

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

DATE: FRIDAY, DECEMBER 17, 1993
TIME: 9:00 A.M.
PLACE: BOARD ROOM
KALANIMOKU BUILDING, ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII

**ROLL
CALL**

Chairperson Ahue called the meeting of the Board of Land and Natural Resources to order at 9:00 a.m. and the following were in attendance:

MEMBERS: Mr. Herbert Apaka
Ms. Sharon Himeno (excused at 11:45 a.m.)
Mr. Christopher Yuen
Mr. William Kennison
Mr. Michael Nekoba
Mr. Keith W. Ahue

STAFF: Mr. W. Mason Young
Mr. Roger Evans
Mr. Ralston Nagata
Mr. Michael Buck
Mr. Linford Chang
Mr. David Parsons
Mr. Eric Onizuka
Ms. Dorothy Chun

OTHERS: Dep. Attorney General, Johnson Wong (10:55 am)
Mr. Peter Garcia, Department of Transportation
Ms. Pam Harlow, Ms. Peggy Paty (Item F-10)
Mr. George Lindsey (Item H-13)
Mrs. Momi Lum, Ms. Katherine Nawahine, Mr. Dennis Bumpy Kanahale (Item F-3)
Mr. Al Lewis, Mr. Bumpy Kanahale, Mr. Keliikui Brown (Item F-20)
Mr. Doug Armstrong, Robert Smolenski (Item F-1-e)
Mr. Benjamin Matsubara, Ms. Barbara Smith (Item H-9)
Mr. Michael Moore (Item H-5)
Mr. Mike Belles (Item F-1-c)
Mr. Steve Menezes (F-19)
Mr. Albert Hee, Mr. Benjamin Kudo (Item H-7)
Mr. Jim Lyon (Item F-5)
Mr. Glenn Koyama (Item H-11)
Dr. James Anthony (Item E-4)

Ms. Carol Wilcox (Item J-2)
Mr. Chris McBryde (Item H-4)

MINUTES Mr. Yuen moved for the approval of the minutes of September 24, 1993 and October 8, 1993 as circulated. Mr. Yuen had a correction to the minutes of October 22, 1993 on page 15, 2nd line reads: "we have no reason why this person should build a house there." He said he hoped he said it or he meant to say, "we have no reason why this person should not build a house there." Motion was seconded by Mr. Apaka and unanimously carried.

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

REQUEST FOR DIRECT ISSUANCE OF LEASE TO THE OFFICE OF HAWAIIAN AFFAIRS OF THE WAIALUA COURT HOUSE LOT AND IMPROVEMENTS FOR A COMMUNITY EXTENSION OFFICE AND FOR NON-PROFIT COMMUNITY SERVICE ACTIVITIES, WAIALUA, OAHU, TAX MAP KEY 6-6-09:23

ITEM F-10

After Mr. Young's presentation, Chairperson Ahue asked if anyone from OHA were present. No response.

Ms. Pam Harlow, Program Manager of Haleiwa Main Street said that their organization has been actively involved for approximately five years in renovating and finding an appropriate use for this building. They feel very strongly that the Office of Hawaiian Affairs has a valuable role to play in the community. Regarding the stipulation of OHA's requirement to pay the difference of the necessary funds needed for the renovation, Haleiwa Main Street will work with OHA to provide in-kind donations from the community to help lessen their cost and will try to have the building restored and ready to use.

Chairperson Ahue asked if there were discussions with OHA regarding the rent formula and the administrative fee.

Mr. Young said that there were discussions. They did not accept it but neither did they reject it.

ACTION Unanimously approved as submitted. (Apaka/Kennison)

AMENDMENT TO BOARD APPROVAL OF JUNE 25, 1993, REGARDING AFTER-THE-FACT CONSERVATION DISTRICT USE APPLICATION FOR A PASSIVE PARK, SUBDIVISION, AND SHORELINE ACCESS TRAIL, PUAKEA BAY RANCH, NORTH KOHALA, HAWAII, TMK 5-6-02:042 (APPLICANT: PUAKEA BAY

ITEM H-13 RANCH OWNERS ASSOCIATION; AGENT: GEORGE K. LINDSEY, JR., AND EVERETT S. KANESHIGE

Mr. Evans said that basically they are trying to fix a problem that has arisen because there are two properties, putting them together as one property.

Question arose as to what permits were needed and how much time would be required to do the permits. Mr. Evans said that the major permit, if required would be the SMA. Staff has indicated that there has been some consultation with the Hawaii County Planning Department and no indication whether an SMA is even required.

The following was then discussed: (1) Owners who would quit claim their interest to the State and what it would mean to them and to the State; (2) the old trail and new trail; width of path; and (3) Transfer of the path way.

Mr. George Lindsey said that he was representing the Isaacs and for limited purposes he was also representing the association and authorized to make representations on their behalf. He then answered questions posed by Mr. Yuen and Mr. Apaka.

1) Regarding how much for the subdivision, he did not know either and said that staff was working on that.

2) Regarding the old and new trail, it is their understanding that the old trail which is the mauka trail will remain open for public access until such time as the makai trail is built. In other words, his clients will deed the property to the State and leave the mauka trail open until the makai trail is made safe for passage.

3) With regards to how many owners will not sign, they are unable to tell the Board now because they don't have the final form of the order. He explained the problem that they have several owners who are living on the mainland or Europe and essentially they have done their financing elsewhere, so their banks are not aware of our procedures and process here. It would be in their best interest if they quit claim their interest to the State. It would be in the best interest for the State to have co-owners in this matter because you have someone to share the liability with.

4) Regarding whether or not the trail should be there he believed that at this point the decision has been made and today they are asking the Board to clarify or actually make some corrections as to what was intended. The amendments really are intended to reflect what was discussed and what the Board decided.

5) To clarify the matter about the owners. Mr. Lindsey said that they as an association are not able to certify or guarantee that all owners will quit claim. They can assert and tell the Board now that it would be in their best interest to quit claim, it is in the State's interest for them not to. At either rate the State will be co-owner with whoever is on the property. At this point the State would be majority owner.

Mr. Lindsey wanted to make one quick statement, "My clients have been involved in this matter since 1990 and at the last meeting we asked you for some finality. We believe this Board, everyone on the Board worked very hard for this to happen and at this point again we would like some closure. We don't believe the issue before the Board now is whether or not the trail goes there, I believe that's been decided. We concur with the staff report and everything it says. We're asking that you understand that aside from the legal cost, etc. there's been a tremendous human cost and the need for closure is dire and asking for your approval of this staff report."

Mr. Yuen had a question regarding Condition B. 19. It says the transfer of the makai trail shall extinguish any other claims for trail or access by the State. This was a clause that he believed was rejected the last time and the reason was that nobody could tell him if the State had really looked this question over and in the sense of that they've been dealing with an SMA. The Board has dealt with CDUA's, heard testimony about a coastal access, but do they really know that there is no other claim of the State, i.e. to a mauka-makai access through the properties. Nobody could answer that at that point. He believed that one of the properties had the title quieted. He couldn't remember which one but the title was quieted and at that point the State did give up all claims to that property, except for a five foot wide coastal path. As to the other properties, Mr. Yuen said that he's not sure that the State has actually gone through the process of searching records, searching titles to be able to say there's no other claim.

Mr. Lindsey stated that they disagree as to what the records show as to whether or not this was voted down. He believed it was passed and he recalls it was discussed but he stressed a point that it was not clearly stated at the end of the meeting whether or not that point was passed. He said that the State has chosen the trail and they have agreed. He said that in many places they disagree that it's far more than 10 feet and on top of the ten feet, the State has the right to go in and make it safe if more falls away. He believes that is a significant giving. He said, I believe that we deserve to just be told, okay, you've been through this process, been through hell for four years, we're taking the trail and that's all we're taking. Regardless or not whether a search has been made, as to whether the State has any further interest, we believe the State is taking a fair chunk of it and we should be closed in this matter.

ACTION

Mr. Yuen made the motion to approve staff's recommendation with the amendment to Condition B 19, The transfer of the trail shall extinguish all claims against the applicant, or the Isaacs; on one lot that has been through a quiet title action that the State has been a party. With respect to the other lot, the State extinguishes all claims for lateral access, and the State will notify the landowners of any claims for mauka-makai access with no time condition upon the State for doing so. Motion was seconded by Ms. Himeno. Motion carried with Mr. Apaka voting no, in opposition.

REQUEST BOARD APPROVAL FOR TERMINATION OF REVOCABLE PERMITS AND ISSUANCE OF DIRECT LEASE, WAIMANALO HEALTH CENTER, WAIMANALO, KOOLAUPOKO, OAHU, TAX MAP KEY 4-1-09:279

ITEM F-11

Mr. Young made the presentation of Item F-11. He informed the Board that should they approve the disposition of the lease, staff was asking that the Waimanalo Health Center provide for space within the facility for the Department of Health as well as the Waimanalo Teen Project. Staff is also asking that the rent be free to the sub-tenants as well as allowing the lessees to pass on reasonable charges for utility and maintenance purposes.

Ms. Kawahine Kamakea-Ohelo, Executive Director of the Waimanalo Health Center addressed the Board and introduced Ms. Mabel Ann Spencer, vice president of their board. Ms. Kamakea-Ohelo said they were present today to ask the Board's support in transferring this lease to the Waimanalo Health Center for thirty-five years.

Mr. Young added that the applicant had a concern on condition B 6. and that is for the \$200,000 for two years. He asked on her behalf that the amount be negotiated with the chairman as well as the time period in which to begin construction. Should they have problems in obtaining the funding or getting the mortgage, they may not be able to meet the two years.

ACTION

Mr. Himeno moved for approval with the amendment to Condition B.6 under "Recommendation" revised to have cost of improvements and time frame to construct to be negotiated with applicant. Motion was seconded by Mr. Yuen and carried unanimously.

COUNTY OF HAWAII REQUESTS DIRECT SALE AND CONVEYANCE OF STATE LAND AT PIIHONUA, SO. HILO, HAWAII FOR PIIHONUA CAMP COMMUNITY RENOVATION/CONVERSION HOUSING PROJECT, TAX MAP KEY 2-6-09:POR. 5

ITEM F-19

Mr. Steve Menezes representing the County asked for the Board's support.

ACTION Unanimously approved as submitted. (Yuen/Kennison)

Item F-1-c Issuance of Land License to County of Kauai and Sanifill of Hawaii, Inc., Government Lands at Kekaha, Waimea (Kauai), Kauai, Tax Map Keys 1-2-02:Por. 1 and 1-2-02:35

Mr. Young suggested several amendments to Item F-1-c should the Board approve it:

1. Under "Location and Area" add "Tax Map Key 1-2-02:por. 1".
2. Under "Status" add "and General Lease No. S-4654 to Northrup King Co. through July 31, 2023".
3. Under "Recommendation C.2, C.3, C.5, C.7, C.8, C.11 and C.12", include "Northrup King Co.".
4. Delete Paragraph "E" under "Recommendation" in its entirety.

Mr. Michael Belles, representing Sanifield of Hawaii said that they fully support staff's recommendations.

ACTION Unanimously approved as amended. (Apaka/Kennison)

ITEM H-5 **TIME EXTENSION REQUEST FOR CDUA FOR A SINGLE FAMILY RESIDENCE AT OKOE, SOUTH KONA, HAWAII, TAX MAP KEY 8-9-03:02, APPLICANT: MARGOT SKILLING; CONSULTANT: MENEZES TSUKAZAKI YEH AND MOORE**

Mr. Evans explained that this was a request was under a Contested Case mode. One of the major issues that was brought up by OHA is the location on the property of the kuleana itself. The State surveyor checked the map and has also gone on the property for an on-site field inspection. Staff has not received a formal written response from the State surveyor relative to the on-site inspection but staff can relate to the Board that in communications with the State surveyor, it has been indicated that representations made by the applicant relative to the actual site of the kuleana are in fact, correct. Staff feels that a written report will be received within the time frame of the time extension request.

Mr. Michael Moore representing the applicant supported staff's recommendation.

ACTION Unanimously approved as submitted. (Yuen/Himeno)

TIME EXTENSION REQUEST FOR CDUA FOR AFTER-THE-FACT AND PROPOSED IMPROVEMENTS TO THE HAWAII TROPICAL BOTANICAL GARDEN AT SOUTH HILO, HAWAII, TAX MAP KEY 2-7-09:02; APPLICANT: MR. DANIEL J. LUTKENHOUSE; AGENT: STEVEN S.C. LIM, ESQ., CARLSMITH BALL WICHMAN MURRAY CASE MUKAI & ICHIKI

ITEM H-8

Mr. Evans informed the Board that the State surveyor has been asked to locate the paper road in question. The State surveyor has not submitted a report as yet, thus staff feels under these circumstances the request is reasonable.

Mr. Steven Lim, representing the applicant, said that they have been in informal contact with the State surveyor's office and their surveyor. The purpose of the survey was to determine whether any of the improvements of the garden encroach on the State roadway.

For the record, Mr. Lim asked that the Board process the minor improvements requested under the existing conditions 22 and 23 of the CDUA HA-1447. That basically delegated to the Chairman the ability to process the improvements.

Mr. Evans reminded the Board that the only request before them today is the request for the 90 day extension.

Mr. Ed Johnston, private citizen wished to address the Board and he read his testimony into the record. (A copy has been placed in the Departmental Board Folder.) His testimony reflected on the use of the government road and the substantiations of his original claim in the Contested Case Petition that there were historic sites in the garden. He concluded by saying that he had no objection to the time extension.

Mr. Evans added that there's more to opening up a road and determining if it were public than just going out and staking something. He said that in this particular case, the people involved are the State surveyor and because of potential, legal ramifications, the State Department of the Attorney General is also involved.

ACTION Unanimously approved as submitted. (Yuen/Himeno)

APPROVAL IN PRINCIPLE TO LAND EXCHANGE BETWEEN STATE OF HAWAII AND CHALON INTERNATIONAL OF HAWAII, INC. AT NO. KOHALA, ISLAND OF HAWAII, RELATING TO KOHALA HISTORICAL SITES STATE MONUMENT, TAX MAP KEYS STATE-OWNED 5-6-01:1 AND 35, AND CHALON INTERNATIONAL-OWNED 5-5-05:2 (POR.), 4, 14, 16 (POR.), 17, 18, AND RAILROAD RIGHT-OF-WAY AND 5-6-01:20 (POR.) AND 27 (RAILROAD RIGHT-OF-WAY)

ITEM F-3

Mr. Young said that a public informational meeting was held on the Big Island in Waimea with respect to the proposed exchange between the State of Hawaii and Chalon.

Mr. Young said that he had received a letter from Chalon this morning and he proceeded to read the letter to the Board. In the letter Chalon International informs the Board that they would not be present at the Board meeting but they support the submittal as written with the understanding that it would be verbally amended to include a right-of-entry. Should the Board agree with the land exchange in principle, they have consented to do the environmental assessment as well as all the necessary tests, such as engineering the soils and subdivision and would need a right of entry.

In the second paragraph, it also states that Chalon is processing a refund of \$12,000.00 to Mrs. Lum even though, legally this money was forfeited when she failed to come up with the balance as agreed. However, they are willing to give this \$12,000.00 without interest. Mr. Young said that the matter of the refund is strictly a matter between Chalon and Mrs. Lum and should not be considered a matter for the land exchange.

Discussion followed.

Mrs. Momi Lum testified that in view of the memorandum from Chalon dated December 16, 1993 to DLNR, she asked that action on this matter be deferred until the foundation is specifically able to digest the whole thing. She disagrees that the Chalon memo does not address the easement.

Ms. Katherine Nawahine of the Ohana Council, representative of the North Kohala District addressed the Board and said that they were also requesting that any decision to be made be deferred. She said that their group has not seen any memos or letters and had not received any public notices of any meetings regarding this land transfer. She said that she understood that there was a bill passed in through the House of Representatives, 103, Congress First Session Bill 2295, Sections 24 and 25 state that "Indigenous peoples are to be included in the decision making process with regards to their lands, natural resources, civil and political rights and to my knowledge there has been no confirmment with us or my group with regards to the land transfer. The Ohana Councils of the island of Hawaii and North Kohala request a deferment and we also request that future meetings be held on our island so that the community has a chance to be involved in the process."

At this point, Mr. Young informed her that a public hearing was held in Waimea.

Ms. Nawahine said that they received a notice of that meeting but felt it was too short of a notice and they had not had any kind of communication from Chalon.

Mr. Bumpy Kanahale of the Oahu Ohana Council addressed the Board saying that he was present to support the North Kohala Ohana Council.

Dr. Jim Anthony said that he has been in touch with Kate Nawahine and he supports the request for deferment. He felt that on such important matters as land transfer that decision-making should be held within the confines of the affected community on that island for community participation.

Chairperson Ahue asked Mr. Young if there would be a problem in deferral relative to the Act. Mr. Young said that the Act has mandated the department with respect to the monument, to establish it and his understanding in talking to the author of the Act was that the time frame follows this to get through not this session but the session following and with all the things that needed to be done be done this year, i.e. subdivision of the land, environmental assessment and appraisal and presented to the legislature in 1995.

Mr. Young informed the Board that there were numerous hearings held when Act 166 was introduced in the legislature. It was the intent of the legislature as well as the legislative people from the island to inform the people. Chalon also put out a publication that informed everyone. Staff also spoke to people in the community and it was decided to have the public hearing in Waimea. There were only about 1/2 dozen people who appeared to testify at the informational meeting.

Mrs. Lum commented that there was a meeting last week and she thought everything had been ironed out and now she sees the memo received this morning.

Ms. Nawahine commented on the size or acreage that Chalon wants to transfer to the State and what the State would transfer. She inferred that the master plan for that acreage is in Phase III, and involved ag lots. She said that they were asking deferment so that they could hold another series of community meetings, education with regard to the environmental impact statement and the fact that 77 of the 154 archaeological sites will not be preserved.

Chairperson reminded Ms. Nawahine that the department was responding to a specific mandate from the legislature which includes only certain areas.

Mr. Kanahale said, "Just would like to remind the Board again that Act

359 which was passed this year in July, guarantees the Hawaiian people a nation, that's a guarantee. It just depends on how we're going to build this nation. The apology bill, Senate Joint Resolution 19 which was just passed recently, maybe four weeks ago, it also implicates the complicity with the United States and the provisional government at that time. So that only shows us that a wrong has been done and an empire has been built on the wrong. I just like to put this on record so that it shows that as we keep going and transferring land and all this kind of stuff, they're still perpetuating the wrong. So I just would like to put that on the record."

Mr. Yuen said that he had no difficulty in deferring this because as a practical matter, the land exchange will not be finalized until it goes to the State legislature in the 1995 session even if approved in principle today. Usually the purpose of having an agreement in principle is to signal to all the parties that we are intending to move forward with the deal. He mentioned that there is a feeling of frustration at deferring this today because it would mean that everything comes to a stop. The purpose of this exchange is to preserve forever these very important Hawaiian sacred places or sites by the direction from the State legislature. There was a public hearing in Waimea to hear any comments and aside from Mrs. Lum's concern about her easement, which is a valid concern and one that the Board can deal with before the final land exchange, he did not hear anything adverse at the hearing about doing the land exchange.

Mr. Yuen suggested that he would urge everyone who has concerns, do your homework about the exchange, find out what it really involves and if you have objections to what is being exchanged then let us know about that. He stressed that they should know what the purpose of even doing this exchange is so that they can solve the problems that have been raised.

As far as the Chalon development, this exchange does not mean that Chalon can go ahead and develop. They have their zoning process with the County of Hawaii and it is the county's decision. The State is trying to acquire the property around the heiau so that the State can protect it.

MOTION Mr. Yuen moved that this item be deferred.

DISCUSSION Mrs. Lum asked for clarification that should the Board approve this in principle today that this is only the beginning and that she, Chalon and the State would work it out and would have to come back to the Board anyway.

Mr. Yuen said, "If we approve in principle today, there would still be a final Board action to finalize the exchange and the legislature also has a chance to reject it."

Mrs. Lum then concurred with approval in principle with the State working together with her and Chalon.

Mr. Young said that he could not speak for Chalon who had sent the memorandum that was received this morning.

Mr. Young suggested that this item be approved in principle explaining that everyone concerned here as well as in the community will have an ability to review the environmental assessment. Staff will have to do an appraisal and the subdivision which will require coming back to the Board for approval. Should the Board defer this matter, staff will not be able to proceed.

Mr. Kanahale voiced his opinion that this should be stopped. He felt that there was a more serious problem than just protecting the heiau. He said, "I'm just bringing out to light again that the Hawaiian people are ready to become a nation, so we should protect ... that if anything more so."

ACTION Mr. Yuen said that he would like to change his motion to approve this in principle with the understanding that this is an approval in principle with and that there will be a final action and there will be consultation.

(He said that he understood the concerns that are being raised. He said that he hoped that everyone understands that when there is an exchange by the State involving ceded lands, the lands that the State acquires take on the status of ceded lands by law so that there is no loss to the public land trust of the State by doing that.)

Mr. Apaka seconded the motion. Mr. Yuen then recalled that staff had suggested an amendment that under "Recommendation" add paragraph granting Chalon International of Hawaii, Inc. right of entry for purposes of conducting flora, fauna, surveying, and other related activities necessary to prepare the environmental assessment and obtain consolidation/resubdivision approval in conjunction with the proposed land exchange, subject to grantee indemnifying and holding harmless the State of Hawaii.

Motion was changed to include the amendment and seconded by Mr. Apaka. Motion carried unanimously.

**AMENDMENT TO CHARACTER OF USE PROVISION CONTAINED IN
GENERAL LEASE NO. S-5207 TO RANDOLPH F. SOLOMON DBA
KOHALA FARMS AT OPIHIPAU-HUKIAA GOVERNMENT TRACT,
SECTION A, OPIHIPAU AND HUKIAA, NO. KOHALA, HAWAII, TAX
MAP KEY 5-5-03:4, 5 AND 6**

ITEM F-2

After his presentation, Mr. Young asked that should the board approve

this request, that they include an amendment, under "Recommendation" add condition requiring consent of security interest holder in the leasehold.

Mr. Randolph Solomon, applicant had nothing to add but stated that he would answer any questions by the Board.

Mr. Yuen asked Mr. Solomon about his being in hay production.

Mr. Solomon explained that he was engaged in hay production in 1980's. During the latter part of the 80's there was an over production of milk and the federal government offered an incentive to farmers throughout America to reduce their herds and this created a tremendous surplus of alfalfa/hay in America and was shifted to Hawaii. Prices were then reduced and farmers here had a hard time competing.

ACTION Unanimously approved as amended by staff. (Yuen/Himeno)

**AMENDMENT TO PRIOR BOARD ACTION OF SEPTEMBER 24, 1993
(AGENDA ITEM F-8) RELATIVE TO THE ISSUANCE OF A
REVOCABLE PERMIT TO SAVE A NATION FOUNDATION, INC.,
GOVERNMENT LAND AT WAIMANALO, KOOLAUPOKO, OAHU, TAX
MAP KEY 4-1-08:46 AND 72**

ITEM F-20

Mr. Young made the presentation of this item and explained the reasons for the amendment to prior board action. Staff is asking the Board to consider the termination of a permit for the Hinalea and Hilu Streets area and the withdrawal of some 2 acres from the permit to the Waimanalo Teen Project which is under Revocable Permit No. S-5870; then approve the amendment of a prior Board action to designate the Waimanalo Teen Project area as a site for the transitional housing to move from Hinalea and Hilu Streets to this particular site.

Mr. Bumpy Kanahele of Save A Nation Foundation, Inc. said that these two parcels have been relatively delayed due to acquiring permits for transitional housing in the staging area. He said that because these areas have been designated being in flood zoned lands, they needed to be filled in before any work could begin. They decided to continue working on necessary paper work for this land that could be used for transitional camping facilities but flooding is a major factor. They are talking about TMK 4-1-08:por. of 46 and 72. They would like to recommend that this land be retained until the necessary permits can be acquired for the other parcels. He said that he had meetings with the Teen Center executive and everything is okay. He said that he agreed with what's going on as long as they can reserve the right on the four acres that they're going to leave right now so that they can bounce back on something.

Chairperson reminded him that would be as long as permitting problems could be worked out.

Mr. Al Lewis, Waimanalo Teen Project said that he was present today with several members of the Waimanalo Teen Project Board. He said that they are in favor of the proposal before the Land Board today. He said that they would also like to voice some of their concerns to the Board. He said that they were on the verge of a campaign building fund. They have committed funding in the neighborhood of \$1.5 million dollars for the project. They are concerned as they are on a month to month lease and would not want the Board to keep chopping away from the small piece of property that they have. A number of years ago they gave up a sizeable amount of the property to the Jobs Corp. in the community who are now on the verge of building a new facility.

Chairperson Ahue thanked the Waimanalo Teen Project for their cooperation in this complex matter. He informed them he did not know if it were proper to address their concerns at this time as it is not on the agenda.

Mr. Lewis said that they were notified of this submittal last Tuesday and Wednesday. They were not part of the process originally and they now feel it is important for them to participate or they might be swept under the carpet. He feels that the Teen Project and the Ohana Council can work things out.

Mr. Kanahale said that he grew up in this area and fully supports the Teen Center as long as it is open to the entire community.

Mr. Lewis responded that the Teen Project has always been open to the entire community regardless of race, color or creed. When completed they feel it will be a facility the community can be proud of.

Mr. Keliikui Brown of the Ohana Council wanted to add to the discussion of the two acres. The other four acres that they had the possibility of acquiring, they would like the same conditions for these two acres. As a transition they have had to incorporate this transition project to incorporation of the three lots on the ag property. Working through the permitting process, they had discussions of getting funding and the need for a lease at a minimum of five years in order to get started.

It was clarified that they were asking for the 5 year lease on the upper section to get the loan to begin work on the lower section.

Ms. Dona Hanaike clarified for the Board that the City and County will not allow for transitional housing unless it is on a five year commitment. Besides the mortgage, it reflects onto the zoning and unfortunately DLNR

cannot give a lease because it is not a legal lot but you can allow a year to year revocable permit and somehow that needs to be worked out.

Mr. Young renumerated the proposed amendments:

1. Expedite the lease for the mauka section;
2. Allow them to get the two acre piece from the Teen Project; in order for them to comply with the county zoning, have the Board commit to DLU by way of a letter to 5 or 6 years for that site so that they can start building the transitional housing.
3. Delete A under Recommendation;

ACTION Mr. Apaka moved for approval with the amendments renumerated by staff:

1. Delete Paragraph A under Recommendation.
2. Under Paragraph C of Recommendation, add the following:
 - a. Revocable Permit to be for two (2) acres covering Tax Map Key 4-1-09:por. of 1.
 - b. Save-A-Nation Foundation, Inc. shall vacate Tax Map Key 4-1-08:pors. of 46 and 72 upon obtaining permits for construction and occupying of Tax Map Key 4-1-09:por. 1.
 - c. Authorize the Chairman to transmit a letter of commitment to C&C of Honolulu, DLU for a 5-year commitment to Save-A-Nation Foundation, inc. to build transition group housing on Tax Map Key 4-1-09:por. of 1.
 - d. Grant to Waimanalo Teen Project first option to the above-described 2-acres (Tax Map Key 4-1-09:por. 1) when Save-A-Nation Foundation, Inc. vacates said area.
 - e. BLNR will reconsider nominal rent for Waimanalo Teen Project covering their proposed lease on Tax Map Key 4-1-09:1.
 - f. All other terms and conditions of September 24, 1993 under agenda Item F-8 pertaining to the issuance of a Revocable Permit to Save-A-Nation Foundation, Inc. shall remain the same.

Motion was seconded by Mr. Kennison and motion carried.

Item F-1-e Sublease of General Lease No. S-5265, King Broadcasting Company, Sublessor, and KFVE Joint Venture, Sublessee, Covering Television Translator Facility Site at Humuula, No. Hilo, Hawaii, Tax Map Key 3-8

Mr. Young related the reasons for the sublease to the Board.

Mr. Doug Armstrong, General Manager of King Broadcasting and his attorney, Mr. Robert Smolenski were present today. Mr. Smolenski responding to Mr. Yuen's question said that the time brokerage agreement provided for this site subject to the lease being obtained. They didn't do any construction on the site obviously until the lease was bid out. This was something that K-5 had applied before. There was a CDUA and the use was approved. Then part of the time brokerage agreement was that K-5 would construct the facility but that King would pay the cost of the lease during the time that it was involved with this station. King Broadcasting is agreeable to all the conditions set forth in the submittal.

ACTION Unanimously approved as submitted. (Yuen/Himeno)

ITEM F-5 **DIRECT SALE TO COUNTY OF HAWAII OF PERPETUAL, NON-EXCLUSIVE SEWER LINE EASEMENT OVER, ON, UNDER AND ACROSS GOVERNMENT LAND AT HONUULA, NO. KONA, HAWAII, TAX MAP KEY 7-5-22:175**

Mr. Young made the presentation with staff's recommendation for approval.

Mr. Jim Lyon representing the group that wants to build the sewer line asked if there was a mechanism that would allow them to begin the process of building the line before appraisal is completed to acquire the property.

Mr. Young informed the chairperson that staff has provided in the submittal a right of entry to the County of Hawaii as well as to the applicant to commence construction. The State's concern here is that if they are allowed to build and they don't pay up then there will be a problem. Mr. Young suggested that the applicant put up some money in good faith and suggested an amount of \$5,000.00.

Mr. Lyon said that they have spoken with the Hilo Land Agent and informed him that they could provide that and should it be insufficient they could cover that.

ACTION Unanimously approved as submitted. (Yuen/Himeno)

ITEM H-9

CONSTRUCTION PLANS FOR THE ENGELSTAD SINGLE FAMILY
RESIDENCE AT LANIKAI, OAHU, TAX MAP KEY 4-3-2:1,
APPLICANTS: RALPH AND BETTY ENGELSTAD

Mr. Evans presented Item H-9 with staff's recommendation for approval.

He also said that he received a letter from the Lanikai Association yesterday which spoke of concerns of the footprint of the house, specifically to the overall grading plans, the cross section, time limitation and style. He then made references to their concerns and said that the the only concern that staff did not address was style.

Mr. Ben Matsubara, Attorney, representing the applicants, Ralph and Betty Englestad said that with the exception of one clarification they concur with staff's report and ask that the staff's recommendation be accepted. He spoke of the original plans of the house which has now been reduced to 7,968 feet. The size of the driveway was also reduced and plans are now for a one-story single family dwelling. He also showed photos of multi-level homes in the area which were also in the view plane of their home. He said that they were planning to build a moss rock wall and landscape it to try and blend it within the coloration of the surrounding area. They believe that the significant re-design that was undertaken complies with the concerns that the Board has expressed and the conditions that were imposed upon them. Based upon these modifications and numerous discussions with staff, these are the final designs.

Mr. Matsubara said the only clarification he would to staff's report relates to the last paragraph on page 3 of the submittal. Basically the sentence provides that the use of stilts instead of fill to support the house would prevent the drainage problems associated with the use of fill. He said that fill in and of itself will not create an erosion problem if it's properly engineered and designed. They discussed with staff the method by which fill will be used. With that clarification he said that he would ask that the proposal be accepted and the staff's recommendation be approved.

Chairperson Ahue asked Mr. Evans if there would be a problem with the requested clarification. Mr. Evans stated that he would not have a problem.

Ms. Barbara Smith of the Lanikai Association said that the testimony that was turned in was based on the fact that the association agreed with staff's original interpretation of 1.1 x bigger than the largest house in the community as the footprint. While they are pleased that they reduced the size of the house they still think that it is too big. Based on that interpretation staff has changed their interpretation and is going along

with the representative of the applicants. They are still concerned about the amount of land that is covered by concrete which might cause the land to slip and move and also concerned about drainage.

Ms. Himeno mentioned that the problem with this was that it was deemed by the circuit court to have been granted and now the Land Board is faced with some very specific guidelines on what they are supposed to be looking at in determining whether this house is compatible with the surrounding area. Lanikai Beach was excluded as being in the immediate area. She told Ms. Smith that she heard her points but the frustrating part is that it is a matter of opinion, there will be some people who will feel a two story house is worse, some people will feel one story is worse.

Ms. Smith asked if pile driving were going to be used for the pillars that were going to support the house.

Mr. Matsubara responded that there would be no pile driving and no blasting. The reason they're using the stilts was rather than trucking in fill and disturbing the residents.

Ms. Smith again brought up the point of 1.1 in this case and what it actually meant.

Mr. Yuen commented that he felt it was square footage when the board did it. He recalled discussions about how big in square footage terms that Mr. Amos' house was. The community association talked about Mr. Amos' house being something like 6,000 square feet and Mr. Matsubara thinking it was about 10,000 square feet. He said that he remembers a specific discussion about square footage when the board came up with this 10% thing.

Mr. Evans commented that there is the concern about the visual aspect and concern if you bring it down and spread out which would mean more grading. Trying to find a balance might mean going on a case by case basis.

Ms. Smith wanted to make a personal point and not from the association. The State has acquired a piece of property which abuts this property and are incorporating it into the Na Ala Hele Trail System. She understands that there is a mechanism within the DLNR for property owners to grant the State an easement over trails that cross their property and that the property owner is relieved of liability. She said that the thought occurred to her that it might be a nice gesture on the part of the Englestad's if they would grant to the State an easement for use of that trail that is along his property.

ACTION Unanimously approved as submitted. (Himeno/Apaka)

*Note: Ms. Himeno was excused after action on this item was taken.

ITEM E-4 STATUS ON PROCESSING OF VARIOUS RESIDENTIAL LEASES AT KAHANA VALLEY STATE PARK

Mr. Nagata made his presentation of the status on processing the various leases at Kahana Valley State Park. Staff is recommending that depending on reports of progress being made by the remaining six (6) lessees, excluding Adella Johnson, the board may wish to impose a deadline to secure all required regulatory approvals.

Dr. Jim Anthony representing the Vierra family presented the Board with a written report on the progress that has been made and he proceeded to read it. He reported of discussions held with the Department of Health branches; a registered engineer retained; paper work for self-help housing program completed; Board of Water Supply has been contacted; negotiations are proceeding to secure services of a surveyor; and Honsador is preparing the house plans to be submitted to the Building Department for necessary permits. Dr. Anthony also asked that the Board grant them four months to obtain all the necessary permits.

Mr. Yuen then commented that back in 1992 the Board voted to let some people stay if they could comply with all the regulatory permits but the Vierras were not among them. Then in September they came and asked to be included in that group. Mr. Yuen then quoted from the minutes of the meeting of September 24. The Vierras weren't really on the agenda for a decision whether the Vierras would stay or go.

On October 8th, there was a request from the Vierra household to remain on the existing house lot and a statement from Dr. Anthony. Mr. Nekoba moved to allow the Vierras to remain at their present lot until the progress report is submitted on December 17, 1993 and to adopt staff's recommendations no. 2. and 3. and that was approved. He asked Mr. Nagata if the Board did make a decision if they comply, "they do stay in that lot?"

Mr. Nagata said that the Board basically gave the Vierras the opportunity to look into the regulatory hurdles and at that time it was understood roughly to be two months. They were specifically to come back to the Board at this meeting at which time Dr. Anthony or the Vierras would report any significant problems. The thinking was that not all regulatory problems could be done by this time, but if there were any significant hurdles, Dr. Anthony indicated that he would be forthright in terms of admitting to the Board whether they had reached an impasse and at the same time the Board wanted an opportunity to find out the status of the

other five. When action was taken on the other five, no deadline or time was set.

Dr. Anthony stated that the language of the Board's decision on the 8th of October was that he was to report at this meeting as to whether there were going to be any insurmountable obstacles and he said that he was reporting now that there are none based on the amount of work that has been done in the intervening 2-3 months since October 8th.

Mr. Kennison asked if there would be a problem in granting another extension.

Mr. Nagata explained the situation they are presently in. Hopefully the Board would be able to know by today whether or not it is even worth pursuing. What comes into play now is that they were supposed to be involved in programs unless they were actively building their residences for which they would be receiving a waiver. Letters have been sent to the residences, although they won't start building till about March the earliest ones, they will be given some credit. The self-help concept has a homeowner training type activity for which they would be given some credit during these intervening months.

Chairperson clarified the fact that it's not so much a question of an extension but more a question of whether or not the Board is going to set a deadline to make a determination of whether they stay or they don't. Today was not a deadline per se, the Board had just asked for a status report.

Mr. Yuen asked Dr. Anthony what in his view would be a reasonable deadline.

Dr. Anthony answered with a question, "How many months did these other people have to get their permits?" He said that he would ask an extension till April 30, 1994 and he would not ask for July.

Mr. Nagata said that realizing that they would not be able to get it done by April, he suggested June 30, 1994 as the deadline and no extensions after that date.

Representative Ululani Beirne said that they came in with a status report prior to this request and she was hoping to have all the answers for the Board considering that there was an extension for the leases. Now that all the leases have been done as of December 1st, she said that it was her hope that they would not have to ask for a continuance on it. She said that most of them having gone through all the permit processes are waiting for approval from DLU. The structural engineer stamp is hard to get. She said that most of the residents in Kahana would have liked to

stay where they are as this was put on the table a long time ago.

She said that the current lessees, the official lessees and those of them that were given consideration she feels should do their best to try and comply.

Dr. Anthony said that he wanted to make it clear that he was talking about only one of the two Vierra families. He said that William Vierra will move to the other place so it is only Stuart Vierra on whose behalf he has made representation.

Mr. Ben Schaefer said he was here today on behalf of his mother, the other Beirne family. He said that they have been working on the process and have been facing a hold-up on the stamps (structural engineer). He then asked Mr. Nagata for clarification on the 25 hours of service as of December 1st.

Mr. Nagata explained that part of the problem, except for the self-help housing people, the rest of the people do not appear to be in a position to start building their houses for awhile so there will be a period where in a sense, nothing has been done and this 25 hours is supposed to be in lieu of rental. One of the ways to get credit was the self-help program, home ownership education type program in which to get some credit. There are some people like Adella who might do some repairs to her house, she doesn't have to rebuild, she would get some credit for that. If nothing is happening, the 25 hours will need to be counted.

Rep. Beirne informed the Board that the only reason Ben brought it up was because there was an agreement that as soon as the leases were signed, the 25 hours were due so it was a concern by many of them. She commented that she felt the Oahu Self-Help Housing was the only one offered by the State to work with the residents and she felt that there are other groups that could be looked into also.

Mr. Nagata responded that there was at least one other type self-help housing group from the Big Island that was looked into but in the end they decided not to participate. He said that the State is not saying that they have to go through this group. It is their choice to utilize or in some cases as Dr. Anthony indicated, they might want to owner build or if they can find some other group type arrangement, they are welcome to do so. The only caution he mentioned is that the more they split up the less there will be savings in terms of what self-help housing does for them.

ACTION Mr. Yuen made a motion to set the deadline for June 30, 1994 to acquire the necessary regulatory approved permits or the residents will move on to the designated lots under the issued leases. Seconded by Mr. Kennison, motion carried.

RECESS

12:15 p.m.--12:30 p.m.

PETITION TO BE A PARTY IN THE CONTESTED CASE HEARING FOR CDU (EXPANSION OF THE KEAHOLE POWER GENERATING STATION) PERMIT AMENDMENT HA-487A; PETITIONER: WAIMANA ENTERPRISE; APPLICANT: HAWAII ELECTRIC LIGHT CO., INC.

ITEM H-7

After his presentation, Mr. Evans said that staff is recommending that the Board approve Waimana Enterprise's petition to be a party in the contested case.

Mr. Albert Hee, President of Waimana Enterprise said that they believe they are qualified to bring forward an alternative to what is being requested by HELCO. He said that they do not feel that there are any other parties that can bring forward the facts surrounding the projects and in sufficient detail to allow the Board to make a decision as to whether they are a practical alternative. He said that they do disagree on one aspect of staff's report that they do believe that they do have an interest and distinctly different from the general public, however they do agree with the staff on the recommendation.

Responding to Mr. Yuen's question, Mr. Evans said that the time frame is May 18, 1994 and that they were trying to get a hearing master to hear the contested case and he in turn would make recommendations to the Board.

Mr. Benjamin Kudo, representing HELCO the applicant said that in regard to the petition filed by Waimana Enterprise to intervene in the contested case proceedings, they voice no objection to the petition. They have some concern as to the basis of the admission. The Department of the Attorney General has agreed to this position and they are not objecting to that but they do not support it. They also express concern relative to impacts of this particular contested case proceeding. He said that the CDUA application before the Board is an amendment of an application that was approved in 1973 and subsequent approvals of amendments in 1980's. The purpose of the CDUA is to permit HELCO to expand its Keahole Power Plant, an existing facility in order to meet the anticipated power demand on the Big Island by September of 1994. Their concern is if the contested case proceedings present a situation of delay in terms of their ability to put those generators in place and running.

Mr. Kudo asked the Board for its assistance in making sure that as much as possible that the contested case scheduling is done in a time frame that would not unnecessarily delay this proceeding from going forth.

Mr. Evans said that relative to Mr. Kudo's concerns, staff would make every attempt to expedite this contested case hearing. Relative to the standing of Waimana Enterprise, he said that he indicated to the Board that Waimana was an entity and notwithstanding they didn't have an interest other than the public. They felt that they could provide technical expertise to help the Board in its decision-making.

ACTION Unanimously approved as submitted. (Yuen/Apaka)

ITEM H-11 TIME EXTENSION REQUEST FOR CONSERVATION DISTRICT USE PERMIT OA-2550 TO REPLACE THE KAMEHAMEHA HIGHWAY SEWER FORCE MAIN AT HONOLULU, OAHU, TAX MAP KEY 1-1-03:138; APPLICANT: CITY AND COUNTY OF HONOLULU, DEPARTMENT OF PUBLIC WORKS; AGENT: MR. GLEN KOYAMA, BELT COLLINS AND ASSOCIATES

ACTION Unanimously approved as submitted. (Kennison/Yuen)

ITEM H-3 CDUA FOR THE CONSOLIDATION/RESUBDIVISION OF PARCELS WITHIN THE HAKALAU FOREST NATIONAL WILDLIFE REFUGE, NORTH AND SOUTH HILO, HAWAII, TAX MAP KEYS 2-7-01:1, 2-8-01:2, 2-9-05:2, 2-9-05:5, and 3-3-01:8, APPLICANT: U. S. DEPARTMENT OF THE INTERIOR, FISH AND WILDLIFE SERVICE

Mr. Andy Yuen of the Fish and Wildlife Service, representing the applicant said that they had concerns relating to Condition No. 4. They felt that it could be interpreted to cover a huge range of activities within the refuge. They wanted to suggest as an alternative the following, "That the service shall continue to coordinate the management of the Hakalau Forest National Wildlife Refuge with the Department of Land and Natural Resources." He said that they have a dialogue with the State Division of Forestry and Wildlife on various aspects of management of the refuge.

Mr. Evans said that staff would have no problem in making the suggested change.

After discussion, the Board agreed that this request was for the consolidation and resubdivision of parcels in the refuge and could delete Condition 4.

ACTION Mr. Kennison moved for approval with the amendment to delete Condition 4. Seconded by Mr. Apaka, motion carried.

ITEM J-2 CONTINUANCE OF REVOCABLE PERMITS

Mr. Parsons explained that the first permit on the list to the Waikiki Yacht Club was for renewal or continuance until December 31, 1993 with the

understanding if the Office of Hawaiian Affairs had not decided by then to take this property, that they would proceed with a lease. He then identified the other permits.

Ms. Carol Wilcox said that she was testifying as an individual and she also sits as a public representative on the Coastal and Ocean Management Policy Action Group. Her question about this particular item is that it seems premature because the Division of Boating and Ocean Recreation (DOBOR) of DLNR does not have administrative rules to work under yet. They have gone to public hearings and the rules will need to be approved. They are operating under the Department of Transportation rules until they can adopt their own rules under DLNR. Her concern was that these permits would be adopted without being able to comment on the DOT rules and the DOT has a different sort of approach. She realizes there is a transition period but she wanted to know a time when the substance of the rules would be discussed.

Chairperson Ahue said that according to his understanding, they first had to adopt the DOT rules as part of the transition from Boating to DLNR. He said that there were substantive changes made to the rules based on public hearings that DOT held several years ago. In terms of DLNR reviewing those rules and make substantial changes, that would be a separate process and said that Mr. Parsons might be able to answer that better.

Mr. Parsons said that the existing rules that they are currently operating under were adopted under the DOT. Under the provisions of Act 272, Session Laws of Hawaii, 1991, which transferred the boating program to DLNR, Section 28 of that act specifically mandates that any rules that were under DOT affecting those portions of the statutes of boating that is being transferred to DLNR would remain in effect until such time that new rules were adopted or repealed by DLNR. In subsequent conversations with the Legislative Reference Bureau (LRB), they have been informed that they may not change the substance of rules that were adopted under the DOT now that they're in the DLNR. They first have to wait till the new rules are adopted as a body by the DLNR and at that time they do become rules of the department and then they would be free to make revisions.

He said that public hearings were held on the major bodies of the rules on June 30, 1993 and there are another series of hearings coming up which he elaborated on.

Ms. Wilcox then described more of her concerns.

Mr. Parsons then clarified for the Board that the request for continuance of the revocable permits today are not under the Hawaii Administrative

Rules but under the provisions of Chapter 171, HRS.

Chairperson Ahue informed Ms. Wilcox that her comments are well taken and he did not know at this time when the adoption of the new rules would take place.

ACTION Unanimously approved as submitted. (Yuen/Apaka)

ITEM B-1 REQUEST FOR APPROVAL TO ENTER INTO AN AGREEMENT FOR THE DIVISION OF AQUATIC RESOURCES TO CONTINUE SUPPORT FEDERAL FISHERIES MANAGEMENT-RELATED ACTIVITIES

ACTION Unanimously approved as submitted. (Apaka/Kennison)

ITEM C-1 APPROVAL OF MEMORANDUM OF UNDERSTANDING BETWEEN DEPARTMENT OF LAND AND NATURAL RESOURCES AND COPEC FOR CARBON OFFSET FORESTRY PROJECTS FOR FORESTRY IN HAWAII

Mr. Buck requested that this item be withdrawn from the agenda.

ITEM D-1 PERMISSION TO HIRE A CIVIL ENGINEER FOR JOB NO. 88-OP-J, SAND ISLAND STATE PARK IMPROVEMENTS, OAHU

ACTION Unanimously approved as submitted. (Kennison/Yuen)

ITEM D-2 PERMISSION TO HIRE AN ENVIRONMENTAL ENGINEER FOR JOB NO. 80-OP-L1, REMOVAL OF UNDERGROUND FUEL STORAGE TANKS AT THE DIAMOND HEAD STATE MONUMENT PARK, OAHU

ACTION Unanimously approved as submitted. (Kennison/Apaka)

ITEM D-3 PERMISSION TO HIRE AN ARCHITECT FOR JOB NO. 40-OB-A, EXPANSION AND RENOVATION OF ALA WAI BOAT HARBOR MOLE "B" COMFORT STATION, OAHU

ACTION Unanimously approved as submitted. (Kennison/Apaka)

ITEM D-4 PERMISSION TO HIRE AN ARCHITECT FOR JOB NO. 63-HF-E1, STATE TREE NURSERY OPERATIONS BUILDING, LALAMILO, HAWAII

ACTION Unanimously approved as submitted. (Yuen/Apaka)

ITEM D-5 PERMISSION TO HIRE AN ENVIRONMENTAL ENGINEER FOR JOB NO. 64-KP-A2, REPLACEMENT OF UNDERGROUND FUEL STORAGE TANKS AT THE DLNR KAUAI BASEYARD, KAUAI

ACTION Unanimously approved as submitted. (Apaka/Kennison)

ITEM E-1 **SPECIAL USE PERMIT EXTENSION FOR MICHAEL A. MEIERDIERCKS FOR RESIDENTIAL PURPOSES, KALIHI, OAHU**

ACTION Unanimously approved as submitted. (Kennison/Apaka)

ITEM E-2 **APPROVAL TO ENGAGE THE SERVICES OF A CONSULTANT TO DEVELOP A DATABASE OF BIOLOGICAL RESOURCES AND BIOLOGICAL INTERPRETIVE THEMES WITHIN THE STATE PARK SYSTEM FOR THE 'AINA HO'OMALU PROGRAM**

ACTION Unanimously approved as submitted. (Kennison/Apaka)

ITEM E-3 **APPROVAL TO ENGAGE THE SERVICES OF A CONSULTANT TO DESIGN FOUR INTERPRETIVE SIGN PANELS FOR HININAAKALA HEIAU, WAILUA RIVER STATE PARK, KAUAI**

ACTION Unanimously approved as submitted. (Apaka/Kennison)

ITEM E-4 See page 20 for Action.

ITEM F-1 **TRANSMITTAL OF DOCUMENTS:**

Item F-1-a Issuance of Revocable Permit to Kahala Hotel Associates Limited Partnership, Kahala, Waialae, Oahu, Tax Map Key 3-5-23:4

Item F-1-b Issuance of Revocable Permit to Mid-Pacific of Hawaii, Inc., Former OR&L Depot and Iwilei Produce Center Site, Iwilei, Honolulu, Oahu, Tax Map Key 1-5-07:Por. 14

Item F-1-c See page 6 for Action.

Item F-1-d Issuance of Revocable Permit to Lelia M. Tangonan and Manuel J. Demello, Kapaa Rice and Kula Lots, Kawaihau (Puna), Kauai, Tax Map Key 4-5-15:45

Item F-1-e See page 15 for Action.

ACTION Mr. Apaka moved for the approval of Items F-1-a, F-1-b and F-1-d, seconded by Mr. Kennison, motion carried.

ITEM F-2 See page 12 for Action.

ITEM F-3 See pages 10-11 for Action.

**HOUSING FINANCE AND DEVELOPMENT CORPORATION (HFDC)
REQUEST FOR RIGHT-OF-ENTRY TO A PORTION OF THE
GOVERNMENT (CROWN) LANDS OF HIENALOLI 1ST, NO. KONA,
HAWAII TAX MAP KEY 7-5-13:13 AND 22**

ITEM F-4

Should the Board approve this item, Mr. Young asked the Board to amend Condition 1. under "Recommendation" revised to read: 1. The water produced by any and all wells drilled on the subject parcels will be shared among State agencies in accordance with an existing "Memorandum of Understanding (MOU) for State Water Development and Water System Improvements to support State Projects, North Kona, Hawaii" which was executed in January 1993, of which HFDC is a participating party.

ACTION Unanimously approved with amendment as suggested by staff.
(Yuen/Kennison)

ITEM F-5 See page 15 for Action.

**COUNTY OF HAWAII REQUEST FOR A PERPETUAL, NON-
EXCLUSIVE ACCESS EASEMENT ACROSS STATE LANDS AT
PAALAEA 1 AND 2, HAMAKUA, HAWAII, TAX MAP KEY 4-5-12:POR.
25**

ITEM F-6

ACTION Unanimously approved as submitted. (Yuen/Apaka)

**AMENDMENT TO PRIOR BOARD ACTION OF MARCH 8, 1991
(AGENDA ITEM F-1-D) RELATIVE TO OPERATION OF CHILD CARE
SERVICE CENTER, KEOKEA, MAKAWAO (KULA), MAUI, TAX MAP
KEY 2-2-04:POR. 34**

ITEM F-7

ACTION Unanimously approved with amendment suggested by staff that under "Recommendation" add condition "prior written concurrence of the Governor." (Kennison/Apaka)

**AMENDMENT OF PRIOR BOARD ACTION OF JUNE 25, 1993
(AGENDA ITEM F-1-c), GEM OF HAWAII, INC.,
LESSEE/SUBLESSOR, AND CHILD EVANGELISM FELLOWSHIP OF
HAWAII, SUBLESSEE, KUWILI, HONOLULU, OAHU, TAX MAP KEY
1-5-20:6**

ITEM F-8

ACTION Unanimously approved as submitted. (Apaka/Kennison)

**AMENDMENT OF PRIOR BOARD ACTION OF SEPTEMBER 10, 1993
(AGENDA ITEM F-5), MALIA, LIMITED, KANEOHE BAY, KANEOHE,
KOOLAUPOKO, OAHU, TAX MAP KEY 4-4-07:22**

ITEM F-9

ACTION Unanimously approved as submitted. (Apaka/Kennison)

ITEM F-10 See page 2 for action.

ITEM F-11 See 5 page for action.

ITEM F-12 DIRECT SALE OF 65-YEAR TERM NON-EXCLUSIVE EASEMENT FOR ACCESS AND UTILITY PURPOSES, WAIMANALO, KOOLAUPOKO, OAHU, TAX MAP KEY 4-1-10:30

Mr. Young requested that the Board amend the submittal should they approve it today. Amendment: Under "Recommendation" add condition to require grantee to obtain and post with DLNR liability insurance policy having State of Hawaii as additional insured.

ACTION Unanimously approved as amended. (Kennison/Apaka)

ITEM F-13 AMENDMENT TO PRIOR BOARD ACTION OF AUGUST 25, 1989 (AGENDA F-5), GRANT OF PERPETUAL, NON-EXCLUSIVE EASEMENT FOR WATERLINE PURPOSES, WAIKIKI, HONOLULU, OAHU, TAX MAP KEY 2-7-36:POR. 2

ACTION Unanimously approved as submitted. (Apaka/Kennison)

ITEM F-14 STAFF REQUESTS AUTHORIZATION TO AMEND REVOCABLE PERMIT NO. S-6898 TO HAWAIIAN ELECTRIC CO., INC. AND, ISSUE REVOCABLE PERMIT TO JAYAR CONSTRUCTION, INC., MIDDLE STREET, KEEHI LAGOON FILLED LAND, MOANALUA, OAHU, TAX MAP KEY 1-1-03:POR. 205

ACTION Unanimously approved as submitted. (Apaka/Kennison)

ITEM F-15 AMENDMENT TO PRIOR BOARD ACTION OF NOVEMBER 19, 1993 (AGENDA ITEM F-13), AUTHORIZATION TO SELL DIVERSIFIED AGRICULTURAL LEASE AT PUBLIC AUCTION, LOT 56-B, ILI OF WAIHAOLE, WAIMEA VALLEY, WAIMEA, KAUAI, TAX MAP KEY 1-5-03:1

ACTION Unanimously approved as submitted. (Apaka/Kennison)

ITEM F-16 DEPARTMENT OF AGRICULTURE REQUEST FOR WITHDRAWAL OF LAND FROM GENERAL LEASE NO. S-4222, SET ASIDE OF SAID LAND FOR AGRICULTURAL PARK PURPOSES TOGETHER WITH EASEMENTS FOR WATER PUMP AND PIPELINE AND IMMEDIATE RIGHT-OF-ENTRY FOR PLANNING AND RELATED PURPOSES, KEKAHA, WAIMEA (KONA), KAUAI, TAX MAP KEY 1-2-02:POR. 1

Mr. Apaka had questions on the water use and availability.

Mr. Paul Schwind of the Department of Agriculture said they supported staff's recommendation. Regarding the water question, it is their intention to take water from a large drainage ditch which drains the surplus ground water from that area out to the ocean. They've been informed by the department that they do not need a separate permit for that taking of water from the drainage ditch.

ACTION Unanimously approved as submitted. (Apaka/Kennison)

ITEM F-17 CONSENT FOR REVOCABLE PERMIT AND AUTHORIZATION TO SELL AT PUBLIC AUCTION, PARCELS 2 AND 3, PART 1 AT WAILUA, KAWAIHAU (PUNA), KAUAI, TAX MAP KEY 4-1-09:5 AND 6

Mr. Young suggested an amendment to the submittal should the Board approve of this item today, amendment would be under "Recommendation" add condition that the lease term to be 15 years.

ACTION Unanimously approved as submitted with staff's suggested amendment. (Apaka/Kennison)

ITEM F-18 WAIVER OF FIRE AND OTHER PERILS INSURANCE REQUIREMENTS IN STATE GENERAL LEASES AND REVOCABLE PERMITS ON THE ISLAND OF KAUAI

ACTION Unanimously approved as submitted. (Apaka/Kennison)

ITEM F-19 See page 6 for Action.

ITEM F-20 See page 14 for Action.

ITEM H-1 CONSERVATION DISTRICT USE APPLICATION (CDUA) FOR THE SUBDIVISION OF SUBMERGED LANDS FOR SEVEN COMMERCIAL HARBORS: HONOLULU HARBOR, OAHU; HILO HARBOR AND KAWAIHAE HARBOR, HAWAII; NAWILIWILI HARBOR AND PORT ALLEN HARBOR, KAUAI; KAUNAKAKAI HARBOR, MOLOKAI; AND KAUMALAPAU HARBOR, LANAI; APPLICANT: DEPT OF TRANSPORTATION, HARBORS DIVISION

Mr. David Higa representing the Department of Transportation said that they had concerns on Conditions 4 and 5. He said that they have worked actively with the Division of Aquatic Resources whenever changes occur regarding rules affecting commercial fishing. They are aware of the rules that the department presently have.

They are recommending that Condition 4. read: "That any existing

Hawaii Administrative Rules promulgated by the Department of Land and Natural Resources for the harbor waters shall not be affected by the Executive Order." He said that they do have within various harbors, Honolulu and Hilo areas where big fishing is allowed. He said that they have other areas where net fishing is prohibited in different harbors. He thinks that they will be continuing those regulations.

On Condition 5, the Division of Aquatic Resources requested notification of changes. He said that because they work with them they feel that the language should be changed to read, "That the applicant consider the Department's Division of Aquatic Resources current fishing regulations within the harbor in making changes." He said that they recognize when changes in the harbors are made, some of the boundary references in their management rules have to be changed and they're willing to work with DLNR's division in this.

Mr. Higa said that have no problems with staff's recommendation except for these two conditions 4. and 5.

Discussion followed regarding past discussions on concerns of the rules by the board and staff. It was brought up that they would like to have something in writing, especially should there be changes in administration or personnel.

ACTION Unanimously approved as submitted. (Apaka/Kennison)

ITEM H-2 CDUA FOR THE WAIMANALO RIDGE COMMUNICATION SITE UNDERGROUND UTILITY SERVICE LINE, KAMEHAME RIDGE, MAUNALUA, OAHU; TAX MAP KEY 3-9-09:001; APPLICANT: CITY AND COUNTY OF HONOLULU, BUILDING DEPARTMENT

ACTION Unanimously approved as submitted. (Kennison/Apaka)

ITEM H-3 See page 22 for Action.

ITEM H-4 CDUA FOR AN AFTER-THE-FACT LANDSCAPING USE OF STATE-OWNED PROPERTY AT WAILUA HOMESTEADS, KAPAA, KAUAI, TAX MAP KEY 4-2-2:130; APPLICANT: THE FREE DAIST COMMUNION

Mr. Chris McBryde, representing the applicant said that this was done by the previous owners during the 1950's and when they became aware that they were on State property they applied for the Conservation District Use Application.

ACTION Unanimously approved as submitted. (Apaka/Kennison)

ITEM H-5 See page 6 for Action.

ITEM H-6 TOUR BUS RESTRICTION AT PARADISE PARK, MANOA VALLEY, OAHU, TAX MAP KEY 2-9-54:18; APPLICANT: MR. JAMES W.Y. WONG, PRESIDENT, PARADISE PARK, INC.

ACTION Unanimously approved as submitted. (Kennison/Apaka)

ITEM H-7 See page 22 for Action.

ITEM H-8 See page 7 for Action.

ITEM H-9 See page 18 for Action.

ITEM H-10 TIME EXTENSION REQUEST FOR CONSERVATION DISTRICT USE PERMIT HA-2405A FOR KALOKO WATER SYSTEM IMPROVEMENTS, KALOKO, NORTH KONA, HAWAII, TAX MAP KEY 7-3-09:17; APPLICANT: DEPARTMENT OF PUBLIC WORKS, COUNTY OF HAWAII; AGENT: OKAHARA AND ASSOCIATES, INC.

ACTION Unanimously approved as submitted. (Yuen/Apaka)

ITEM H-11 See page 22 for Action.

ITEM H-12 PERMISSION TO NEGOTIATE WITH CONSULTANT TO EXTEND EXISTING PROFESSIONAL CONTRACT RELATED TO THE CONSERVATION DISTRICT REVIEW PROJECT

ACTION Unanimously approved as submitted. (Yuen/Kennison)

ITEM H-13 See page 5 for Action.

ITEM J-1 APPROVAL TO ENTER INTO A MEMORANDUM OF AGREEMENT WITH THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM TO ASSIST IN THE DEVELOPMENT OF THE SAND ISLAND PUBLIC BOAT LAUNCHING FACILITY

ACTION Unanimously approved as submitted. (Yuen/Apaka)

ITEM J-2 See page 24 for Action.

ITEM K-1 FLORIST CONCESSION, HONOLULU INTERNATIONAL AIRPORT, OAHU

ACTION Unanimously approved as submitted. (Yuen/Apaka)

**AMENDMENT NO. 1 TO HARBOR LEASE DATED JUNE 8, 1992,
KAHULUI HARBOR, MAUI (HAWAIIAN CEMENT, A HAWAII
GENERAL PARTNERSHIP)**

ACTION Unanimously approved as submitted. (Kennison/Apaka)

**APPROVAL OF CONSENT TO SUBLEASE, PREMISES LOCATED AT
PIER 35, HONOLULU HARBOR, OAHU (HAWAII STEVEDORES,
INC. - KEMS, INC.)**

ACTION Unanimously approved as submitted. (Yuen/Apaka)

**APPROVAL OF CONSENT TO TEMPORARY SUBLICENSE, LICENSE
NO. 124, KAWAIHAE HARBOR, HAWAII (KAWAIHAE TERMINALS,
INC. - KING KONA PRODUCTIONS, INC.)**

ACTION Unanimously approved as submitted. (Yuen/Kennison)

**REQUEST FOR EXTENSION OF DELEGATION OF AUTHORITY TO
DOT FOR THE ISSUANCE OF REVOCABLE PERMITS AT KAPALAMA
MILITARY RESERVATION FOR INCONSISTENT PURPOSES**

Mr. Mason Young of the Division of Land Management apprised the Board of several past meetings of the Board. He said that he has yet to receive a firm proposal from the Department of Transportation (DOT). He said that in the meantime they they are filling up Kapalama with a whole bunch of permittees and collecting good rent. Nothing firm has come about, only offers of suggestions.

Mr. Young requested that the Board hold up this request until the end of this year and have DOT come to the Board in the first meeting of January with a status report and firm offer. He said that the Tri-Party Agreement has not been resolved as yet.

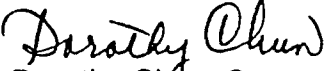
Mr. Garcia said that the Tri-Party Agreement is one thing, the Kapalama Military Reservation is really not related to the Tri-Party Agreement. The DOT has a substantial investment in the Kapalama Military Reservation. This is just one of the ways DOT can generate revenue.

Mr. Garcia said that DOT administrator and staff have met with the DLNR administrator and staff and one of the proposals that came up was to turn over a portion of the Kapalama Military Reservation for or in exchange to complete the settlement. However, there are conditions to the area and concerns about many problems of transfer. He understands that there will be another or more meetings to attempt to take care of this problem.

ACTION Mr. Kennison's motion was to approve the extensions and requested that DOT return to the next meeting in January with a report on how they propose to resolve the Tri-Party Agreement. Seconded by Mr. Yuen, motion carried unanimously.

ADJOURNMENT There being no further business, the meeting adjourned at 2:10 p.m.

Respectfully submitted,


Dorothy Chun, Secretary

APPROVED:



KEITH W. AHUE, Chairperson

dcc
2/3/94