

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

DATE: FRIDAY, JANUARY 28, 1994
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 9:05 a.m. and the following were in attendance:

MEMBERS: Mr. Herbert Apaka
Ms. Sharon Himeno (excused at 12 noon)
Mr. Christopher Yuen
Mr. William Kennison
Mr. Michael Nekoba
Mr. Keith Ahue

STAFF: Mr. W. Mason Young
Mr. Roger Evans
Mr. Michael Buck
Mr. David Parsons
Mr. Steve Thompson
Mr. Linford Chang
Mr. Dan Quinn
Mr. Eric Onizuka
Ms. Dorothy Chun

OTHER: Deputy Attorney General Linnel Nishioka
Mr. Peter Garcia, Department of Transportation
Ms. Carol McLean (Item E-2)
Mr. Gerald Park (Item H-2)
Ms. Lucy Pfaltzgraff (Item F-8)
Mr. James Lee (Item F-9)
Mr. Marvin Awaya (Item F-7)
Mr. Don Jones (Item C-1)
Mr. Tobias Seaman (Item J-5)
Mr. Terry Weaver (Item H-3)

ADDED ITEMS: Upon motion by Mr. Apaka and a second by Mr. Kennison, the following items were added to the Agenda:

Item C-1 Approval to Enter Into An Agreement For Consultant Services Between the Department of Land and Natural Resources and COPEC For Carbon Offset Forestry Projects in Hawaii

Item E-3 Approval to Negotiate An Agreement for the Services of the Hanauma Bay Educational Program at Hanauma Bay State Underwater Park for FY 1994-95

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

ITEM E-2 REQUEST TO EXTEND THE GENERAL LEASE FOR THE FRIENDS OF HEEIA STATE PARK, INC.

Mr. Quinn made the presentation of Item E-2 and recommended approval by the Board.

During the discussion, it was asked if the Friends needed to come back to the Board for every commercial banquet. It was pointed out in the recommendation that the Board was approving three banquets per week and thus approval was already granted. It was recommended that they still notify the Board the dates of the events. Mr. Quinn said he would clarify this with the executive director.

Chairperson Ahue asked if the applicant were present to add anything. Ms. Carol McLean did not have anything to add. She did mention that there is community use on the weekends for birthdays and baby luaus. The commercial banquets are an opportunity to generate some money from commercial banquets which currently they don't have.

Chairperson Ahue clarified that presently they don't have a commercial agreement and they would need to come back to the Board once the document is worked out.

ACTION Unanimously approved as submitted. (Himeno/Yuen)

ITEM H-2 CONSERVATION DISTRICT USE APPLICATION (CDUA) TO REMOVE AN EARTH AND ROCK BERM AT KAMEHAME RIDGE SUBDIVISION, MAUNALUA, OAHU, TAX MAP KEY 3-9-10:POR. 1, APPLICANT: MR. YOKE K. MO; APPLICANT: MR. GERALD PARK, URBAN PLANNER

After his presentation, Mr. Evans asked to modify Condition No. 4 on page 8. It should read, "Grading work shall be done in such a manner so as to prevent erosion during and after grading increasing run-off shall be avoided;". The reason for this modification is to be consistent with Condition No. 9.

Mr. Gerald Park representing the applicant said that they had no problems with the conditions as set forth by staff.

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

ITEM F-8 STATE PARKS REQUESTS SET ASIDE OF UNENCUMBERED STATE-OWNED LANDS AT DIAMOND HEAD, OAHU, FOR ADDITION TO THE DIAMOND HEAD STATE MONUMENT, TAX MAP KEY 3-1-42

Mr. Young informed the Board that a correction needed to be made under Recommendation, A. the approximate acres should be 44.385 and not 145.323 acres.

Ms. Lucy Pfaltzgraff, the Diamond Head Preservation Committee Chairman for the Outdoor Circle stated that this was a tremendous step forward as they have been involved in the preservation efforts for 30 years now. They feel that this is just one more critical step that is necessary.

ACTION Unanimously approved as amended. (Nekoba/Himeno)

ITEM F-9 TOWA SHINYO MAUI, INC. REQUEST FOR A REVOCABLE PERMIT AND IMMEDIATE RIGHT-OF-ENTRY FOR PROPOSED CONSTRUCTION OF A PARKING LOT ON GOVERNMENT LAND, POR. KAMAOLE HOMESTEADS, WAILUKU (KULA), MAUI, TAX MAP KEY 3-9-04:POR. 1

Mr. James Lee, attorney for the applicants said they had no problems with the conditions.

ACTION Unanimously approved as submitted. (Kennison/Himeno)

ITEM F-7 AMENDMENT TO PRIOR BOARD ACTION OF AUGUST 13, 1993 (AGENDA ITEM F-16) RELATING TO THE DIRECT ISSUANCE OF A LEASE TO PACIFIC HOUSING ASSISTANCE CORPORATION (PHAC) AT ALAMA, OAHU, TAX MAP KEY 1-6-09:4

Discussion followed after Mr. Young's presentation regarding the policy of 20% of market value. It was clarified that this was not ceded land.

ACTION Motion was made by Mr. Nekoba to amend the recommendation of staff and continue to have the rental remain at \$1.00 per annum as approved by the Board at its meetings of June 8, 1990 and August 13, 1993. Seconded by Ms. Himeno, motion carried.

Mr. Marvin Awaya, Executive Director of PHAC said that he appreciated Mr. Nekoba's amendment. He informed the Board that the project is just about ready to go out to bid after having many problems involving funding, State funding, lease and service providers. They feel there is no value to anyone else because the Department of Health would restrict them from resale. There is control by the State with numerous conditions and restrictions.

**ADDED
ITEM C-1**

APPROVAL TO ENTER INTO AN AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE DEPARTMENT OF LAND AND NATURAL RESOURCES AND COPEC FOR CARBON OFFSET FORESTRY PROJECTS IN HAWAII

Mr. Buck informed the Board that he needed to amend the recommendations in the submittal and he passed out copies of an Amended Added Item C-1 to the Board members.

Mr. Buck stated that he would briefly describe this issue of carbon offset and carbon sequestration and how it might fit into Hawaii's potential scenarios as it is kind of a new concept. He mentioned that some of the utility companies are looking at the least expensive ways to offset carbon. Carbon offset is somewhat of a pollution credit, the company would offset carbon in one place and sequester carbon in another place. He continued to give more examples of different scenarios.

Mr. Buck stated that based on Hawaii's growth rates on Hamakua raw sugar lands they think they can sequester about 400 tons of carbon per acre and one of it is the time frame that the utility companies need to make sure that the carbon stays in the carbon form. He continued on about the benefits of carbon offset. He also informed the Board that Mr. Don Jones of COPEC was present to answer any technical questions of the Board.

Mr. Yuen asked, "Are there any regulatory agencies that currently deal with utility credit for carbon offsets?"

Mr. Buck said that he thought it was the environmental protection agencies that signs off.

Mr. Don Jones of COPEC stated that the way the credit is allocated is called "Environmental extranalties." He gave examples of someone wanting to build a new plant, like a gas-fired plant, a nuclear plant, a coal fired plant, a wind or tide plant. Each one of these options has what's called an environmental extranality. If you go with nuclear you have certain problems and those problems have an environmental value. If you go with natural gas, certain problems there or you have the CO2 in the atmosphere. In order to have decision making be consistent, they've put what is called an environmental adder on each of the choices. Right now coal is regulated by State Public Utilities Commissions. He went into more detail on the price placed on the monetary per ton per adder in several states. The regulatory agencies are trying to push people towards cleaner fuel. The regulatory bodies that review this are at the state level. The federal government is just putting in the criteria now for review. The agencies that will do the reviews are the department of energy, the environmental protection agency and a joint group that's

being put together.

Mr. Jones continued and spoke at great length explaining this project or program. He said that they were in the development of a commodity and no one knows what the price is. Since it's a global issue, you have to be able to compete with other countries that have the same kind of forest. They will be exploring the market to try and get a fair market value.

Mr. Nekoba then commented that what COPEC was trying to do was fine but a big problem he foresees is if we are trying to bring a timber industry to Hawaii to replace sugar or pineapple fields, this by itself does not raise enough money to pay for the industry. It would take 10 years to realize two million dollars, it's not two million dollars per year, this being a by-product. One of the things in their proposal was if an agreement was worked with OPEC, then if a timber company came in from the United States or New Zealand and did a State lease in Hamakua or Kekaha, for example to do some kind of timber project, the State would reserve this carbon rights which in a sense, Mr. Jones would go out and be selling these carbon rights, makes a commission and the rest goes to the State.

Mr. Nekoba commented that the State would be trying to get some kind of industry in to replace sugar, agriculture industry that's on the line. Timber would be a new industry to Hawaii and whoever comes in would have to invest a lot of money and that will create jobs. They will not envision profit immediately and would need a lot of help to make their projects work. From the State's position, Mr. Nekoba referred to the existing forest land in conservation and other growers of trees that are supposedly absorbing carbon. Mr. Jones could possibly work with these private groups to get these carbon credits.

More discussion followed on this new type of venture.

Mr. Jones said, "When I put the project together I sold my law practice. I devoted four years of my life to this. ... I would pledge to you that I would be your faithful agent and look out for the best interest of the principles and not have secondary relationships with the utility companies that would provide the funding. That there be transparency in all of our agreements in trading and that I would stand by that. That's the best representation that I can give to you and as a sign of good faith, before we had any paper work, I took Michael Buck to the number one contender, utility company. Showed him my cards, showed him the place to go on good faith, as I said yesterday we have to trust each other."

Mr. Nekoba had a question on the sulfur dioxide that was being traded,

is it because there is a federal law for penalties and requirements.

Mr. Jones responded, "yes."

Mr. Nekoba's next question on the carbon thing the ones that are paying the \$28 a ton penalties, is it because of their state laws.

Mr. Jones responded, "Yes, it's a state planning process for putting value into decision making. The federal government is using that and the federal government has now included carbon dioxide as a green house gas as well as methane. Right now there are 350 utility companies that have signed up with the Secretary of Energy to voluntarily do these programs. I've been in contact with 200 of them."

Mr. Nekoba said that his concern also was that this was an early stage where once it ever became a federal law, then this thing will be traded as a commodity. At that point, our utility companies here will have to comply or pay the penalty. He wondered if the Board had enough information to sign this MOU at this time.

It was clarified that the Board would not be approving an MOU today but an agreement as reflected in the Amended Added Item C-1 with amended recommendations.

Mr. Buck informed the Board that this agreement will be coming back to the Board. He agreed that we should not under value the asset that we have and we should sell it all at once. He said that what we're looking at is some demonstration projects that show the different types of land uses so that it's real. project by project.

ACTION Mr. Yuen moved for approval of the Amended Added Item C-1 with the following recommendations:

- 1) Terms of specific carbon offset forestry projects to be delegated to the Chairperson with approval by the Board;
- 2) Subject to Governor's approval of consultant;
- 3) Subject to Attorney General's approval; and
- 4) Subject to approval of sole source by the Department of Accounting and General Services.

Motion was seconded by Mr. Kennison and carried unanimously.

ITEM J-5

**ADOPTION OF TITLE 13, CHAPTERS 230-235, 240-245 AND 250-256,
HAWAII ADMINISTRATIVE RULES REGARDING SMALL BOAT
HARBORS, BOATING AND OCEAN WATERS, NAVIGABLE STREAMS
AND BEACHES**

Mr. Parsons summarized some of the changes made:

1) Section 13-2-30-6, If notice was given by mail, notice would have been deemed to be given, received and completed three days after the date of mailing. Based on public testimony, they thought that this was too short a period and this period was changed to five working days.

2) Section 13-231-1, Another Section changed as a result of the public hearing regarding dormant vessels. Draft rules would provide that the State should give a show cause order to a person whose vessel the State feels is dormant and allow him to explain why is should not be classified as a dormant vessel. Again in this provision it went to public hearing and provided three days for him to respond to the department's notice and submit his plans to correct any deficiencies. This was changed to five working days to respond.

3) Section providing for re-inspection of vessels. Under the revisions that went to public hearing, one of the provisions that would have constituted a satisfactory vessel inspection, we included that evidence of reconstruction, alteration or modification of the original vessel design would have to be in accordance with plans approved by a marine architect. There was considerable comment on this issue, expressing displeasure with this provision. There are so few marine architects around and additional comments received from the national manufacturing association said that marine architects were not certified. This provision has been changed to require that major reconstruction will require a marine survey by a marine surveyor with additional requirement that the person obtain some protection or indemnity insurance in the amount of \$100,000.00.

The other change when they went to public hearing was to raise the fee for vessel inspection from the present \$5.00 to \$25.00. There was considerable opposition and there was a mistake in the version passed out to the Board this morning of \$10.00. After staff analysis, they felt that \$15.00 would be the minimum fee that should be charged based on the extensive preparation and time consumed by staff in conducting the inspection of vessel.

Another change Section 13-235-32, describing Keehi Lagoon temporary anchorage area based on comments received, they are deleting the phrase temporary and saying designated permanent anchorage so that they can address the houseboat issue. They have required the

houseboats to relocate from the mooring area out to the anchorage area where they can put in heavier anchors because of the configuration of the houseboats.

In review he did notice another additional error in the rules that pertain to the vessel inspection form, in that when they change the requirement of the vessel inspection, to delete the requirement for the naval architect for inspection. It would be needed to be changed before going to the governor.

With the changes, staff is recommending the Board approve the adoption of the revisions to the sections of the Hawaii Administrative Rules and that the entire set of Title 13, Hawaii Administrative Rules Boating Program consisting of Chapters 230-235, 240-245 and 250-256 be forwarded to the governor for his approval.

Chairperson Ahue mentioned that one of the first projects would be to come up with a summary of these rules, whether they be in brochure form or otherwise so that people could read them.

Mr. Tobias Seaman addressed the Board saying that he was a small boater and had a live-aboard permit in Keehi Lagoon which is up for renewal and has been denied due to inspection. The reason he was present today was to request the Board to defer action on one section of the revisions that was made to the rules after the August 13th hearing.

The basis for his request to defer is two part. One referred to Title 13, 231-145 Vessel Inspection. His argument is that they want to make it mandatory that boats that are modified shall comply with standards published by the U.S. Coast Guard and American Boat and Yacht Council. He claimed that there is no federal law or rule or standard that exist for boats now. He stated that he had talked to the source, the head marine engineer, Peter Eikenberry of the Recreational Boating Products Assurance Branch, U.S. Coast Guard, Washington, D.C. He stated that Mr. Eikenberry informed him that there was no federal law dealing with modifications on boats. He then passed out a pamphlet entitled, "Safety Standards for Backyard Boat Builders," and another pamphlet, Federal Regulations dealing with boating, mainly for lights, ventilation, etc. He stated that there were many different standards and all were voluntary, none were compulsory and felt this amendment was premature. He claimed that what Harbors Division is doing is contrary to any other jurisdiction, any other state, the federal government and felt there was no compulsory requirement for modification of boats.

Mr. Seaman stated that his problem goes further with this amendment. These standards shall be followed relating to minimum power requiring it is necessary for safe navigation. He claimed that no where in federal law

or private standards does it address minimum power requirements. He also claimed that there was no definition in the rules.

The second part he was not in agreement with was the requirement to provide insurance of \$100,000 upon modifying your boat which holds harmless the State, indemnity claim.

Mr. Seaman then related to the Board his personal story of how he bought a boat with no cabin and he had to modify it. He claims that he designed something that was safe to meet certain standards. Because his boat maybe a little different than other boats, he said that he has been refused to pass inspection, been treated differently and felt there was an abuse, 1) on the waiting list to the mooring, they lost his application, he presented his copy and they assigned him a mooring ball two years later with the provision that he pass inspection; 2) two or three days later they took away his mooring ball because someone in management said that he could not be there. He stated that he went for inspection and first thing that they hit him with is that he's required to comply with the American Bureau of Shipping Standards which he had never heard of to show that his cabin complied with the standards. He later was informed that he needed to have his boat surveyed by a marine survey.

He stated that he has not received a letter for two months now from the State telling him why his boat won't pass inspection. He claims that there is arbitrary application of the administrative rules relating to inspection.

Chairperson Ahue informed Mr. Seaman that he did not know if his concern needs to be addressed administratively and suggested that maybe some of his concerns could be worked out with Mr. Parsons or Mr. Thompson of the boating division.

Mr. Parsons stated that one of the statements that Mr. Seaman made is not entirely correct where he said there are no federal standards in this regard. Mr. Parsons stated that the code of Federal Regulations, the U.S. Coast Guard does incorporate by reference the American Boating Yacht Council Standards as well as the American Bureau of Shipping Standards. He stated further that as far as our rules are concerned, the standards we're incorporating by reference are only the American Boating Yacht Council (ABYC) Standards as the American Bureau of Shipping Standards primarily deal with larger vessels. He stated that they were also incorporating the Coast Guard Standards for recreational vessels.

Mr. Parsons said that what Mr. Seaman is referring to is the State law which require that all vessels moored in State boat harbors be in good

material and operating condition and capable of navigating outside of the confines of the harbor. He may be correct in that no other State may have this law, however, the State of Hawaii does have this law and is mandated to implement it. One way they implement it is through the vessel inspection process. As far as vessel inspections, they have always had in the rules, the subsection (f) at the bottom of 231-33, stating that the owners of vessels that fail to pass inspection may contest the decision at an arbitration board that is established by Section 200-13, Hawaii Revised Statutes. This particular section right now states that it can be a board of three marine surveyors plus the person who inspected the vessel in the first place. So there is an option for the person who fails the vessel inspection.

With regard to the statements about power requirements, Mr. Seaman is correct. There is no power standards by rule any place, that is why they are requiring a marine surveyor to survey the boat under power so that the marine surveyor can make a determination on a case by case basis regarding the power that is on the particular vessel in relation to its hull, shape and size. That is why they are calling for a marine surveyor to make this type of determination.

With regard to Mr. Seaman's statement that he does have an approved survey for his vessel, the State did go out and contract a separate independent marine survey on Mr. Seaman's vessel and according to that particular survey, the statement here says that the propulsion is by a 35 horsepower long shaft outboard motor mounted on the transom, factoring the displacement of the hull and combination with the wind is created by the cabin house. The outboard provided is considered under size or under-powered or except within the harbor. With this particular determination by the marine surveyor that was contracted by the department, he would not meet the State statutory requirement capable of being navigated outside the harbor. Therein lies the difference between Mr. Seaman and the boating division.

Mr. Seaman stated that he was misquoted by Mr. Parsons. He said that his statement is that "there is no federal standard for modification of boats, no jurisdiction no state law anywhere else in the country relating to modification of boats." He claimed that he was singled out as there were other boats in the harbor with major modifications and none of them were required a marine surveyor. He also felt if they did an inspection of his vessel he would like to be notified and be there when it's done. He claims that he has not been told what is wrong with his boat.

Mr. Kennison had a question to Mr. Parsons regarding the meetings on the different islands and public reaction to the vessel inspection issue.

Mr. Parsons responded that they did have other statements in opposition to the requirement for marine architect so it was changed to require just a marine survey, however, the whole purpose of the rule came about as a result of a lot of reconstruction of vessels in Keehi Lagoon. The issue they are trying to address here is major modifications which would affect stability, sea-keeping characteristics or the ability to maneuver in tight spaces. The primary reason they are requiring insurance is that marine survey can be made for various different reasons. They feel if a marine surveyor makes a determination that the vessel is safe and the survey is accepted by an insurance company, that's fine and will be accepted but they still have to protect the State and other vessels moored in the vicinity in the event that something happens or they are not able to maneuver properly and may cause damage to adjacent vessels.

Mr. Seaman said that he was not against the boating rules or standards to comply with. He was against where they don't you tell you what the standard is and they apply it in an arbitrary fashion and he feels it was done in his case.

Chairperson Ahue asked if Mr. Seaman knows why he did not pass the inspection.

Mr. Parsons responding to the Chairperson, said that this particular survey report was just very recently received, dated January 20, 1994. It was contracted with a particular surveyor to look at 20 vessels in the harbor and Mr. Seaman was not singled out but was included with the 20. He clarified that the note by the surveyor said that this vessel was not boarded for inspection therefore the above information was based on external observations only and no estimation of value is requested or given for the vessel.

Deputy Attorney General Nishioka commented that she has been working with the department over the last seven months on this issue with the Keehi enforcement but more specifically with re-examining the rules. She then wished to inform the Board of the process after the August 19, 1993 meeting so that there would not be any misunderstanding. There were several focus groups which they did with harbor agents to discuss the various changes they would like to see in the rules and what would allow for a better administration of the rules. Then there was a major meeting called in October in which all boating managers of all the islands came in to discuss the proposed changes that were being looked at for the rules. This was based on a lot of work and consultation with the Attorney General's Office on the operative effect of the rules and what changes they could make in the rules. The changes that were made were not for island-wide public hearing. Even though it wasn't required, there were hearings held on Oahu, Kauai, Lanai, Molokai, Maui and Hawaii. Comments were collected and considered by the

department.

Counsel continued that one of the critical issues of the whole inspection process is the problem of safety concerns and that is why inspections are required. If there are sub-standard boats in the harbor during a hurricane there could be devastating damages. The reason that it was shifted from a marine architect to a marine survey was also in response to public comments. The reason the insurance requirement is there is that if you don't have another deep pocket to tap when something goes wrong, then the State picks up the cost and frankly that's been what the State has been doing throughout this program. So this is a way of passing on the cost to the person who should bear the cost. A lot of the time, the boat sinks and the owner leaves town and they're not seen again so this will give the State an opportunity to recoup some of the cost. There are safety concerns involved with a person being able to leave the harbor in hurricane times and there are other boats in distress. You need to have certain standards for the boats ability to move and there are the ABYC Standards are written standards. One of the written standards were used because there were complaints about how they were being administered so the department has looked at various models that have been used for written standards and the hope is that there will be more guidance or clear guidelines as to what is expected on an inspection. This is a process that has worked from the department level to public comment and these rules also went out to public comment last summer.

Chairperson Ahue commented that what he hears from Mr. Seaman is that he doesn't necessary object to standards but that he doesn't know what they are that they keep changing. Is there some way that the average boater would know exactly what he's being inspected for and how he can make corrections.

Counsel Nishioka said that her understanding with the department is that they do an initial inspection with the inspection sheet and if it doesn't pass it's checked off. The person as a courtesy would know what they didn't pass on by written letter. They are then given a chance to be re-inspected at that point with the criteria. She said that she understood that each harbor is going to have those standards once this is adopted, written standards for the American Yacht and Boating Council Standards.

Mr. Seaman again argued the fact that the Hawaii Revised Statutes don't make any distinction between power boats, sail boats, no distinction between modified, unmodified boats so if there's to be insurance why discriminate against those that are modified, why not require all of them to have insurance.

He then referred to the American Bureau of Shipping Standards with

which he had his second survey. He quoted from the survey report that said that his boat met all the recommended standards of the ABYC.

Mr. Apaka had questions on Mr. Seaman renewing his permit to live in the harbor, his principle habitat and amount of rent he was paying.

Mr. Parsons said that Mr. Seaman has to pass inspection before he can renew his permit and as a habitat if he's moored outside the harbor, the present habitation fees are \$2.70+ per foot or about \$120.00 per month. If he were tied up in the small boat harbor alongside the pier, the principle habitation fee would be \$5.25 per foot per month in addition to the mooring. Mooring offshore he would pay half of that.

Mr. Seaman interjected that he would be paying \$120.00 per month which normally be only \$30.00-\$40.00 a month if he didn't have a live-aboard permit. He stated since they refuse to give him that permit, they use a new rule and he's paying \$240.00 a month because they refuse to pass his inspection. He felt he was paying a penalty for not passing the inspection.

Mr. Apaka asked how many people were living in Keehi Lagoon and taking advantage of this very inexpensive rental fee.

Mr. Steve Thompson stated that he would estimate that there's probably close to 200 with permits and another 50+ without permits. He also stated that he was not sure that Mr. Seaman's individual situation should be considered with these rules before the Board today.

Chairperson Ahue asked if they would be able to work with Mr. Seaman.

Mr. Thompson stated that part of the reason that he has not received any permit nor has he received any enforcement action is because the way that the program is being administered at Keehi Lagoon is done in phases by type of boat, whether live-aboard or not, and in what physical area the person or the boat is. He happens to be in categories that are all at the end of that list. Mr. Thompson stated that all Mr. Seaman's concerns have been examined administratively thoroughly.

ACTION Ms. Himeno moved for approval as to corrections by staff and amended as follows:

- 1) Section 13-234-29, Hawaii Administrative Rules (HAR), change vessel inspection fee from \$10.00 to 15.00.
- 2) On the vessel inspection report form, at the end of Chapter 13-231, HAR, on page 2, change first item from "reconstruction/naval architect" to "reconstruction/marine survey and insurance."

Seconded by Mr. Kennison, motion carried unanimously.

** At the end of the meeting, Mr. Parsons informed the Board that they had an opportunity to talk with Mr. Seamans and they're allowing him to present additional information to justify his extension of time to apply.

**ADDED
ITEM E-3** APPROVAL TO NEGOTIATE AN AGREEMENT FOR THE SERVICES OF THE HANAUMA BAY EDUCATIONAL PROGRAM AT HANAUMA BAY STATE UNDERWATER PARK FOR FY 1994-95

ACTION Unanimously approved as submitted. (Himeno/Nekoba)

ITEM H-3 AFTER-THE-FACT REQUEST TO AMEND CONSERVATION DISTRICT USE PERMIT KA-1962: SINGLE FAMILY RESIDENCE AT HAENA, KAUAI, TAX MAP KEY 5-9-2:21; APPLICANT: MR. GARY BART

Mr. Evans made the presentation with the explanation of the recommendation in two parts, one for the violation and the other for approval of the additional rooms to the residence subject to all previous conditions of approval.

Mr. Terry Weaver, representing Mr. Gary Bart said that a letter had been sent to staff and Mr. Bart had assumed that his home was completed three weeks before the storm hit. He needed to move his damaged furniture out and realized the storage area which he had previously wanted but deleted because of the cost factor of building and timetable in which it took him six years to get all the necessary permits and construction done on his home because it was in conservation and the land use and restrictions. He assumed it was still part of the main permitted plan and he had it deleted because of the cost.

Mr. Evans stated that if the representative for the applicant can show that the storage and workout rooms were included in the original house plans that were submitted that his office would back off.

Mr. Weaver said that he was coming in years later and was just finding out a lot himself. He said that he did look at the plans that were sent to Mr. Horiuchi's office. He said that Mr. Bart assumed that he deleted that because of the cost and assumed that it was still apporioned. What could have happened is that the architect might have taken it out as well. Mr. Weaver said that the owner does realize that he is in violation and does not want to create a problem. He is here today on his behalf asking for a reduction of the \$4,000.00 fine.

Mr. Yuen pointed to the floor plans in exhibits 3 and 4 of the submittal. During the discussion it was shown on the plans that the additional rooms did not extend beyond the house size. The rooms were actually

downstairs and were not originally enclosed.

ACTION Ms. Himeno moved that the fine be reduced to \$500.00 and that the Board approve the additional workout and storage room subject to all previous conditions of approval. Seconded by Mr. Apaka, motion carried unanimously.

REQUEST FOR APPROVAL TO ENTER INTO AN AGREEMENT WITH THE RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII TO CONDUCT SURVEYS OF SHORELINE FISHING ACTIVITY AT THREE LOCATIONS IN THE MAIN HAWAIIAN ISLANDS

ITEM B-1

ACTION Unanimously approved as submitted. (Nekoba/Kennison)

ADDED
ITEM C-1 See page 6 for Action.

PERMISSION TO HIRE A CONSULTANT FOR JOB NO. 1-OW-J, WAIAHOLE DITCH SYSTEM ASSESSMENT REPORT, OAHU

ITEM D-1

Ms. Himeno asked if there were an amount of the contract.

Mr. Ed Lau responded that they have \$10,000.00 at present to start. They feel it is a small amount, but they can start with the assessment and identification using existing information from the Oahu Sugar and Waiahole water system.

Chairperson Ahue mentioned that there is another study being issued by the Water Commission which would ducktail this in the amount of \$60,000.00 in the master plan. Mr. Lau mentioned that there was another \$40,000.00 that the wastewater people of the City and County would provide.

ACTION Unanimously approved as submitted. (Himeno/Yuen)

PERMISSION TO HIRE A CONSULTANT FOR JOB NO. 1-HW-A, KEOPU WATER DEVELOPMENT SHAFT, NORTH KONA, HAWAII

ITEM D-2

Mr. Lau responded that there would be \$40,000.00 available. The consultant will not build anything physically but will evaluate and may install in existing wells a monitoring system. The consultant would also evaluate the exploratory well.

ACTION Unanimously approved as submitted. (Himeno/Yuen)

**PERMISSION TO HIRE AN ARCHITECT FOR JOB NO. 89-HP-V1,
RESTORATION AND HANDICAP IMPROVEMENTS AT HULIHEE
PALACE, HAWAII**

ITEM E-1

Responding to questions of the Board, Mr. Quinn said that \$53,000.00 had been appropriated for this project.

ACTION Unanimously approved as submitted. (Yuen/Himeno)

ITEM E-2 See page 2 for Action.

ADDED
ITEM E-3 See page 14 for Action.

ITEM F-1 **TRANSMITTAL OF DOCUMENTS**

Item F-1-a **Issuance of Land License to Allied Aggregates Corporation,
Government Land at Kaohe 3, Hamakua, Hawaii, Tax Map Key 4-4-
15:13**

Mr. Yuen asked if there was a fair way of allocating quarry items.

Mr. Young responded that no one else was interested.

During discussion that followed it was stated that for the sand he's been paying \$3.00 or lower. The first land license that went out was for \$2.85. Current owner is making 25-30% margin with cost of transportation.

Mr. Young informed the Board that they could establish a royalty now or get an independent appraiser.

Mr. Yuen would like to ask for an appraisal.

Mr. Young asked that the Board approve an amendment to the submittal. That the Board request a grading plan for the removal, the tonnage, the approximate tonnage as well for the restoration.

Item F-1-b **Amendment of Lease Agreement Between Norman E. Yett and
Patrick A. Hart dba Waiakamilo Properties and State of Hawaii by
the Board of Land and Natural Resources for the Department of
Accounting and General Services, 414 B Kuwili Street, Kuwili, Oahu,
Tax Map Key 1-5-07:9**

Item F-1-c **Assignment of General Lease No. S-4668, Lots 14-b and 15-b, Blk.
48, Waiakea Industrial Lots, Waiakea, So. Hilo, Hawaii, Tax Map Key
2-2-58:39**

ACTION Mr. Apaka moved for approval of Item F-1-a as amended that an appraisal be done and that the Board request a grading plan for the removal, the tonnage, the approximate tonnage as well for the restoration; and approval of Items F-1-b and F-1-c as submitted. Seconded by Mr. Yuen, motion carried.

ITEM F-2 QUITCLAIM OF STATE'S INTEREST IN GOVERNMENT ROAD LOCATED BETWEEN THE HALEOHU HOMESTEADS (LOTS 1 TO 5) AND THE HAMANAMANA LOTS (GRANTS 3740, 3969 AND 4123), MAKAULA-KALAOA 4TH, NO. KONA, ISLAND OF HAWAII, TAX MAP KEY 7-3-03

ACTION Unanimously approved as submitted. (Yuen/Apaka)

ITEM F-3 AMENDMENT TO PRIOR BOARD ACTION OF JUNE 28, 1991 (AGENDA ITEM F-8) FOR DIRECT LEASE TO QUALIFIED PERMITTEES UNDER ACT 237, SLH 1988, ISLAND OF MAUI

ACTION Unanimously approved as submitted. (Kennison/Yuen)

ITEM F-4 AMENDMENT TO PRIOR BOARD ACTION OF APRIL 10, 1992 (AGENDA ITEM F-5) RELATING TO THE AWARD OF A NON-EXCLUSIVE EASEMENT FOR SEAWALL AND REMNANT PARCEL SEAWARD OF KANEOHE BAY, KOOLAUPOKO, OAHU, TAX MAP KEY 4-5-104:SEAWARD OF 26

ACTION Unanimously approved as submitted. (Yuen/Kennison)

ITEM F-5 AMENDMENT OF PRIOR BOARD ACTION OF SEPTEMBER 10, 1993 (AGENDA ITEM F-1-C) RELATIVE TO THE ISSUANCE OF A REVOCABLE PERMIT TO DWIGHT OTANI PRODUCE, INC., IWILEI PRODUCE CENTER, IWILEI, OAHU, TAX MAP KEY 1-5-07:POR. 14

WITHDRAWN Accepted request to withdraw this item. (Nekoba/Apaka)

ITEM F-6 AMENDMENT TO PRIOR BOARD ACTION OF NOVEMBER 11, 1993 (AGENDA ITEM F-8) RELATING TO THE ISSUANCE OF REVOCABLE PERMIT TO ALOHA TOOLS AND RENTALS, INC. DBA HONOLULU RECOVERY SYSTEMS COMPANY, FORMER DEPARTMENT OF TRANSPORTATION PERMITTEE, AT KEEHI INDUSTRIAL LOT, KEEHI LAGOON, KALIHI-KAI, HONOLULU, OAHU, TAX MAP KEY 1-2-23

Mr. Nekoba asked to be recused because of conflict of interest.

ACTION Unanimously approved as submitted. (Kennison/Apaka)

ITEM F-7 See page 3 for Action.

ITEM F-8 See page 3 for Action.

ITEM F-9 See page 3 for Action.

ITEM F-10 **STAFF REQUESTS AUTHORIZATION TO SELL AT PUBLIC AUCTION
GENERAL AGRICULTURAL LEASES COVERING GOVERNMENT
LANDS ON THE ISLAND OF MAUI**

Mr. Young requested that the Board rescind its action of March 10, 1989 under agenda Item F-9, which relates to TMK 2-2-15:16 at Kula, Makawao, Maui, comprising 16.550 acres encumbered under Revocable Permit S06675 and described in agenda Item F-10.

ACTION Unanimously approved as amended. (Kennison/Apaka)

ITEM H-1 **REQUEST FOR APPROVAL TO ENTER INTO AN AGREEMENT FOR
ORGANIZING A CONFERENCE**

ACTION Unanimously approved as submitted. (Nekoba/Kennison)

ITEM H-2 See page 2 for Action.

ITEM H-3 See page 15 for Action.

ITEM J-1 **ISSUANCE OF REVOCABLE PERMIT, MAALAEA SMALL BOAT
HARBOR, ISLAND OF MAUI (MAALAEA BOAT AND FISHING CLUB)**

ACTION Unanimously approved as submitted. (Nekoba/Kennison)

ITEM J-2 **CONTINUANCE OF REVOCABLE PERMITS**

After his presentation of Item J-2, Mr. Parsons informed the Board that before their rules are adopted, this will be the last time they will be asking for renewal of revocable permits for ticket booths at Lahaina. Under their new rules there is a provision converting those permits to harbor uses. The user fee under the use permit will be \$250.00 per month rather than the \$20.00 presently. The fee for the ticket booth was suggested by the Maui Charter Boat Association as an appropriate charge. Harbor use permit for ticket booth operations will also be allowed to expand the type of business they can do from the booth. It will still be on month to month basis.

ACTION Unanimously approved as submitted. (Kennison/Nekoba)

ITEM J-3 APPROVAL OF SHORT-TERM INSTALLATION OF AIDS TO NAVIGATION, MAMALA BAY, ISLAND OF OAHU (UNIVERSITY OF HAWAII)

ACTION Unanimously approved as submitted. (Nekoba/Apaka)

ITEM J-4 APPROVAL OF SHORT-TERM INSTALLATION OF AIDS TO NAVIGATION, MAMALA BAY, ISLAND OF OAHU (SCIENCE APPLICATIONS INTERNATIONAL CORPORATION)

ACTION Unanimously approved as submitted. (Nekoba/Apaka)

ITEM J-5 See pages 13-14 for Action.

ITEM K-1 AMENDMENT NO. 14 TO LEASE NO. A-62-13, MAIN TERMINAL COMPLEX, HONOLULU INTERNATIONAL AIRPORT, OAHU (CANADIAN AIRLINES INTERNATIONAL, LTD.)

ACTION Unanimously approved as submitted. (Nekoba/Kennison)

ITEM K-2 ISSUANCE OF A GRANT OF EASEMENT, HONOLULU HARBOR, OAHU (DEPARTMENT OF WASTEWATER MANAGEMENT CITY AND COUNTY OF HONOLULU)

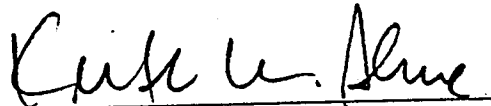
ACTION Unanimously approved as submitted. (Nekoba/Apaka)

ADJOURNMENT The meeting adjourned at 12:25 p.m.

Respectfully submitted,


Dorothy Chun

APPROVED


KEITH W. AHUE, Chairperson

dc
3/4/94