Reference Material: Information Package, 1977 April 1

MEMORANDUM

April 11, 1977

TO: SENATOR
FROM: RICK
RE: KAHOOLAWE

The yellow card attcahed lists the contents of this Kahoolawe package for you. This is the same package you took with you to the White House on March 22, 1977.

In my view the Kahoolawe issue actually breaks down into three areas of contention: (1) bombing operations, (2) clearance and restoration of the island, and (3) transfer of jurisdiction from the Navy to the State of Hawaii.

You have made tremendous progress in dealing with points 1 and 2, especially if one looks back at the past inflexibility of the Defense Department. I see your negotiations for dummy bombs as a move to an eventual end to bombing operations altogether; the concern of native Hawaiians in this respect has been the protection of historic sites and those yet to be discovered. Another consideration is that the level of shrapnel and live buried ordnance must be stopped to prevent a difficult clearing operation from becoming impossible.

On point two, your Senate bill 221 is a compromise step to effect clearance in not less than one percent of the island(1% of Kahoolawe's 28,766 acres = about 288 acres). The Navy feasibility executive summary reports that about 7,750 acres comprises the current target areas. Possible critics may say the Navy might reluctantly go along with the bill, but select a parcel of land with little ordnance density and of no conceivable land use to the State. For this reason the bill provides for joint State-Navy decisions in choice of parcel and final land use. A pilot project must be located in an area that will produce meaningful results.

Incidentally, letters of enthusiatic endorsement of S. 221 have come from Ariyoshi, Cravalho and Land and Natural Resources Board Chairman Chris Cobb. Among the Hawaiians, only Gail Prejean of the Coalition of Native Claims has expressed mild support. Copies of the floor statement and bill and requests for comments went to Admiral Hayward and Kinnear and Wentworth. All have written about their reservations but have not expressed <u>in writing</u> any opposition to the bill.

The steps you are taking to resolve points 1 and 2 are incremental, but significant; remember not too long ago the Navy declared the island irretrievably lost. Now they say the price of clearance is prohibitive, adding that they have no alternative sites. The Navy said exactly the same thing about Culebra, but today the island is a wildlife refuge under the jurisdication of Puerto Rico.

ATTACHED:

1) Executive Order 10436
2) Navy Fact Sheet(history, military objectives, alternate sites)
3) Senate Bill 221 + Statement
4) Executive Summary of Navy Cleanup Feasibility Study
5) Summary of Archaeological Finds, and Statement by Sen. Inouye
6) Newspaper editorials
7) Letter, Council of Hawaiian Organizations
8) Legal Memo: Kahoolawe + Land Claims issue
9) Inouye testimony on Navy aircraft

No. 10436

Feb. 25, 1953, 18 F. R. 1051

RESERVING KAHOOLAWE ISLAND, TERRITORY OF HAWAII, FOR THE USE OF THE UNITED STATES FOR NAVAL PURPOSES AND PLACING IT UNDER THE JURISDICTION OF THE SECRETARY OF THE NAVY

WHEREAS it appears necessary and in the public interest that the Island of Kahoolawe, Territory of Hawaii, which comprises an area of approximately forty-five square miles, and which forms a part of the public lands ceded and transferred to the United States by the Republic of Hawaii under the joint resolution of annexation of July 7, 1898, 30 Stat. 750, be taken and reserved for the use of the United States for naval purposes, except that portion comprising an area of 23.3 acres, more or less, heretofore taken for lighthouse purposes by Proclamation No. 1827 of the President of the United States dated February 3, 1928 (45 Stat. 2937); and

WHEREAS it is deemed desirable and in the public interest that provision be made for the conducting of a program of soil conservation on the island while the reservation made hereby is in force, and that the area within such reservation be restored to a condition reasonably safe for human habitation when it is no longer needed for naval purposes:

NOW, THEREFORE, by virtue of the authority vested in me by section 91 of the act of April 30, 1900, 31 Stat. 159, as amended by section 7 of the act of May 27, 1910, 36 Stat. 447,[1] it is ordered as follows:

1. The Island of Kahoolawe, Territory of Hawaii, except that portion taken by the United States for lighthouse purposes by Proclamation No. 1827 of February 3, 1928, is hereby taken and reserved for the use of the United States for naval purposes, and is placed under the jurisdiction of the Secretary of the Navy.

2. The Secretary of the Navy shall, within a reasonable period following the date of this order, eradicate from the island all cloven-hooved animals, or shall within such period and at all times thereafter while the area hereby reserved or any portion thereof is under his jurisdiction take such steps as may be necessary to assure that the number of such animals on the island at any given time shall not exceed two hundred.

3. The Territory of Hawaii shall have the right, at its expense and risk, at reasonable intervals to enter and inspect the island to ascertain the extent of forest cover, erosion, and animal life thereon, and to sow or plant suitable grasses and plants under a program of soil conservation: *Provided*, that such entrance and inspection shall not interfere unreasonably with activities of the Department of the Navy or of the United States Coast Guard.

4. When there is no longer a need for the use of the area hereby reserved, or any portion thereof, for naval purposes of the United States, the Department of the Navy shall so notify the Territory of Hawaii, and shall, upon seasonable request of the Territory, render such area, or such portion thereof, reasonably safe for human habitation, without cost to the Territory.

DWIGHT D. EISENHOWER

THE WHITE HOUSE
February 20, 1953.

1. 43 U.S.C.A. § 511.

EDNA:
Senator said Karen Ahn will be picking this up at the office today. There are 6 pages all together. Lamela

Sens 4-1-76

KAHOOLAWE TARGET COMPLEX

MARCH 1976

Geography and Description

Kahoolawe is the smallest of the eight main islands of the Hawaiian Archipelago. It is located approximately six miles southwest of the island of Maui, which places it less than 100 NM from the military forces stationed in Hawaii. The island is eleven miles long, six miles wide at its widest point, with a maximum elevation of 1,477 feet. Its area is approximately forty-five square miles or 28,000 acres.

Because of its location in the lee of Maui's 10,000 foot volcano, Haleakala, Kahoolawe is robbed of the moisture from clouds to the northeast and depends on occasional Kona storms for its annual rainfall. Unlike most other areas in the state, Kahoolawe is very dry and barren. While accurate records do not exist, the average rainfall is about 21 inches annually, mostly during the winter. Kahoolawe's dry climate lends itself to ideal conditions for flight operations both day and night. It is seldom plagued by heavy cloud cover or low visibility.

Historical Background and Title

Following the unification of the Hawaiian Islands under King Kamehameha I in the early 1800s, Kahoolawe became the property of the Hawaiian Kingdom. From the 1830s through the early 1850s the island was periodically used as a penal colony by the Kingdom.

The beginning of Kahoolawe's use as a grazing land for cattle, sheep and goats began in 1864 when the island was leased to a private individual. This lease was successively assumed by various individuals until 1910, when the lease was canceled because the vegetation had deteriorated and the soil was badly eroded by wind and water.

The Federal Government acquired fee title to Kahoolawe Island by the annexation of Hawaii in 1898. This title to Public and Crown lands of the Republic of Hawaii was confirmed by the Organic Act of 1900. However, right of use and possession was given to the Territory of Hawaii pending use by the United States. From 1910 to 1918 the island was proclaimed a Forest Reserve in an effort to halt the erosion and reclaim the vegetation. In 1919 this effort was abandoned, and Kahoolawe once again was leased for ranch land. The lease was renewed in 1933, to expire on 30 June 1954. The lease included a provision for cancellation if the island were needed for public purposes.

By sublease dated 19 May 1941, and a supplementary agreement dated 1 March 1944, the Kahoolawe Ranch Company gave the Federal Government possession of the entire island, thus returning it to government control. Formal notice of Federal intention to use Kahoolawe Island was given by Presidential Executive Order 10436 on 20 February 1953. Title was not

affected by the Statehood Act of 1959 which recognized lands previously set aside by the United States. Public Law 88-233, passed subsequent to the Statehood Act, permits conveyance of these lands to the State when no longer required by the Federal Government.

Executive Order 10436 reserved the island for the use of the United States and placed it under the jurisdiction of the Secretary of the Navy for use by the Armed Services. The executive order also granted the right of the Territory of Hawaii, at its expense and risk, and on a non-interference basis, to enter and inspect the island to ascertain the extent of forest cover, erosion and animal life thereon, and to sow or plant suitable grasses and plants under a program of soil conservation. The Order also required the Navy to eradicate, or keep to a minimum of 200 head, all cloven-hooved animals on the island. It further stipulated that when the island is no longer needed for military purposes, Kahoolawe would be rendered "reasonably safe for human habitation" and returned to the Territory without cost to the local government.

Kahoolawe Target Complex

Kahoolawe is typical of a military target complex. Its development since 1941 has been geared to the need for target facilities to meet training and readiness requirements. Through actual combat experience targets have been designed, built and placed throughout the island's surface to get maximum advantage of the island's training environment. The targets are suitable for use by Navy ships and aircraft and troops of all services. There are three basic type land targets.

Point Targets. A single or small area target needed to assess the accuracy of a pilot, surface ship or weapons system. Point targets must be ground stabilized (known latitude/longitude/elevation) and possess characteristics of targets likely to be found in actual combat conditions. A percentage of point targets are required for use with high explosive conventional ordnance to ensure the entire evolution of handling, loading, fuzing and delivering ordnance on target is at an acceptable level of readiness and safety. Point targets are also required to assess the effectiveness and delivery accuracy of certain weapons and guns.

Area Targets. This type of target is needed to test the combat effectiveness of several aircraft or surface ships in coordination. Area targets may consist of an array of point targets or be large targets such as simulated runways, surface-to-air-missile (SAM) sites, anti-aircraft gun sites, storage areas, etc. Area targets must resemble targets most likely to be encountered in actual combat conditions.

Ringed Targets. This type target is most commonly a circular ring surrounding a target center or "Bulls Eye." It is used to pin point the accuracy of a weapon delivered from an aircraft. This target provides the maximum amount of information to observers, pilots and aircrewmen as to the degree of readiness an individual or a squadron has achieved at any time during a training cycle.

Usage

General Requirement. The past few years have seen a reduction of overseas bases. This withdrawal has been caused by changes in the international situation, by financial pressures, and by a rising sense of nationalism on the part of host countries. This last factor is expected to at least remain constant if not increase in the foreseeable future. Growing populations, industrial expansion, burgeoning food requirements, and increased air travel all demand land and airspace which are in short supply. The net result is that training operations on target areas like Kahoolawe have become increasingly important.

Utilization. The Kahoolawe target complex is currently utilized for weapons delivery training by U.S. Navy, Army, Air Force, Marine Corps, Coast Guard, Hawaiian Air National Guard, air, ship and ground forces, and for allied Naval Forces. The targets are used for shore bombardment, gunfire support controller training, close air support training, individual and group air-to-ground attack training, and mortar and artillery firing. Normally the target complex is in use five days and four nights each week for locally based units. When aircraft carriers transit the area en route to the Western Pacific, weekend operations for embarked air wings are conducted usually. The projected use of the target complex through 1979 is 285 days and 123 nights each year. Actual use in 1970 accounted for 216 days; 1971, 225 days; 1972, 250 days; 1973, 245 days; 1974, 250 days; 1975, 240 days. The variations were caused by fluctuations in force levels.

Simulation of Actual Combat Conditions. The unique features of Kahoolawe including its topography, climate and targets make the complex an ideal environment for simulating actual combat conditions. It provides an area large enough for sufficient realism in the training missions to enable strike leaders, pilots, ground forces and aircrewmen to become proficient in target identification, target acquisition and accurate delivery of ordnance. In addition, the variety of landmarks and targets provide a safe method of practicing the precise timing and coordination required in large air wing strikes. This valuable training without the exposure to actual enemy fire is perhaps the most valuable feature of Kahoolawe when considered in terms of lives and aircraft saved in actual combat. In conjunction with the expenditure of ordnance on these targets is the important training received by gunners, ordnancemen and ammo handling parties in the handling, loading and fusing evolutions of live ordnance aboard surface ships, aircraft carriers, at airfields, and in the field.

Readiness. The level of proficiency obtainable by military units through the use of the Kahoolawe target complex is a major factor in supporting the requirement for such a complex in the Mid-Pacific area. Without reviewing the specific features of the island complex, it is sufficient to recall the wide spectrum of training the island can provide to its users. With this training available it remains possible for the Navy and Marine Corps and Army units to achieve and maintain a high state of readiness in the Mid-Pacific area. If our forward bases are phased out or reduced in Japan, Korea, Okinawa and Philippines, the Mid-Pacific region becomes even

more significant from a strategic standpoint. It follows then, that if Mid-Pacific Forces are needed, they must be maintained in a top state of readiness. Readiness cannot be achieved or sustained without training, adequate in scope and frequency of opportunity. The island also provides an opportunity to supplement the shore bombardment training received by West Coast ships prior to deployment.

Cost of Operating Kahoolawe. The actual costs incurred in operating the target complex are insignificant. All targets are made of surveyed or scrapped materials except for the range crew shelter and spotting shack. Since the complex is not manned on a routine daily basis, there are no salary or manning allowances associated with its operation. Minor costs are incurred quarterly in conjunction with target maintenance.

Alternatives

Until such time as naval shore bombardment, carrier based aircraft bombing, artillery fire support, and close air support of ground troops are no longer an integral part of modern warfare, the U.S. military forces will require the use of a target site such as Kahoolawe to maintain combat readiness. The principal users of the island are Oahu-based units. Kahoolawe, with its excellent weather, varying terrain, and ideal location, provides a uniquely suitable target site in the Hawaiian area. Military units stationed in the western part of the mainland and in West Coast ports utilize West Coast targets, but scheduling factors and costs make it prohibitive for Hawaii-based forces to use West Coast targets. In the Hawaiian area, there are no suitable alternate targets. Several alternatives suggested in the past are briefly discussed below.

Kaula Rock (Kauai) - Small rock (280 acres), little level terrain, hazardous access, very few targets possible, no base camp or shore parties possible, no spotting facilities possible.

Pacific Missile Range Facility, Barking Sands (Kauai) - Ocean range lacks visual points of aim, visual adjustment of fall of shot, terrain features, and no live ordnance permitted.

Army Impact Areas (Oahu and Hawaii) - The Oahu areas cannot accept close air support operations due to the noise impact on the adjacent populated areas, the hazards of live ordnance to these same areas and air space restrictions. On Hawaii the hazard of night operations involving high altitude targets (6000 feet) located between two mountains both over 13,000 feet and frequent restrictions due to cloud cover preclude safe and efficient air operations. None of the three sites can accept shore bombardment due to the hazards of firing over populated areas.

Midway Island (Hawaiian Chain) - More than 900 miles and three days steaming from Oahu, inhabited, bird sanctuary, no terrain features.

Johnston Island - Some 700 miles and similar considerations to Midway Island.

West Coast Target Sites - 2500 miles from Hawaii, unfavorable weather, varying restrictions.

Artificial Island - Construction costs prohibitive.

Special Precautions

Noise. To minimize the disturbance to Maui residents, the targets were moved from the northeastern end of the island which is closest to Maui and concentrated in the center third portion so that a high ridge would diminish the noise of the ordnance impact. Special meteorological observations are made to determine if local weather conditions are conducive to "trapping and focussing" sound waves toward Maui. If such conditions exist, live ordnance expenditures are prohibited. The maximum bomb load allowed to be delivered on any one aircraft pass is a single 500 pounder.

Safety. In addition, military aircraft are prohibited from flying directly over any inhabited island when loaded. Initial approaches are made from a southerly direction to avoid commercial airways, and the delivery patterns are kept as close as practicable to the island. Each flight is briefed to remain well clear of Maui.

Community Interests

Fishing. When the target island is not going to be used over the weekend, the surrounding waters are opened to fishing by anyone who desires. Entry to the island itself remains prohibited due to the ordnance hazard. Fishing notices are broadcast by local radio stations and are published in the newspapers. Safety notices to mariners are publicized by the Coast Guard.

Conservation. In accordance with Navy directives, efforts are being made in soil and forest conservation. Projected experimental plantings have proven which trees and grasses will grow. An expansion of the reforesting effort is now in progress. In March of 1976, a planting of 200 ironwood trees will be made to create a windbreak.

Archaeology. A program is presently underway to determine if there are any archaeological sites on the Island of Kahoolawe which warrant preservation, and if so which are of such importance as to warrant official inclusion in the State of Hawaii Register or in the National Register of Historic Places. The Navy is currently cooperating in this endeavor with the State and National Historic Sites Preservation Officer for the State of Hawaii.

Historical Interest. In November 1975 a surge of interest arose over Kahoolawe which stemmed from an increased emphasis on the study of Hawaiian culture, history, background, and religion. A group of Hawaiians was permitted to hold an ancient religious ceremony on the island in February 1976.

Ordnance Removal

Problem. When the military has no further use for Kahoolawe, the Executive Order stipulates that the island is to be rendered "reasonably safe." A study in 1969 by Explosive Ordnance Demolition (EOD) personnel estimated that there are over 10,000 tons of unexploded ordnance embedded in the island ranging from 20 millimeter to 16-inch projectiles. Extensive decontamination work could provide approximately 70% surface clearance but there could be no guarantee against later exposure of undiscovered ordnance, or against the detonation of such ordnance by construction or farm machinery. Since 1969 improvements in the technology of detection are estimated to have raised the surface clearance level to around 80%. The adjacent waters within the ten fathom curve would be more difficult to sweep and clear.

EOD Teams. Explosive Ordnance Demolition teams accompany every visiting group to the island to ensure their safety and to remove any hazardous material located near the base camp. In addition, live ordnance in the vicinity of targets and roads is detonated to assist the maintenance crews. These operations provide valuable field training to EOD personnel.

Current Situation. In November 1975, a joint conference committee of the U.S. Congress requested the Navy provide a study on the feasibility and cost of clearing the island of explosive ordnance. The Navy has engaged a civilian firm, Marinco Ltd. of Falls Church, Virginia, which is expert in ordnance clearance matters, to assist in the study. The study will determine the manpower, time and costs of various options which include total clearance, clearance of selected areas, and underwater clearance to a selected depth. The study will include all technically feasible clearance options and no option will be discounted because of its magnitude of effort or anticipated costs.

Conclusion

There is a valid basic requirement to provide Kahoolawe target training to the military forces stationed in Hawaii in order to ensure that operational readiness is maintained. While there are no suitable, alternative sites for the type of target exercises Kahoolawe offers, the military requirements will be reviewed periodically to determine if the island is still needed. Until such time as it may be conveyed to the State, the Navy will continue to cooperate in every way with State, County and City officials and the people of Hawaii.

95TH CONGRESS
1ST SESSION

S. 221

IN THE SENATE OF THE UNITED STATES

JANUARY 14, 1977

Mr. INOUYE introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To authorize the Secretary of the Navy to set aside and clear a certain portion of the island of Kahoolawe, Hawaii, as a pilot project to determine the feasibility and cost factors of clearing the entire island and surrounding waters of naval ordnance which is on such island and in such waters as the result of such island being used as a target range.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to determine the feasibility and cost of clearing the island of Kahoolawe, Hawaii, and the surrounding waters of ordnance and other debris resulting from the use of such island as a target range by the United States Navy, the Secretary of the Navy is authorized and directed to

(1) select and set aside, in consultation with the appropriate officials of the State of Hawaii, a land area of such island equal to not less than one percent of the land area of the island, and (2) clear all ordnance and other debris from such set-aside area. The set-aside area shall be cleared to a depth of at least $4\frac{1}{2}$ feet.

SEC. 2. The pilot project authorized by the first section shall be completed not later than one year after the date of enactment of this Act. The Secretary of the Navy shall report to the Committees on Armed Services of the Senate and the House of Representatives the results of such project not later than sixty days after the completion of such project.

SEC. 3. The land area of the island of Kahoolawe which is cleared as provided in this Act shall, after the clearing operations have been completed, be used for such purpose or purposes as shall be agreed upon by the Secretary of the Navy and the State of Hawaii.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

95TH CONGRESS
1ST SESSION

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A BILL

To authorize the Secretary of the Navy to set aside and clear a certain portion of the island of Kahoolawe, Hawaii, as a pilot project to determine the feasibility and cost factors of clearing the entire island and surrounding waters of naval ordnance which is on such island and in such waters as the result of such island being used as a target range.

By Mr. INOUYE

JANUARY 14, 1977
Read twice and referred to the Committee on Armed Services

By Mr. INOUYE:

S. 221. A bill to authorize the Secretary of the Navy to set aside and clear a certain portion of the island of Kahoolawe, Hawaii, as a pilot project to determine the feasibility and cost factors of clearing the entire island and surrounding waters of naval ordnance which is on such island and in such waters as the result of such island being used as a target range; to the Committee on Armed Services.

Mr. INOUYE. Mr. President, I am today introducing a bill affecting Kahoolawe Island, one of the eight major islands in the Hawaiian chain. For more than 35 years, Kahoolawe has been the site of aerial bombing and ship-to-shore target practice, conducted primarily by the U.S. Navy as part of its general training exercises.

This island has the dubious distinction of being one of the most bombed islands in the Pacific. I am concerned about this island, not so much because its somewhat limited resources are being destroyed by the Navy's live ammunition practices, but rather because the island is no more than 8 miles off the coast of a fast-developing population center on the island of Maui. The threat to the lives and property of the Maui residents is very real and warrants the concern of my distinguished colleagues in the Congress.

The bill I introduce today would direct the Navy to conduct a pilot project to clear a portion of the island within a year and to report back to the appropriate congressional committees about the project results.

I see this legislation as a significant step toward the eventual clearance of the entire 45-square-mile island of unexploded bombs and other ordnance and debris. And I expect this bill to pave the way for the eventual transfer of a revitalized Kahoolawe from the U.S. Government to the State of Hawaii.

It is true that there are other areas within the territorial boundaries of the United States used for similar military training purposes, but Kahoolawe is different from these locales. The State of Hawaii retains residential rights over Kahoolawe since it formerly owned the island, subject only to "temporary" military exigencies enumerated in the Executive order reserving use of the island to the U.S. Government. Furthermore, because of the close proximity of Kahoolawe to Maui, the second largest island, subject only to temporary long complained of the effects of aerial and shore bombardment. Finally, Kahoolawe was once usable for other purposes. It is now rapidly being destroyed and rendered unfit for human habitation. This erosion is an unforgivable waste in a State where land is at a premium.

In the last three Congresses, I introduced measures that would have transferred Kahoolawe back to the State of Hawaii and that would have authorized moneys needed to clear the island of ordnance now estimated at over 10,000 tons. The bill met stiff opposition by the Navy Department in each Congress and most probably would have no hope for survival in this Congress as well.

The measure I now propose incorporates recent findings of a year-long study of Kahoolawe by the Navy Department, the most significant of which was the feasibility of clearing 90 percent of the land to a depth of 4½ feet in about 6 years. Prior to the study, the Navy made repeated claims that clearance of the island—to an extent feasible for human habitation—was impossible.

I succeeded in inserting a directive to the Navy in the 1975 military construction appropriations bill to conduct the 1-year study so that cost estimates of clearing Kahoolawe could be made for the first time. The Navy did a thorough and commendable study—one which I have found instructive.

The study finds not only that it is indeed feasible to restore Kahoolawe for human habitation, but also finds that a clearing operation on the island would be advantageous for Navy explosive ordnance disposal—EOD—training programs. The study says the civilian work force lacks the personnel qualifications for ordnance clearance on a par with the EOD teams. The study says also:

> The use of active duty EOD personnel would be advantageous from the standpoint of current qualifications, familiarity with the ordnance and area and potential labor cost reductions. From a military standpoint, it would provide unique operational training for the EOD group and valuable experience toward improving ordnance clearance techniques and equipment.

One other major finding of this study is that no precedent exists for a clearing operation on the scale of an island land mass like Kahoolawe. The study says:

> The lack of precedent for large-scale clearance and the manitude of this effort in terms of cost indicate it would be prudent to undertake a pilot program to test procedures and confirm clearance rates. This would allow for refinement of cost estimates and subsequent cost benefit analysis based on land-use alternatives.

I agree with the recommendation that a pilot project be implemented, and I hope consideration of my bill may proceed carefully, but expeditiously through the Congress. I do not believe Kahoolawe Island is a mere "hell hole," as the Navy once alleged a few years ago. It is true the island, which has rich possibilities as a future State wilderness park, picnic-recreation site or wildlife refuge, is becoming unfit for anything except bombardment unless we reverse Navy policies of neglect and destruction.

Kahoolawe was not always the victim of defense demands. Through most of our history as a territory, Kahoolawe was owned by the territorial government and leased to private parties for grazing. In 1919 and again in 1933, the territory leased most of the island to a private ranch. In 1940, the Navy obtained a sublease to the island. Then in 1952 the original lease was canceled by the territory. In 1953 the area that was not being used for a lighthouse, which was already Federal property, was taken by the United States under the controversial Presidential Executive Order 10436.

Under the terms of the Executive order, when the Navy decided that the area was no longer needed, the island would be rendered reasonably safe for human habitation without cost to Hawaii and returned to the latter's jurisdiction. Moreover, the Navy was to either eradicate all goats from the island or strictly control their number. Finally, the Navy was to permit the then territory to enter and inspect the island and take appropriate measures to conduct a program of soil conservation.

What has happened in the years since the Navy secured control of the island? Kahoolawe is rapidly deteriorating between the Navy's bombardment and the animals that are stripping away the natural covering. In an era of environmental concern, Kahoolawe stands as mute testimony to the failure of the Federal Government to practice what it preaches. Soon, between the animals and the Navy, Hawaii will be left with nothing except outcroppings of rock from the Pacific.

Kahoolawe was and remains an integral part of Hawaii. Under the terms of the Admission Act, all lands reserved to the United States remained Federal property. However, the Executive order reserved only use, and the order's drafters clearly foresaw eventual return to the State. Thus title remains vested in Hawaii, which has granted the Federal Government use of the island.

The people of Hawaii have shown remarkably good faith and tolerance for the Navy's activities. We have recognized the fact that security requirements can demand a sacrifice on our part. However, the limits of our tolerance have long been exceeded, and the Navy has failed to prove that our defense posture will be undermined by the cessation of the bombardment of Kahoolawe.

Aside from the actual physical ruin of Kahoolawe itself, which is proceeding apace, the bombing constitutes a serious danger to the people of Maui. In September 1969 unexploded ordnance was discovered buried in the pasture of the mayor of the county of Maui. After an investigation, the Navy determined that the bomb had been dropped in 1966 but was in no danger of detonating.

However, this has not been the only incident. Residents have often complained about the noise from aircraft utilizing Kahoolawe. Because the population of Maui is expanding and the use of Kahoolawe is very heavy, the odds of an accidental bombing of Maui are very high. In the interest of the safety and comfort of the citizens of Maui, the policies of the Navy must be reversed.

I have made countless inquiries with the Navy about Kahoolawe and one exchange of letters stands out in my mind. In response to my correspondence in late 1969, Rear Adm. D. C. Davis, Commander, Hawaiian Sea Frontier, alleged that—

> The ravages of over a quarter of a century of air and surface bombardment have probably irrevocably eliminated the possibility of future safe, domestic use of the island.

He continued:

> This element has not been realistically faced in years past.

In his response to my inquiry, Admiral Davis added—

> The time has come to inform the local public that Kahoolawe should remain for the indefinite future an uninhabited monument to the requirements of our national security.

Admiral Davis should be commended for his frankness in stating that Navy utilization has rendered Kahoolawe barren and useless, but this candor was long overdue. I cannot believe that this discovery was suddenly made in 1969 only at my urging. Where was this candor during the previous 29 years of Navy use?

The Navy has claimed that there are no alternate sites available, but no one in the civilian sector really knows what efforts have been made to locate a less objectionable location. In fact, the Navy already uses the uninhabited island of Kaula, which is farther away from population centers and which is totally useless for any further development.

Furthermore, Mr. President, what are the people of Hawaii to make of the Executive order which promised to return Kahoolawe to the State after it was no longer required and to provide conservation programs for the island? The Navy Department obviously is saying in effect that it may some day return this ravaged "uninhabited monument" after it renders it sterile, but there is no indication when, if ever, we can expect this action.

We hear much about the credibility gap, and it is precisely this kind of callous disregard for the safety of civilians that contributes to the growing alienation of civilians from the Armed Forces.

Within the last 12 months, a wide range of local Hawaiian community groups, the two largest daily newspapers, the Hawaii Chamber of Commerce, all four county councils in the State and both State legislative houses have passed resolutions and written letters to Navy officials and the President to seek an end to the bombing, restoration of the island and return of the rights to the land to the State of Hawaii. The people of my State are looking toward Washington for a resolution of this devastating problem.

Mr. President, I request unanimous consent to have printed in the RECORD the text of the bill, along with two editorials from the Honolulu Advertiser, which were published before and after the Navy conducted the 1976 Kahoolawe study.

There being no objection, the bill and editorials were ordered to be printed in the RECORD, as follows:

S. 221

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to determine the feasibility and cost of clearing the island of Kahoolawe, Hawaii, and the surrounding waters of ordnance and other debris resulting from the use of such island as a target range by the United States Navy the Secretary of the Navy is authorized and directed to (1) select and set aside, in consultation with the appropriate officials of the State of Hawaii, a land area of such island equal to not less than one percent of the land area of the island, and (2) clear all ordnance and other debris from such set-aside area. The set-aside area shall be cleared to a depth of at least 4½ feet.

SEC. 2. The pilot project authorized by the first section shall be completed not later than one year after the date of enactment of this Act. The Secretary of the Navy shall report to the Committees on Armed Services of the Senate and the House of Representatives the results of such project not later than 60 days after the completion of such project.

SEC. 3. The land area of the island of Kahoolawe which is cleared as provided in this Act shall, after the clearing operations have been completed, be used for such purpose or purposes as shall be agreed upon by the Secretary of the Navy and the State of Hawaii.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

KAHOOLAWE: WHEN?

Kahoolawe belongs to Hawaii, not to the U.S. Navy which uses the island as a bombing range.

Under the 35-year-old agreement allowing such use, the Navy is obligated to eventually restore and return Kahoolawe to civilian use.

Toward that end, Congress in November told the Defense Department to make a study and report within a year on the feasibility of restoration and return.

So it's not a question of whether Kahoolawe will be returned. The question is when—when dates are set for the end of the bombing, the start of the cleanup, and the turn over.

Until recently, at least, pressure has not been great here for such action, although The Advertiser has made the point it's an issue that won't go away and will grow for a couple of reasons:

Most immediate, from a safety and nuisance standpoint, it is increasingly untenable to be bombing just a few miles from the growing resort and residential area on Maui.

This month's symbolic "invasion" of Kahoolawe by a few Hawaiians just stresses a broader point that political opposition is possible on several levels.

At some future date, Hawaii's people are going to need Kahoolawe for some productive use by our growing population. Between now and then, it will take many years to clean up unexploded bombs, control the goats, restore vegetation, provide water and otherwise make the island livable.

Hard as it is to see in a practical way now, given new technology and ideas there may be a viable long-range future for Kahoolawe, a future that will never begin to be approached as long as it remains a barren bombing target.

At the same time, we would not romanticize Kahoolawe's history or the potential in its present condition. An article on the front page of this section deals with the past.

The Navy study may well contend again that bombing Kahoolawe is essential for national security. But too much for too long—proclaimed for such a reason to be accepted at face value.

Moreover, it must be weighed against other considerations such as safety and ultimate alternate land uses.

In that regard, it's hard to see how Hawaii's position as a Mid-Pacific defense center would be threatened by a return of Kahoolawe to the State.

Governor Ariyoshi has expressed support of Kahoolawe's return, and the Legislature in the past has entertained resolutions to that effect.

Now some stronger expressions, hearings and more detailed local research would seem in order to be prepared for the next phases of the effort.

CLEANING UP KAHOOLAWE

Results of a private study done for the U.S. Navy on the cost of clearing Kahoolawe should be encouraging to those who seek return of the target island to civilian control and more productive use.

The cost may seem high, ranging from $77 to $130 million, depending on how much of the island is cleared of bombs, shells and other debris and to what depth.

But that cost would be spread over four to six years, and it is not out of sight compared to that of some military hardware. For example, the current estimated cost for a single B-1 bomber is $93.8 million and rising.

Moreover, the Navy has an obligation to return the island in reasonable condition as part of its 35-year-old agreement with the State.

As we have said many times before, it's not a question of whether the U.S. government should clean up Kahoolawe and return it to the people of Hawaii. The only question is when—and it's in everyone's long-range interest to start moving toward that end.

The study, requested by Senator Dan Inouye as part of the military construction appropriation bill, is a step in that direction.

The senator expects to follow it up with a new proposal to the next Congress in behalf of Hawaii's case for return of the island. That is a needed move.

But, as also stated before, there is already the basis for a reasonable compromise, a phased reduction of bombing coupled with restoration of parts of the island.

That's possible because bombing is now confined to the side of Kahoolawe away from Maui. That could continue for a time, especially with use of smoke or similar bombs instead of live ordnance. Meanwhile, work could begin right away on clearing up the other side of the island and returning it for State park or other use.

Kahoolawe's long-range future is most uncertain. If it's now hard to see real economic possibilities, it would be a mistake to underestimate what's possible with new technology in years ahead.

Nor should anyone take lightly the feelings of some Hawaiian groups about Kahoolawe and the demands for its return by Maui Mayor Cravalho and others.

For its part, the military has legitimate concerns about its training needs—as well as an obligation to actively seek out alternatives to dropping live bombs on an island so near Maui's tourism center.

The transition of Kahoolawe from bombing target to something better offers a chance for military-civilian cooperation. The chance should not be lost due too much militancy on either side.

EXECUTIVE SUMMARY

of

STUDY ON THE FEASIBILITY AND COST OF CLEARING KAHOOLAWE ISLAND OF UNEXPLODED ORDNANCE

September 1976

BACKGROUND

Kahoolawe Island is the smallest of the eight main islands in the Hawaiian Archipelago, 94 miles southwest of Honolulu. The island is 11 miles long, 6 miles wide, and consists of 28,766 acres. The island is of volcanic origin with elevations of 1,477 feet; the slopes are fissured with gulches 50 to 200 feet deep. Approximately 60% of the island is covered with natural vegetation; i. e., kiawe trees, shrubs, and grasses. Over 30% is a barren dust cap with severe natural erosion forming deep gullies. The east and south coasts are dominated by formidable cliffs up to 800 feet high.

Kahoolawe has been used as a target complex since 1941; practically every type of conventional ordnance in the U. S. military inventory has been expended on the island. There are currently 17 air-to-surface targets and 20 surface-to-surface targets. These targets occupy approximately 7,750 acres and encompass the center north to south section of the island. (See Tab. A.) Because of previous target locations, free drop zones and unrestricted use in early years, the entire area has been subjected to varying degrees of ordnance contamination.

Executive Order 10436 of 20 February 1953 placed Kahoolawe under the jurisdiction of the Secretary of the Navy for use by the Armed Services. The order stipulated that when the island is no longer needed for military purposes, it would be rendered "reasonably safe for human habitation" and returned to the Territory without cost to the local government.

During debate on the Military Construction Appropriation Act, 1976, the Department of Defense was directed to conduct a study of the plan for utilization of Kahoolawe Island and to determine the feasibility and cost of clearing unexploded ordnance and restoring the island in a manner such as to permit domestic use. In response to this tasking, the Chief of Naval Operations (CNO) requested that Commander, Naval Sea Systems Command (COMNAVSEASYSCOM) provide CNO with a study on the feasibility and cost of clearing Kahoolawe.

The study was conducted by Marinco, Ltd., of Falls Church, Virginia, a contractor with several years of experience in the investigation of range clearance problems and mass area decontamination. The study included an actual survey of the island conducted from 1 to 6 March 1976 by a combined team of contractor representatives and Explosive Ordnance Disposal Group One (EODGRUONE) personnel. Support included U. S. Navy resources from NAS Barbers Point, USMC helicopters from MCAS Kaneohe and the USS GRAPPLE (ARS-7). Approximately six percent of the island area was subjected to detailed surface survey encompassing over 14% of the target areas. An extensive surface reconnaissance was conducted on non-target

areas and EOD divers conducted an underwater survey of pre-selected areas along aircraft run-in-lines and surface ship firing zones. Additional information was gathered from previous surveys and discussions with knowledgeable personnel..

The survey revealed surface contamination of various types of ordnance, predominantly bombs, projectiles and rockets. There were 561 hazardous items recorded in the 1656 acres which were surveyed for an average surface density of 0.34 items/acre. Subsurface and underwater contamination densities could not be determined.

FEASIBILITY AND COST CONSIDERATIONS

Total clearance of an area the size of Kahoolawe Island is a complex and costly undertaking. The presence of a wide range of ordnance contamination of unknown quantity over variable depths and terrain represents a multi-faceted problem with few quantifiable elements.

Certain assumptions had to be made to confine the feasibility and cost analysis to those areas on which data were available to the study team. These assumptions are:

a. There will be no constraints on the operation of heavy equipment or detonation of live ordnance on land due to environmental or ecological consideration.

b. Selected gulches can be designated as fill areas to allow for disposal of target scrap and demilitarized ordnance. These areas will be subsequently over-filled, contoured and seeded for erosion control.

c. Berthing, messing and recreational facilities will be contracted for on a self-supporting basis and are not included in the cost estimates.

d. Inter-island transportation for holiday/off-time travel, mail, etc. will also be run on a contract basis except for emergency cases.

e. A majority of the labor force is available in the Hawaiian area and a provision for ten hours a week guaranteed overtime will satisfy union demands for isolated area compensation.

f. Time for completion is not an overriding consideration and the normal contractor work year of 250 days, using single shifts of ten hours with a five-day work week, is acceptable.

Clearance Options

The type of clearance required in any live impact area is primarily determined by the depth of contamination and end land-use. From a practical standpoint, total cost will normally have the greatest influence on clearance criteria and, consequently, land-use alternatives. Because of this, it was necessary to examine a wide range of clearance options to provide a comparative assessment of feasibility and to offer several land-use alternatives. The following options were selected as most representative:

Option A - No clearance; continue using Kahoolawe as an unrestricted target area.

Option B - Clear entire island to depth of 20 feet to allow unrestricted use.

Option C - Strip contour entire island to depth of 18 inches; remove major ordnance contamination to total depth of 4.5 feet by use of detection equipment and selective excavation.

Option D - Clear 50% of island area using Option C techniques and clear remaining 40%* on selective basis.

Option E - Clear entire island* of surface contamination.

Option F - Selectively clear designated areas as determined by land utilization or joint military/civilian access to the island.

*NOTE: All options assume 10% of area is inaccessible and cannot be feasibly cleared under any option.

Option A is self-explanatory. Certain options had to be discounted early in the study on the basis of the investigators' judgement as to acceptability; Option B was discounted on this basis. Options C and D were selected as the most feasible clearance alternatives and are included in the cost analysis, as well as the findings/conclusions. Option E would provide for a significant reduction of surface ordnance contamination. It has been estimated that up to 70% of the surface contamination could be removed by EOD personnel using conventional techniques without any major disruption of existing topography. Determination of the feasibility of Option F involves U. S. Navy waiver of impact range requirements which is not within the scope of this study. Clearance costs for Option F can be extrapolated from the cost analysis in the study if and when area requirements and use restrictions are agreed upon.

FINDINGS/CONCLUSIONS

a. In the opinion of the investigators, clearance of Kahoolawe Island is feasible under either Option C or D. Neither option will assure 100% clearance. Although selective clearance to a depth of 4.5 feet on portions of the island is included under both options, the cost of mass excavation to a depth greater than 18 inches does not appear to be justified.

b. Clearance under Option C will provide for a reasonable assurance that the island is safe for habitation, farming and limited land development wherein excavation will not exceed the cleared depth of 4.5 feet.

c. Clearance under Option D will provide for a reasonable assurance that the island is safe for habitation with limited land development in the strip contoured area (16,108 acres) provided excavation does not exceed the cleared depth of 4.5 feet. The remaining area (9,781 acres) should be restricted to wilderness park, forestation, grazing and those activities which do not involve excavation.

d. Certification of 100% clearance cannot be granted for any decontamination project using currently-available equipment and techniques. In live impact areas, there is always the possibility of residual contamination which can be uncovered by natural erosion or further land development which involves excavation for building foundations, utilities, etc. The military is required to recover and dispose of all military ordnance uncovered subsequent to land turnover in accordance with the Joint Service Regulations for Explosive Ordnance Disposal (OPNAVINST 8027.1E). This only applies to recovery and disposal once the ordnance has been uncovered. Support of construction projects would have to be the subject of a separate agreement between the military and the land owner.

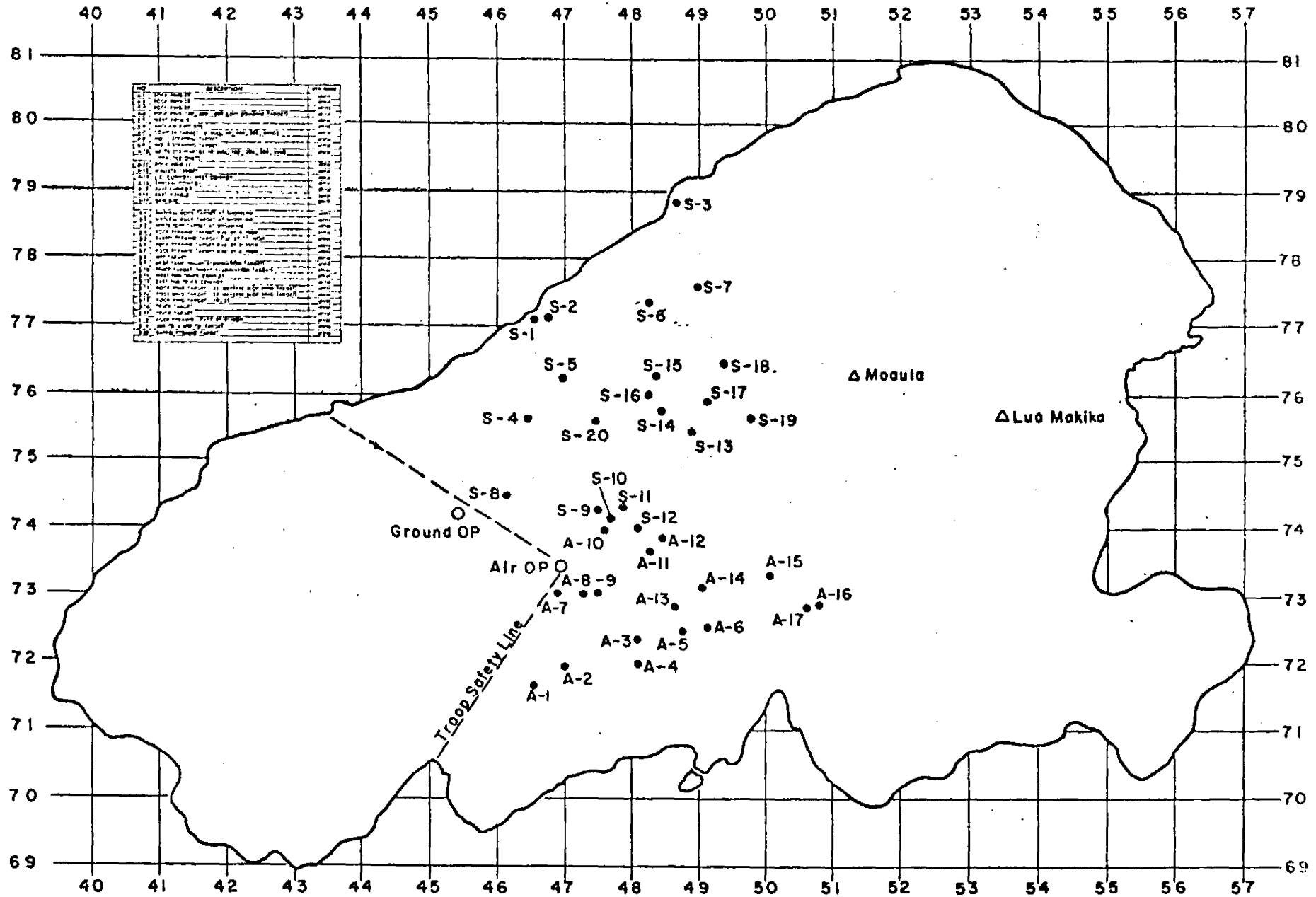
e. The lack of precedent for large-scale clearance and the magnitude of this effort in terms of cost indicates it would be prudent to undertake a pilot program to test procedures and confirm clearance rates. This would allow for refinement of cost estimates and subsequent cost benefit analysis based on land-use alternatives.

f. In any range clearance operation, there is an assumption of risk to personnel and equipment because of exposure to buried unexploded ordnance. The use of proper procedures, rigid safety precautions and remote-controlled equipment should reduce the exposure to an acceptable level and minimize the unexploded ordnance hazard to personnel.

g. Underwater ordnance contamination exists and could present a hazard to fishing activities and to SCUBA divers. Cost estimates of underwater clearance were not within the scope of this study.

h. There is a need to develop a more effective area clearance capability within the military to include surface, subsurface and underwater contamination. This would preclude unnecessary clearance, reduce the inordinate costs to excavate areas to maximum ordnance penetration depths, and minimize exposure of personnel to buried unexploded ordnance. To achieve this capability, effort in the following areas of research and development should be intensified:

- ordnance detection/location/classification
- combined sensor techniques
- signal and information processing techniques
- clearance vehicles
- remote control techniques



TAB A Target Locations, Kahoolawe Island

TAB B CLEARANCE COSTS.

Item	Annual Cost ($) Option C/Option D	Option C ($) (6 yrs)	Option D ($) (3.7 yrs)
Labor	6,817,125/6,410,829	40,902,750	23,720,067
Equipment	3,932,105/3,486,505	23,592,630	12,900,068
Reseeding[1]	1,424,841/1,439,809	8,549,046	5,327,293
Per Diem[2]		3,600,000	2,400,000
Replenishment Shipping		1,120,000	720,000
One-time Costs for Government Property Acquired under Contract		316,226	316,226
Barge Wharf, Mooring System, etc.		2,040,000	2,040,000
Total Costs		$ 80,120,652	$47,423,654
Total Engineering Estimate[3]		$ 96,545,385	$57,145,503
FY 79 Budget Estimate[4]		$130,741,757	$77,386,439

[1]Materials only (approximately $330/acre), crew and machinery operating costs are included under labor and equipment.

[2]Includes $10/day cost for subsistence on the island.

[3]Total cost plus loading factor of 20.5% for contractor overhead, performance bond, state tax and profit.

[4]Includes loading factors of 11% (contract administration and contingencies) and 22% escalation adjustment for FY 79 cost basis.

Kaho'olawe Cultural Resources Inventory

Summary of Findings as of 10 February 1977

Dr. Robert J. Hommon
Archeologist
Historic Preservation Office
Honolulu, Hawaii

In the 24 days so far spent on Kaho'olawe by the State archaeologist team, about 4,100 acres (14% of the island) have been surveyed, 28 archaeological sites have been recorded, and one of these--number 109--has been salvaged. All sites except for 109 are likely to be eligible to the National Register of Historic Places.

We have discovered archaeological sites in two regions surveyed: the central plateau and the northwest coast. Most of the sites on the severely eroded plateau consist of small hills or hummocks of top soil out of which cultural materials--artifacts, sea shells, charcoal, etc.--can be seen to be eroding and deposited on the red hardpan. Most of the coastal sites are located near the mouths of gulches and consist of clusters of platforms, terraces and stone enclosures that once served as foundations of pole and thatch structures and as working areas. These clusters are the remnants of small communities.

Despite the necessarily superficial nature of our investigation we have already gathered a great deal of unexpected information about the prehistory of Kaho'olawe and about ancient Hawaiian culture in general. Examples follow: 1) on the east slope of Pu'u Moiwi near the center of the island is an ancient quarry for stone adz heads that is second in size only to that on Mauna Kea. 2) Nearly all of the adze heads found at Pu'u Moiwi are of forms that are usually considered rare in the Hawaiian islands. An objective of future research will be to discover the significance of this fact. 3) The making and use of fingernail-sized cutting tools of basaltic glass (similar to obsidian) were major activities of ancient Kaho'olawe residents. Once site contains an estimated 10,000 to 20,000 tools and fragments of this substance. Basaltic glass artifacts are extremely important because each can be dated quickly, accurately and inexpensively by a method developed here in Hawaii. We have already analyzed samples from five sites which reveal a minimum occupation span of more than 450 years; from about AD 1150 to about 1600. (Total period of occupation will almost certainly be more than 900 years: from AD 1000 or earlier to the present.)

4) Before our investigations only one verified Hawaiian quarry for basaltic glass had been found (on Mauna Kea). We now have evidence of numerous quarries on Kaho'olawe, one of which is a lava tube, actually mined by the Hawaiians, unique in the islands. 5) Our investigations now indicate that Kaho'olawe was occupied on a permenant basis and parts of the central plateau may have been planted in sweet potatoes and other dry-land crops. This tentative conclusion contradicts the earlier views that most of the sites on Kaho'olawe are the remains of temporary fishing stations. Population density was probably equal to that of Lana'i. 6) Preliminary archaeological and geological evidence suggest that as recently as the late 1300s the water table was higher than at present, surface water was more abundant, present-day gulches were gently-sloping valleys, vegetation was more widespread, and conditions on the plateau were much more conducive to Hawaiian agriculture than at present. It is quite possible that large scale erosion and resultant environmental degradation was initiated by the introduction of goats to the island in the 19th century.

term investment in durable goods and new plant and equipment. This is an effect which temporary rebates would not have.

4. To encourage construction while at the same time directing money to central city regions, it is recommended that Budget Authority be added to the Government National Mortgage Association (GNMA) budget for rehabilitation of housing units. At present, GNMA does not have a secondary market in rehabilitation mortgages, but the omission could be redressed by administrative changes. Budget Authority would be $2.0 billion in FY 77 and $1.0 billion in FY 78. Outlay cost, assuming that GNMA could sell the mortgages under a "tandem" procedure, would be the difference in the sales price of a note bearing a 7½ percent GNMA interest and the market interest. This would add approximately $.2 billion to the FY 78 budget, though nothing would be added in FY 77 as the program takes 6–15 months to obtain loan commitments but FHA approval could be expedited to reduce this delay. The amounts indicated would be sufficient to upgrade (not add to housing stock) about 75,000 units. It should be noted, however, that data regarding costs are very uncertain since the program has never operated under a rehabilitation scheme.

In the longer term, there is a continuing need to examine the way in which we finance the purchase and sale of housing. A number of imaginative proposals for recasting the mortgage instrument have been made, including proposals for an equity-adjusted mortgage which would allow the purchasers to make lower payments during the early years and higher payments during later years, thus tailoring the payment stream to expected increases in income. Also worthy of consideration are the variable rate mortgages and other alternative mortgage instruments.

STIMULUS PACKAGE EFFECTS ON GROWTH, EMPLOYMENT AND INFLATION

An economic stimulus package of the type indicated by this analysis would produce employment and growth results somewhat better than the 6% real growth rate (1977 and 1978) and the 6% unemployment rate (end of 1978) suggested by President Carter and others as appropriate economic goals. In addition, a smaller budget deficit over a long period and lower inflation rates than associated with other stimulus packages yielding the same goals can be anticipated because of the targeted nature of the program.

It is difficult to predict the precise numerical effects of any economic stimulus policy, and misleading to calculate the effects of a stimulus package as the simple summation of the estimated effects of its parts. This is particularly true of the stimulus package described here. The employment tax credit program to stimulate employment and training is a novel approach which introduces direct incentives, the effects of which are difficult to predict from historical data. Similarly, past experience is insufficient to gauge the economy's response to the innovative and substantially increased focus on the problem of structural unemployment. Thus, the conclusion concerning the growth and employment goals that could be achieved is based on disaggregated or microeconomic comparisons of the focused and unique nature of this stimulus approach compared to conventional estimates of other, more traditional stimulus packages.

Finally, the longer-run absorption of an expanding labor force at growing real wage levels requires an adequate flow of savings into productive capital formation. Although industry utilization rates now appear to be below the full capacity range, policies are needed which are compatible with bringing capital foundations as a percent of GNP back to, or above, levels of the last two decades. In furtherance of these policies, the Federal Government should formally declare a national policy in support of adequate capital investment in the private sector.

In addressing these components of the present and future unemployment problem, the analysis and policy decisions must be increasingly disaggregated and microeconomic in focus. The appropriateness of simple macroeconomic measures of U.S. economic performance and the effectiveness of macroeconomic policies to solve our economic problems are highly questionable. The tradeoffs associated with this approach appear to be increasingly unfavorable. For this reason, we must look to policies which provide incentives and direction resulting in more optional employment, production, and pricing decisions in the private economy. It is only in this that the main distributional problem in our economic system—unemployment—can be satisfactorily resolved over time.

ARCHAEOLOGICAL FIND ON ISLAND OF KAHOOLAWE

Mr. INOUYE. Mr. President, I wish to bring to the attention of my distinguished colleagues news of an important archaeological find on the island of Kahoolawe, one of the eight major islands in the Hawaiian Island chain.

That island has been the site of military bombing exercises for about 35 years and the destruction continues apace. The bombing operations, both aerial and ship-to-shore, have threatened the safety of nearby residents of the island of Maui, and have fortified convictions of countless people in my State, many public officials included, to seek a bombing halt, and restoration of Kahoolawe and its return to the jurisdiction of the Hawaii State government.

I am pleased to report that a series of expeditions to the island, conducted between bombing drills, have uncovered several areas rich in Hawaiian religious and cultural artifacts. Perhaps most fascinating has been the recent discovery of a basaltic glass mine, the first ever found in Hawaii. Prior to this find, no evidence existed showing that the native Hawaiian people had technology in underground mining.

Missing chapters in ancient Hawaiian history are being written with each expedition to Kahoolawe, and the prospects for further discoveries of the past are excellent. It has been learned, after examining only less than a third of the 45-square mile island, that native Hawaiians inhabited Kahoolawe as early as 900 A.D. In a single 3-mile stretch of the northwest coast, archaeologists have found 12 sites holding more than 50 structures. Needless to say, the explorers feel that Kahoolawe is unparalleled in Hawaii for historical richness.

I wish to interject here that the Navy has been gracious in suspending bombing operations on occasion to accommodate the archaeological field trips. But Navy officials recently announced they intend to continue bombing operations at a rate of 285 days and 123 nights per year through 1979. The possibility remains that historical sites yet uncovered may be destroyed by naval explosives. I share the hope of many people in Hawaii that the training needs of the Navy and the interests of the Hawaiian people and their historians be reconciled.

Mr. President, I ask unanimous consent to have printed in the RECORD the news article from the Honolulu Advertiser regarding the latest archaeological find on Kahoolawe Island.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Honolulu Advertiser, Jan. 23, 1977]

KAHOOLAWE: LITTLE ISLAND, BIG FIND

(By Bunky Bakutis)

Kahoolawe has "flabbergasted" two members of a State historical site study team who returned to Oahu Monday after a fourth week-long field trip to the small controversial island which is being used as a Navy bombing target.

"I had no idea how rich in historical and cultural findings Kahoolawe would be," said Dr. Rob Hommon, State archeologist, who has been with the study since February.

"I look forward to working on the island for 100 years or more," said an exuberant Dr. Maury Morgenstein, a geologist and president of Hawaii Marine Research.

Both scientists agreed that this most recent trip to Kahoolawe is one of the most exciting archeological discoveries they have found in Hawaii.

"For a little island we weren't expecting to find much on, it's completely flabbergasted us," Morgenstein said.

Hommon said 12 archaeological sites were found in a three-mile-long coastal area around Ahupu Bay on the northwest side of the island.

And there are more than 50 structures within those 12 sites which were used for either habitation or work, Hommond said.

Among the most exciting finds were an underground mine for basaltic glass, the first of its kind found in Hawaii, and an eroded gorge face with Hawaiian history preserved some 85 centimeters deep (between two and three feet).

"There is no doubt now that people inhabited this island and the population density was equal to Lanai during early Hawaii," Hommon said.

"And the sites found are equal in quality and second in density to the Kona coast of Hawaii," said Morgenstein.

Morgenstein, also a marine life specialist said the reef habitat around Ahupu Bay "is in the pristine condition of early, early Hawaii, a state which is unique in the State."

With less than a third of the island covered in the joint State-Navy study, a total of 28 sites have been found.

"Pending further analysis, all of those sites look eligible for the National and State historic registers," said Hommon, adding that the study team hasn't even touched the previously recorded big sites in the northeast corner of Kahoolawe.

After the third week-long excursion in November, the team returned amazed with discoveries which included a basaltic glass workshop, an adze quarry and agricultural site—all of which were on the upper midplain of the island.

Hommon speculates the basaltic glass was used for making a cutting edge on tools. But the glass also has an important archaeological feature as it can be used in dating its cultural use.

Samples of the glass taken on the November trip preliminarily show the upper part of the island was inhabited around 1300 to 1600, Hommon said, adding that Hawaiians may have lived in the area past that time.

Hommon speculates that findings on the most recent trip indicate that the Ahupu coastal region of Kahoolawe was settled from 900 A.D. to 1400. The earliest reliable dates for Hawaiians inhabiting the islands is 600 A.D., he said.

Both Hommon and Morgenstein said the 12 new sites are well preserved and had not suf-

fered from vandalism like areas on other islands.

However, many of the sites had been hit during ship-to-shore firing practice by the Navy, Hommon said.

"We saw fresh craters and shattered rocks in the middle of sites," he said.

But recently the Navy has stopped shelling practice in the area because of reports of possible historic sites there, Hommon said.

What is intact, however, has opened up new material and knowledge about Hawaiians' ancient life-style in all respects, the scientists agree.

Most habitation sites are located at the mouths of gullies opening to the sea and perched terrace-style on the sides of the gorges, Hommon said.

Many of the living sites have rock retaining walls and rock overhangs and appear to be cavelike dwellings, he said.

The study team also found "at least two fishing shrines and two structures that might be heiaus," Hommon said.

The basaltic glass mine is located in one of three lava tubes found on the expedition.

"It's the first underground basaltic glass mine found in the Islands and is interesting in that we had no evidence before that Hawaiians had technology in underground mining," Morgenstein said. It is a complete facility with a support pillar and two stopes, he said.

But most exciting is "the thickest known section" of Hawaiian culture preserved layer after layer through stratification, Morgenstein said.

The 85-centimeter-deep time sequence shows almost every facet of daily life, Hommon said.

"We found rare sea shells, unusually large fish bones, bird bones and charcoal which indicates fireplaces and cooking," said Hommon.

Hommon said the Kahoolawe study might wind up at the end of this year depending how much time the group is able to spend on the island.

At the end of the study, the group will submit forms to the Navy and national historic site review board recommending the different sites to be entered in the National Register of Historic Places.

A NEWSMAN'S NEWSMAN

Mr. PERCY. Mr. President, Mr. Edward P. Morgan, who has been active in journalism and broadcasting for 40 years, is one of the most perceptive members of his profession. During a recent seminar at Lake Forest College, where he is a visiting professor, he stated what he believes to be the media's greatest challenge:

We must redefine news; localize it and analyze it for a direct audience.

During his four decades as a reporter, Ed Morgan has always been an advocate for the consumer and a protector of the common man. He has never lost sight of his obligation to serve the public through honest and objective reporting. Throughout his career he has remained unaffected by his many journalistic successes.

The public needs ombudsmen in the media to help assure that the news they read and hear is accurate and comprehensive. Ed Morgan serves that function in his profession. He has remained steadfast in demanding total integrity from himself and his colleagues as well.

Ed Morgan is a storehouse of information, and he exemplifies the kind of thorough, objective reporter who best serves the public interest. I ask unanimous consent that an article entitled "Voice of Four Decades—Edward P. Morgan," written by Tim Evans of my own hometown paper, the Wilmette Life, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VOICE OF FOUR DECADES—EDWARD P. MORGAN

(By Tim Evans)

The rich, sonorous voice filled the classroom with firm authority. It was the same voice that over the years brought news of disasters, governmental inequities and the plight of common men to millions of American homes. The voice of a first-hand participant in forming the recent history of the world. The voice of veteran journalist Edward P. Morgan.

Speaking to a seminar class at Lake Forest College where he is a visiting professor for three weeks, Morgan, who in many professional circles has been called a "newsman's newsman," told students of his experience in journalism and broadcasting for the past 40 years.

Morgan scrutinized the news profession, expounding his observations and opinions on television news violence and the quest for a truthful balance in journalism, honestly concluding that solutions are difficult to find.

"What we need today is a new definition of news," explained Morgan, whose nightly ABC radio program "Edward P. Morgan and the News" was on-the-air for 13 years.

"News is not a bus catastrophe in Iran where 83 die. Granted, it is a terrible thing for the people of Iran, but it has absolutely no meaning to us in this country and has no relation to our daily lives.

"We in the media have always viewed the news with an eye toward the sensational and that infuriates me," Morgan explained.

"But that is partially due to the fact that the media has not detached itself from the daily teletype. If we do that, and rely less on the sensational and more on identifying changes that are occurring in the world and how they directly affect us, the news may be on its way to a new definition and depth," Morgan claimed.

"We must redefine news; localize it and analyze it for a direct audience," he concluded.

Morgan doesn't shade his feelings about the inadequacies of his profession.

"With a few exceptions, the media is superficial. Broadcast news is time-locked. It simply isn't given the time to look at what's down the road. Newspapers, on the other hand, must retain the depth they've sometimes been known to have," he said.

But Morgan, whose career started in print journalism, is aware that newspapers, in general, and evening papers, specifically, are in trouble due to evening television newscasts. Consequently, more space is being given to soft news and features, he concludes.

"I think newspapers have looked at television and seen the enormous profits. So they want to become a source of entertainment. Even the New York Times has three or four sections related to soft news and entertainment."

"If they don't lose sight of their main purpose, I don't mind the added features. But I'm afraid they are losing sight of their purpose."

But the 66-year-old veteran newscaster, who spent three years at the Chicago Daily News early in his career, is cognizant of one of the print medium's enigmas.

"Unfortunately, newspapers have always tried to be all things to all men and women, with only a little serious commentary, a little serious analysis. It needs to change," submitted Morgan.

Morgan is more than qualified to talk about commentary and analysis. On his nightly program for ABC, he took full advantage of the freedom of expression. Without preaching, Morgan used his insight and instinct to state a case for the common man, constantly presenting facts and bringing them into focus.

Evident by his strong criticism of today's news presentation, Morgan has always been the consumer's protector.

Not only has he attacked administrations in Washington for, at times, turning their back to the people, but Morgan has leveled his criticism on big business, advertising and even the sponsors of his former nightly program, organized labor.

Morgan was born in Walla Walla, Wash., the son of a banker and businessman. He graduated Phi Beta Kappa from Whitman College in 1932 and landed a "job" as an unpaid sportswriter for the "Seattle Star." At the same time, he did some graduate work in journalism and political science at the University of Washington.

In 1933, he was awarded the position of police reporter and assistant city editor of the Seattle Star and started his long and illustrious climb to prominence.

Morgan went on to take a job as a correspondent for United Press. In 1940, while in Mexico City, he secured a major news accomplishment when he was the first to report the assassination of Leon Trotsky, then living in Mexico City.

After three years with the Daily News and some freelance writing, Morgan joined Edward R. Murrow in producing "This I Believe" for CBS in 1950.

Of Murrow, Morgan has great respect.

"Ed was a very complex man and he suffered, needlessly, from the fact he had never been trained as a journalist," reflected Morgan while in Lake Forest this week.

"He had great respect for men in the business who came up through the ranks as newspapermen.

"I'm certain this fact was part of the reason he made so many suicidal flights over German lines at the height of the war. He felt a certain inferiority among journalists and I think he had to prove to himself that he was worthy of being a journalist," speculated Morgan.

"But he was a lovely man and I had enormous affection for him. We were friends until he died."

In 1951, Morgan was a newscaster for CBS and for a short time in 1954 became director of news at the network.

But ABC offered Morgan a nightly program of news and commentary and "Edward P. Morgan and the News" became a part of millions of households.

During his 20 years at ABC, Morgan appeared on such shows as "Open Hearing," "Editor's Choice" and "Issues and Answers." He also covered Richard Nixon from his years as Vice President to his downfall in 1974.

"This may sound stuffy but I had reservations about Nixon from the very beginning," Morgan remarked. "I didn't recognize it at first but the man suffred from paranoia and still is a victim of it.

"He was awkward in so many ways, but he had a tremendous ability to absorb information at briefings. But he was obsessed with trying to be likeable yet couldn't succeed because he was unable to like others."

During the summer of 1965, Morgan's news program originated from Vietnam, where Morgan also reported and narrated the highly acclaimed documentary, "The Agony of Vietnam."

Rounding out his award winning career at ABC, Morgan covered presidential campaigns, won a Peabody Award for his coverage of the Geneva Summit Conference, rereported on the death of Sir Winston Churchill and originated broadcasts from within the Communist bloc countries.

Although he has been immersed in jour-

EDITORIALS/N.Y. TIMES
HONO. ADVERTISER
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Cheek
Sen's Own Bill
S 1662

The Public Be Damned

By JAMES RESTON

WASHINGTON

EDGARTOWN, Mass., Dec. 5—Every nation has its nightmare. Britain's is unemployment, Germany's is inflation, and America's is probably Pearl Harbor. The successful attack on that island fortress just 29 years ago ended the ancient assumption that America was immune from military attack from across the seas and established the supremacy of the military in Washington for over a quarter of a century.

That dominant influence still prevails, despite increasing challenge in the last two or three years of disappointment in Vietnam, but the vote in the Senate against giving the President the funds he requested for the development of the American supersonic transport airplane is the first evidence that an organized campaign by the people can be effective in challenging the power of the Government and the industrialists.

This is not a challenge to military programs, no matter how expensive, that are clearly vital to the security of the nation, but it is an assertion that the well-being of the people can also be threatened by economic insecurity and environmental pollution, and it is a challenge to the notion that the Government can get anything it wants merely by asking for it in the name of technological progress or national prestige.

A small and obscure incident illustrates this growing conflict between the Federal Government and the people over their respective rights. Ever since the last World War, the Navy Department has used Nomans Land Island off Martha's Vineyard as a bombing, rocket and machine-gun target range.

There are three other areas in the country used for similar purposes. They are Culebra Island, a self-governing municipality inside the territorial limits of Puerto Rico, the Kauna Point bombing range in south Kona in the Hawaiian Islands, and the Kahoolawe Range on Maui Island, also in Hawaii.

During the last war, when there was a clear and urgent need for training facilities, no question was raised about the military use of these areas, but increasingly in recent years, newspapers, politicians and conservationists have been asking why these beautiful places must be used for such purposes.

The Pentagon's reply to this is interesting. There are no alternative sites, they say, anywhere within the jurisdiction of the United States. Though they are being used less and less they are still essential to "the Navy's readiness posture." And finally —get this—the range areas, says the Navy, have been studded with unexploded bombs and have thus been ruined for public use.

For example, when Senator Daniel K. Inouye pointed out that the Navy Department had promised to render Kahoolawe "reasonably safe for human habitation," he was told by Rear Adm. D. C. Davis that this was now impossible.

"The ravages of over a quarter of a century of air and surface bombardment," Admiral Davis wrote the Senator from Hawaii, "have probably irrevocably eliminated the possibility of future safe domestic use of the island. ...Our studies indicate that there may be some 10,000 tons of *unexploded* ordnance embedded in the earth, lava, and ravines, including every caliber from 20-mm. to 16-inch projectiles.... I believe that the time has come to inform the local public that Kahoolawe should remain for the indefinite future an uninhabited monument to the requirements of our national security."

Roughly the same position has been taken by Secretary of the Navy Chafee about Nomans Land Island near here, but in this case, Secretary Chafee made one concession. He negotiated an agreement with the Interior Department permitting a part of Nomans to be a wild-bird sanctuary, provided no people were allowed to go there, and further provided that officials of the Interior Department got permission 10 days in advance from the Navy Department to make tours conducted by the Navy.

In short, hard cheese, boys, we need those places and besides we've wrecked them except for flying objects like bombs and birds! There is of course a practical problem here, though the islands could be decontaminated. It is the attitudes and assumptions of the Pentagon, coming out of the postwar days of military domination, that are now under challenge.

"With the land boom in full swing in Hawaii," Admiral Davis wrote Senator Inouye, "I can well understand the desire of less informed citizens to develop this uninhabited island. However, I feel they should be advised that Kahoolawe can best serve our country in its present role."

This is not quite as arrogant as Boss Hague's famous proclamation "I am the law," but it's a pretty good runner-up. The old clichés that "papa knows best" and "the public be damned" are still around, but the vote in the Senate on the SST indicates a change. The idea of a people's lobby to protect the climate in which the people live is getting around, and the Congress, if not yet the Administration, is beginning to get the message.

Pompidou: II—Westward Ho

The Honolulu Advertiser

Established July 2, 1856

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BUCK BUCHWACH *Executive Editor*
JOHN GRIFFIN *Editorial Page Editor*
MIKE MIDDLESWORTH *Managing Editor*

Friday, March 11, 1977

A Kahoolawe solution

If they are to have any positive impact, the tragic events off Kahoolawe this week should help bring about a solution to the dispute over use of the island.

This is an issue overdue for a solution — and that must come from Washington.

AFTER HAWAIIAN protesters Walter Ritte and Richard Sawyer ended their 35-day stay on the target island last weekend, they talked of a new effort to find a peaceful settlement by appealing to President Carter.

It was reported that elders and other leaders of Protect Kahoolawe Ohana, the group seeking an end to the bombing and return of the island to the State, felt the "invasions" had gone on long enough.

For that reason, it's said that the two Ohana men now missing, George Helm and Kimo Mitchell, had gone to Kahoolawe last week with the aim of finding Ritte and Sawyer and bringing them off the island.

But it is also obvious that this is an issue that is not just going to settle down into a letter-writing campaign to the President. It is an issue where there is growing community support for a reasonable settlement — and also some growing frustrations that could become dangerous later.

SO THIS WOULD BE a good time for the Pentagon or the White House to seek a compromise. And, as we have said several times before, there is the basis for such a settlement.

What's recommended is a period of mixed use during an indefinite transition period from U.S. Navy to State control of the island. Much of the island could be cleaned up for public recreational use while the rest could continue to serve U.S. military needs as a bombing and shelling target, albeit with less live ordnance.

Mayor Elmer Cravalho has said Maui County would provide guards and assume liability in such an arrangement. In fact, Cravalho and others have said the military has been demonstrating the viability of such a mixed use by having so many troops searching for the "invaders" while bombing continued.

REGARDLESS, this is a time when both good sense and compassion dictate a response in Washington beyond just references to national security.

As a practical matter, there will be no movement in Washington without a strong push from Hawaii's congressional delegation, and especially from Senator Inouye.

That push should now be made.

Reality on Taiwan

Twenty-eight years after the Chinese Nationalist government was

he said, are "destined to reach the end of the road and disintegrate."

Milit

WASHINGTON — How about t
tion of unionizing our Army, N
Marine Corps? I can almost h
reaction of any drill sergeant a
Island, but I'm not sure this ne
would choose to print it.

President Carter and Secre
Labor Ray Marshall are opposed
nization of the armed forces, an
see it as a likelihood any time
near future.

But Marshall, asked about h
during his confirmation hearin
that while he's never advocate
nization of the armed forces, he

On Economics
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Honolulu Star-Bulletin

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A-18 Monday, February 14, 1977

President Should Decide on Kahoolawe

The struggle over Kahoolawe badly needs a decision of some kind from a level of authority the people of Hawaii can accept wholeheartedly.

If the new President of the United States means it when he says he wants to hear from — and help — people with problems in remote parts of the country, he or his close assistants would do well to look at the situation here.

Does this government still attach the same high priority to the use of Kahoolawe for target practice, or is its use for that purpose just continuing through military force of habit?

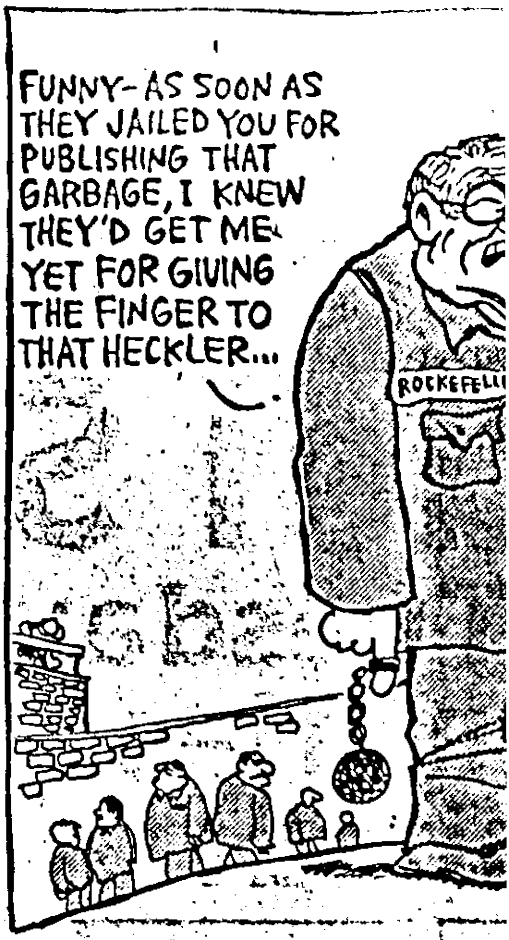
That's really the question most people here would like answered before the bizarre confrontation gets out of hand. If the Commander-in-Chief, or one of his responsible designees, says yes, the island is essential to national security and must continue in its role as a practice range, then it will at least be clear what national policy is.

* * *

It may seem isolated and minor when compared with the problems of the Mainland winter, the gas shortage, unemployment and the daily crises of big government. Even so, Kahoolawe has all the potential for another siege against federal authority of the type American Indians staged on Alcatraz, at Wounded Knee, and in the Bureau of Indian Affairs building in Washington, D.C. All proved embarassing to the government, expensive to taxpayers, and might have been avoided had the bureaucracy paid attention to the festering discontent that led to them.

Members of Hawaii's delegation to Congress have quite properly tried to direct White House and Pentagon attention to Kahoolawe, and it is possible they will succeed in getting decisions at that level. That seems like the most sensible route. The burden of proof is on the government to demonstrate its true need for the target island.

* * *



Human

MOSCOW — The current Soviet campaign against dissidents and the Carter administration's simultaneous expressions of concern have raised complex questions about how far Western pressure can push the Soviet Union on matters of individual freedom.

Dissidents themselves see the Kremlin leadership as highly responsive to American displeasure, especially where it threatens to deny the Russians what they want from the United States in trade and arms con-

Whether Carter's defense of human rights in Russia will have positive effects is debatable.

trol. Some experienced diplomats are less sanguine, however, arguing that while Western attitudes may protect prominent figures such as Andrei D. Sakharov, direct attacks and ultimatums can provoke a backlash against less visible dissidents

* * *

Patriotic Americans would like to believe the arguments that the military really needs the special geography, the varied contours and other elements of combat simulation that Kahoolawe is said to offer pilots and gunners. But there is enough "Catch 22" thinking in the military, enough public wariness that "necessity" may be a code word for "convenience" that the Kahoolawe claim calls out for an independent review. At present there is just too much public doubt that bombing Kahoolawe continues to be a military necessity.

The native Hawaiian groups, for all their sympathetic appeal, have not made a historically convincing case either for the spiritual significance of the island.

There are heiaus on almost every other island of Hawaii as significant or more so than those of Kahoolawe that are undertended and seldom visited even though they are far more accessible. The old Hawaiians themselves allowed many heiaus and villages to fall into disrepair as they moved to new sites. They felt no need to preserve everything.

The general public, torn between its mellowing respect for Hawaiian culture and the need to defend the Pacific, is entitled to know just how important the target bombing of Kahoolawe is to national security.

A separate problem, of course, is whether the government should invest the fortune it might take to defuse the island of its unexploded rounds and ordnance rubble. This is a matter suitable for congressional debate in its time.

* * *

What is important now is to secure from the highest level possible a clear statement of national intent on the use of this peculiar island. Will it continue as a live bombing range less than 100 miles from Honolulu, a major population center, or will other priorities prevail and shift the aerial practice to a less conspicuous piece of terrain or even to floating targets or simulations?

If the President or his new defense secretary opts to continue the cannonading of Kahoolawe, the policy will be clear. Those who disagree with it will know where to direct their missives of discontent. Those who make the decision will know they have bought themselves a cultural problem as part of the price for continuing the practice.

The appointment of a balanced local committee might serve as a useful sounding board for people with moderate views on the issue, but ultimately that committee would have to turn to Washington for action.

The President knows where Hawaii is. He served here in the Navy. His predecessors might have thought it beneath their dignity to stoop to a problem of this kind, but his is a mandate that seems almost to compel action for just such a problem as this.

As long as we are looking for a satisfactory answer to this dilemma, for the people of Hawaii and the rest of the nation, why not the best?

Taxes Aren't Simple

and ultimatums can provoke a backlash against less visible dissidents and may even harden overall Soviet policies.

Since this society emerged from the terror of the Stalin era, Moscow's behavior on human rights has been a fluid mixture of opportunism and orthodoxy, an inconsistent blend of tolerance and toughness. The fluctuations have been limited, for they have operated within the strong historical currents of Russian authoritarianism, unquestioning patriotism and inferiority feelings toward the Western world. But official action toward dissent has been dominated by various impulses at various times and in various cases. What one man has spoken or written with impunity, another has been jailed for; what has been ignored one month has been punished the next.

IT HAS NOT BEEN possible for either foreigners or Russians to predict how the government will react

Most Ho
in Trans

By Dr. Lec

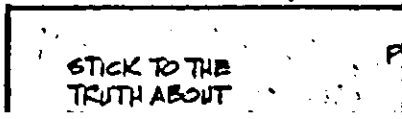
CHICAGO—Technology certainly is taking a beating from a lot of people who, very understandably, are concerned with the state of our environment and our society. To such people, technology often seems cold and insensitive to human aspects of life.

On the other hand, those people sometimes don't stop to realize that there is hardly anything on earth that man enjoys except the unspoiled landscape itself that was not produced directy or indirectly by technology and some kind of machine. The whole social organization that is the United States is based on brute technological power—horsepower.

Consider the fact that in the U.S. and Canada there are about 60 to 70 million homes, 150 million automobiles, 20,000 ships, 28,000 railroad locomotives, 140,000 aircraft, four million tractors and eight million recreational boats.

Add to that all the industrial machines, tools, electric utilities and generators, and you see how much horsepower we must be consuming in North America. In fact, North America now is about at the point of using 350 mechanical or electrical horsepower hours each day for

the small society



Congress of the Hawaiian People
Friends of Kamehameha
The Hawaiians
Homerule Movement
Hui Malama Aina O Kahana
Hui Malama Aina O Koolau
Kamehameha Alumni Association
The People's Coalition for Welfare and Employment
Waimanalo Hawaiian Homes Association
Welfare Recipients Advisory Council

The Council of Hawaiian Organizations

Hawaiian Coalition of Native Claims Corp

February 9, 1977

Jimmy Carter
President
The United States of America
The White House
1600 Pennsylvania Avenue,
Washington D.C. 20010

Dear Mr. President, Aloha Kaua!

We wish to express our joy in being able to address you as Jimmy Carter. It is a wonderful expression of the commonality of men and a refreshing change of human warmth in an increasingly alienated society.

We are proud Hawaiians, descendants of a race that has long endured the pain and agony of two hundred years of foreign and American intervention. Indeed, there are in our midst, a precious few kupuna or wise elders whose memories of a Queen usurped by greedy men and materialistic interests, aided by American military strength still remain as bright and painful recollections.

We continue to suffer from the vicissitudes of life that rob us of our human dignity, our essential identity, our values, and our beliefs which are uniquely Hawaiian and that have sustained our ancestors for thousands of years. It is difficult for a non-materialistic, non-competitive people to retain a wholeness in the face of unrelenting greed.

Our American government has deleted our very name, Hawaiian, from the Census Bureau Surveys. It is a deep affront to the memory of our forefathers and to those of us who are the rightful heirs of Hawaii.

Our American government has never secured just recompense for the illegal overthrow of our last Queen, Liliuokalani that was encouraged and helped by American economic and military interests.

Our American government continues to desecrate our land with the bombing and destruction of our historical and religious sites. The aina, the land is sacred to Hawaiians. Our people, our spiritual heritage, our mele or song, our oli or oral tradition, our values and beliefs are all closely entertwined and in complete harmony with nature. We call this concept Aloha Aina. We call it love

P.O. BOX 27351 • HONOLULU, HAWAII 96827 • TELEPHONE 845-2584

for our land. Yet our government at this moment sanctions the continued bombing of Kahoolawe despite the protests of the Hawaiian people and despite the additional discoveries of new and important historical and religious shrines.

Even the American Media reinforces the desecration of the memory of our ancestors. During the past Bicentennial year, Charles Kuralt on the CBS national television network insulted our heritage with a program that was shown from coast to coast. It depicted a highly unbalanced account of our Hawaiian past. Our forefathers were cast once again as savage, barbaric heathen. Our protests were taken in vain. CBS adamantly refused to correct this image and once again we had to swallow the same ugly stereotypes that have caused so much divisiveness in the history of ethnic groups in America. What is to prevent the powerful media from repeating its gross distortions in the future?

President Ford in his Declaration of Native American Awareness Week last October, 1976 left Hawaiians completely out of his tribute to the contributions of indigenous native groups to American society and we were sorely astounded.

Yet we Hawaiians, for generations have patiently experienced the ever changing American governance of our lives. We have fought and died in the service of our country and we have made tremendous contributions toward the positive growth of this land.

Sadly, our people today lead in the debit ledgers of all the social indices. We have the most people in our adult prisons and juvenile reform programs. We have the highest drop out rate of children from an irrelevant educational system. We lead on the welfare roles. We are carrying very heavy unemployment burdens. We are truly alienated from our own aina.

Today, young Hawaiian men are protesting the continued destruction of Kahoolawe. If you will look closely you will find that they are not the usual stereotyped image of radicals. They are proud and gentle Hawaiian men who see a great injustice and who are willing to suffer the consequences in the name of a higher morality and aloha for the aina. Their actions have parallels even in the great history book of America. We Hawaiians have always lost the civil cases but we have always won the moral victories. We are right.

Mr. President, we are a people in great agony and pain. We are given short shrift from our own elected leaders. Our native rights are blatantly ignored by the political and business interests and in the very courts of this land.

Your election to the highest office has once again raised our hopes for a better future. We invite you in the spirit of aloha to come and hear our pleas directly. We cannot afford to come to you and our leaders in Washington are not always truly reflective of our deep concerns. Therefore, we humbly seek your personal attention.

Long ago, our King Kamehameha III gave us a mana'o or thought to cherish. It now serves as our state's motto. Ua Mau Ke Ea O Ka Aina I Ka Pono. The Life Of The Land Is Preserved In Righteousness. Surely his words can still serve as a pearl of great price for all Americans to value.

Everywhere across this country and over all of our world we are told about people who have heard and/or experienced our Aloha spirit. The history of Hawaii's last two hundred years has revealed a warm, generous, open and loving spirit of aloha shared freely by our people.

Today, we ask for your aloha. We respectfully beseech your good wisdom and guidance. We ask you to stop the bombing of our island. Our values are very different from the values of the dominant culture and we cannot accept or compromise any further on the senseless destruction in the name of military preparedness. We know that the U.S. Navy can set other alternatives. In this nuclear age we find it difficult to believe that the bombing of Kahoolawe can decrease naval efficiency and the use of economic feasibility excuses are too thin for the Hawaiian people to have to sacrifice their heritage. Please rescind Executive Order 10436.

We ask too, for a presidential pardon for our fine young men who love Hawaii and who love their ancestors and who want to continue to very much love too, the United States of America. Mr. President, they are fine, clean cut young men who have discovered their roots. They are descendants of a proud race. They are of the very best.

Mahalo a nui loa for listening to our words.

Me ka 'oia'i'o,

Gard Kealoha

Gard Kealoha
Corresponding Secretary

cc: Congressional representatives
Secretary of the Navy
Protect Kahoolawe Association
Governor of Hawaii
The Secretary, The United Nations
Hawaiian organizations
Hawaii Association of Asian and Pacific Peoples
The National Alliance
U.S. Civil Rights Commission
Wire Services
Director, Hawaii Visitors Bureau
President, Hawaii Hotel Association
Board of Directors, State of Hawaii Chamber of Commerce
Hawaii State Legislature: Speakers of the House and Senate
Mayors of the City and County of Honolulu, Hawaii, Maui and Kauai

March 8, 1977
M E M O R A N D U M

TO: SENATOR
FROM: CHRIS

RE: KAHOOLAWE

You have raised the question of whether the United States Government's title to Kahoolawe might be subject to a condition, the happening of which might cause title to the island to revert to the State of Hawaii.

As far as I have been able to determine, Kahoolawe was among the lands ceded unconditionally to the United States and the United States has never renounced or in any way attempted to surrender this fee simple title to the island.

Further, it appears that at all times since the Great Mahele the island has been "government" or "public" land as opposed to "crown" lands belonging to the monarchy or lands turned over to private ownership.

EARLY HISTORY TO 1897

The land system which existed in Hawaii at the time it was discovered by Captain Cook in 1778 had no concept of fee simple absolute ownership of land and all landholdings were considered revocable.

Land controlled by a high chief, for example, did not necessarily descend to his heirs upon his death. Instead, the chief's successor was free to redistribute the land among his subordinate chiefs as he saw fit. Similarly, a chief who gained control of new territory by conquest had no obligation to recognize existing interests in the land but instead could reassign it to his own supporters.

During the period 1778-1846, Hawaii became something of a trading center and the capital thus accumulated -- largely by Westerners rather than the local population -- was directed towards the development of large scale plantations in the islands. Westerners entering Hawaii's land system as foreign settlers were "given" lands by the king or chiefs in return for services or simply out of traditional Hawaiian generosity. As Westerners acquired land and invested capital they also created enormous pressures to have the kingdom adopt Western systems of landholding so their interests could be protected and the land freely transferred.

The Islands' first written constitution, adopted in 1840, and the laws immediately enacted pursuant to it, attempted to adjust lands rights to the changing social and economic situation. As an attempt to limit Westerners' rights to land, however, the constitution reaffirmed that no land could be conveyed without the consent of the monarch, stating:

> Kamehameha I, was the founder of the kingdom, and to him belonged all the land from one end of the Islands to the other, though it was not his own private property. It belonged to the chiefs and people in common, of whom Kamehameha I was the head, and had the management of the landed property. Wherefore, there was not formerly, and is not now any person who could or can convey away the smallest portion of land without the consent of the one who had, or has the direction of the kingdom.

To avoid a confrontation with the Westerners, however, the constitution's preamble proclaimed that land already held by them would not be reclaimed by the crown.

Despite the concessions made in the 1840 constitution, however, the pressures to adopt a more westernized land tenure system continued unabated. The government finally responded in 1845 by enacting a law establishing a Land Commission with a mandate to undertake "the investigation and final ascertainment or rejection of all claims of private individuals, whether natives or foreigners...".

The basic job facing the Land Commission was to devise and then put into effect a system partitioning the undivided and intertwined interests of the king, chiefs and commoners in the land not already granted to foreigners.

Ultimately, a policy was proposed and accepted by the king whereby certain land would be held by the monarch in his own right (ultimately referred to as "crown lands") and the remainder would be divided in thirds, one-third to the government, one-third to the chiefs and land agents and one-third to tenant farmers. During the period January 27 to March 7, 1848, the Great Mahele or land division took place, dividing land between the king and the chiefs. Immediately thereafter, on March 8, 1848, the king divided all of the land to which he then had title between himself and the government. When this process was completed, the chiefs and land agents had been given some 1,500,000 acres of the more than 4,000,000 acres of land in the kingdom; the king had retained some 1,000,000 acres for himself as crown lands; and some 1,500,000 acres had been set aside

aside as "government" land. Tenant farmers were entitled to claim a portion of of the crown lands or lands conveyed to the chiefs and land agents "really cultivated" by them, plus a houselot of not more than 1/4 acre, but they ultimately ended up with only about 30,000 acres.

The land transfers which took place during the Mahele were recorded in the Mahele Book. At page 200 there is a notation which says "Kahoolawe no Aupuni G.P. Judd", which translates to "Kahoolawe for the Government G.P. Judd (Mr. Gerrit P. Judd was the committee of one who had been earlier appointed by the Privy Council to receive reports on lands belonging to the king).

Kahoolawe was among the property which the king conveyed to the government on March 8, 1848, immediately after the Mahele. This was done by a deed which recited, in part, as follows:

> Know all men by these presents, that I Kamehameha III by the grace of God, King of these Hawaiian Islands, do hereby give, make over and set apart forever to the chiefs and people of my kingdom, and convey all my right, title and interest in the lands situated here in the Hawaiian Islands, inscribed in pages 179 to 225, both inclusive, of this book, to have and to hold to my chiefs and people forever."

This deed appears at page 225 of the Mahele Book and incorporates by reference the above notation regarding Kahoolawe.

By Act of June 7, 1848, the Hawaiian Legislature accepted "in the name of the Chiefs and People of the Hawaiian Islands," the lands granted by King Kamehameha III, including, by specific reference, the Island of Kahoolawe.

1849 TO 1900

The Hawaiian monarchy came to an end on January 17, 1893 and was replaced with a provisional government dedicated to seeing Hawaii made a part of the United States. After seizing power, the annexationists rushed representatives off to Washington, hoping that President Benjamin Harrison would be able to prod the United States Senate into ratifying a treaty of annexation before his term expired and President Grover Cleveland, an avowed opponent of annexation, took office on March 4. This effort was unsuccessful, and annexation then had to wait until the Republican administration of William McKinley took office in 1897.

In the meantime, the leaders of the provisional government established a republic under a constitution which became effective on July 4, 1894.

Then, on June 16, 1897, representatives of the Republic of Hawaii and of the United States signed a treaty of annexation. President McKinley forwarded the treaty to the United States Senate with a supporting message from himself and from the Secretary of State.

The Hawaii Senate promptly ratified the treaty and forwarded it to the Hawaiian President, Sanford Dole, who signed it on September 10, 1897. A copy of the treaty is attached.

Article II of the treaty provides, in pertinent part, as follows:

> The Republic of Hawaii also cedes and hereby transfers to the United States the absolute ownership of all public, government, or Crown lands, public buildings, or edifices, ports, harbors, military equipments, and all other public property of every kind and description belonging to the Government of the Hawaiian Islands, together with every right and appurtenances thereunto appertaining.

The annexationists feared that they would not be able to get the necessary two-thirds vote in the United States Senate necessary for ratification, however. Thus, following a precedent established when Texas was annexed in 1845, instead of seeking to have the treaty ratified, they persuaded Congress to enact a joint resolution of annexation, a procedure requiring only a majority vote in each House of Congress.

The Joint Resolution of Annexation, a copy of which is attached, was enacted on July 7, 1898,

While the Joint Resolution makes only indirect reference to the treaty, a comparison of the two documents shows that the language of both essentially is identical. The differences between the documents are really only those required to convert the treaty into the form of a Joint Resolution. There are no substantive changes.

It should be noted that Memorandum of Title prepared by Mr. Herbert Evalike and dated March 9, 1976, a copy of which is attached, recites that the United States is vested with fee simple title to Kahoolawe under Article II of the Annexation Treaty ratified by the United States Congress on July 7, 1898. As mentioned above, fearing that it would not be possible

to round up the two-thirds vote of the Senate necessary for ratification of a treaty, President McKinley withdrew the treaty from the Senate's consideration and annexation was instead accomplished by a Joint Resolution. As a result, no annexation treaty with Hawaii was ever ratified.

Technicalities aside, however, it appears that the government of the Republic of Hawaii clearly intended to grant to the United States government "absolute fee and ownership of all public, Government, or Crown lands..." and the United States, for its part, clearly intended to accept the absolute and unconditional interest so conveyed.

The Joint Resolution in effect divides the land ceded to the United States into two subcategories; land "set aside" for the civil, military or naval purposes of the United States, and, as the second subcategory, all ceded land notso "set aside." The distinction grows out of the language in the Joint Resolution which provides separate rules for the use of revenue derived from ceded lands "used or occupied for the civil, military, or naval purposes of the United States, or (which) may be assigned for the use of the local government" and all remaining public lands ceded to the United States.

ORGANIC ACT OF 1900...The title to Public and Crown lands of the Republic of Hawaii was confirmed by the Organic Act of 1900 (48 USC 511, 661-677; 31 Stat. 159), pursuant to which "...the public property ceded and transferred to the United States by the Republic of Hawaii under the Joint Resolution of annexation approved July 7, 1898, shall be and remain in the possession, use, and control of the government of the Territory of Hawaii, and shall be maintained, managed, and cared for by it, at its own expense, until otherwise provided for by Congress, or taken for the uses and purposes of the United States by the direction of the President or by the government of Hawaii..." Under a uniform legislative, judicial and executive usage, ceded property "taken for the uses and purposes of the United States" under this authority has been called "set aside."

1901 TO PRESENT

The United States took possession of Kahoolawe briefly during World War I. Then, in 1928, it took possession of some 23.3 acres for lighthouse purposes under Presidential Proclamation No. 1827 (February 3, 1928). The United States' possession of the remainder of the island dates back to 1941 when the U.S. Army took

possession under a sublease of May 10, 1941. This sublease was supplemented by an agreement of March 1, 1944 and then transferred to the Navy on November 1, 1945. It remained in effect until terminated on October 28, 1952 by Presidential Proclamation 2487. Subsequently, by Executive Order 10436 of February 20, 1953, the entire island, with the exception of that portion previously taken for lighthouse purposes, was taken for the use of the United States for naval purposes and placed under the jurisdiction of the Secretary of the Navy.

Paragraph 4 of the Executive Order provides as follows:

> When there is no longer a need for the use of the area hereby reserved, or any portion thereof, for naval purposes of the United States, the Department of the Navy shall so notify the Territory of Hawaii, and shall, upon seasonable request of the Territory, render such area, or such portion thereof, reasonably safe for human habitation, without cost to the Territory.

It should be noted that this paragraph provides no automatic reversion to the State. Instead, the Navy can hold onto the entire island as long as it is needed for naval purposes. Then, even if it determines that it no longer needs all or any portion of the island, and the State makes a "seasonable" request, its only obligation is to render the unneeded land reasonably safe for human habitation, at its own expense. Although presumably the State would then again have possession and control of the land so cleared, title to it would remain in the United States. As of the present time, of course, the Navy is strenuously insisting that it has a continuing need for Kahoolawe.

At the time Hawaii became a state, the United States owned ceded property which had been "set aside" and other ceded property which had not been set aside nor conveyed to the territory of Hawaii. The United States held merely the naked title to the latter type of property, since, pursuant to section 91 of the Organic Act of 1900, the possession, use and control remained with the territory.

Under the terms of the Hawaiian Statehood Act (P.L. 86-3, 73 Stat. 4, March 18, 1959) the United States conveyed to the new State essentially all lands which had been ceded it in 1898, or acquired in exchange for lands so ceded, with certain exceptions. Included among the exceptions -- in other words, land to which the United States retained title -- were "Any lands and other properties that, on the date Hawaii is admitted into the Union, are set aside pursuant to law for the use of the United

States under any...(2) Executive Order,..." Since Executive Order 10436 of February 20, 1953 was still in effect at that time, as it is today, Kahoolawe was among the exceptions to the general transfer of title to the State, and title to it therefore remains vested in the United States.

Further, as a precondition to statehood, Section 7 of the Hawaiian Statehood Act required that certain propositions be placed before the electors of the territory, be duly adopted and become effective as amendments to the State constitution. Had the electors failed to adopt the propositions set for in Section 7 of the Act, the provisions of the Act would no longer have been effective and Hawaii could not then have become a State. The third of the three propositions submitted for adoption provided as follows:

> All provisions of the Act of Congress approved reserving rights or powers to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property therein made to the State of Hawaii are consented to fully by said State and its people.

By ratifying this provision, the people of the territory affirmed the statutory plan set forth in Section 5 of the Act and gave just that much additional ratification, if such was necessary, to the United States' title to Kahoolawe.

Subsequent to statehood, a procedure was established by legislation (P.L. 88-223 of December 23, 1963) by which excess land could be conveyed to the State of Hawaii, but this relates only to land determined to be "surplus" and is therefore not relevant here.

AII..

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ARTICLE VII.

The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate, on the one part, and by the Provisional Government of the Hawaiian Islands on the other, and the ratifications thereof shall be exchanged at Honolulu as soon as possible. Such exchange shall be made on the part of the United States by the commissioner hereinbefore provided for, and it shall operate as a complete and final conveyance to the United States of all the rights of sovereignty and property herein ceded to them. Within one month after such exchange of ratifications the Provisional Government shall furnish said commissioner with a full and complete schedule of all the public property herein ceded and transferred.

In witness whereof the respective plenipotentiaries have signed the above articles and have hereunto affixed their seals.

Done in duplicate at the city of Washington this fourteenth day of February, one thousand eight hundred and ninety-three.

TREATY OF ANNEXATION OF HAWAII, NEGOTIATED IN 1897, UNDER PRESIDENT M'KINLEY, SECRETARY OF STATE SHERMAN.

The United States and the Republic of Hawaii, in view of the natural dependence of the Hawaiian Islands upon the United States, of their geographical proximity thereto, of the preponderant share acquired by the United States and its citizens in the industries and trade of said islands, and of the expressed desire of the Government of the Republic of Hawaii that those islands should be incorporated into the United States as an integral part thereof and under its sovereignty, have determined to accomplish by treaty an object so important to their mutual and permanent welfare.

To this end the high contracting parties have conferred full powers and authority upon their respectively appointed plenipotentiaries, to wit:

The President of the United States, John Sherman, Secretary of State of the United States.

The President of the Republic of Hawaii, Francis March Hatch, Lorrin A. Thurston, and William A. Kinney.

ARTICLE I.

The Republic of Hawaii hereby cedes absolutely and without reserve to the United States of America all rights of sovereignty of whatsoever kind in and over the Hawaiian Islands and their dependencies; and it is agreed that all territory of and appertaining to the Republic of Hawaii is hereby annexed to the United States of America under the name of the Territory of Hawaii.

ARTICLE II.

The Republic of Hawaii also cedes and hereby transfers to the United States the absolute fee and ownership of all public, Government, or crown lands, public buildings, or edifices, ports, harbors, military equipments, and all other public property of every kind and description, belonging to the Government of the Hawaiian Islands, together with every right and appurtenance thereunto appertaining.

The existing laws of the United States relative to public lands shall not apply to such lands in the Hawaiian Islands, but the Congress of the United States shall enact special laws for their management and disposition: Provided, That all revenues from or proceeds of the same, except as regards such part thereof as may be used or occupied for the civil, military, or naval purposes of the United States, or may be assigned for the use of the local government, shall be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes.

ARTICLE III.

Until Congress shall provide for the government of such islands, all the civil, judicial, and military powers exercised by the officers of the existing Government in said islands shall be vested in such person or persons and shall be exercised in such manner as the President of the United States shall direct; and the President shall have power to remove said officers and fill the vacancies so occasioned.

The existing treaties of the Hawaiian Islands with foreign nations shall forthwith cease and determine, being replaced by such treaties as may exist or as may be hereafter concluded between the United States and such foreign nations. The

municipal legislation of the Hawaiian Islands, not enacted for the fulfillment of the treaties so extinguished, and not inconsistent with this treaty nor contrary to the Constitution of the United States, nor to any existing treaty of the United States, shall remain in force until the Congress of the United States shall otherwise determine.

Until legislation shall be enacted extending the United States customs laws and regulations to the Hawaiian Islands, the existing customs relations of the Hawaiian Islands with the United States and other countries shall remain unchanged.

ARTICLE IV.

The public debt of the Republic of Hawaii, lawfully existing at the date of the exchange of the ratifications of the treaty, including the amounts due to depositors in the Hawaiian Postal Savings Bank, is hereby assumed by the Government of the United States, but the liability of the United States in this regard shall in no case exceed $4,000,000. So long, however, as the existing Government and the present commercial relations of the Hawaiian Islands are continued, as hereinbefore provided, said Government shall continue to pay the interest on said debt.

ARTICLE V.

There shall be no further immigration of Chinese into the Hawaiian Islands, except upon such conditions as are now or may hereafter be allowed by the laws of the United States, and no Chinese, by reason of anything herein contained, shall be allowed to enter the United States from the Hawaiian Islands.

ARTICLE VI.

The President shall appoint five commissioners, at least two of whom shall be residents of the Hawaiian Islands, who shall, as soon as reasonable and practicable, recommend to Congress such legislation for the Territory of Hawaii as they shall deem necessary or proper.

ARTICLE VII.

This treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate, on the one part; and by the President of the Republic of Hawaii, by and with the advice and consent of the Senate, in accordance with the constitution of said Republic, on the other; and the ratifications hereof shall be exchanged at Washington as soon as possible.

In witness whereof the respective plenipotentiaries have signed the above articles and have hereunto affixed their seals.

Done in duplicate at the city of Washington, this sixteenth day of June, one thousand eight hundred and ninety-seven.

JOHN SHERMAN. [SEAL.]
FRANCIS MARCH HATCH. [SEAL.]
LORRIN A. THURSTON. [SEAL.]
WILLIAM A. KINNEY. [SEAL.]

newspapers for any Department shall not apply to the purchase of newspapers for military use by the military information division of the Adjutant-General's Office from the appropriations for the support of the Army for the fiscal years herein named.

Approved, June 29, 1898.

July 1, 1898.

[No. 54.] Joint Resolution For improvement of San Joaquin River and Stockton and Mormon channels, California.

Improvement of San Joaquin River and Stockton and Mormon channels, California.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized to expend for improvements and surveys of the waterways hereinafter named and their tributaries any sums of money now to the credit of and heretofore appropriated for the improvement of the San Joaquin River and Stockton and Mormon channels, California, as and where, in his discretion, will best improve the commercial capacity of said waterways.

Approved, July 1, 1898.

July 7, 1898.

[No. 55.] Joint Resolution To provide for annexing the Hawaiian Islands to the United States.

Annexation of the Hawaiian Islands. Preamble.

Whereas the Government of the Republic of Hawaii having, in due form, signified its consent, in the manner provided by its constitution, to cede absolutely and without reserve to the United States of America all rights of sovereignty of whatsoever kind in and over the Hawaiian Islands and their dependencies, and also to cede and transfer to the United States the absolute fee and ownership of all public, Government, or Crown lands, public buildings or edifices, ports, harbors, military equipment, and all other public property of every kind and description belonging to the Government of the Hawaiian Islands, together with every right and appurtenance thereunto appertaining: Therefore,

Cession of Hawaiian sovereignty, etc., accepted.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That said cession is accepted, ratified, and confirmed, and that the said Hawaiian Islands and their dependencies be, and they are hereby, annexed as a part of the territory of the United States and are subject to the sovereign dominion thereof, and that all and singular the property and rights hereinbefore mentioned are vested in the United States of America.

Congress to enact special public-land laws.

The existing laws of the United States relative to public lands shall not apply to such lands in the Hawaiian Islands; but the Congress of the United States shall enact special laws for their management and disposition: *Provided*, That all revenue from or proceeds of the same, except as regards such part thereof as may be used or occupied for the civil, military, or naval purposes of the United States, or may be assigned for the use of the local government, shall be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes.

Proviso. —revenues for educational purposes, etc.

Existing powers of officers continued.

Until Congress shall provide for the government of such islands all the civil, judicial, and military powers exercised by the officers of the existing government in said islands shall be vested in such person or persons and shall be exercised in such manner as the President of the United States shall direct; and the President shall have power to remove said officers and fill the vacancies so occasioned.

Removal of officers.

Existing treaties replaced by United States treaties.

The existing treaties of the Hawaiian Islands with foreign nations shall forthwith cease and determine, being replaced by such treaties as may exist, or as may be hereafter concluded, between the United States and such foreign nations.

Municipal legislation continued.

The municipal legislation of the Hawaiian Islands, not enacted for the fulfillment of the treaties so extinguished,

and not inconsistent with this joint resolution nor contrary to the Constitution of the United States nor to any existing treaty of the United States, shall remain in force until the Congress of the United States shall otherwise determine.

Existing customs laws continued.

Until legislation shall be enacted extending the United States customs laws and regulations to the Hawaiian Islands the existing customs relations of the Hawaiian Islands with the United States and other countries shall remain unchanged.

United States to assume the public debt of Hawaii.

—limit.

—interest.

The public debt of the Republic of Hawaii, lawfully existing at the date of the passage of this joint resolution, including the amounts due to depositors in the Hawaiian Postal Savings Bank, is hereby assumed by the Government of the United States; but the liability of the United States in this regard shall in no case exceed four million dollars. So long, however, as the existing Government and the present commercial relations of the Hawaiian Islands are continued as hereinbefore provided said Government shall continue to pay the interest on said debt.

Chinese immigration prohibited.

There shall be no further immigration of Chinese into the Hawaiian Islands, except upon such conditions as are now or may hereafter be allowed by the laws of the United States; and no Chinese, by reason of anything herein contained, shall be allowed to enter the United States from the Hawaiian Islands.

Commissioners to recommend legislation.

The President shall appoint five commissioners, at least two of whom shall be residents of the Hawaiian Islands, who shall, as soon as reasonably practicable, recommend to Congress such legislation concerning the Hawaiian Islands as they shall deem necessary or proper.

—appointment of.

SEC. 2. That the commissioners hereinbefore provided for shall be appointed by the President, by and with the advice and consent of the Senate.

Appropriation for enforcing resolution.

SEC. 3. That the sum of one hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, and to be immediately available, to be expended at the discretion of the President of the United States of America, for the purpose of carrying this joint resolution into effect.

Approved, July 7, 1898.

[No. 56.] Joint Resolution Authorizing the Librarian of Congress to accept the collection of engravings proposed to be donated to the Library of Congress by Mrs. Gertrude M. Hubbard.

July 7, 1898.

Library of Congress. Acceptance of engravings, etc., from Mrs. Gertrude M. Hubbard.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Librarian of Congress is hereby empowered and directed to accept the offer of Mrs. Gertrude M. Hubbard, widow of the late Gardiner Greene Hubbard, communicated to him by the following letter, on the terms and conditions therein stated, except that instead of naming the gallery in the Library as therein proposed, the collection shall be known and styled as the Gardiner Greene Hubbard Collection, it not being, in the opinion of Congress, desirable to call parts of the public buildings after the names of individual citizens, and that the bust therein named be accepted and kept in a suitable place, to be designated by the Joint Committee on the Library; and to communicate to Mrs. Hubbard the grateful appreciation of Congress of the public spirit and munificence manifested by said gift:

WASHINGTON, D. C., March 21, 1898.

MY DEAR SIR: I hereby offer to the Congressional Library, for the benefit of the people of the United States, the collection of engravings made by my husband, the late Gardiner Greene Hubbard, and, in addition thereto, the art books, to be treated as part of the collection.

This disposition of the collection, the gathering of which was to him the pleasure of many years chiefly devoted to the welfare of his fellow-

FEDERAL REGISTER

VOLUME 18 NUMBER 37

Washington, Wednesday, February 25, 1953

TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 10436

RESERVING KAHOOLAWE ISLAND, TERRITORY OF HAWAII, FOR THE USE OF THE UNITED STATES FOR NAVAL PURPOSES AND PLACING IT UNDER THE JURISDICTION OF THE SECRETARY OF THE NAVY

WHEREAS it appears necessary and in the public interest that the Island of Kahoolawe, Territory of Hawaii, which comprises an area of approximately forty-five square miles, and which forms a part of the public lands ceded and transferred to the United States by the Republic of Hawaii under the joint resolution of annexation of July 7, 1898, 30 Stat. 750, be taken and reserved for the use of the United States for naval purposes, except that portion comprising an area of 23.3 acres, more or less, heretofore taken for lighthouse purposes by Proclamation No. 1827 of the President of the United States dated February 3, 1928 (45 Stat. 2937); and

WHEREAS it is deemed desirable and in the public interest that provision be made for the conducting of a program of soil conservation on the island while the reservation made hereby is in force, and that the area within such reservation be restored to a condition reasonably safe for human habitation when it is no longer needed for naval purposes:

NOW, THEREFORE, by virtue of the authority vested in me by section 91 of the act of April 30, 1900, 31 Stat. 159, as amended by section 7 of the act of May 27, 1910, 36 Stat. 447, it is ordered as follows:

1. The Island of Kahoolawe, Territory of Hawaii, except that portion taken by the United States for lighthouse purposes by Proclamation No. 1827 of February 3, 1928, is hereby taken and reserved for the use of the United States for naval purposes, and is placed under the jurisdiction of the Secretary of the Navy.

2. The Secretary of the Navy shall, within a reasonable period following the date of this order, eradicate from the island all cloven-hooved animals, or shall within such period and at all times thereafter while the area hereby reserved or any portion thereof is under his jurisdiction take such steps as may be necessary to assure that the number of such animals on the island at any given time shall not exceed two hundred.

3. The Territory of Hawaii shall have the right, at its expense and risk, at reasonable intervals to enter and inspect the island to ascertain the extent of forest cover, erosion, and animal life thereon, and to sow or plant suitable grasses and plants under a program of soil conservation: *Provided*, that such entrance and inspection shall not interfere unreasonably with activities of the Department of the Navy or of the United States Coast Guard.

4. When there is no longer a need for the use of the area hereby reserved, or any portion thereof, for naval purposes of the United States, the Department of the Navy shall so notify the Territory of Hawaii, and shall, upon seasonable request of the Territory, render such area, or such portion thereof, reasonably safe for human habitation, without cost to the Territory.

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
February 20, 1953.

[F. R. Doc. 53-1827; Filed, Feb. 20, 1953; 5:14 p. m.]

EXECUTIVE ORDER 10437

DESIGNATING THE HONORABLE BENJAMIN ORTIZ TO ACT, UNDER CERTAIN CIRCUMSTANCES, AS JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO DURING THE YEAR 1953

By virtue of the authority vested in me by section 41 of the act entitled "An Act to provide a civil government for Puerto Rico, and for other purposes", approved March 2, 1917, as amended by section 20 of the act entitled "An Act to revise, codify, and enact into law title 28 of the United States Code entitled 'Judicial Code and Judiciary'", approved June 25, 1948 (62 Stat. 989), I hereby designate and authorize the Honorable Benjamin Ortiz, Associate Justice of the Supreme Court of Puerto Rico, to perform and discharge the duties of the

(Continued on p. 1053)

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THE

- U N I T E D S T A T E S O F A M E R I C A -

is

vested with the fee title to the-

- ISLAND OF KAHOOLAWE -

(A description and map of which is attached hereto and) (made part hereof, marked Exhibit "A" by reference.)

The fee title is acquired by Article II of the Annexation Treaty ratified by the United States Congress on July 7, 1898, which recites in part with reference to the acquisition, thusly-

> "The Republic of Hawaii also cedes and hereby transfers to the United States the absolute ownership of all public, government, or Crown lands, public buildings, or edifices, ports, harbors, military equipments, and all other public property of every kind and description belonging to the Government of the Hawaiian Islands, together with every right and appurtenances thereunto appertaining."

Under the United States of America, the Island is encumbered by the following, thusly-

Presidential Executive Order No. 1827, dated February 3, 1928, 23.3 acres of the Island (description and map of which is attached hereto and made part hereof, marked Exhibit "B" by reference) for Lighthouse purposes, placed under the jurisdiction of

- THE DEPARTMENT OF COMMERCE -

and

By Presidential Executive Order No. 10436, dated February 20, 1953, the Island is placed under the jurisdiction of

- THE SECRETARY OF THE NAVY -

for Naval purposes.

- ORIGIN AND CHAIN OF TITLE -

Discussion As To The Origin-

Title to lands in the State of Hawaii officially became a reality at the time of the Enactment of the Law creating the Board of Commissioners to Quiet Land Titles, December 10, 1845, and subsequent Acts to implement the claim and disposition of lands from which emanates the "Mahele of 1848" [literally "The Division (of land) of 1848"].

A Short Historical Background Preceding The "Mahele".

By conquest, and the peaceful cessation of the Island of Kauai, Kamehameha First, popularly referred to as "Kamehameha The Great"; became the superior lord of the Hawaiian Kingdom and all the lands therein were his to dispose of and by no other.

About three years prior to his sojourn as a warrior, and conqueror, Kamehameha First married Kaahumanu. Subsequently, he bestowed upon her the title of Premier, or Vice-King, with equal powers, including the power of life and death throughout the kingdom.

Kamehameha First, died May 8, 1819. He was succeeded to the throne by his eldest son by name of Kalani Kua Liholiho, begotten from his second wife named Keopuolani; the throne and all business of the Crown and State descended to him. He reigned under the name of King Kamehameha II. Kaahumanu remained Premier.

During the reign of King Kamehameha II, no notable reformation in the operation of the government, or the lands, were inaugurated by him. Disposition of lands continued as it was in the past, mostly conveyance of limited tenure.

Kamehameha II, died on July 14, 1824, six days after his consort, Queen Kamamalu, sometimes referred to as Kaahumanu Second. Their deaths took place while visiting England. He was succeeded to the throne by his brother Kalani Kauikeaouli, who is also a son of Keopuolani, the second wife of Kamehameha First. The throne and all business of the Crown and State descended to him. He reigned under the name of King Kamehameha III. Kaahumanu (First) remained premier until her death in Manoa Valley, June 5, 1832, and was succeeded by Kahoanoku Kinau, half sister of Kalani Kaeuikeouli.

Abstractor's Note.

As time went by, the Office of Premier became less important, and was subsequently abolished. Little will be gained by continuing the discussion on the subject. Henceforth, no reference will be made of it in the rest of the discussion.

Continuing The Discussion On The Origin-

King Kamehameha III, with the House of Nobles, and Representatives, approved a Constitution and Bill of Rights for the Hawaiian Kingdom, on October 8, 1840. Thus, was inaugurated a constitutional government under a monarchial system. Not only a reform in the operation of the government was instituted, but, also a land reform.

- THE CHAIN OF TITLE -

With regards to the Government, and the lands of the Hawaiian Kingdom, the Constitution of October 8, 1840 recites in part, thusly-

> "Kamehameha I was the founder of the Kingdom, and to him belonged all the land from one end of the islands to the other, though it was not his private property. It belonged to the chiefs and people in common, of whom

Kamehameha I was the head and had the management of the landed property. Wherefore there was not formerly and it is not now any person who could or can convey away the smallest portion of land without the consent of the one who had or has the direction of the Kingdom.

These are the persons who had the direction of it from that time down - Kamehameha II, Kaahumanu, and at the present time Kamehameha III. These persons have the direction of the Kingdom down to the present time, and all the documents written by them, and no others, are the documents of the Kingdom."

While discussing the disposition of claims to lands in Privy Council, on December 11, 1847, the King and Chiefs passed a Resolution appointing Gerrit P. Judd, a Committee, to receive reports on what lands belong to the King.

As to the Island of Kahoolawe, the following notation appears on Page 200 of the Mahele Book of 1848 on file in the Department of Land and Natural Resources which reads, thusly-

"Kahoolawe no Aupuni G. P. Judd" - Translated
"Kahoolawe for the Government G. P. Judd".

As provided under the Act creating the Board of Commissioners to Quiet Land Titles, passed December 15, 1845, the Island of Kahoolawe became the property of the Hawaiian Government under King Kamehameha III. On March 8, 1848, King Kamehameha III confirms the claim by executing a deed which recites in part, thusly-

Know all men by these presents, that I Kamehameha III by the grace of God, King of these Hawaiian Islands, do hereby give, make over and set apart forever to the chiefs and people of my kingdom, and convey all my right, title and interest in the lands situated here in the Hawaiian Islands, inscribed in pages 179 to 225, both inclusive, of this book, to have and to hold to my chiefs and people forever."

The deed appears on Page 225 of said Mahele Book of 1848. Pages 179 to 225 are odd numbered pages in said Mahele Book of 1848, listing all the lands of "Ko Ke Aupuni", translated -

"The Lands of the Government". The notation should have been under "The Lands of Kamehameha III"; to be readily understood.

In confirmation of the foregoing, the House of Nobles and Representatives, under Act of June 7, 1848, . . . "in the name of the Chiefs and People of the Hawaiian Islands, accept the following lands, viz"

"Names of Lands	Ahupuaa	District	Islands"
* * * * * * * * *			
"Kahoolawe	Mokupuni Okoa /1.	(Koolau)*	Kahoolawe"
* * * * * * * * *			

..."and we do hereby declare those lands be set apart as the lands of the Hawaiian Government, subject always to the rights of tenants."

Abstractor's Note.

With regards to "the rights of tenants," King Kamehameha III and his Chiefs, in Privy Council, discussed the subject of giving the tenants who live and cultivate the lands of the King, Government and Chiefs, fee simple title to their lands on which they live and cultivate. A Resolution was passed on December 21, 1849, approving same. With the land, went certain rights, which was also discussed in Privy Council on July 13, 1850. Wm. L. Lee, a Chief, who is also Judge of the Superior Court, advised Council that the Resolutions passed by the Privy Council, do not have the effects of Law. So, on August 6, 1850, the House of Nobles and Respresentatives passed an Act confirming the Resolutions. The "rights" set forth in Section 7 of said Act was amended July 11, 1851. And as a matter of fact, the "rights" are repeated under Chapter 7 - Miscellaneous Rights of the People, on Page 203, Volume 1 of the Hawaii Revised Statutes.

/1. Translated-"Kahoolawe - an Island - District of Koolau*-Kahoolawe Island

* The ditto mark under District implies that the Island of Kahoolawe is part of the District of Koolau, Island of Molokai. It is not.

It is generally construed, that, if a tenant has awarded land within the boundaries of the land of the Chiefs, Government or King, his "rights" are limited to within the area, and not have widespread effects. There are no claims to lands on the Island of Kahoolawe. And the Island coming under the realm of the Government, no sale of any parcel has been made to anyone.

The Chain of Title Continues-

There are no instruments of record affecting the Island, made by King Kamehameha III.

On June 14, 1852, King Kamehameha III adopted a second Constitution. As in the First Constitution (October 8, 1840) provided, that should the King fail to appoint a successor to the throne, the power to do so rests with the House of Nobles and Representatives.

King Kamehameha III, died on December 15, 1854, and as provided under the Constitution, Alexander Liholiho, an adopted son, was appointed successor to the throne. The throne and all business of the State and Crown descended to Alexander Liholiho, who reigned under the title and name as King Kamehameha IV. King Kamehameha III failed to name a successor during his lifetime.

On April 1, 1858, a Lease was executed by the Minister of Interior, under King Kamehameha IV, to the favor of Robert C. Wyllie, and Elisha H. Allen. Leasing the subject Island for a term of twenty (20) years from date, at a rental of $505.00 per year. This Lease is filed in the Department of Land and Natural Resources as General Lease No. 47-A.

On November 30, 1863, King Kamehameha IV died. As provided under the Constitution, Lot Kamehameha an elder brother was appointed to succeed him to the throne. The throne and all business of the Crown and State descended to Lot Kamehameha, who reigned under the title and name as King Kamehameha V. King Kamehameha IV failed to name a successor during his lifetime.

On March (no date) 1864, a Lease was given to Elisha H. Allen. Leasing the subject Island for a term of fifty (50) years from January 1, 1863. Said Lease is filed in said Department as General Lease No. 115.

King Kamehameha V, after having been proclaimed King of the Hawaiian Kingdom, did on August 20, 1864 adopted a new Constitution, abrogating the Constitution of King Kamehameha III.

On December 11, 1872, King Kamehameha V died. As provided under the Constitution, William Charles Lunalilo was appointed to the throne. The throne and all business of the Crown and the State descended to King William Charles Lunalilo. King Kamehameha V had named Princess Victoria Kamamalu Kaahumanu to succeed him. She died unmarried on May 29, 1866.

On February 3, 1874, King William Charles Lunalilo died. And as provided under the Constitution, Prince David Kalakaua was appointed to the throne. The throne and all business of the Crown and the State descended to King David Kalakaua. King William Charles Lunalilo did not name a successor in his lifetime.

On March 22, 1880, a Consent by the Minister of Interior under King David Kalakaua was given in the Assignment of Lease No. 115 by Elisha H. Allen to Albert D. Courtney and William H. Cummings, as noted in the records of said Department.

On April 27, 1887, the aforementioned Lease No. 115 was assigned to Kynnersley Bros. and R. von Tempsky; as shown on said records in said Department.

On July 7, 1887, King David Kalakaua adopted a new Constitution abrogating the Constitution of his predecessor.

On January 20, 1891, King David Kalakaua died. The throne and all business of the Crown and State descended to Princess Lydia Kamakaeha Liliuokalani, sister of the King, whom he named as his successor under Article 22 of the Constitution. She reigned under the title and name of Queen Liliuokalani.

Abstractor's Note.

The Hawaiian nation under the reign of Queen Liliuokalani, came to a tragic end in the year 1893. Of the circumstances surrounding its inception, and the subsequent results, this writer maintains a prejudiced position. However, for the sake of continuity as to the Chain of Title, or succession, the writer at this point, states, that the Chain of Title, or succession insofar as it concerns the Hawaiian nation under a Monarchial System of government, ends.

The Chain of Title Continues-

On January 17, 1893, a Provisional government under an elected President, as head of State took over, in its entirety, the government that was formerly under Queen Liliuokalani, including the control of all the lands not disposed of, in the Hawaiian Islands. The provisional government became a permanent institution on July 3, 1894 adopting its own Constitution, abrogating the Constitution of former governments, and operate under the style and name as The Republic of Hawaii with an elected President as Head of State.

On August 14, 1895, the Legislature under The Republic of Hawaii passed an Act relating to the lands in the Hawaiian Islands, calling it the "Land Act of 1895." That among other things set forth in said Act, the following is recited in part, thusly-

> ..."all lands heretofore called 'Crown' and 'Government' became known as 'public lands'."

All during the transitional period, Lease No. 115, hereinabove mentioned, remained in full force and effect.

On July 7, 1898, a Treaty for the Annexation of the Hawaiian Islands was ratified by the Congress of the United States of America, as the result of an appeal made by the Republic of Hawaii. Of the many provisions of the Treaty, the following with

regards to lands in the Hawaiian Islands, under Article II, recites in part, thusly-

> "The Republic of Hawaii also cedes and hereby transfers to the United States the absolute ownership of all public, government, or Crown lands, public buildings, or edifices, ports, harbors, military equipments, and all other public property of every kind and description belonging to the Government of the Hawaiian Islands, together with every right and appurtenances thereunto appertaining."

On April 30, 1900, the Congress of the United States of America approved an Act to provide a government for the Hawaiian Islands, in place of the Republic of Hawaii. This Act is popularly referred to as "The Hawaiian Organic Act." All matters of the State, particularly with regards to the "public lands," came under the control and management of the new government operating under the style and name as the Territory of Hawaii.

On December 23, 1918, the Island of Kahoolawe was leased to Angus McPhee, for a term of 21 years from dated, at a rental of $600.00 per year. A Sub-Lease was given to one Lee St. John Gilbert, July 1, 1919. This Lease is filed of record in said Department as Lease No. 1049.

On May 23, 1933, a Lease was given to Kahoolawe Ranch, for a term of 21 years, at a rental of $100.00 semi-annually. This lease is filed in said Department as Lease No. 2341.

On September 30, 1952, the foregoing Lease No. 2341 was cancelled.

Abstractor's Note.

At the time General Lease No. 2341 was cancelled, the United States of America entered into the Korean conflict. The use of the Island of Kahoolawe for naval purposes became more evident. All plans for its purported return to the State of Hawaii (then under Territorial status) were abandoned.

By Act of March 18, 1959, Public Law 86-3, 73 Stat.4, the Territory of Hawaii became a sovereign State of the Union of States; that is, the United States of America. That among the many provisions set forth in the Admission Act with regards to lands under the jurisdiction of the United States Congress, or the President of the United States of America, the subsection copied from the Hawaii Revised Statues Volume 1, Page 87 is the most effective with regards to the subject matter. (See Exhibit "C").

The Abstractor ends this memorandum at this point, as he feels he has covered the subject of "title" to the Island sufficiently to render an opinion as to the legal possession.

Dated at Honolulu, Hawaii, March 9, 1976, 8:00 A. M.

LICENSED ABSTRACTOR
LICENSE NO. AB-16
CHAPTER 436, H.R.S.

RESPONSIBILITY OF THE ABSTRACTOR

The foregoing Memorandum was prepared for the exclusive use of the State of Hawaii through its Department of Land and Natural Resources. All information opinions expressed therein are not to be relied upon, used or taken out of context for the purposes of determining or settling of any private matter, by any person or corporation, individually or collectively.

TERRITORY OF HAWAII
SURVEY DEPARTMENT
HONOLULU

C.S.F. No. 11,526

September 10, 1952

ISLAND OF KAHOOLAWE

TERRITORY OF HAWAII

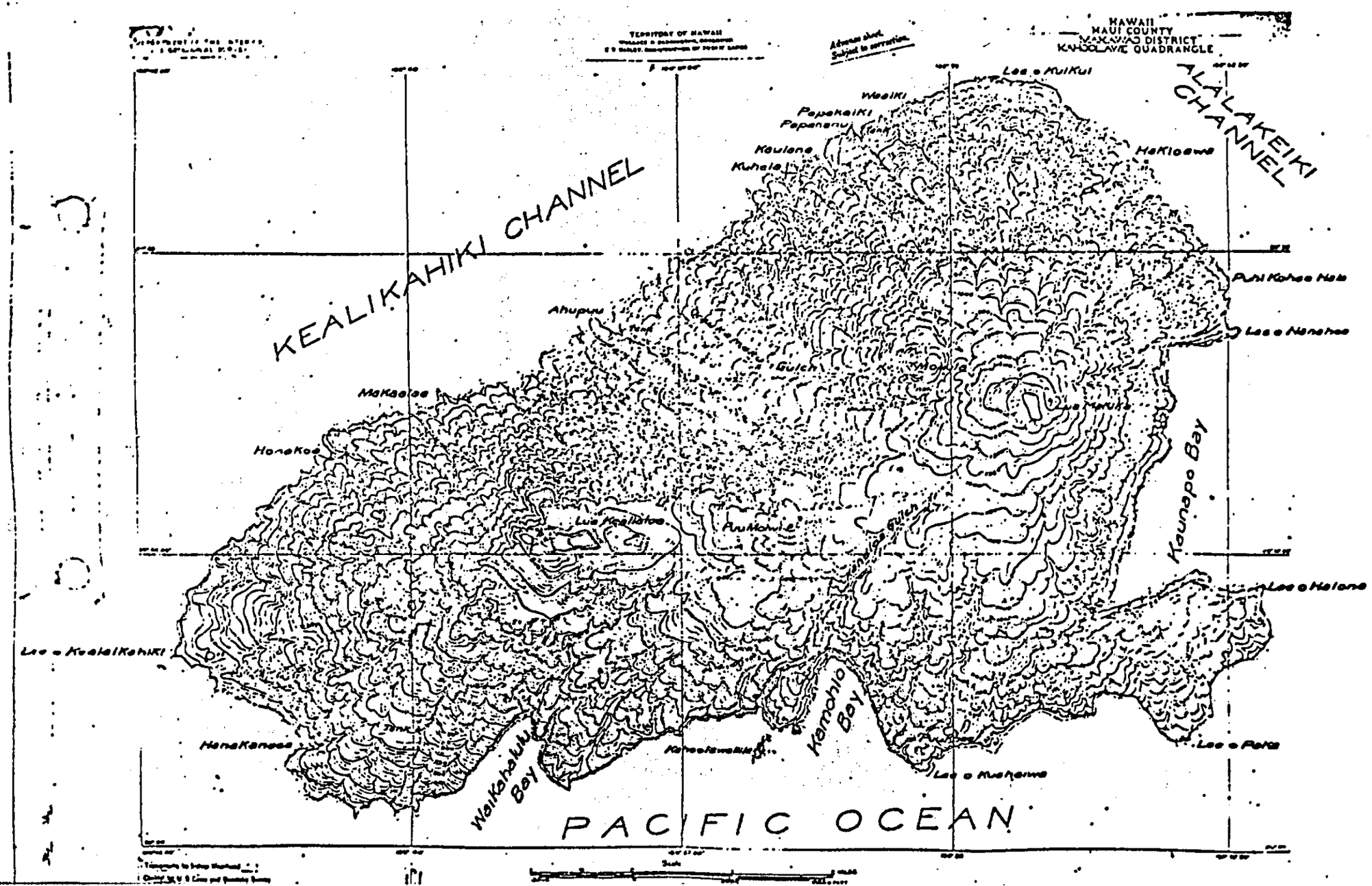
The Island of Kahoolawe, Territory of Hawaii, is located in the Pacific Ocean within the Hawaiian Island Group, approximately 8 miles west of the Island of Maui and lying between latitudes 20° 19'. and 20° 38' North from the Equator and between longitudes 156° 31' and 156° 43' West from Greenwich, said Island of Kahoolawe containing an approximate area of 28,800 Acres.

Compiled from
U.S.G.S. Quad
Sheet of Kahoolawe,
Hawaii and Gov't.Survey
records.

TERRITORY OF HAWAII
SURVEY DEPARTMENT

BY: Francis H. Kennedy
Francis H. Kennedy
Senior Geodetic Engineer

EXHIBIT "A"


HAWAII
MAUI COUNTY
KAHOOLAWE QUADRANGLE
KEALIKAHIKI CHANNEL
ALALAKEIKI CHANNEL
Lae o Kealikahiki
Lae o Kuikui
Waaiki
Papakeiki
Kaulana
Kuhala
Hakioawa
Puu Kahoo Nui
Lae o Nanahoa
Ahupuu
Gulch
Makaloa
Honokoa
Lua Kealaloa
Kaukalua
Kaupo Bay
Lae o Kalana
Lae o Kealakahiki
Honokanoa
Waikahalulu Bay
Kanapohaikuaiwa
Kamohio Bay
Lae o Pohakea
Lae o Kuahaiwa
PACIFIC OCEAN

Kahololoo Southwest Point Light Station
Island of Kahoolawe,
Territory of Hawaii.

Beginning at a point marked by a 5/8" brass pin in a concrete block stamped "U.S.L.H.S.", said point bearing 139° 00' 30" and distant 540.4 feet from triangulation station "Hopo", thence by true azimuths and distances, as follows:-

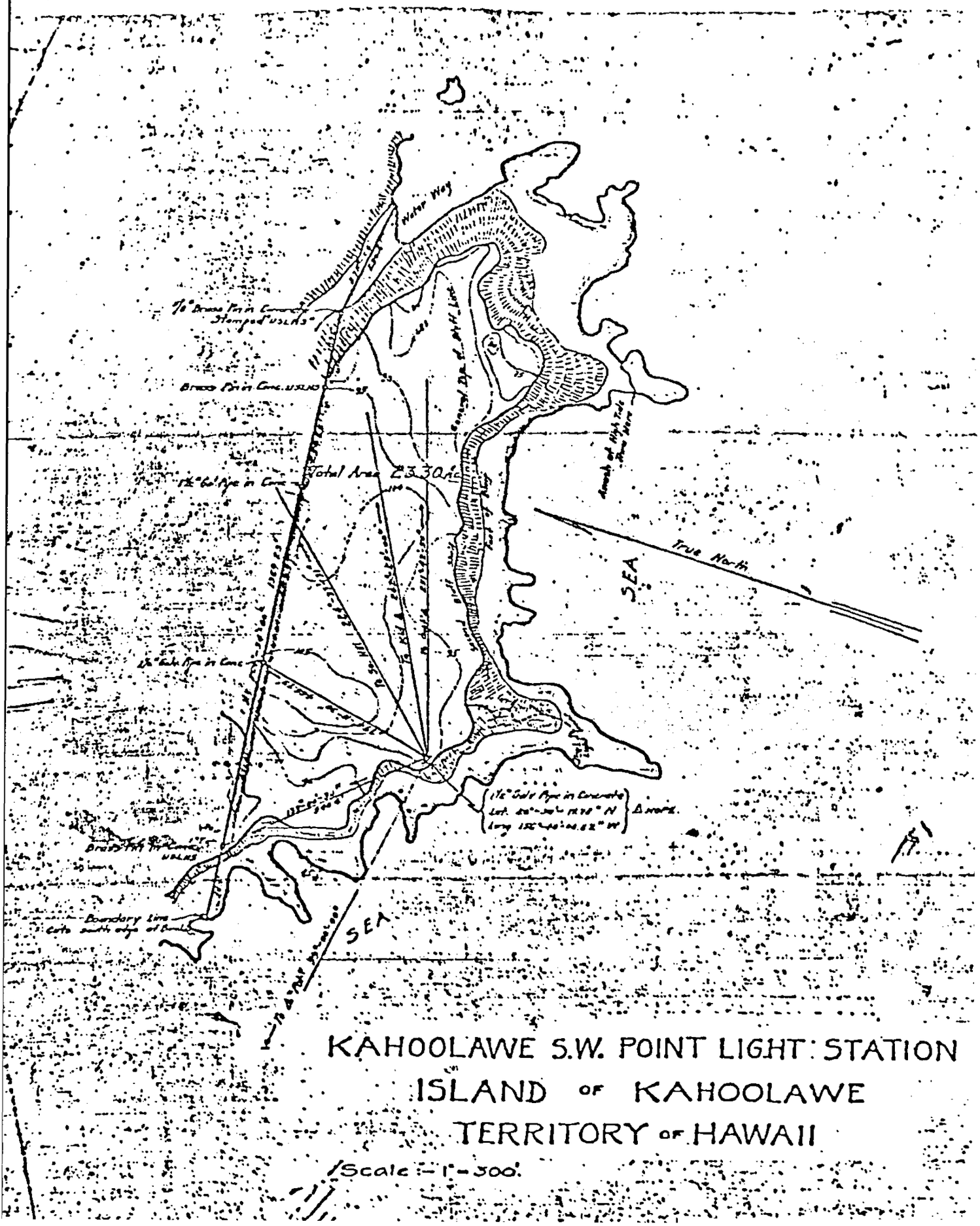
1. 264° 34' 00" 1369.23 feet to a 5/8" brass pin in a concrete block stamped "U.S.L.H.S."; thence

2. 270° 54' 00" 290.0 feet to a point on the seashore at highwater mark; thence

3. Thence along the meanderings of highwater mark at seashore to a point which bears 264° 34' 00" and is distant 1 [illegible].0 feet from the point of beginning; thence

4. 264° 34' 00" 100.0 feet to the point of beginning, AND CONTAINING AN AREA OF 23.3 ACRES, MORE OR LESS.

EXHIBIT "B"



KAHOOLAWE S.W. POINT LIGHT STATION
ISLAND OF KAHOOLAWE
TERRITORY OF HAWAII

Scale 1" = 300'

(b) Notwithstanding the admission of the State of Hawaii into the Union, authority is reserved in the United States, subject to the proviso hereinafter set forth, for the exercise by the Congress of the United States of the power of exclusive legislation, as provided by article I, section 8, clause 17, of the Constitution of the United States, in all cases whatsoever over such tracts or parcels of land as, immediately prior to the admission of said State, are controlled or owned by the United States and held for Defense or Coast Guard purposes, whether such lands were acquired by cession and transfer to the United States by the Republic of Hawaii and set aside by Act of Congress or by Executive order or proclamation of the President or the Governor of Hawaii for the use of the United States, or were acquired by the United States by purchase, condemnation, donation, exchange, or otherwise: *Provided*,(i) That the State of Hawaii shall always have the right to serve civil or criminal process within the said tracts or parcels of land in suits or prosecutions for or on account of rights acquired, obligations incurred, or crimes committed within the said State but outside of the said tracts or parcels of land; (ii) that the reservation of authority in the United States for the exercise by the Congress of the United States of the power of exclusive legislation over the lands aforesaid shall not operate to prevent such lands from being a part of the State of Hawaii, or to prevent the said State from exercising over or upon such lands, concurrently with the United States, any jurisdiction whatsoever which it would have in the absence of such reservation of authority and which is consistent with the laws hereafter enacted by the Congress pursuant to such reservation of authority; and (iii) that such power of exclusive legislation shall vest and remain in the United States only so long as the particular tract or parcel of land involved is controlled or owned by the United States and used for Defense or Coast Guard purposes: *Provided, however*,That the United States shall continue to have sole and exclusive jurisdiction over such military installations as have been heretofore or hereafter determined to be critical areas as delineated by the President of the United States and/or the Secretary of Defense.

EXHIBIT "C"

STATEMENT BY U. S. SENATOR DANIEL K. INOUYE ON MAUI COUNTY PETITION FOR REVOCATION OF RESTRICTED AREA R-3104 (DOCKET NO. 15519)

I wish to take this means to express to the Federal Aviation Administration my support of the petition filed by Maui County Mayor Elmer F. Cravalho, requesting the revocation of airspace in Restricted Area R-3104 and Associated Warning Area W-324 (Docket No. 15519).

In addition, I wish to voice my longstanding concern for the safety and welfare of the residents of Maui, who have been subjected to danger by naval aircraft operating in the Kahoolawe vicinity for more than 30 years.

Certainly the growth and development of Maui, the second largest island in the Hawaiian chain, has been evident in recent years. Tourism lately has become a prospering industry. The State Department of Planning and Economic Development last year reported that tourism has become increasingly important to the Maui economy, joining pineapple and sugar as vital income and revenue producers. The State also has said it expects major expansion of the tourist industry on the island to continue.

To date visitor accommodations in the County have increased more than tenfold since 1960. On the Island of Maui, 5,644 hotel units were available to visitors in October, 1974, some 4,100 of which were located in the Lahaina-Napili area on the island's southwestern shore, close to Kahoolawe. Last year the State projected that 2,775 new hotel units would be built on Maui.

The rapid development of Maui and corresponding increases in both the visitor and resident population has meant that the possible threat to personal safety posed by naval air operations over nearby Kahoolawe Island has intensified.

The local Maui population has shown remarkable good faith and tolerance in the past for the U. S. Navy's activities at Kahoolawe, a tiny island about 8 miles off the coast of Maui. All of us in Hawaii have recognized the fact that security requirements often can demand a sacrifice on our part. However, the limits of our tolerance have been exceeded by the threat of danger posed by naval aircraft.

On March 12, 1976, the Maui News reported that "indignant and alarmed Maui residents from Kihei to Pauwela" deluged the Mayor's office, police, Civil Defense, the Coast Guard and radio stations with phone calls that morning complaining of "the worst bombing of Kahoolawe" they had ever endured.

The newspaper cited a police report that windows were shattered in a home on Akala Drive in Maui Meadows. Tenants in the condominium Hale Kai O Kihei reportedly evacuated their building during what they thought was an earthquake; they said they felt the building shaking. Even the Coast Guard said that the moorings of its cutter Captain Newagen "shook as if it were going to collapse."

All of the officials on Maui attributed this incident to the Navy's air bombardments of Kahoolawe. By 10:21 a.m. that day -- after nearly two hours of frantic phone calls by residents -- the Navy informed Maui Civil Defense that it would suspend the air-to-ground operations for the rest of the day.

Navy operations generally are quite extensive in the Kahoolawe vicinity. Navy statistics reported in the Honolulu Star-Bulletin on November 20, 1975, show that naval aircraft spent 2,073 hours bombing Kahoolawe between October, 1974 and September, 1975.

Because the population of Maui is expanding and the use of Kahoolawe is very heavy, the odds of an accidental bombing on Maui are very high. Of course, the celebrated incident involving Mayor Cravalho comes to mind. In September, 1969 unexploded ordnance was discovered buried in the pasture of Mayor Cravalho's ranch property. After an investigation, the Navy determined that the bomb had been dropped in 1966, but was in no danger of detonating.

In the interest of the safety and comfort of the citizens of Maui, some effective action must be taken to remove this danger.

I found the violations of FAA regulations by the Navy, as alleged in the Memorandum of Findings by Aviation Systems Associates, to be cause for concern. The consulting firm retained by Mayor Cravalho found in FAA records that naval aircraft operating in the Kahoolawe area failed to provide proper notice of bombing operations in the airspace corridor between Maui and Kahoolawe on at least three occasions. In two of three reported incidents, Navy planes and private aircraft nearly collided. In the third reported case, bombing operations threatened the safety of a group of air taxi tour aircraft that had received assurance from the FAA that the airspace between Maui and Kahoolawe was open. The Navy later blamed the incident on an "administrative scheduling error," the Memorandum says.

The Memorandum further alleges that the Navy has failed to fully provide data to permit analysis of the safety of its flight patterns in the Kahoolawe area, as required by the Code of Federal Regulations (14 CFR 73.19). There is evidence showing that the Navy has not submitted adequate annual reports with the FAA regarding airspace utilization.

These are serious allegations against the Navy that must be dealt with responsibly by the Federal Aviation Administration. I know the FAA recognizes its important role in protecting the lives of American citizens through thoughtful and careful regulation of our airways, and I am confident these hearings will bring to the forefront all facts as well as comments relevant to the issue of Kahoolawe airspace.

We hear much about the loss of faith among Americans in their government and institutions. This disaffection is readily apparent in Hawaii, and has been compounded lately by news of airspace violations by the Navy. It is precisely this kind of disregard for the safety of civilians that contributes to the growing alienation of citizens from the Armed Forces, the Navy in particular.

It is my sincere wish that action be taken to secure the safety and welfare of our Maui residents and of our larger Hawaii population. Irresponsible use of Kahoolawe airspace should end in view of the larger public interest. I urge that the FAA consider the Maui County petition with due concern.

Aloha,

DANIEL K. INOUYE
United States Senator