

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

DATE: FRIDAY, FEBRUARY 12, 1993  
TIME: 9:00 A.M.  
PLACE: BOARD ROOM  
KALANIMOKU BUILDING, ROOM 132  
1151 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813

**ROLL  
CALL**

Acting Chairperson John Arisumi called the meeting of the Board of Land and Natural Resources to order at 9:15 a.m. The following were in attendance:

**MEMBERS:** Mr. Herbert Apaka  
Mr. William Paty  
Mr. Christopher Yuen  
Mr. John Arisumi

**STAFF:** Mr. Roger Evans  
Mr. W. Mason Young  
Mr. Gordon Akita  
Mr. Gary Moniz  
Mr. David Parsons  
Ms. Dorothy Chun

**OTHERS:** Mr. Edwin Watson, Esq., Dept. of Attorney General  
Ms. Linnel Nishioka, Esq., (Items F-15, F-2)  
Mr. Peter Garcia, Department of Transportation  
Mr. Roger Harris (Item H-1)  
Mr. Delwyn Ching (Item H-2)  
Mr. Tom Tannery (Item F-12)  
Mr. Ed Morimoto (Items F-3, F-7, F-8)  
Mr. Carl Christensen, Mr. Michael Ebinger,  
Mr. Dexter Dickson and Mrs. Carolyn Sanchez  
(Item F-14)  
Mr. Dan Holmes, Mr. Randall Tong (Item D-4)  
Mr. Paul Matsuo, Dr. James Anthony (Item F-15)  
Mr. Jerry Rothstein, Mr. John Totah  
and Ms. Alfie Fujitani (Item F-2)

**MINUTES**

Mr. Apaka moved that the minutes of January 8, 1993 and January 22, 1993 be approved as submitted. Mr. Yuen asked that it be clarified that in the January 22, 1993 minutes that although the Board approved as submitted Item E-2, the Board approved the recommendation by staff, which was to **deny the request**. With that clarification, Mr. Yuen seconded the motion. Motion carried unanimously.

Acting Chairperson Arisumi announced that Item F-14 regarding the revocable permits will be deferred to the next meeting on Oahu which would be March 12, 1993.

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

**ITEM H-1**

**EXTENSION OF TIME REQUEST FOR CONSERVATION DISTRICT USE PERMIT HA-2252 FOR A UTILITY CORRIDOR AT KAUPULEHU, NORTH KONA, HAWAII, TAX MAP KEY 7-2-03:03; APPLICANT: KAUPULEHU DEVELOPMENTS; AGENT: BELT, COLLINS AND ASSOCIATES**

---

Mr. Evans said that after review, staff was recommending that the board approve this request.

Mr. Roger Harris, representing Kaupulehu Land Company and Kaupulehu Resort project said that this utility corridor CDUA is for the utilities to the resort. The resort has been slowed down but by the ending of July this year things should get better.

**ACTION** Unanimously approved as submitted. (Yuen/Apaka)

**ITEM H-2**

**CONSERVATION DISTRICT USE APPLICATION FOR THE NUUANU LOWER AERATOR WATER TREATMENT FACILITY RENOVATION, NUUANU, OAHU, TAX MAP KEY 1-9-07:2; APPLICANT: CITY AND COUNTY OF HONOLULU, BOARD OF WATER SUPPLY**

---

Mr. Evans explained although this request is a permitted use, staff is bringing it to the Board for approval because the Chairperson has not been delegated by the Board to authorize the approval of a permitted use when government use is involved. After review and analysis, staff is recommending approval.

He said that going through the review, it was discovered that there was work being done on the property which was in conjunction with another CDUA. A well was being drilled and had subsequently been capped properly.

Mr. Evans informed that Board that the well work being done was determined to be in violation. Specifically, the violation involved the completion time. Staff has recommended a \$500.00 fine towards the violation. Rather than presenting two separate agenda items, staff included the violation as a part of the processing of this application.

The Board questioned the time period for completion of project. Mr. Evans explained that the project should have been completed by May 1992 and during the time of inspection in July 1992, the project was still being worked on. The project has since been completed.

Mr. Delwyn Ching, Engineering Branch, City and County Board of Water Supply said that they intended to finish the project on time. He said that they had been granted a one-year extension on July 27, 1990 to start construction but they failed to obtain an extension to complete construction. The project was completed two months past the completion date. He explained that the reason for delay was because the contractor had to go back in to redrill the well because it was crooked and said that it was an oversight that they did not request an extension.

Asked if he had any problems with the fine, Mr. Ching did not voice any objections.

**ACTION** Unanimously approved as submitted. (Apaka/Yuen)

**AUTHORIZATION FOR DIRECT AWARD OF LEASE TO THE YMCA OF KAUAI FOR RECREATIONAL, SOCIAL AND EDUCATIONAL PURPOSES, AND GRANT RIGHT-OF-ENTRY, KAPAA, KAWAIHAU (PUNA), KAUAI, TAX MAP KEY 4-6-14:POR. 26**

**ITEM F-12**

Staff is recommending that the Board authorize the direct issuance of a lease to the YMCA of Kauai and grant a right-of-entry to allow them to obtain the necessary permits from the County of Kauai.

Mr. Tom Tannery, Executive Director for the YMCA on Kauai addressed the Board saying that they've been looking to build a facility for a long time to serve the needs of the people of Kauai. They are planning on having low-cost over-night rooms like they have at Camp Maui, about \$10.00 per night, more for back packers.

Counsel Watson expressed concern on the room rental because generally when the YMCA has a room rental, they have a luncheon snack shop type of operation and that's where the commercial part comes in. The youth hostel types usually has machines rather than a coffee-snack shop operation.

Mr. Tannery said that the subject has not been discussed so far with his board and basically it was more for a room with a key and group bathroom.

Mr. Apaka expressed concern on the landscaping and hoped they would take into account the trees in the front, that they not be removed.

Mr. Tannery said that the space they're using is basically clear grass and there are no trees there. The area where they are is more of a rolling steep hill facing the ocean.

He also said that they haven't started the process of getting permits from the County because they are waiting for a favorable vote from the Land Board. He said that he had already talked to the council members and the mayor and they are aware of what they are doing.

**ACTION** Unanimously approved as submitted. (Apaka/Yuen)

**AMENDMENT TO PRIOR BOARD ACTION OF JUNE 8, 1990 (AGENDA ITEM F-4) RELATIVE TO ISSUANCE OF GOVERNOR'S EXECUTIVE ORDER SETTING ASIDE TO HAWAII HOUSING AUTHORITY LOW-INCOME PUBLIC HOUSING RENTAL SITE AT WAIAKEA, SOUTH HILO, HAWAII, TAX MAP KEY 2-4-52:1, 16, 17, 18 AND 19**

**ITEM F-3**

Mr. Young asked to take up Items F-3, F-7 and F-8 together because they all related in one way or another to the same subject matter.

On Item F-3, staff is amending the executive order so that the payment to OHA will be based on fair market value as determined by an independent appraisal. Twenty percent (20%) of the fair market value to be paid to OHA as a one time payment.

With respect to Item F-7 and F-8, staff is asking the Board to amend the submittal so that it's not a lease but will be by way of a set aside of an

executive order. Again the fee value would be determined by an independent appraisal. Twenty percent of the fee value will be paid to OHA as a one time payment.

Mr. Ed Morimoto, Chief Engineer from the Hawaii Housing Authority said that Mr. Young covered everything and had nothing to add.

**ACTION** Unanimously approved as submitted, Items F-3, F-7 and F-8. (Paty/Apaka)

**ITEM F-7** AMENDMENT TO PRIOR BOARD ACTION OF JULY 26, 1991 (AGENDA ITEM F-19), RELATIVE TO THE DIRECT ISSUANCE OF A LEASE TO HAWAII HOUSING AUTHORITY FOR PUBLIC HOUSING AT WAIANAE-KAI, WAIANAE, OAHU, TAX MAP KEY 8-5-28:POR. 42

See Item F-3 above for action.

**ITEM F-8** AMENDMENT TO PRIOR BOARD ACTION OF JULY 26, 1991 (AGENDA ITEM F-17), RELATIVE TO THE DIRECT ISSUANCE OF A LEASE TO HAWAII HOUSING AUTHORITY FOR PUBLIC HOUSING AT PUUKI, PALAMA, HONOLULU, OAHU, TAX MAP KEY 1-7-44:94 AND 97

See Item F-3 above for action.

**ITEM F-14** RESUBMITTAL--ANNUAL REVIEW OF REVOCABLE PERMITS ON THE ISLANDS OF HAWAII, MAUI/MOLOKAI, OAHU AND KAUAI

Acting Chairperson Arisumi had announced earlier at the onset of the meeting that Item F-14 would be deferred to a later date.

At this time the Board would hear comments or concerns from anyone present regarding the revocable permits.

Mr. Carl Christensen, Esquire of the Native Hawaiian Legal Corporation commented that he was pleased to see that the Board and the department are moving in the right direction. He said that he still had some concerns based on the staff submittal. The explanation of the appraisal as presented in the submittal is very difficult to understand and it appears to suggest that the appraised value is based on some mathematical formula based on the current rent which is often admittedly too low. He suggested that if artificially low rates are to be used for sugar and pine or for any other tenants, that an imputed fair market rent should be calculated and OHA and DHHL entitlements should be based on the computed fair market rent.

Mr. Christensen commented that the practice of putting these lands out on revocable permits to the same person who's on them presently, would mean that someone that might want to use the lands now and willing to pay a higher rent, wouldn't have the opportunity to have a fair shot at using State lands. It gives the current occupant an effective vested interest in staying there essentially forever.

Mr. Michael Ebinger with the Honolulu Polo Club said that they have a permit for approximately 28 acres of land in Waimanalo. He said that the large increase in the monthly rent would pose a problem for their club as they are a

non-profit group and they operate and maintain the 28 acres in Waimanalo and try to keep it as an aesthetic area, nice and neat. There's a stream named Inaole that's important to the Waimanalo community that they maintain between Hihimanu and Kalaniana'ole Highway which was not maintained before. He said that was part of the reason they got the permit, that they maintain the stream and it costs approximately about \$15,000 per year to do that. It is a flood zone and the land is pretty much unusable. They pay rent on a yearly basis, maintain the stream all year, they employ people from the community 12 months a year, but the polo club personally only uses the property six months for the season. They also allow youth groups from Kailua, Waimanalo and windward areas to utilize the property for soccer and other sports.

They have approximately 15-20 members but it varies. The members stable their horses there also.

Mr. Dexter Dickson said that he was with the Luluku Banana Growers and they were present today to ask for an extension on this because they feel they do not have complete access to the properties that are involved.

Acting Chair Arisumi informed Mr. Dickson that the Board is trying to review the revocable permits for the entire State. He also informed him if he were trying to obtain an easement to get in and out of a particular property, that would be a separate issue being discussed. He suggested that he speak to Mr. Young in the Land Management Division regarding an easement.

Ms. Carolyn Sanchez with the Luluku Banana Growers addressed the Board saying that there was another problem that they have from really producing because of the season and production is not up to par. A rental increase would set them back. She was also informed by the board that this problem could probably be reviewed again in March.

**DEFERRED** Mr. Apaka moved that this item be deferred to the next Oahu meeting scheduled for March 12, 1993, seconded by Mr. Yuen, motion carried unanimously.

**ITEM D-4** **AUTHORIZATION TO EXECUTE COOPERATIVE AGREEMENT BETWEEN THE STATE, BOARD OF LAND AND NATURAL RESOURCES AND THE UNITED STATES OF AMERICA, THROUGH THE UNITED STATES NAVY, ISLAND OF KAHO'OLAWA**

Mr. Akita said that staff recommends that the Board authorize the Chairperson to execute the Cooperative Agreement prepared by the Protect Kaho'olawe Fund and other necessary documents pertaining to the project, subject to the Attorney General's approval as to form.

Mr. Dan Holmes, Project Manager for the Protect Kaho'olawe Restoration Project said that he was very pleased to see this movement as it's been a long hard struggle. At this time he presented to the Board an Environmental Assessment done for the project complete with Section 106 clearance from National Advisory Council and Historic Preservation and the State Historic Preservation Division. Basically this explains that they're ready to move.

Mr. Holmes presented a copy of the license agreement that was drafted by the

Navy. He said that it was his assumption that the cooperative agreement which was drafted by the ohana and agreed to by the Navy.

Mr. Yuen asked what funding existed to carryout the restoration of the island.

Mr. Holmes said that there was a \$251,000 grant from the 1989 legislature that is to be done in four increments.

Mr. Akita explained that the appropriation was made over a period of two years. It was \$151,000 in the first year, Fiscal Year 1989-90 and Fiscal Year 1991 there was an appropriation for another \$100,000. The money is encumbered under the grant-in-aid agreement to the fund.

Mr. Randall Tong said that he worked with Mr. Holmes and also wanted to encourage the board's approval. He said that they have been working with the Navy and with Mr. Tagomori's staff.

**ACTION** Unanimously approved as submitted. (Yuen/Apaka)

**AMENDMENT TO PRIOR BOARD ACTION OF DECEMBER 18, 1992 (AGENDA ITEM F-4) RELATIVE TO ACCEPTANCE OF A LICENSE FROM HAMAKUA SUGAR COMPANY, INC. AND SUBSEQUENT ISSUANCE OF A REVOCABLE PERMIT TO HAWAII BEEF PACKERS, INC. FOR OPERATION OF FEEDLOT AND SLAUGHTERHOUSE FACILITY AT POHAKUHAKU AND KEMAU 1ST, HAMAKUA, HAWAII, TAX MAP KEY 4-3-05:POR. OF 2**

**ITEM F-15**

Mr. Young gave a background of what had transpired at the December 18, 1992 meeting under agenda Item F-4.

Because there is a possibility of a settlement staff is recommending several amendments today.

Until the settlement is done there will be a time period as to how do we continue to operate the feedlot and slaughterhouse, allow for the cattle ranchers on the big island to have a facility to take care of the animals. The recommendation today is three fold:

- 1) Authorize the State Department of Agriculture to negotiate on behalf of the State and for the Chairperson to execute and accept for and on behalf of the State of Hawaii, a lease agreement or license between Hamakua Sugar Company, Inc., a Hawaii corporation, as the licensor or lessor and the State of Hawaii.
- 2) Change the permit, as the license to a permit. Allow either the DLNR through the Chairperson or the DOA to issue a permit to Hawaii Beef Packers.
- 3) Ask the Board to approve the set-aside by executive order of the leasehold to the Department of Agriculture. In order to assist Hawaii Beef Packers in providing for an interim revocable permit for the site and to use the revolving fund to assist the Hawaii Beef Packers in operating the slaughterhouse and feedlot, we need to authorize the two actions, which is to enter into an agreement for the lease; secondly to allow us to negotiate a permit and lastly the set aside by executive order of the leasehold. The leasehold will then allow

*Key waste clean-up cost to DOA*

the DOA to use the revolving fund in order to assist the operations of the feedlot when they work out and negotiate the permit with Hawaii Beef Packers.

Discussion followed regarding the land, the setting aside of the land for an ag park, the length of the bankruptcy process and other concerns.

Mr. Paul Matsuo, Administrator of the Agriculture Resource Management Division of the Department of Agriculture asked to comment. He said that the bank required an environmental assessment because now it becomes a public project and also required some surveying to delineate metes and bounds on the property. So that would take some time also.

Mr. Yuen asked if the feedlot was going to stay closed.

Mr. Matsuo said that he understood there was a skeleton staff of 62 permanent and 4 temporary which will be continued to maintain the equipment and keep the area open and as he understood that there are about 196 cattle that's coming in this month. They will try to move the animals out and if not they have to keep them fed. The Hawaii Beef Packers have committed that they will try to keep the feedlot in working condition so that it will not be completely shut down until there is a settlement.

More discussion followed regarding financing, the feedlot, priority in case of default, investigation of hazardous waste on site and other concerns.

Dr. James Anthony, Executive Director of the Hawaii Legal Aid Foundation, a non-profit, Hawaiian culture issues and environmental group said he was appearing before the board in behalf of public interest. He said before he launched into his substantive testimony in this matter, he would like to quickly review some of the matters that have been traversed in the testimony given by representatives of the staff of the department and DOA.

He strongly recommended to the Board that something more than a visual inspection be done with respect to this property.

He said that he had copies of a formal appraisal done for the bankruptcy court that gives a figure for the feedlot at less than five million dollars. He said that in the bankruptcy proceedings Hamakua Sugar values their sugar lands at approximately \$3000 per acre and if the State is going to purchase 500 acres for approximately \$9½ million dollars, we're talking about \$19,000 an acre. He felt the difference was very irregular.

Dr. Anthony continued that he felt that an error was made when the loan was issued and he felt that the December 18th decision that was made by the Board was another error. He suggested to the Board not to make any decision because he felt they did not have sufficient information to make a rational decision.

Dr. Anthony cited concerns on availability of water and electricity when Hamakua Sugar actually closes by the end of March, and said that there has been an investigation done by EPA Region 9.

Dr. Anthony commented that he was not opposed to agricultural parks or land banking on the part of the State but he felt we needed to choose land on the basis of the usual criteria that any prudent businessman would choose land in order to set up an ag park.

He ended by cautioning the Board before they act to be careful to get all the information.

Discussion followed regarding what the situation would be at the bankruptcy court as they would have until March 31st to decide whether they're going to assume or reject those leases. It was assumed they would reject them as the understanding was that the plantation was going to be closing down. If they reject the leases then it would go back to the State. This would be up to Hamakua Sugar but the Bank has a big say in what Hamakua Sugar is doing.

Dr. Anthony added that there is an instrument that was entered into by the State and may have been by Mr. Young's section, that in fact allows the bank to take over these lands until the various leases expire until 2008, to that they will not return to State custody and control even though sugar will not be grown on it after the 31st of March. He added that this was his information.

Counsel Watkins responded that the bank does have the right to assume the lessee's position with the lease until the year 2008. The bank has to continue with the sugar cane operation which they're not into. Or they may have the right to sell it to someone else that's interested in sugar, if sugar is viable. Otherwise it reverts back to the lessor.

More discussion followed on the issue at hand and relation to the bankruptcy court proceedings, possible length of proceedings, issuance of revocable permit or issuance of a lease and approval of an executive order to negotiate a permit to create an ag park.

Mr. Yuen commented that Dr. Anthony did raise some very good questions. He said that he would like to make a motion to allow the process to continue.

**ACTION** Mr. Yuen's motion was to approve as submitted with a time limit of one year on the license, that it be revocable by the State on 30 days notice and that the matter be brought back to the Board with a question of renewal within four months, also to include the amendment that was made by staff. Motion was seconded by Mr. Apaka and carried unanimously.

**RECESS** 11:00am--11:15am

The meeting was called back to order by Acting Chairperson Arisumi.

**ADOPTION OF HEARINGS OFFICER'S FINDINGS OF FACT, CONCLUSION OF LAW AND RECOMMENDED ORDER IN THE MATTER OF THE SHORELINE CERTIFICATION APPLICATION OF ALFIE FUJITANI, KAILUA-KONA, HAWAII, TAX MAP KEY 7-6-17:28 & 40**

---

**ITEM F-2**

Mr. Young went over the chronology of the application for shoreline certification for owner, Alfie Fujitani beginning from October 30, 1990 up to November 20, 1992.

Mr. Young said that as part of the Decision and Order (D and O), part of the attachments provided by the hearings officer is a recommendation that the board accept the findings of the D and O with respect to the certification of the shoreline by Mr. Paul Nuha. Attached are the amendments of Deputy Attorney General Linnel Nishioka to the D and O, also the amendments which are part of the D and O as recommended by the hearings officer. Staff is asking that the Board adopt the hearings officer's Findings of Fact and Conclusions of Law as amended.

Mr. Yuen asked if the Board certifies the shoreline today, how long will it be effective?

Mr. Watson said that he believed that in the submittal, a correction was made to the error on page 3 of the proposed decision which is part of the submittal, that the one year is from the date of certification which was June 23, 1992.

For the Board's information, Mr. Young said that all parties were present today.

Mr. Jerry Rothstein said that he was from Kailua-Kona representing Public Access Shoreline Hawaii (PASH) a local public interest. He then pointed out on a map as to what he felt was the correct shoreline explaining in great detail. Regarding the Findings of Fact, Conclusions of Law and recommended order. He asked to make some comments on this and suggested recommendation of the recommended order. He also read excerpts from his written appeal of shoreline certification where he wished to file his non-concurrence dated December 3, 1992. One area he quoted was, "The use of vegetation line as "shoreline" is favored by the State Surveyor in this case as a matter of "convenience" because "permanent vegetation" can be easily located while "high seasonal surf" is more difficult to establish if the debris line is no longer discernable."

Mr. Rothstein said that his Recommended Order is on page 6 and he asked to read the few lines, The order would read "The Hearings Officer recommends that based on the testimony and the photographic evidence, the shoreline certified on November 23, 1990 and recertified on June 23, 1990 does not reflect the upper reaches of the wash of the waves which do extend further mauka than as certified. Furthermore, that the upper reaches of the wash of waves extends mauka of the narrow Fujitani triangle, onto the abutting mauka property, thereby obliterating the Fujitani triangle and making Ms. Fujitani's request for a shoreline certification moot." He said that was the point he has been trying to make all along.

Mr. Rothstein continued on about certifying of shorelines. He informed the board of two bills currently in the legislature that referred to shorelines.

He stated that all he wanted to see was greater accuracy in shoreline certification.

Discussion followed between the Board and Mr. Rothstein.

Mr. John Totah said that he represented Ms. Alfie Fujitani on this matter and the only thing he wanted to say is that Mr. Rothstein sat here and said that the process is you get a surveyor, then a State surveyor which was done in this

case. They had a regular surveyor and also had the State surveyor, Mr. Kanuha who did the survey on the site.

Mr. Yuen asked the same question of Mr. Totah, "What led you to ask for the certification?"

Mr. Totah said that they were going to construct a house. The house was not going to be built on the sliver but behind the parcel. The County Building Department required them to obtain a shoreline certification even though they weren't going to build on the lot which is technically the ocean lot. They have no plans to build a seawall on the makai property.

Mr. Yuen asked if the debris line is in fact mauka of what's being called the Fujitani triangle in that area.

Ms. Alfie Fujitani said that the general debris line from a normal winter high surf is not beyond that. They have had Hurricane Iniki which had tremendous surf and one other storm two years ago where the waves did come in and washed up a little higher than the vegetation line. That vegetation is very established and has been there for many years. The frontage did not erode or submerge all of a sudden. The frontage is some pahoehoe lava rock which goes way out into the previous designated shoreline. She said that they had lost under the new survey methods, quite a bit of the tide pools and sandy area. There are ~~several acres of land lost out there already.~~ She said that private property owners do deserve to have their land and there should be some set rules, regarding vegetation lines. All this evidence was presented to the hearings officer.

Counsel Linnel Nishioka said that she represented the Department of Land and Natural Resources in this hearing and said she would make some quick comments to some of the things that Mr. Rothstein said.

- 1) Pertaining to the larger policy issues and some of the bills that he has introduced into the legislature, I would say it is outside the scope of this case and while interesting it is something that the Board need not consider.
- 2) On the weight of the evidence, she did not want to reiterate everything that was brought out at the hearing but just to say that there were two surveyors that agreed that the private property surveyor Chrystal Thomas Yamasaki, a registered surveyor and also the State surveyor, Paul Nuha for this case went out personally and certified the shoreline at the place where the hearings officer has now decided to be certified.
- 3) She said that whether that is the starting point for other properties really is germane to this and she felt that the criteria has been a point of discussion but the definition does say that it's usually evidenced by the vegetation line. Also there's some practical and administrative concerns but also as Mr. Nuha testified there's some scientific evidence that shows that the vegetation line is a very good indicator of the upper wash of the waves.
- 4) Mr. Nuha does do field visits for 30% of the shoreline certifications that are done every year. For him to do all of the certifications it would be a full time job and would render him unable to do his other responsibilities.

Counsel Nishioka felt that the great weight of the evidence that was presented at the hearing does support the decision and would ask that the Board adopt it with the exceptions as noted in her concurrence.

**EXECUTIVE SESSION** Mr. Yuen moved for the Board to go into executive session to consult counsel on several issues.  
12:10 -12:17pm

Acting Chairperson Arisumi called the meeting back to order.

Mr. Yuen said that after discussion with counsel he was prepared to make a motion at this time. He did want to make several comments before making his motion. "As Mr. Rothstein said, 'establishing a shoreline is an educated guessing game, it is difficult to establish a hard and fast line.' I feel that it's difficult for us sitting on the board to go against what the hearings officer recommends because we don't have a full hearing and that's the function of having a hearings officer. Mr. Rothstein may be correct in where the shoreline should be. I certainly congratulate him for what he's doing.

"There are couple things that concern me, I do feel the hearings officer should have gone, should have made an on-site visit and I would ask that we instruct our hearings officer when we do have a contested case to make an on-site visit. I don't know what the workload of the State surveyor is like, I don't know whether I would make a request of the State surveyor on each and every case but when there is a contested case I think when we're spending the effort on that, the hearings officer should make the on-site visit.

"The other thing, it seems to me where there's evidence of a debris line put in the record, the hearings officer ought to make a determination as to whether or not that was caused by an unusual storm event that would not qualify that as marking the shoreline."

**MOTION** Mr. Yuen made a recommendation to adopt the proposed Decision and Order and note that we have considered the exceptions to that as filed by Mr. Rothstein.

**DISCUSSION** Mr. Young called attention to the board that some amendments would need to be made with respect to the discussions made today. For example on the third page of the Decision and Order, if it your desire to adopt it where it says, "FURTHER, the shoreline, as certified herein, is effective for one full year beginning from the date of this Decision and Order." As discussed it should be the date of the certified shoreline. Also in the signature block we have board member Sharon R. Himeno and because she's not here we will delete her signature block and should you adopt it we have made the revisions so that the document can be executed.

Mr. Yuen pointed out that there's a statement in the Decision and Order as well, that the board denies the petitioner's untimely request for oral argument. I guess that we are doing that, although we may have had a little oral argument today.

**ACTION** Motion was seconded by Mr. Apaka and to include the amendments. Motion carried unanimously.

**APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT - No. 63-MM-A8, HAWAII ENDANGERED SPECIES FACILITY IMPROVEMENTS, PHASE III, MAUI**

---

**ITEM D-1**

**ACTION** Unanimously approved as submitted. (Apaka/Yuen)

**PERMISSION TO HIRE CONSULTANTS FOR JOB NO. 34-KL-T, IMPROVEMENTS TO STATE-OWNED DITCHES, KAUAI**

---

**ITEM D-2**

**ACTION** Unanimously approved as submitted. (Apaka/Paty)

**AUTHORIZATION TO EXECUTE RIGHT-OF-ENTRY DOCUMENT PREPARED BY CASTLE & COOKE LAND COMPANY FOR THE MOKULEIA EXPLORATORY WELL, OAHU**

---

**ITEM D-3**

Mr. Paty clarified that this issue has also been brought up before the Water Resource Commission (WRC). He asked staff that the information given to the WRC be given to the members of the Land Board also.

**ACTION** Mr. Paty moved for approval of Item D-3 with the request that basic information presented to the WRC be made available to the members of the Land Board on such issues. Motion was seconded by Mr. Apaka and unanimously approved.

**ITEM D-4** See page 6 for Action.

**ITEM F-1 TRANSMITTAL OF DOCUMENTS**

**Item F-1-a** Issuance of Land Patent in Confirmation of Land Commission Award No. 11,216, Akpana 29 to M. Kekauonohi by Application of Chalon International of Hawaii, Inc., Kukulpahu, No. Kohala, Hawaii, Tax Map Key 5-6-01:51

**Item F-1-b** Assignment by General Lease (Access Easement) No. S-4305 Between Eric K. Laride and Durand K. Laride, Assignors, and Theodore Teves, Jr. and David Wearing, as Joint Tenants, Assignees, Waimanalo, Koolaupoko, Oahu, Tax Map Key 4-1-10:85

Mr. Young wished to amend the amount shown for consideration be corrected to read \$214.00 instead of \$214,000.00.

**Item F-1-c** Assignment of General Lease No. S-4330 (undivided 1/4 interest) to Trustees and Assignment of Sale of Leasehold by Agreement of Sale (undivided 1/4 interest) to Trustees, Lot 4, Hilo Industrial Development, Lellani Street Section, Waialae, South Hilo, Hawaii, Tax Map Key 2-2-37:122

On Item F-1-c, Mr. Young explained that Mr. and Mrs. Teho own a 1/4 interest in the lease as well by way of leasehold sale. They want to convey the 1/4 interest in the lease as well by agreement of sale to the respective trust. The top part of the submittal in Item F-1-c needs to be changed. Where you see "Assignee" it should be "Assignor" and where you see "Assignor" it should be "Assignee."

**ACTION** Mr. Apaka moved for approval of Item F-1-a as submitted and Items F-1-b as amended and F-1-c as amended by staff. Seconded by Mr. Yuen, motion carried unanimously.

**ITEM F-2** See page 11 for Action.

**ITEM F-3** See page 4 for Action.

**ITEM F-4** HAWAII ELECTRIC LIGHT COMPANY, INC. REQUEST FOR SECOND AMENDMENT TO PRIOR BOARD ACTION OF NOVEMBER 22, 1991 (AGENDA ITEM F-5) COVERING GOVERNMENT LANDS AT PUUANAHULU, NORTH KONA, HAWAII, TAX MAP KEYS 7-1-02:POR. 1 AND 7-1-03:POR. 1

**ACTION** Unanimously approved as submitted. (Yuen/Paty)

**ITEM F-5** GRANT OF NON-EXCLUSIVE TERM EASEMENT FOR RECREATIONAL PIER COVERING GOVERNMENT TIDAL AND SUBMERGED LAND AT WAILUPE, MAUNALUA, OAHU, TAX MAP KEY 3-6-01:SEAWARD OF 35

**ACTION** Unanimously approved as submitted. (Paty/Apaka)

**ITEM F-6** AMENDMENT OF LAND OFFICE DEED (GRANT OF EASEMENT) NO. 14,448 BETWEEN STATE OF HAWAII, GRANTOR AND HAWAIIAN ELECTRIC COMPANY, INC., GRANTEE, WAIKAHALULU, HONOLULU, OAHU, TAX MAP KEY 2-1-06

**ACTION** Unanimously approved as submitted. (Paty/Yuen)

**ITEM F-7** See page 4 for Action.

**ITEM F-8** See page 4 for Action.

**ITEM F-9** STAFF REQUESTS AUTHORIZATION TO WRITE-OFF UNCOLLECTIBLE ACCOUNT, REVOCABLE PERMIT NO. S-5263 TO KENNETH E. ANDERSON, GOVERNMENT LAND AT KELIKOI STREET, KAAKAUKUKUI, HONOLULU, OAHU, TAX MAP KEY 2-1-60:POR. 8

**ACTION** Unanimously approved as submitted. (Paty/Yuen)

**ITEM F-10** AMENDMENT TO PRIOR BOARD ACTION OF MAY 8, 1992 (AGENDA ITEM F-8) WAILUA MARINA AND RIVER, WAILUA, LIHUE, KAUAI, TAX MAP KEYS 3-9-04:POR. 3 AND 4-2-03:5

**ACTION** Unanimously approved as submitted. (Apaka/Paty)

**ITEM F-11** AMENDMENT TO RENTAL SCHEDULE, GENERAL LEASE NO. S-3863, LOTS 24 AND 25, KOKEE CAMP SITE LOTS, WAIMEA (KONA), KAUAI, TAX MAP KEY 1-4-04:33

Mr. Young explained the rental structure and informed the board that the lessee says they would not be able to afford the new negotiated rent of \$3400 and provide the services of the YWCA which is an eleemosynary organization. They are able to handle the last negotiated rent of \$840.00.

Staff is recommending the minimum rental against 6%, the minimum rental will be 20% of the market, however it will be started off at \$840.00 which they are currently paying.

**ACTION** Unanimously approved as submitted. (Apaka/Paty)

**ITEM F-12** See page 3 for Action.

**ITEM F-13** REQUEST FOR DIRECT LEASE FOR PRE-SCHOOL DAY CARE PURPOSES, LOTS 3 AND 4, BLOCK R, KAPAA TOWN LOTS, KAPAA, KAWAIHAU (PUNA), KAUAI, TAX MAP KEY 4-5-08:11

**ACTION** Unanimously approved as submitted. (Apaka/Yuen)

**ITEM F-14** See page 5 for deferment.

**ITEM F-15** See page 8 for Action

**ITEM H-1** See page 2 for Action.

**ITEM H-2** See page 2 for Action.

**ITEM I-1** APPOINTMENT OF LICENSE AGENT - STRAIGHT SHOOTER, ISLAND OF HAWAII

Mr. Moniz made the presentation for Item I-1.

**ACTION** Unanimously approved as submitted. (Yuen/Apaka)

**ITEM J-1** ISSUANCE OF REVOCABLE PERMIT, LAHAINA BOAT HARBOR, LAHAINA, MAUI FOR TICKET BOOTH SITE (C.R. ROSE CONSULTANTS, LTD.)

**ACTION** Unanimously approved as submitted. (Yuen/Apaka)

**ITEM J-2** ISSUANCE OF REVOCABLE PERMIT, LAHAINA BOAT HARBOR, LAHAINA, MAUI FOR TICKET BOOTH SITE (SEABIRD CHARTERS, INC.)

**ACTION** Unanimously approved as submitted. (Yuen/Apaka)

**ITEM J-3** ISSUANCE OF REVOCABLE PERMIT, HEEIA-KEA BOAT HARBOR, KANEOHE, OAHU FOR OUTRIGGER CANOE STORAGE AREA (KANEOHE OUTRIGGER CANOE CLUB)

**ACTION** Unanimously approved as submitted. (Yuen/Apaka)

**ITEM J-4** ISSUANCE OF REVOCABLE PERMIT, KEEHI LAGOON, OAHU FOR EXPANSION OF EXISTING MOORING FACILITIES (LA MARIANA SAILING CLUB, INC.)

**ACTION** Unanimously approved as submitted. (Yuen/Apaka)

- ITEM J-5**      **ISSUANCE OF REVOCABLE PERMIT, ALA WAI BOAT HARBOR, OAHU FOR CUSTOMER PARKING (T. L. RESTAURANT, INC.)**
- ACTION**      Unanimously approved as submitted. (Yuen/Apaka)
- 
- ITEM J-6**      **ISSUANCE OF REVOCABLE PERMIT, LAHAINA BOAT HARBOR, LAHAINA, MAUI FOR TICKET BOOTH SITE (PIER I ACTIVITY BOOTH, LTD.)**
- ACTION**      Unanimously approved as submitted. (Yuen/Apaka)
- 
- ITEM J-7**      **AMENDMENT TO HARBOR LEASE NO. H-92-12, KAUNAKAKAI SMALL BOAT HARBOR, MOLOKAI FOR REALIGNMENT OF UTILITY LINE EASEMENT (MOLOKA'I ICE HOUSE, INC.)**
- ACTION**      Unanimously approved as submitted. (Yuen/Apaka)
- 
- ITEM K-1**      **GRANT OF EASEMENT, LIHUE AIRPORT, KAUAI (COUNTY OF KAUAI, DEPARTMENT OF WATER)**
- ACTION**      Unanimously approved as submitted. (Apaka/Paty)
- 
- ITEM K-2**      **LEASE - HONOLULU INTERNATIONAL AIRPORT, SOUTH RAMP, OAHU (SHELDON S. H. ZANE)**
- ACTION**      Unanimously approved as submitted. (Paty/Yuen)
- 
- ITEM K-3**      **AMENDMENTS TO RENT-A-CAR CONCESSION LEASES, KEAHOLE AIRPORT, HAWAII**
- ACTION**      Unanimously approved as submitted. (Yuen/Apaka)
- 
- ITEM K-4**      **CONSTRUCTION RIGHT-OF-ENTRY AND DIRECT SALE OF LEASE OF EASEMENT AT NAWILIWILI HARBOR, LIHUE, KAUAI (CITIZENS UTILITIES COMPANY, KAUAI ELECTRIC DIVISION)**
- ACTION**      Unanimously approved as submitted. (Apaka/Paty)
- 
- ITEM K-5**      **ISSUANCE OF REVOCABLE PERMIT, PIERS 25 AND 40, HONOLULU HARBOR, OAHU (YOUNG BROTHERS, LIMITED)**
- ACTION**      Unanimously approved as submitted. (Paty/Apaka)
- 
- ITEM K-6**      **CONTINUANCE OF REVOCABLE PERMITS H-80-879, ETC., HARBORS DIVISION**
- ACTION**      Unanimously approved as submitted. (Paty/Yuen)
- 
- ITEM K-7**      **RENEWAL OF REVOCABLE PERMITS 3726, ETC., AIRPORTS DIVISION - ITO, KOA**
- ACTION**      Unanimously approved as submitted. (Paty/Yuen)

**ADJOURNMENT** There being no further business, the meeting adjourned at 12:50 p.m.

Respectfully submitted,

*Dorothy Chun*  
Dorothy Chun  
Secretary

**APPROVED:**

*John P. Keppeler*  
\_\_\_\_\_  
Chairperson