

HAWAI'I ISLAND BENEFICIARY CONSULTATION
POTENTIAL DHHL-DLNR LICENSE AGREEMENT
TMK (3) 3-8-001:003, 004, 008

WAIMEA MEETING NOTES

64-756 Māmalahoa Highway, Waimea
Kūhio Hale
February 3, 2016
6:00 p.m. to 8:00 p.m.

Attendance:

DLNR: David Penn, Project Coordinator, DOFAW Access & Acquisitions Program; Joey Mello, East Hawai'i Wildlife Manager, Steven T. Bergfeld, Branch Manager;
DHHL: Kahana Albinio, Jr., Acting Administrator, Land Management Division; Mike Robinson, Property Development Agent, Land Management Division; Andrew Choy, Planner, Planning Office; Julie-Ann Cachola, Planner, Planning Office
HHC: David Ka'apu, West Hawai'i Commissioner, Hawaiian Homes Commission

Beneficiaries:

32 Beneficiaries registered at the sign-in table (see attached List of Participants)

Presentation:

The presentation by DLNR and DHHL was followed by questions and answers and comments.

Beneficiary Questions/Answers and Comments

1. You're talking a lot about the palila bird--what about other birds?
2. Now DLNR is charging extra. Why? What is the increase for?

DLNR: The \$10.00 increase is used to manage game birds. If you don't like it, we need you to come to the hunters meetings. There are bird hunters that want DLNR to release more birds and others don't want DLNR to release any birds. Your suggestion is a hot topic that needs to be discussed more. Kīpuka 'Āinahou is a difficult place. There are some other areas on the mauka portion that are suitable for management.

3. If DHHL needs the land, is there a clause that says that DHHL we can take the land back?

DHHL: Yes

4. You're talking about using 15,000 acres of Hawaiian Home Lands-- how many acres of land does DLNR have on Mauna Kea ?

DLNR: About 116,000 acres.

5. What is the lease rent you are paying?

DLNR: For the last 20 years, DLNR paid DHHL \$8,000 per year.

DHHL: Clarification of the preliminary terms and conditions of the license agreement: DLNR cannot sublease; the term is 10-years with the possibility of extending another 10-years; rent is based on fair market value; only permitted uses are allowed.

6. I know most of this land from Pua'ala-- you have Hakalau--If you spend time in the forest, you would know that most of the Palila is below Hakalau. I have spent years up there. I don't understand why you're going to take the 2 parcels ((3) 3-8-001:004 and 003). How much land do you need? When does it stop? If most of the Palila are below this area, why does DLNR need the other 2 parcels? You have the whole Mauna Kea area already.

DLNR: On the hunting side, this is a program we've been operating for 20-years, so we want to continue the program. The Palila area is established by the federal government (critical habitat).

7. Your mapping of the Nene is wrong. They come down to Pu'ukapu, but people don't want to tell you because they're worried that you will condemn that land too. You have to talk to the local people that live there. [Applause] DLNR should talk more often with the people who live in the area.

8. Maka'ala Kaneali'i: If DHHL doesn't license the land to DLNR, would DHHL still allow hunting in these areas and would the community be able to manage the area?

DHHL: Some of you know what we've been doing—we're trying to manage the sheep. So I established an advisory committee and we went to the HHC. At that meeting the AG came in and told the HHC that DHHL doesn't have the right to manage a hunting program. So we're not hunting; we're trapping wild animals and we're giving them away. So we either change the legislation or ask DLNR if we can do a hunting program. We're trapping animals where it's easy. It's a great question, but we probably couldn't do it.

9. What is the statutory reference that says that DLNR has jurisdiction over federally-designated critical habitat that are on HHLs?

DLNR: Chapter 183-D, HRS.

DHHL: We've been looking at this statute for a long time—I keep thinking there must something we can do to promote multiple objectives.

DLNR: The local people who work at DLNR were trying to get them to reinstate the hunting program under DHHL. —I want everyone to know—it's not us; it's the law.

11. Parker Ranch leased the lands in the North area. One of the conditions of the lease was that Parker Ranch was supposed to return the lands back to the Department in the same condition as they were received. The Department let Parker Ranch walk away without requiring that they restore the land back to its original condition. Now you have DLNR there. What assurances do we have that DLNR will return the land back to its original state?
12. Here are some other management issues:
 - Sheep only eat short grass; anything over 8-inches, they won't eat. When you look at the grass, you see that the grass is green on the top, but all brown underneath. This is perfect fuel for a wild fire.
 - The koa pods can't get to the dirt to grow because there's nothing eating the grass. You need common sense.
 - The rest of the people should help with the management of and they should use whatever is there (including feral animals) to help control fuel for wild-fire.
 - I think we should go back to Parker Ranch; they should assist with the restoration of the area.
13. Why are there bag limits for hunters, when the number of hunter takes is so small and when DLNR goes up in the air and shoots them all anyway?

DLNR: There are NO bag limits in areas where DOFAW is eradicating. We have also removed bag limits on sheep and goats at Kīpuka 'Āinahou, which includes 2 sections totaling 38,000 acres.

- 14.: What is the fire mitigation plan for the 3 parcels?

DLNR: For the Mauna Kea portion we have a Fire Management Plan that was developed in 1994 and updated in 2000. We maintain R1 (?), fire vehicle equipment. Whenever we get a call we respond. We have fought many fires on Hawaiian Home Lands over the past 20 years. Kīpuka 'Āinahou is not really a fire threat because it's wetter. I started working here 26 years ago and the first thing I had to do was clean out gorse. Now, 26 years later, I'm still cleaning out gorse. We manage it so it will not go over the road to Kīpuka 'Āinahou area—it's so nice there—we're trying to protect its pristine state.

15. What is the fair market value that DHHL will use when it negotiates with DLNR?

DHHL: We like to say that fair market value is as much as we can get, but we still have to negotiate.

16. Does the county have the assessed value for these lands?

DHHL: I believe it does, we have to check.

17. The handout materials say that in 1992-2000 there was a lease agreement. Then in 2011 there was an Environmental Assessment (EA). Are there specific soil samples

taken in these areas and has there been any improvement in the land due to DLNR's management of the area?

DLNR: I can only speak from my personal experience. I would say, from the time I started to now, 26 years later, it's status quo—it's the same conditions, no change—except for the 'Ōhi'a dying off, but that hasn't happened on these parcels...yet.

18. In the 2011 EA, are the sampling of the soils specific to these 3 areas? Why do you want these particular areas? How can DLNR and DHHL go back to cultivation practices of konohiki that directly benefit the people of the area? (beneficiaries)
19. How can DHHL work with DLNR to implement more traditional land use practices? Do you have thoughts on this?
20. I'm sure we all have thoughts on this because we come from different places/perspectives. In our communities, farmers can hunt and hunters can farm. If you're just giving land away at pennies on the dollar, maybe we should look at integrating more traditional land use practices when managing lands?
21. I have the same concerns with the management of our lands. A few of us have taken on the kuleana of gathering leaders from our 6 moku districts in order to propose management and stewardship of this land.
22. Thank you for this. Are you getting any help from DHHL to do this?
23. No, we're working with the community. This is one of the meetings that we agreed that we should attend—to come out and hear the beneficiaries. We have a lot of kokua. Tonight we come in humbly to see if others want to come in with us. It's whatever the beneficiaries want to do. Therefore we have to gather census data, among our lāhui to determine what we want. We're going out to all the districts, to see what the districts think. All of this is all our kuleana.
24. In the license agreement maybe DHHL could encourage/require DLNR to involve beneficiary households in the management of the land, including the money to do it.
25. I've been working with other beneficiaries from Keaukaha and other homestead communities. What he was talking about is that we don't have a place to come to on this land. We can hunt or gather, but we don't have a place to be, to gather. So we're suggesting that people from each moku come together to take areas that they can manage. The land at Mauna Kea is a big area for DLNR/DOFAW/hunting to manage. We're called the Koa Kia'i. We're trying to initiate the 'Āina Mauna Plan. We want to get all the communities in line-- in place-- so people can come in, be heard, to connect to 'āina. We're trying to help with this. We don't want to get funds—it would help, but right now we're just trying to get beneficiaries out there. We're not at the point when we need funds, we're trying to bring beneficiaries together. We went to Kapolei, we talked with the HHC and the Department. This is not about shutting down telescopes...it's just about beneficiaries having a place. They have a lot of plans up there (Mauna Kea) for economic development, but before that, we want beneficiaries to get in on the ground first. We want to give presentations. We're trying to organize ourselves.
26. Like Uncle said, for 20-years, he said the place has been the same, no improvement. How come?
27. How come there's been no improvement in the area?

DLNR: When I say no improvement, I mean it's a beautiful place--so we maintained it as a beautiful place. We control gorse, wild dogs, and other game. So when I say, "status quo," I mean it in a good way.

28. So you're saying the gorse is the same?

DLNR: We would be doing gorse control. But it needs to be clarified that there is very little gorse in Kīpuka 'Āinahou. We go in and try to find it and I'm not naïve to say there's nothing there, but it's hard to find—so we maintain pristine areas—you don't 'improve' places like this. You're maintaining the area.

29. This isn't along Mauna road?

DLNR: Regarding the license, it's non-exclusive so DLNR would not have exclusive control. The license doesn't exclude people from accessing the area.

30. Do you think it would be a good idea to include beneficiaries?

DLNR: Yes, we just have to organize it and make it work.

31. In the license, it should require DLNR to work with others, to engage beneficiaries to work together, to better define management indicators that would be regularly presented in management reports, so we know what's happening on the land.

32. What is DLNR's annual budget to do what they want to do on these parcels?

DLNR: We don't get much from state funds, especially for wildlife funds. We basically have a firearms budget (\$200,000) for wildlife management of over 600,000 acres of land. If you take the "hunter takes" and the "hunter trips," that would be 600 hunter trips—so we would get \$1500.00 from 150 hunters @ \$10. We have 4 people to manage East Hawaii. Management is very minimal and the numbers of game is minimal; we don't have the kind of animals that we have in the other parcels of land. It's a quality hunt especially for archery.

33. These are my comments to the Hawaiian Homes Commissioners. Why aren't our laws evolving? Why doesn't it say that we can manage our Hawaiian Home Lands Trust? I'm also interested in this proposal that is requesting land that is encompassing our roads and our links to "wao" (wao nahele, wao akua, wao kanaka). Ahupua'a is mauka to makai that involves the people. If people cannot access all of the "wao," the "wao" cannot exist...and the Kanaka cannot exist. Regarding the benefits of this proposed license, is DLNR saying that DLNR wouldn't come to assist if there was a fire on Hawaiian Home Lands? No, of course not...DLNR would jump in to help. So I just want to point out that this is not a benefit that results from the License agreement...it would happen even without a license. When is DHHL going to say, enough is enough??? We understand that DLNR and DHHL don't have lands but when are we going to change the legislation? If we have to sacrifice not hunting some birds for a few weeks, then we have to

sacrifice. If “wao” is not accessed, kanaka die, we need access to all “wao.” We need to manage our lands. It is DHHL’s responsibility to make sure we have stewardship to wao akua all the way to makai. That is your responsibility.

DLNR: Regarding your fire question, if it’s not under us, then it would be the county, but we would respond if needed.

34. Yes, we know you would respond, so fire response and help is not really a selling point.

35. I’m a new guy—only on the list for 30-years, so I’m learning. I know we have a lot of smart Hawaiians here tonight. I’m a fence contractor. I manage a lot of lands. I also run a program that helps 10-50 kids (120 kids) in the youth challenge program. They come to my ranch, they learn conservation, cattle, and sheep. We all been talking about coming together, working together. I have this youth program. I do it with the State. These kids are sexually molested; some have gun charges—it’s really not their fault. Hard work got me ahead and helping the kids. Working together is a good thing, not just one group, but for all organizations.

36. \$8,000 over 20-years—given the purpose of the trust (native Hawaiians on the land, provided with technical assistance, water, financial assistance), how do you see this license meeting the purpose of the trust? How does this enhance the purpose of the trust? It is your policy to support the self-sufficiency and self-determination of native Hawaiians. The purpose of the trust is to live, ranch, farm, engage in commercial, industrial, activities to promote efficiently getting Hawaiians on the land, settle lands, provide water, technical assistance, training, and water. As DLNR presented tonight, when you talk about endangered species laws (came out in early 90’s—31 years after Territory asked to be a state of the union) in 1959 the Territory asked to be a part of the union.

The HHCA was before the Endangered Species Act. Nowhere does it say that conservation, etc. is a priority. The [DHHL] staff before did a lot of wrong things, but now we’re a lot smarter and we’re glad to see beneficiaries as staff. So it confuses me to talk about a License that has no benefit for beneficiaries. I think about the time [DHHL] spent on this, the manpower to do the power-point, set up the meetings, etc., when it has no bearing on the purpose of the HHCA. So how can you explain this? How is this license consistent with the purpose of the HHCA?

DHHL: Thank you for the question; I’ll try my best to answer. It may not be what you want to hear...but that’s why we’re coming to our communities. Nothing is set in stone. We want as much as possible. We want to keep our lands in good condition. This (the license) is not the only avenue. We understand your comments and concerns.

37. So that’s why you’re here tonight? We’re not being ramrodded?

- Section 206, HHCA says that no other power can control HHLs. No other authority can extend to HHLs. Others can advise, but not control.

38. I haven't come to these meetings before I just want to ask one more time, if all of you beneficiaries want to see improvement vs. status quo, we're all workers here, we love the 'āina. We would do anything to perpetuate, if you guys could talk with us after this meeting, we're trying to connect to 'āina to perpetuate our connection to 'āina. The money thing is not the focus, but we could use your support.
39. The Waimea Hawaiian Homestead Association Board unanimously voted to oppose renewal of this license.
40. I'm a beneficiary—how many of you are still on the wait list? How long are you given on the list? I've been on the list since 1983. In 1986 I was number 74 on the list. Now I'm number 300 on the list...how did this happen? I never had to answer anything. Hawaiians should plant what we know—plant what you know. The question is: why is it taking so long to award ag or pastoral lands?

DHHL: The Department is trying to award more subsistence ag lots, how long more is it going to take? Administrative Rules process takes about 18 months.

41. 18-months? I've been waiting 30-years. I'm a beneficiary, born on the island. When are you going to distribute land, when we are crippled? We try as hard as we can to get on the list. DHHL doesn't help. Don't help. You say 18-months; it's been 33-years. I want a written answer explaining how I went from #74 to #279 on the list? And the land is right there!
42. Yes, give these lands out. Why are you taking people off the list just because they are deceased? You got PhDs, but when I try to find out, people don't know.
43. Why are they still waiting decades, but the DLNR parcel lapsed 4 years ago and we still can't get on the land? Why are we waiting? How do these guys (DLNR) get free passes?
42. Since the license expired, why does DLNR get to remain there? And why wasn't there an announcement earlier?

DHHL: We have 200,000 acres of land to manage across the state, this parcel was not on the top of the list in 2012. Now it's finally made its way to the top. It's really a matter of insufficient staffing due to insufficient funding.

43. In the news and through hearsay, I heard something about Pohakuloa. It's right around the corner and we should keep tabs on what they are doing. Is Pohakuloa a motivation for DLNR to get this parcel?

DLNR: No it has nothing to do with it. We (DLNR) just want to manage the land for conservation and to provide hunting opportunities for the public.

44. You said that the lease rent would be based on fair market value. I looked it up online; it has no property value online. So how does DHHL assess a dollar value for these parcels when the county has assigned zero value on these lands? What method will the Department use to value the property?

DLNR: We need to clarify that the lease rent was \$8,000 per year for 20 years.

DHHL: I just pulled the information from the county website. The combined market value for the 3 parcels is \$434,200. The combined acreage is 15,345 acres. So it comes out to \$28.29 per acre. To be clear, \$434,200 is not what we're charging—that's the county assessed value. We usually look at 8% of the per acre market value (\$28.29) which is \$2.26, for a total of \$30.56 per acre, for a total of \$468,934 per year (based on 2016 County Tax assessment).

45. When was it assessed, how often do they assess?

DHHL: The assessment is done annually; these numbers are from the 2016 assessment. In 1992, we got \$8,000 which has increased in value so now we're looking at 8% more. At the same time, we're getting management of the lands—that's not DHHL hiring people. So DHHL gets land managed, plus money for rent, and maybe we can get beneficiaries up there too. If someone has a better way to do this let's do it.

46. I heard on the streets that we don't want to put Hawaiians on the land, but you put up a tent and you're set for life. I apply for grants—I got a \$200,000 grant from NRCS...I'm emotional about this because I'm Hawaiian. We should be able to put native Hawaiians on the land if they qualify—if you get a grant, great, ultimately DHHL wants to manage the land. So I'm sure that's why they're looking at DLNR, but we've been on the list for all this time. So if we work with them and work together...it's all about managing the lands.

47. I wanted to clarify what I said earlier. The Waimea Hawaiian Homestead Association is not against DLNR. We thank DLNR. That's not the issue. The issue is the failure of the DHHL and HHC for breach of fiduciary responsibility to the people—and these guys waiting for so long to go on the land and they come here to listen to others. The courts reprimanded the Department and the State for failing to fund the Department. Our protest is not against what you're doing, it's the principle of our lands continuously going out to non-beneficiaries when we have 27,000 people waiting to go on the land. If we have to fight this license by license, to say no not just to this license but to all licenses that go out to non-beneficiaries, to get attention to this, we will. Earlier, I read to you the principles and purpose of the HHCA. We have to take a stand against things like this; things that go against our rights.

48. I want to request that any land in this area, come with radiation monitoring and systems to manage radiation. There has been a lot of bombing in area and data has been extracted and have been covering up what's happening here. We don't know the extent. All lands should have radiation monitoring of the soils and the meat.

Closing notes:

Once we get all the mana'o, we'll submit a Beneficiary Consultation report to the HHC which will have a summary of what we heard. After that, there will be two more

opportunities to weigh in if it goes that far. The BLNR will be considering this in the spring/summer of 2016, then the HHC will have to decide.