, would just be a base that the tank would sit on. What happened is we just sat it on the ground and the manufacturer said that was acceptable originally but the weight of the water was causing it to crack underneath so now it needs a flat surface. It wouldn't have any other impact. So that violation actually occurred in 1991 and that plastic tank is simply to provide adequate or reliable pressure for the toolhouse. The other violation was the cement water tank and piping during the early 1980's. The water system needed major repair and at that time the County was approached and we asked if we needed a permit to build the water tank and they said 'no.' But they didn't make it clear at the time that they were in the Conservation District. They wouldn't have needed a County clearance but they would have been referred to the State at that time. The PVC piping actually is on the surface of the ground and there is no trench or anything.

Mr. Wichman said that he agreed with what Mr. Evans was trying to explain that a lot of the issues they have to address or enforce with people doing things without permission. He did say that part of the problem he had was that he inherited the property and most of the violations occurred before he became the owner of the property like the plastic water tank. He said the previous owner was his grandmother and she grew up in this area.

ACTION Mr. Apaka moved that the violation be reduced to \$500.00 total; regarding the consolidation and resubdivision he moved for approval with staff's modification relating to the wooden base and subject to the conditions in the submittal; seconded by Mr. Yim, motion carried unanimously.

ITEM B-1 REQUEST FOR APPROVAL TO ENTER INTO AN AGREEMENT WITH THE UNIVERSITY OF HAWAII, HAWAII COOPERATIVE FISHERY RESEARCH UNIT TO CONDUCT BASELINE STUDIES ON HABITAT RESOURCES AND RECREATIONAL FISH POPULATIONS AT HANAIEI BAY, KAUAI

ACTION Unanimously approved as submitted. (Apaka/Yim)

**REQUEST FOR APPROVAL TO HOLD A PUBLIC HEARING ON
DEPARTMENTAL ADMINISTRATIVE RULES TO ESTABLISH AN OLD KONA
ITEM B-2 AIRPORT MARINE LIFE CONSERVATION DISTRICT, HAWAII**

ACTION Unanimously approved as submitted. (Apaka/Yuen)

**APPROVAL TO AWARD CONTRACT FOR JOB NO. 85-OP-A, REPLACE
ITEM D-1 EXISTING COMFORT STATION, HEEIA STATE PARK, HONOLULU, OAHU**

Mr. Andrew Monden made the presentation of Item D-1.

ACTION Unanimously approved as submitted. (Yim/Apaka)

ITEM E-1 See Page 7 for Action.

**REQUEST TO USE THE IOLANI PALACE GROUNDS FOR A CEREMONY
TO COMMEMORATE THE OVERTHROW OF THE HAWAIIAN MONARCHY
ITEM E-2 ON JANUARY 1893**

ACTION Unanimously approved as submitted. (Apaka/Yim)

**ADDED
ITEM E-3** See Page 9 for Action.

**ADDED
ITEM E-4** See Page 10 for Action.

ITEM F-1 DOCUMENTS FOR BOARD CONSIDERATION

Item F-1-a Issuance of Land Patent in Confirmation Land Commission Award No. 101-B, Apana 1 to Awailua by Application of Helen Von Tempsky, Kupeke, Molokai, TMK 5-7-06:42

Item F-1-b Issuance of Revocable Permit to Landis Ignacio, Government Land at Kekaha, Waimea (Kona), Kauai, TMK 1-2-02:22

Item F-1-c Issuance of Revocable Permit to Manuel H. Andrade, Pasture Reserve C, Kalaheo Homesteads, Second Series, Kalaheo, Koloa, Kauai, TMK 2-3-7:13

Item F-1-d Issuance of Revocable Permit No. 005 by Department of Business and Economic Development to Invader Productions, Inc., Diamond Head Film Facility, Fort Ruger, Waikiki, Oahu, TMK 3-1-42:Por. 9

Item F-1-e Issuance of Revocable Permit No. 004 by Department of Business and Economic Development to J & L Services, Inc., Diamond Head Film Facility, Fort Ruger, Waikiki, Oahu, TMK 3-1-42:Por. 9

Item F-1-f Issuance of Revocable Permit Nos. 92-04 and 92-05 by Department of Health to Special Education Center of Hawaii, Waimano Training School and Hospital, Waimano, Oahu, TMK 9-7-25:1

Item F-1-g Issuance of Revocable Permit Nos. 92-001, 92-002 and 92-003 by Department of Health to Research Center of Hawaii, Waimano Training School and Hospital, Waimano, Oahu, TMK 9-7-25:1

ACTION Mr. Apaka moved for approval of Items F-1-a, F-1-b, F-1-c, F-1-d, F-1-e, F-1-f, and F-1-g as submitted; seconded by Mr. Yuen, motion carried unanimously.

Item F-1-h See Page 8 for Action.

Item F-1-i See Page 8 for Action.

ITEM F-2 **COUNTY OF MAUI REQUEST FOR GRANT OF DRAINAGE EASEMENT AT LAHAINA, MAUI, TMK 4-5-13**

Mr. Young said that this request was from the County of Maui as part of the Front Street Drainage Project in Lahaina, they're requesting a drainage easement. Mr. Young then proceeded to hand out to the Board members a copy of recommended Amendments to Item F-2. On the hand out he asked to cross off B. 7. which was to get a certified shoreline. He said that he had received a communique from the County of Maui and they have received an exemption from the Department of Land Utilization. He also had staff go out to check the site to see if the facility would be mauka of the shoreline.

Mr. Young then recommended that the Board approve the issuing of the drainage easement to the County of Maui subject also to the conditions as follows:

- B. 8. Drainage pipe shall not extend beyond the certified shoreline;
- B. 9. County of Maui shall accept full responsibility for any damage caused by erosion or accept full responsibility for any damage caused by erosion or accretion of the beach area attributable to runoff from the drainage outlet;
- B. 10. County of Maui shall accept full responsibility for maintenance of the beach reserve area directly makai of the drainage outlet, maintaining it in a condition acceptable to the Department of Land and Natural Resources; and
- B. 11. County of Maui shall obtain written approval of the Chairperson on all construction plans proposed on State lands prior to issuance of any "Notice of Proceed" to project contractors.

ACTION Mr. Apaka moved for approval as amended by staff; seconded by Mr. Yuen, motion carried unanimously.

AMENDMENT TO PRIOR BOARD ACTION OF OCTOBER 12, 1990
(AGENDA ITEM F-10), AUTHORIZING WITHDRAWAL FROM EXECUTIVE
ORDER NO. 383 AND CONVEYANCE IN FEE GRATIS TO HAWAII
COMMUNITY DEVELOPMENT AUTHORITY, KAKAAKO, HONOLULU,
OAHU, TMK 2-1-51:POR. 6

ITEM F-3

ACTION Unanimously approved as submitted. (Apaka/Yuen)

ITEM H-1

See Page 12 for Action.

**CDUA FOR THE CONSTRUCTION OF TWO REINFORCED CONCRETE
BULKHEADS AND PIPING WITHIN THE KAHANA TUNNEL, INSTRUMENT
HOUSE, DATA RECORDING AND TELEMETERING SYSTEMS, AND
TEMPORARY HELICOPTER PAD AT KAHANA VALLEY, KOOLAULOA,
OAHU, TAX MAP KEY 5-2-01:01; APPLICANT: DEPARTMENT OF LAND
AND NATURAL RESOURCES, DIVISION OF WATER RESOURCE
MANAGEMENT**

ITEM H-2

Mr. Evans informed the Board that staff's recommendation is for approval subject to the conditions shown in the submittal.

He also informed the Board that staff had received a faxed copy of a letter from the Native Hawaiian Advisory Council this morning. He then read the appurtenant parts to the Board and addressed each part briefly as follows:

1. Allocation of increased tunnel base flow and storage capacity to be developed by the project. The diverted flow, the storage would be used by Oahu Sugar as the primary beneficiary.
2. Regarding the question if consideration would be given to some part of the water be used to reduce the diversion from Windward stream. The answer is 'No.'
3. The fact that the DLNR's Division of Water Resource Management appears to be for the primary benefit of Oahu Sugar, that's a disproved statement on the record. This project is a direct result of a legislative appropriation. The bottom line is that Oahu Sugar would benefit.

Chairperson Paty commented on the flow of water and the water balance and mentioned that there were a number of related uses that would benefit the community and not only Oahu Sugar.

Mr. Evans added that this project that is being done is really a model project. If this project works with the public dollars that the legislature is spending here, then there may be other projects in other areas, not necessarily all on Oahu for the same kind of model if it can prove workable here. They go on to suggest the concern that because the Water Resource Management Division was doing this project, that they may not be able to meet responsibilities assigned to them by the Water Commission on a timely basis.

4. Does the Board have the authority to assess the cost to the beneficiaries, in this case Oahu Sugar, and thereafter apply such funds to programs to

increase staff? Mr. Evans commented that any funds that would come in would go into the State General Fund. By legal foundation, he felt the Board cannot assess the cost to the beneficiaries.

Mr. Andrew Monden of the Division of Water Resource Management said what they're trying to do regarding the project is trying to store the water that has been wasted during the rainy months and then they can close the valves and store the water to use during the year. During the dry months they would be able to open it up and let the water go through to meet the demands of the area.

Mr. Yim asked if they were doing this type of project elsewhere also to capture waste water use for dry months.

Mr. Monden said that this would be the first project of this kind. They would be trying to see if it does work.

ACTION Unanimously approved as submitted. (Yim/Yuen)

ITEM H-3 See Page 8 for Action.

ITEM H-4 See Page 2 for Action.

ITEM H-5 **TIME EXTENSION REQUEST FOR CDUA OA-2441 FOR PROPERTY CONSOLIDATION, RESUBDIVISION, AND SINGLE FAMILY RESIDENCE AT TANTALUS, OAHU, TAX MAP KEY 2-9-55:04; APPLICANT: DR. AND MRS. J. GROBE; AGENT: DON S. KITAOKA**

ACTION Unanimously approved as submitted. (Yim/Apaka)

ITEM H-6 See Page 4 for Action.

ITEM I-1 **APPOINTMENT OF LICENSE AGENT: MORALE, RECREATION WELFARE DEPARTMENT, NAVAL SUBMARINE BASE, ISLAND OF OAHU**

ACTION Unanimously approved as submitted. (Apaka/Yim)

ITEM J-1 **FOREIGN EXCHANGE SERVICES AND BUSINESS CENTER CONCESSION, HONOLULU INTERNATIONAL AIRPORT, OAHU**

ACTION Unanimously approved as submitted. (Apaka/Yuen)

ITEM J-2 **DIRECT SALE OF LEASE OF EASEMENT AT HILO HARBOR, PIER 3, HAWAII (CHEVRON U.S.A. INC., SHELL OIL COMPANY AND UNION OIL COMPANY OF CALIFORNIA (UNOCAL)**

ACTION Unanimously approved as submitted. (Yuen/Yim)

ITEM J-3 **ISSUANCE OF A DIRECT LEASE, HARBORS DIVISION, HILO HARBOR, HAWAII (UNITED STATES COAST GUARD)**

ACTION Unanimously approved as submitted. (Yim/Apaka)

ITEM J-4 ISSUANCE OF REVOCABLE PERMIT BY PUBLIC AUCTION, HARBORS DIVISION, KEWALO BASIN, OAHU

ACTION Unanimously approved as submitted. (Yim/Apaka)

ITEM J-5 CONTINUANCE OF REVOCABLE PERMITS H-87-1426, ETC., HARBORS DIVISION

ACTION Unanimously approved as submitted. (Yuen/Apaka)

ITEM J-6 AUTHORIZING THE DEPARTMENT OF TRANSPORTATION TO DISPOSE OF HIGHWAY AND ROADWAY REMNANTS SITUATE AT HAMAKUALOA, MAKAWAO, MAUI

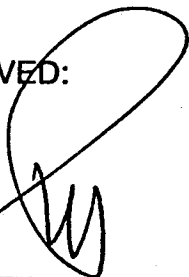
ACTION Unanimously approved as submitted. (Yuen/Apaka)

ADJOURNMENT The meeting was adjourned at 1:05 p.m.

Respectfully submitted,

Dorothy Chun
Dorothy Chun
Secretary

APPROVED:



WILLIAM W. PATY, Chairperson

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