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

DATE:

April 23, 1993

TIME:

9:00 a.m.

PLACE:

1151 Punchbowl Street Board Room, Room 132

Honolulu, Hawaii

ROLL CALL

Chairperson Keith W. Ahue called the meeting of the Board of Land and Natural Resources to order at 9:05 a.m. The following were in attendance:

MEMBERS:

Mr. John Arisumi Mr. Herbert Apaka Ms. Sharon Himeno Mr. Chris Yuen Mr. Keith W. Ahue

Mr. William W. Paty

ABSENT & EXCUSED:

STAFF:

Mr. Henry Sakuda
Mr. Michael Buck
Mr. Ralston Nagata
Mr. Mason Young
Mr. Ed Henry
Mr. Dave Parsons
Mr. Larry Cobb
Mr. Linford Chang
Ms. Geraldine M. Besse

OTHERS:

Mr. Peter Garcia, Dept. of Transportation

Ms. Linnel Nishioka, Dept. of the Attorney General Mr. Clayton Hee & Mr. Lyle Holden (Item No. B-1)

Ms. Lorna Nishimitsu, Mr. Turk Tokita &

Ms. Lynette Bukh (Item No. E-1)

Mr. Stanley Ishii &

Mr. Steve Menezes (Item No. H-1)

Mr. Jay Deputy (Item No. H-2)

Mr. Dennis Lombardi, Mr. Melvin Fortes &

Mr. Frank Keenan (Item No. H-3) Mr. Vernon Yang (Item No. K-9) Items were considered in the following order to accommodate those applicants and interested persons present:

ITEM E-1: REQUEST THE APPROVAL TO PURSUE A PROJECT TO PLAN, DESIGN, CONSTRUCT AND OPERATE A SNACK BAR CONCESSION AT THE WAIMEA CANYON LOOKOUT, KAUAI

Mr. Nagata stated that this item was originally scheduled for hearing on September 11, 1992, the date Hurricane Iniki struck the islands. At that time the Mayor submitted testimony supporting the staff recommendation to deny the request. Mr. Nagata stated that historically the department and the Division of State Parks have discouraged commercial activity in this area. The proposers, Mr. and Mrs. Carlos Buhk, are requesting direction from the Board on whether the matter should be pursued any further. They have expended effort and funds to prepare information regarding the project. Mr. Nagata stated that the Board's determination will provide guidance for this and other similar proposals. If the determination is favorable, the division asked for appropriate conditions on the facility, goods for sale, and operational controls. While some conceptual planning and design has been done, approval of the proposal would require State funds to further complete planning and design; such funds are currently not budgeted. The schematic drawings showing the proposed structure, floor and site plans, were attached for information. The proposers realize, he said, that any concessions let would be through the competitive bid process for operation and, possibly, for the construction of the facilities.

Mr. Nagata noted that a fax was received from the Kokee Museum asking that should the concession be granted it be integrated into the overall planning for the renewal of the Waimea Canyon Overlook.

In response to a query from Mr. Apaka, Mr. Nagata stated that the department discourages commercial activity in the parks, generally, because there is a tendency for the activity to detract from the ambience of the natural or cultural area. He noted that there are commercial activities on Kauai, such as the marina, the Kokee Lodge, as well as the lodging concession, but these activities are off to the side. He also advised of a commercial activity at Hapuna Beach, which was a special situation where the State, at the time, was seeking a way to provide a revenue source to provide for lifeguard services at Hapuna. There had been a number of drownings and near-drownings.

Mr. Nagata stated that in the schematic design, attempt was made to integrate the building with the same type of construction in the vicinity, namely, the restrooms.

A possible area, he said, was the former canoe building site, although the site needed to be archaeologically checked. The proposers, he said, wanted to place the building adjacent to the walkway atop the lookout area, which raises State Parks' concern of being "right, smack in the middle there." It is a very steep drop-off at the lookout area and with a concession in the area, wrappings, cups, etc., even if placed in containers, would be difficult and hazardous

to retrieve if blown over the edge. He said there could eventually be pressure to increase the size of the parking lot. The toilet facilities are limited, water is limited, and affluent has to be pumped out fairly often.

Mr. Apaka concurred that the debris was a valid concern and needs to be addressed. He said that a snack bar selling hot dogs and hamburgers would not necessarily attract. more visitors there. Mr. Nagata stated that his understanding is that the bulk of the tour buses or vans return to Hanapepe for lunch, possibly as part of a package deal; car renters drive all the way up to Kalalau Lookout.

Mr. Nagata indicated that the sidewalk-parking area was another site butnot a desirable one.

Mr. Arisumi stated in the wake of Iniki that the snack bar might attract more visitors to the area because of the convenience. He thought it was a good project although there were some concerns but felt confident they could be worked out.

Ms. Lorna Nishimitsu and Lynette Bukh appeared before the Board, along with Turk Tokita from Kodani & Kodani Associates, were present. She noted that the park serves a diverse group of people-lessees from the cabins, Boy Scout Campers, tourists, hikers, and others.

Photos before and after the hurricane were shown to the Board and the proposed locations were pointed out. Ms. Nishimitsu stated that one site was to the right of the stairway leading up to the lookout; the other proposed site was off to the right of the restroom area.

Ms. Nishimitsu stated she did not know the reasons for the Mayor's objections to the proposals as she had not seen the correspondence. Mr. Nagata explained essentially that the concern was that it was a park area; however, Mr. Nagata, stated he has not received correspondence since then.

Ms. Nishimitsu stated the concessionaire should be required to service the area, as well as the restrooms. She said it is the turnaround area for tour buses. She said she was informed tht there are no endangered plants or species in the area. Because Waimea is a "must" on day tours additional people would not be coming into the area. Her clients, notwithstanding the risks they take, would like to work with State Parks to design a stand that is not obtrusive or add to any degradation of the area and, hopefully, provide an amenity for both residents and tourists.

In response to a question from Ms. Himeno, Mr. Nagata informed the Board that the next step would be to review the department's concerns, and information needed to be presented to the people of Kauai. Basically, Mr. Nagata stated it appears that the Board would not be adverse to the proposers pursuing the concept.

Ms. Nishimitsu stated that her clients are willing to pay their consultants to work with Parks for the design, which will then be presented to the Board to approve conceptually, assuming there are no irreconcillable differences with the citizens of Kauai. It is envisioned that the concessionaire would construct and operate the concession under a license or permit from the Board. At that point, if selected, her clients would be willing to commit funds for construction so it would not be at taxpayers' expense and would ultimately profit the State.

Mr. Arisumi stated that he personally would not approve construction using State funds because of the State's economic condition and even though Kauai might need the proposed project, education comes first.

Ms. Nishimitsu said that if the concept were approved they were looking for completion in 1995. She noted that prior to that there was need for the bidding process, EA/EIS process, permits, etc.

- Mr. Apaka moved to deny staff recommendation and approve the proposal in concept and recommended staff work closely with applicant regarding the details of the design of the concept. The motion was seconded by Mr. Arisumi and unanimously carried.
- ITEM K-9: AUTHORIZING THE DOT TO DISPOSE OF A PORTION OF HIGHWAY PARCEL 7-A SITUATE AT LOWER KULA ROAD AT KAONOULU, KULA, MAKAWAO, MAUI (GTE HAWAIIAN TELEPHONE, INC.)

Mr. Vernon Yang from GTE was present and explained the need to expand service because of the growth in the area.

ACTION Unanimously approved as submitted (Arisumi/Apaka).

ITEM H-3: AFTER-THE-FACT AMENDMENT REQUEST FOR CDUA HA-1171 FOR LANDSCAPING AND ADDITION TO A SINGLE FAMILY RESIDENCE, KIHOLO BAY, NORTH KONA, HAWAII, TAX MAP KEY 7-1-02:6 & 8, APPLICANT: ANN KEENAN; AGENT: DENNIS LOMBARDI (CASE & LYNCH)

Mr. Henry indicated that the 180-day deadline expires on May 5, 1993. He said the case was heard in Hilo, and two contested case petitions were received and forwarded to the Attorney General's office, which has not issued its opinion. He said that the 180-day deadline can be extended only upon the request of the applicant. To date, the request has not been received. Therefore, the staff recommendation was for denial of the CDUA.

Mr. Dennis Lombardi representing Mrs. Keenan apologized for the lateness of the request for extension. He explained that he had some difficulty reaching Mrs. Keenan; that it was her first experience with this type of situation and, in her view, she has attempted to do

something with her home but a group of individuals seek to take away something she considers to be a very basic right to live in peace. She is very "distraught" over this situation. The distress has caused her severe difficulty in understanding why the matter cannot be resolved more quickly.

Mr. Lombardi also stated that this was not the proper forum for the Sierra Club or Na Ala Hele--that they were not entitled to access and, secondly, technically, it could only be resolved in a court proceeding. He stated he filed a brief with the Attorney General's office and that it was "patently obvious that the proposed intervenors are not entitled to participate in this proceeding."

He stated that initial recommendation by staff was approval with the imposition of the maximum fine for the violations and was prepared to stipulate to the fines.

Mr. Melvin Fortes, Mrs. Keenan's personal representative, informed the Board that the hearing on the 25th was difficult, emotionally and physically, for her, that her personal physician advised her not to attend today's proceeding. Mrs. Keenan's son, Frank, was also present and identified as the "future steward" of the subject property. He said the hardest thing for Mrs. Keenan was that she was "indicted for desecrating property." It was difficult for her to accept that since the Army Corps of Engineers claimed that the alchaline pond was the best maintained pond they had ever seen and asked her how she did it. Mr. Fortes stated that the Keenans had much aloha for the land and recognize the cultural relevance of the property.

He stated that all Mrs. Keenan did was turn the garage into a bedroom so that their grandchildren could use it. It was originally a two-bedroom home but is now a three-bedroom home. The original home approved by the Board, he said was in excess of 7,000 square feet but the present home is barely 2,500 square feet.

He said that if the Board felt uncomfortable making a decision without the AG's opinion, his clients would accept the fine so that when the Attorney General decides on the contested case hearing the sole issues would be the conversion of the garage and allowance of landscaping.

EXECUTIVE Mr. Arisumi moved for executive session to consult with counsel.

SESSION: Seconded by Mr. Apaka and unanimously carried. Board in session from 10:30 to 10:40 a.m.

ACTION

Mr. Yuen moved to extend the time as requested by applicants to July 24, 1993. The motion was seconded by Ms. Himeno and unanimously approved; the matter of fines to remain as part of the total package.

The Chairperson advised applicants' representatives to put the request for time extension in writing immediately, and action would not be taken on the staff recommendation

at this time.

ITEM H-1: CONSERVATION DISTRICT USE APPLICATION (CDUA) FOR THE PIIHONUA CAMP CONVERSION PROJECT AT SOUTH HILO, HAWAII, TAX MAP KEY 2-6-9:5(POR.): APPLICANTS: OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT, COUNTY OF HAWAII AND PIIHONUA CAMP CORPORATION

Mr. Henry requested to amend Condition No. 3f, second to last sentence to identify the reference as being "Condition 3a." He also asked to delete Condition No. 1 for the reason the CDUA is only related to the subdivision and not the sale of the property and that the Division of Land Management would be the more appropriate division to deal with the concerns of the Office of Hawaiian Affairs.

Mr. Stanley Ishii, Hawaii County Office, and Steve Menezes, Piihonua Camp Corporation were present.

ACTION Unanimously approved as amended (Yuen/Himeno).

ITEM H-2: AMENDMENT TO CDUP HA-2354 FOR COMMERCIAL NURSERY-TYPE OPERATION AT KAIWIKI HOMESTEAD LOT, SOUTH HILO, HAWAII, TAX MAP KEY 2-6-11:8; APPLICANT: SUZANNE S. SANXTER

Mr. Henry stated that applicant wrote: "I apologize for not being able to attend this Board meeting of DLNR due to employment commitments, costs, and being in late stages or pregnancy. I hope this letter will be fully considered by the Board. As I understand it, I may be fined for the construction of a culvert without a permit. I would like the Board to consider fully minimizing the fine based on the following.

"Construction of the culvert without a permit was an oversight, as I was not aware it could be considered as a structure. The culvert does not hinder nor change the water flow. It is placed in a small creek that only flows seasonally. The culvert was necessary because no other practical alternatives were possible to get to the house site. It does not result in any adverse impacts to the environment."

Mr. Jay Deputy, a friend representing the applicant, was present.

(Ms. Himeno excused at 11:05 a.m.).

Mr. Yuen moved for approval of staff recommendation and lowering of the fine to \$50 based solely on the record before the Board today. He said it does not affect whether or not there are other violations not before the Board today. The motion was seconded by Mr. Arisumi and unanimously carried as amended.

ITEM J-1: CONTINUANCE OF REVOCABLE PERMIT, ALA WAI BOAT HARBOR, ISLAND OF OAHU FOR YACHT CLUB (WAIKIKI YACHT CLUB)

Mr. Clayton Hee from the Office of Hawaiian Affairs and Lyle Holden of Waikiki Yacht Club concurred with the recommendation. Mr. Hee stated that he is confident that a the issue will be concluded by the end of the year and updated the Board on the status of the engineering study and appraisal.

ACTION Unanimously approved as submitted (Arisumi/Apaka).

ITEM B-1: REQUEST FOR APPROVAL OF TIME EXTENSION FOR SCIENTIFIC COLLECTION PERMIT (SCP) 93-22: COLLECTING FISH SMAPLES WITH ROTENONE ISSUED TO DR. DAVID GREENFIELD, PROFESSOR OF ZOOLOGY, UNIVERSITY OF HAWAII AT MANOA

ACTION Unanimously approved as submitted (Arisumi/Apaka).

ITEM B-2: REQUEST FOR APPROVAL TO SELL FRESHWATER PRAWN SEED TO HAWAII'S PRAWN FARMERS IN 1993

ACTION Unanimously approved as submitted (Arisumi/Apaka).

ITEM B-3: REQUEST FOR APPROVAL TO AMEND AN AGREEMENT FOR CONSULTANT SERVICES WITH THE UNIVERSITY OF HAWAII, SCHOOL OF OCEAN AND EARTH SCIENCE AND TECHNOLOGY, DEPARTMENT OF GEOLOGY AND GEOPHYSICS FOR SEDIMENTOLOGY AND SEDIMENT DYNAMICS RESEARCH AT HANALEI BAY, KAUAI

ACTION Unanimously approved as submitted (Apaka/Arisumi).

ITEM B-4: REQUEST FOR APPROVAL TO AMEND AN AGREEMENT WITH THE UNIVERSITY OF HAWAII, HAWAII COOPERATIVE FISHERY RESEARCH UNIT TO CONDUCT BASELINE STUDIES ON HABITAT RESOURCES AND RECREATIONAL FISH POPULATIONS AT HANALEI BAY, KAUAI

ACTION Unanimously approved as submitted (Apaka/Arisumi).

ITEM C-1: KAHIKINUI FOREST RESERVE CABIN AND TRAIL FACILITIES PROJECT

Mr. Buck stated that this was the first time a line division was asking for approval of permitted uses within the conservation district without going through a CDUA; however, he

asked to withdraw the item to tie up loose ends.

The Chairperson advised that the Board should be briefed on this new procedure.

- ITEM C-2: APPROVAL TO ENTER INTO A MEMORADNUM OF AGREEMENT WITH THE HAWAII DEPARTMENT OF AGRICULTURE (HDOA)
 - ACTION Unanimously approved as submitted (Apaka/Arisumi).
- ITEM D-1: APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT FOR JOB NO. BOR 4172 MAINTENANCE DREDGING AT MALA BOAT LAUNCHING FACILITY, MAUI
 - ACTION Unanimously approved as submitted (Arisumi/Apaka).
- ITEM D-2: PERMISSION TO HIRE SURVEYOR FOR JOB NO. 30-SL-A, DEVELOPMENT OF UNENCUMBERED STATE LANDS ON KAUAI, AND JOB NO. 30-ML-A, DEVELOPMENT OF UNENCUMBERED STATE LANDS ON MAUI

Mr. Chang stated that they are asking for a topo survey on the Maui property for housing. In answer to a question by Mr. Arisumi, Mr. Mason Young stated that he asked the district land agents to identify parcels that had the appropriate zoning and that could be subdivided.

Mr. Arisumi stated that the Keokea parcel is being farmed, with some improvements to the property by the farmer, although the individual was advised at the time of the permit the parcel might be subdivided for housing. Inspite of that, Mr. Arisumi, said, it was difficult to comprehend terminating the farmer's permit when there were other parcels available.

ACTION

Mr. Arisumi asked for deferral. Mr. Young asked whether it was possible just to defer the Maui portion of the item. Mr. Arisumi agreed.

Mr. Apaka moved to approve as amended; seconded by Mr. Arisumi and unanimously carried as amended.

ITEM E-1: See page 4.

ITEM F: DOCUMENT FOR BOARD CONSIDERATION:

ITEM F-1a: ASSIGNEMNT OF GENERAL LEASE NO. S-5041, LOT 86, KOKEE CAMP SITE LOTS, WAIMEA (KONA), KAUAI, TAX MAP KEY 1-4-04-59

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

DIRECT GRANT OF EASEMENT OF PERPETUAL, NON-EXCLUSIVE ITEM F-2: INGRESS, EGRESS AND UTILITY EASEMENT AT KAAO, HAMAUA, HAWAII, TAX MAP KEY 4-5-03:POR. 20

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

STAFF REQUEST AUTHORIZATION FOR PUBLIC AUCTION SALE OF ITEM F-3: GENERAL AGRICULTURAL LEASE COVERING LOT 22, WAIMANALO AGRICULTURAL SUBDIVISION, WAIMANALO, KOOLAUPOKO, OAHU, TAX MAP KEY 4-1-27:20

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

STAFF REQUEST AUTHORIZATION FOR PUBLIC AUCTION SALE OF ITEM F-4: DIVERSIFIED AGRICULTURAL LEASE COVERING LOT 18, HAUULA HOMESTEADS, HAUULA, KOOLAULOA, OAHU, TAX MAP KEY 5-4-14:3

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

STAFF REQUEST AUTHORIZATION TO WAIVE FIRE AND OTHER ITEM F-5: PERILS INSURANCE REQUIREMENT IN STATE GENERAL LEASES AND REVOCABLE PERMITS ON THE ISLAND OF KAUAI

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

CANCELLATION OF GOVERNOR'S EXECUTIVE ORDER NO. 2723 AND ITEM F-6: ISSUE OF NEW GOVERNOR'S EXECUTIVE ORDER FOR RESET ASIDE OF KAILUA WHARF SITE AND SET ASIDE OF KAILUA BOAT HARBOR AND KAILUA-KONA HARBOR AT LANIHAU 2, KAILUA AND KAILUA BAY, NORTH KONA, HAWAII TO DIVISION OF BOATING AND OCEAN RECREATION, TAX MAP KEY 7-5-06:39 AND SUBMERGED LAND FRONTING TAX MAP KEYS 7-5-05 THROUGH 7-5-09

Unanimously approved as submitted (Yuen/Apaka). ACTION

RECONSIDER-

ATION OF

Mr. Arisumi moved to rescind the Board action on this item and to ITEM D-2: approve the recommendation as submitted; seconded by Mr. Apaka and unanimously carried.

RECESS: From 12:05 to 12:10 p.m.

ITEM H-1: See page 6.

ITEM H-2: See page 6.

ITEM H-3: See page 5.

ITEM J-1: See page 7.

ITEM J-2: ISSUANCE OF LEASES BY PUBLIC AUCTION, HONOKOAHU BOAT HARBOR, ISLAND OF HAWAII

ACTION Unanimously approved as submitted (Yuen/Arisumi).

ITEM J-3: ISSUANCE OF REVOCABLE PERMIT, HONOKOHAU BOAT HARBOR, ISLAND OF HAWAII FOR BOAT STORAGE AND PORTABLE OFFICE BUILDING (KONA SAILING CLUB)

ACTION Unanimously approved as submitted (Yuen/Apaka).

ITEM J-4: ISSUANCE OF REVOCABLE PERMIT, HONOKOHAU BOAT HARBOR, ISLAND OF HAWAII FOR HULL REPAIR AND PAINTING OF VESSEL (VIAJERO INC.)

ACTION Unanimously approved as submitted (Yuen/Apaka).

ITEM J-5: ISSUANCE OF REVOCABLE PERMIT, NAWILIWILI SMALL BOAT HARBOR, ISLAND OF KAUAI FOR OFFICE SITE, STORAGE, PARKING AND LAUNCHING OF KAYAKS AND WATER CRAFT (ISLAND ADVENTURE, INC.)

ACTION Unanimously approved as submitted (Apaka/Arisumi).

In response to a question from Mr. Apaka concerning the Hanalei boating situation, Mr. Parsons stated that the boaters need to obtain all the necessary permits in order to obtain a boating permit, and the present DLNR rules only allow for those who have obtained the County SMA permits.

He further stated that there is a egress/ingress corridor in Hanalei River up to Sheehan's Boatyard. But the County has stated that to pick-up and unload in the river mouth an SMA is required because to launch a boat into the river is a development activity which requires an SMA permit.

The County will be deciding who obtains the permits very shortly.

ITEM K-1: OPEN TAXICAB MANAGEMENT SERVICES CONCESSION, HONOLULU INTERNATIONAL AIRPORT, OAHU

ACTION Unanimously approved as submitted (Arisumi/Yuen).

ITEM K-2: LEASE - SOUTH RAMP, HONOLULU INTERNATIONAL AIRPORT, OAHU (JAY D. WHITEFORD DBA AIR SURVEY HAWAII)

ACTION Unanimously approved as submitted (Yuen/Apaka).

ITEM K-3: AMENDMENT NO. 1 TO LEASE NO. DOT-A-90-1, KAHULUI AIRPORT, MAUI (JAMES C. BERRY DBA REPUBLIC PARKING SYSTEM)

ACTION Unanimously approved as submitted (Arisumi/Apaka).

ITEM K-4: APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 5007 AND 5013, HONOLULU INTERNATIONAL AIRPORT, OAHU

ACTION Unanimously approved as submitted (Yuen/Apaka).

ITEM K-5: CONSTRUCTION RIGHT-OF-ENTRY AGREEMENT AND LEASE OF EASEMENT AT KAUNAKAKAI HARBOR, MOLOKAI (YOUNG BROTHERS, LIMITED)

Mr. Garcia asked to amend the subject area of the submittal to: Exclusive easement no. 1, which contains an area of 56 square feet; a non-exclusive underground easement easement 2, containing an area of 54 square feet; a non-exclusive above-ground easement 3, containing an area of 249 square; and non-exclusive underground easement 4, 36 square feet at Kaunakaki Harbor.

ACTION Unanimously approved as amended (Arisumi/Apaka).

ITEM K-6: REQUEST FOR AMENDMENT TO DIRECT SALE OF LEASE OF PIPELINE EASEMENT AT BARBERS POINT HARBOR, EWA, OAHU (THE GAS COMPANY)

ACTION Unanimously approved as submitted (Yuen/Arisumi).

ITEM K-7: REQUEST FOR AMENDMENT TO DIRECT SALE OF LEASE OF PIPELINE EASEMENT AT BARBERS POINT HARBOR, EWA, OAHU (HAWAIIAN INDEPENDENT REFINERY)

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

APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 5017, ETC., ITEM K-8: HILO INTERNATIONAL AIRPORT, HAWAII

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

EXECUTIVE

Upon motion by Mr. Arisumi and a second by Mr. Apaka, the Board was in **SESSION:**

executive session to discuss a personnel matter from 1:00 to 1:30 p.m.

ADJOURN-

There being no further business, the meeting was adjourned at 1:30 p.m. MENT:

(Arisumi/Apaka).

Respectfully submitted,

APPROVED:

KEITH W. AHUE, Chairperson