

STATE OF HAWAI'I
DEPARTMENT OF HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION MEETING/WORKSHOP AGENDA
Kula Community Center, Lower Kula Road, Kula, HI 96790
Monday, November 16, 2015 at 9:30 a.m. to be continued, on
Tuesday, November 17, 2015, at 10:00 a.m.
Paukūkalo Community Center, 651 Kaumuali'i Street, Wailuku, HI 96793

Note: Commission Meeting Packets will be available at dhhl.hawaii.gov, by Saturday, November 14, 2015.

ORDER OF BUSINESS

Roll Call

Approval of Agenda

Approval of Minutes for February 2014; July 21 & 22, 2015; July 29 & 30, 2015

A – PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEMS FOR DECISION MAKING

C - OFFICE OF THE CHAIRMAN

- C-1 Approval of Hawaiian Homes Commission Calendar for 2016
- C-2 Approval of Legislative Proposal 2016.
- C-3 Approval of a Hawaiian Homes Commission Resolution in Support of the United States Department of the Interior Proposed Rules 43 C.F.R. part 50, Procedures for Reestablishing a Formal Government-to-Government Relationship with the Native Hawaiian Community

F – LAND MANAGEMENT DIVISION

- F-3 Issuance of a General Lease, Waimea Hawaiian Homestead Association, Inc., Waimea, Puukapu, Island of Hawai'i.

G - PLANNING OFFICE

- G-2 Declare a Finding of No Significant Impact (FONSI) for a Final Environmental Assessment (FEA), Kumu Camp Project, Anahola, Kaua'i, Hawai'i TMK (4) 4-8-007:001

D - HOMESTEAD SERVICES DIVISION

- D-2 Approval of Consent to Mortgage (see exhibit)
- D-3 Approval to Schedule Loan Delinquency Contested Case Hearings (see exhibit)
- D-4 Approval of Homestead Application Transfers / Cancellations (see exhibit)
- D-5 Ratification of Designations of Successors to Leasehold Interest and Designation of Persons to Receive Net Proceeds (see exhibit)
- D-6 Approval of Assignment of Leasehold Interest (see exhibit)
- D-7 Approval of Amendment of Leasehold Interest (see exhibit)
- D-8 Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)
- D-9 Commission Designation of Successor – FREDERICK JAY SNIFFEN, SR., Lease No. 10417, Lot No. UNDV, Waiohuli, Maui

D-10 Commission Designation of Successor – JOSEPHINE L. KIESEL-LEE, Lease No. 9169, Lot No. 37, Kahikinui, Maui

F – LAND MANAGEMENT DIVISION

- F-1 Approval to Issue Master Benefit License to Maui Electric Company, Limited for Homestead Developments, County of Maui (Various TMKs)
- F-4 Approval of Issue Right-of-Entry, Hawai'i USDA Forest Service Albizia Research Project, Hilo and Piihonua Makai, Hawai'i, Tax Map Key Nos. (3) 2-1-025: 002,003, 004, and 005 (por) and (3) 2-6-009:005 (por)

ITEMS FOR INFORMATION

D - HOMESTEAD SERVICES DIVISION

- D-1 HSD Status Reports
Exhibits:
 - A - Homestead Lease and Application Totals and Monthly Activity Reports
 - B - Delinquency Report

G - PLANNING OFFICE

- G-1 For Information Only – Update on Water Use Permit Applications in Kualapu'u Moloka'i and the Remand of the Kuku'i Hawai'i Supreme Court

EXECUTIVE SESSION

The Commission anticipates convening in executive meeting pursuant to Section 92 5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities on these matters.

1. Proposed Right-of-Entry Permit and General Lease to Boulevard Associates, LLC and Delegate to the HHC Chairman the Authority to Negotiate the Final Terms and Conditions of the Lease at Kahikinui, Islands of Maui, Tax Map Key No. (2) 1 -9-001:003 (por)

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION MEETING AGENDA
Paukūkalo Community Center
651 Kaunualii Street, Wailuku, Maui, 96793
Tuesday, November 17, 2015, at 10:00 a.m.

ORDER OF BUSINESS

Roll Call

A – PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEMS FOR DECISION MAKING

F – LAND MANAGEMENT DIVISION

- F-2 Approval to Issue Right-of-Entry Permit and General Lease to Boulevard Associates, LLC and Delegate to the HHC Chairman the Authority to Negotiate the Final Terms and Conditions of the Lease at Kahikinui, Islands of Maui, Tax Map Key No. (2) 1 -9-001:003 (por)

ITEMS FOR INFORMATION

G - PLANNING OFFICE

- G-3 For Information Only – Draft Environmental Assessment for the Kailapa Community & Resource Center/Emergency Shelter, Kawaihae, Hawai'i TMK (3) 6-1-010:008
- G-4 For Information Only – Draft Environmental Assessment for Honokaia Water System, Waimea Nui, Hawai'i, TMK (3) 2-6-001:001-046; (3) 4-7-007:005,
- G-5 For Information Only – Land Use Request from Edward K. Taniguchi for Land Located in Anahola, Kaua'i TMK (4) 4-7-002:004 (por.)

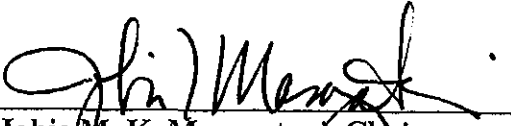
J - GENERAL AGENDA

- J-1 Request to Address the Commission – **MAHEALANI MEHEULA**, Community Service Specialist, Hawaiian Community Assets.
- J-2 Request to Address the Commission – **LAHELA WILLIAMS**, Program Coordinator, Hawaiian Community Assets.
- J-3 Request to Address the Commission – **TERRY MILLER, LAURA JOHNSON, HARRY JOHNSON** – Imogene Maio Lease.
- J-4 Request to Address the Commission – **DONNA KAMAHELE** – Hawai'i Island designated beneficiary.
- J-5 Request to Address the Commission – **JANEEN-ANN A. OLDS** – Sandwich Isle Communications
- J-6 Request to Address the Commission – **JOHN ORNELLAS**, Lanai Land Swap
- J-7 Request to Address the Commission – **BO KAHUI**, Executive Director, La'i'ōpua 2020
- J-8 Request to Address the Commission – **KAHAU MAHOE-THEONE** – Accessory Dwelling Units

ADJOURNMENT

ANNOUNCEMENTS AND ADJOURNMENT

1. Next Meeting – December 14-15, 2015, Kapolei, O’ahu
2. Other Announcements
3. Adjournment


Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

COMMISSION MEMBERS

Doreen N. Canto, Maui
Kathleen P. Chin, Kaua’i
Gene Ross K. Davis, Moloka’i
Wallace A. Ishibashi, East Hawai’i

David B. Ka’apu, West Hawai’i
Michael P. Kahikina, O’ahu
William K. Richardson, O’ahu
Renwick V. I. Tassill, O’ahu

Next community meeting to be held on December 14, 2015
Ka Waihona O Ka Na’auao Charter School, 89-195 Farrington Hwy., Nānākuli, 6:30 p.m.

Special Accommodations (such as Sign Language Interpreter, large print, taped material) can be provided, if requested, at least five (5) working days before the scheduled meeting on the respective island by calling Ku’uwehi Hiraishi, at the **Information & Community Relations Office**, on Oahu, (808) 620-9590.

ITEM D-2 EXHIBIT
APPROVAL OF CONSENT TO MORTGAGE

<u>LESSEE</u>	<u>LEASE NO.</u>	<u>AREA</u>
AIWOHI-ALO, Kainea K.	10128	Waiohuli, Maui
AKI, James Y.	10043	Waiehu III, Maui
AKIONA, Derek K.	12290	Hikina, Maui
APA, Ryan K.	9809	Maluohai, Oahu
BAILEY, Milton K., Sr.	8730	Waianae, Oahu
DELOS SANTOS, Ann	1489	Keaukaha, Hawaii
GOSHERT, Bernard W., Jr.	9457	Waiehu II, Maui
HATORI, Inez K.	5513	Maluohai, Oahu
HEMA, David M.	9540	Waiehu II, Maui
HOLU, Kasey K.	5568	Lualualei, Oahu
KAAWA, Kini K.	6318	Keaukaha, Hawaii
KAHAPEA, Sylvester K.	4524	Nanakuli, Oahu
KALANI, Louis R.	4415	Kewalo, Oahu
KALEIKINI-FUKUDA, Shannon L. K.	11747	Kanehili, Oahu
KAUAKAHI, Michael P.	9870	Maluohai, Oahu
KAUVAKA, Jaylene M.	3676	Anahola, Kauai
KELII, Kaleo-O-Kalani	3317	Nanakuli, Oahu
KOKO, Patrick K. C. K.	6011	Anahola, Kauai
LEONG, Donna K.	1878	Keaukaha, Hawaii
LOO, Audrey K.	5676	Anahola, Kauai
MANUEL, Daniel K.	9648	Kawaihae, Hawaii
NOBRIGA, Corrine L. A.	11512	Leialii, Maui
PEREIRA, Jayson K. K.	11287	Kumuhau, Oahu
SAUNDERS, Kevin K.	4477	Waianae, Oahu
WAIKIKI, John Harry K. G. L.	3545	Waiakea, Hawaii
WELLER, Matthew J.	2980A	Kuhio Village, Hawaii
YAMASHITA, Penny M.	4925	Kuhio Village, Hawaii

ITEM D-3 EXHIBIT
APPROVAL TO SCHEDULE LOAN DELINQUENCY CONTESTED CASE HEARINGS

<u>LESSEE</u>	<u>LEASE NO.</u>	<u>AREA</u>
BRADLEY, William R. I. K.	2845	Kewalo, Oahu
DOWSETT, Maryann K.	4759	Waimea, Hawaii
FREITAS, Maile L.	8834	Anahola, Kauai
FREITAS, Melanie P.	8834	Anahola, Kauai
HAILI, Hiilani C.	2845	Kewalo, Oahu
HAILI, Mathew K. III	2845	Kewalo, Oahu
HAILI, Kuuipo P.	2845	Kewalo, Oahu
JANICKI, Downie	755	Nanakuli, Oahu
KEKIWI, Eleanor	10975	Lanai
LIMA, Audrey	11418	Kaupea, Oahu

ITEM D-4 EXHIBIT

HOMESTEAD APPLICATION TRANSFERS / CANCELLATIONS

<u>APPLICANT</u>	<u>AREA</u>
DAVIS, Maria K. K.	Hawaii IW Res
DUDOIT, Jules E.	Hawaii IW Res
GUTH, Naomi M. L. K.	Maui IW Res
HAlA, Keevan N.	Maui IW Res
HANOHANO, Malcom M.	Molokai IW Res
HELELOA, Lorrin H.	Hawaii IW Res to Oahu IW Res
KAHAWAI, Charles L., Sr.	Hawaii IW Agr
KAHAWAI, Charles L., Sr.	Hawaii IW Res
KAILILAAU, Sherri Ann U.	Maui IW Res
KEALAKAI, Phylis P.	Waimanalo Area Res / Oahu IW Res
KEKAHUNA, John I.	Hawaii IW Res
KEKAUOHA, John K., Jr.	Oahu IW Res
MATA, Miriam K.	Hawaii IW Res
PU, Frederick K., Jr.	Maui IW Res
SOARES, Wayne Ryan	Oahu IW Res
TEO, David K.	Oahu IW Agr
TEO, David K.	Oahu IW Res
TOGLAI, Jane K.	Oahu IW Res

* IW = Islandwide

ITEM D-5 EXHIBIT

**RATIFICATION OF DESIGNATION OF SUCCESSORS TO LEASEHOLD INTEREST AND
DESIGNATION OF PERSONS TO RECEIVE NET PROCEEDS**

<u>LESSEE</u>	<u>LEASE NO.</u>	<u>AREA</u>
HAU, Lowaena P.	6980	Makuu, Hawaii
KAHOONEI, Ralph J.	4526	Nanakuli, Oahu
LEE, Gaylord T.	2136	Kewalo, Oahu
LEE, Herbert	4264	Keaukaha, Hawaii
LEE, Tuck Wah	6897	Panaewa, Hawaii
MAKANELUA, Paul H., Jr.	10392	Waiohuli, Maui
NIHEU, Henry Jr.	6922	Puukapu, Hawaii
SALVADOR-BLAKE, Jeanette M.	7416	Keokea, Maui
VENTURA, Haroldine L.	6813	Keaukaha, Hawaii

ITEM D-6 EXHIBIT

APPROVAL OF ASSIGNMENT OF LEASEHOLD INTEREST

<u>LESSEE</u>	<u>LEASE NO.</u>	<u>AREA</u>
AHANA, Kauhi K.	12036	Kaupea, Oahu
AINA, Leinani L.	4065	Waiakea, Hawaii
APA, Florence H.	3201	Papakolea, Oahu
BROWN, Lavaina L. G.	4005	Kewalo, Oahu
BROWN, Terry-Allen K. K. A. S.	423	Nanakuli, Oahu
FRANCO, Lana-May K. L. K. F.	7887	Anahola, Kauai

GREEN, Emelia H.	12631	Kanehili, Oahu
KUPAU, April M. K.	3978	Waimanalo, Oahu
MAKILAN, Wilma Naomi	7321	Nanakuli, Oahu
MAKILAN, John C., Jr.	7321	Nanakuli, Oahu
NABOLE, Lincoln K.	11733	Kanehili, Oahu
NEE, Kaimiola M.	11435	Kaupea, Oahu
SALLAS, Christina M. K.	9928	Waiehu Kou III, Maui
TIWANAK, Eileen P.	11919	Kaupea, Oahu
LUKE, Clarence H.	11919	Kaupea, Oahu
AUTELE, Redenia K. K.	12498	Kapolei, Oahu
FEITEIRA, Blossom P.	10349	Waiohuli, Maui
TANO, Gladys I.	9015	Puukapu, Hawaii

ITEM D-7 EXHIBIT

APPROVAL OF AMENDMENT OF LEASEHOLD INTEREST

<u>LESSEE</u>	<u>LEASE NO.</u>	<u>AREA</u>
AHUNA, Wallace W.	1424	Keaukaha, Hawaii
APA, Florence	3201	Papakolea, Oahu
BROWN, Lavaina L. G.	4005	Kewalo, Oahu
BROWN, Terry-Allen K. K. A. S.	423	Nanakuli, Oahu
KALEIKINI-FUKUDA, Shannon L. K.	11747	Kanehili, Oahu
LANI, Rose H.	3960	Waimanalo, Oahu
MAKALII-SEWARD, Anne K.	2119	Kewalo, Oahu
NIHEU, Henry, Jr.	6922	Puukapu, Hawaii
RODRIGUES, Llewellyn	17	Hoolehua, Molokai
RODRIGUES, Llewellyn	17A	Kalamaula, Molokai
VIERNES, Nancy J.	17A	Kalamaula, Molokai
SCHMIDT, Gail	1816	Nanakuli, Oahu
UMUIWI, Noland	1467	Panaewa, Hawaii
WESSEL, George H. K.	1866	Keaukaha, Hawaii

ITEM D-8 EXHIBIT

APPROVAL TO ISSUE A NON-EXCLUSIVE LICENSES FOR ROOFTOP PHOTOVOLTAIC SYSTEMS FOR CERTAIN LESSEES

<u>LESSEE</u>	<u>LEASE NO.</u>	<u>AREA</u>
ALANA, Joseph Jr.	5315	Waianae, Oahu
ALBINIO, Eugene	8980	Waianae, Oahu
HUDDY, Kevin N.	7327	Nanakuli, Oahu
JARDINE, Paulette C. H.	7549	Waimanalo, Oahu
KALAMA, Genevieve K.	6726	Waianae, Oahu
KAMA, Gary K.	11391	Kaupea, Oahu
KAOLULO, Martin	3944	Waimanalo, Oahu
TAMANUVAO, Susie K.	9796	Maluohai, Oahu

DEPARTMENT OF HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION
NOVEMBER 16 & 17, 2015
KULA & WAILUKU, MAUI

AGENDA SECTION C
OFFICE OF THE CHAIR

Note: The following items will be distributed under separate cover.

- C-2 Approval of Legislative Proposal 2016.
- C-3 Approval of a Hawaiian Homes Commission Resolution in Support of the United States Department of the Interior Proposed Rules 43 C.F.R. part 50, Procedures for Reestablishing a Formal Government-to-Government Relationship with the Native Hawaiian Community



HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION · DEPARTMENT OF HAWAIIAN HOME LANDS

HAWAIIAN HOMES COMMISSION 2016 CALENDAR

January 19, 2016 (Tue)	HHC Mtg, Kapolei – (No Community Mtg)
January 20, 2016 (Wed)	HHC Mtg, Kapolei, Hawai‘i
February 22, 2016	HHC Mtg, Kapolei – (No Community Mtg)
February 23, 2016	HHC Mtg, Kapolei, Hawai‘i
March 21, 2016	HHC Mtg, Community Mtg – Waimānalo
March 22, 2016	HHC Mtg, Kapolei, Hawai‘i
April 18, 2016	HHC Mtg, Community Mtg – Moloka‘i
April 19, 2016	HHC Mtg, Kalama‘ula, Hawai‘i
May 23, 2016	HHC Mtg, Community Mtg – Kona
May 24, 2016	HHC Mtg, Kailua-Kona, Hawai‘i
June 20, 2016	HHC Mtg, Community Mtg – Kapolei
June 21, 2016	HHC Mtg, Kapolei, Hawai‘i
July 18, 2016	HHC Mtg, Community Mtg – Papakōlea
July 19, 2016	HHC Mtg, Kapolei, Hawai‘i
August 22, 2016	HHC Mtg, Community Mtg – Kaua‘i
August 23, 2016	HHC Mtg, Līhue, Hawai‘i
September 22, 2016	HHC Mtg, Community Mtg – Paukūkalo
September 23, 2016	HHC Mtg, Wailuku, Hawai‘i
October 17, 2016	HHC Mtg, Community Mtg – Hilo
October 18, 2016	HHC Mtg, Hilo, Hawaii
November 19, 2016 (Sunday)	HHC Community Meeting ONLY – Lānai City
November 20, 2016	HHC Meeting, Kapolei, Hawai‘i
November 21, 2016	HHC Meeting, Kapolei, Hawai‘i
December 19, 2016	HHC Mtg, Community Mtg – Nānākuli/Wai‘anae
December 20, 2016	HHC Mtg, Kapolei, Hawai‘i

O‘ahu meetings are held at Hale Pono‘i, DHHL, 91-5420 Kapolei Parkway, Kapolei, O‘ahu

Community meetings are held in the evenings, except on Lanai, where it will be held during the day.

No community meetings scheduled for January and February, 2016.

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

November 16, 2015

TO: Chairman and Members, Hawaiian Homes Commission
FROM: William J. Aila, *WJ* Jr., Deputy to the Chairman
SUBJECT: Approval of 2016 Legislative Proposal

RECOMMENDED MOTION/ACTION

To approve the legislative proposal, to reduce the Hawaiian blood quantum from one-quarter to one-eighth for the following relatives of the lessee to be designated as a successor to the leasehold interest: husband, wife, children, grandchildren, brothers, or sisters, for inclusion in the Administrator's legislative package for the 2016 Legislative Session.

DISCUSSION

Many homestead organizations and individual beneficiaries have expressed strong concerns regarding their ability to have family members benefit from their investments and improvements to their leasehold. The act of successorship is the primary method of accomplishing this strong desire. The issue of reducing the blood quantum for successorship has been a reoccurring theme firmly expressed by attendees at our current beneficiary consultation meetings on our new rules package. There is a compelling request by the Department of Hawaiian Home Lands beneficiaries to pursue this legislation.

Pursuant to Section 209 of the Hawaiian Homes Commission Act of 1920, as amended, a lessee may designate as a successor to the lease the following relatives of the "lessee who are (1) one-quarter Hawaiian, husband, wife, children, grandchildren, brothers, or sisters, or (2) native Hawaiian father and mother, widows and widowers of the children, widows and widowers of the brothers and sisters, or nieces and nephews, . . ."

A draft of the legislative proposal was prepared by the Chairman's office for inclusion in the Administrator's legislative package for the 2016 Legislative session. The draft will be under

review by the Attorney General, the Department of Budget and Finance, and the Governor.

This legislative proposal is beneficial for the Department's Hawaiian homestead lessees that currently do not have a one-quarter Hawaiian relative to succeed to the lessee's leasehold interest. Having a qualified relative to succeed to the leasehold interest provides a fundamental sense of security and an invaluable legacy for the lessee's family.

Home prices and home rental rates in Hawaii continue to rise. The high cost of housing along with the high cost of living in Hawaii may force families into over-crowding living conditions with relatives or may be forced to leave the State. The legislative proposal addresses a vital concern for those lessees that are currently unable to pass on their homestead lease upon death and will provide a necessary housing opportunity for their families.

Department requests approval of its recommendation.

___**.B. NO.**___

A BILL FOR AN ACT

RELATING TO THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS
AMENDED

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 209 of the Hawaiian Homes Commission
2 Act, 1920, as amended, is amended by amending subsection (a) to
3 read as follows:

4 "**§209. Successors to lessees.** (a) Upon the death of the
5 lessee, the lessee's interest in the tract or tracts and the
6 improvements thereon, including growing crops and aquacultural
7 stock (either on the tract or in any collective contract or
8 program to which the lessee is a party by virtue of the lessee's
9 interest in the tract or tracts), shall vest in the relatives of
10 the decedent as provided in this paragraph. From the following
11 relatives of the lessee who are (1) at least [~~one-quarter~~] one-
12 eighth Hawaiian, husband, wife, children, grandchildren,
13 brothers, or sisters, or (2) native Hawaiian, father and mother,
14 widows or widowers of the children, widows or widowers of the
15 brothers and sisters, or nieces and nephews,--the lessee shall
16 designate the person or persons to whom the lessee directs the
17 lessee's interest in the tract or tracts to vest upon the

.B. NO.

1 lessee's death. The Hawaiian blood requirements shall not apply
2 to the descendants of those who are not native Hawaiians but who
3 were entitled to the leased lands under section 3 of the Act of
4 May 16, 1934 (48 Stat. 777, 779), as amended, or under section 3
5 of the Act of July 9, 1952 (66 Stat. 511, 513). In all cases
6 that person or persons need not be eighteen years of age. The
7 designation shall be in writing, may be specified at the time of
8 execution of the lease with a right in the lessee in similar
9 manner to change the beneficiary at any time and shall be filed
10 with the department and approved by the department in order to
11 be effective to vest the interests in the successor or
12 successors so named.

13 In case of the death of any lessee, except as hereinabove
14 provided, who has failed to specify a successor or successors as
15 approved by the department, the department may select from only
16 the following qualified relatives of the decedent:

- 17 (1) Husband or wife; or
- 18 (2) If there is no husband or wife, then the children; or
- 19 (3) If there is no husband, wife, or child, then the
20 grandchildren; or
- 21 (4) If there is no husband, wife, child, or grandchild,
22 then brothers or sisters; or

.B. NO.

1 (5) If there is no husband, wife, child, grandchild,
2 brother, or sister, then from the following relatives of the
3 lessee who are native Hawaiian: father and mother, widows or
4 widowers of the children, widows or widowers of the brothers and
5 sisters, or nieces and nephews.

6 The rights to the use and occupancy of the tract or tracts
7 may be made effective as of the date of the death of the lessee.

8 In the case of the death of a lessee leaving no designated
9 successor or successors, husband, wife, children, grandchildren,
10 or relative qualified to be a lessee of Hawaiian home lands, the
11 land subject to the lease shall resume its status as unleased
12 Hawaiian home lands and the department is authorized to lease
13 the land to a native Hawaiian as provided in this Act.

14 Upon the death of a lessee who has not designated a
15 successor and who leaves a spouse not qualified to succeed to
16 the lease or children not qualified to succeed to the lease, or
17 upon the death of a lessee leaving no relative qualified to be a
18 lessee of Hawaiian home lands, or the cancellation of a lease by
19 the department, or the surrender of a lease by the lessee, the
20 department shall appraise the value of all the improvements and
21 growing crops or improvements and aquacultural stock, as the
22 case may be, and shall pay to the nonqualified spouse or the
23 nonqualified children as the lessee shall have designated prior

.B.NO.

1 to the lessee's death, or to the legal representative of the
2 deceased lessee, or to the previous lessee, as the case may be,
3 the value thereof, less any indebtedness to the department, or
4 for taxes, or for any other indebtedness the payment of which
5 has been assured by the department, owed by the deceased lessee
6 or the previous lessee. These payments shall be made out of the
7 Hawaiian home loan fund and shall be considered an advance
8 therefrom and shall be repaid by the successor or successors to
9 the tract involved. If available cash in the Hawaiian home loan
10 fund is insufficient to make these payments, payments may be
11 advanced from the Hawaiian home general loan fund and shall be
12 repaid by the successor or successors to the tract involved;
13 provided that any repayment for advances made from the Hawaiian
14 home general loan fund shall be at the interest rate established
15 by the department for loans made from the Hawaiian home general
16 loan fund. The successor or successors may be required by the
17 commission to obtain private financing in accordance with
18 section 208(6) to pay off the amount advanced from the Hawaiian
19 home loan fund or Hawaiian home general loan fund."

20 SECTION 2. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

22

23

.B.NO.

1 SECTION 3. This Act shall take effect upon approval of the
2 governor of the State of Hawaii and with the consent of the
3 United States.

4

5

6

INTRODUCED BY: _____

7

BY REQUEST

8

____.B. NO.____

Report Title:

Hawaiian Home Lands; lease successors

Description:

Lowers the required blood quantum to one-eighth Hawaiian for the lessee's relatives currently eligible to succeed to a lease with one-quarter Hawaiian including a lessee's husband, wife, children, grandchildren, brothers or sisters.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

November 6, 2015

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Hokulei Lindsey, Administrative Rules Officer
Office of the Chairman

SUBJECT: Approval of a Hawaiian Homes Commission Resolution in Support of the United States Department of the Interior Proposed Rule 43 C.F.R. Part 50, Procedures for Reestablishing a Formal Government-to-Government Relationship with the Native Hawaiian Community.

RECOMMENDED MOTION/ACTION

To approve a Hawaiian Homes Commission resolution in support of the United States Department of the Interior proposed rule 43 C.F.R. Part 50, Procedures for Reestablishing a Formal Government-to-Government Relationship with the Native Hawaiian Community.

DISCUSSION:

On October 1, 2015, the United States Department of the Interior ("DOI") published notice of proposed rulemaking for Procedures for Reestablishing a Formal Government-to-Government Relationship with the Native Hawaiian Community, 43 C.F.R Part 50. The administrative process leading to this announcement dates back to June 2014 when the DOI issued an Advanced Notice of Proposed Rulemaking ("ANPRM") and solicitation of comments for whether the Secretary of the Interior ("Secretary") should propose an administrative process for reestablishing a government-to-government relationship with the Native Hawaiian community. Having found widespread support, the DOI announced its proposed rule last month. The proposed rule would establish an administrative procedure and criteria for the Secretary to use if the Native Hawaiian community forms a government, which then seeks a formal government-to-government relationship with the United States.

The Department of Hawaiian Home Lands ("DHHL" or "Department") recommends the Hawaiian Homes Commission ("HHC") adopt a resolution in support of the DOI's proposed rule to

reestablish a government-to-government relationship with the Native Hawaiian community. Through the promulgation of the rule alone, the U.S. would reaffirm its commitment to the special political and trust relationship that exists with the Native Hawaiian peoples, and legal protection would be strengthened for the HHCA and the related interests of beneficiaries.

SIGNIFICANCE OF THE GOVERNMENT-TO-GOVERNMENT RELATIONSHIP

The Hawaiian Homes Commission Act, 1920 ("HHCA") stands, along with over 150 federal statutes, as affirmation by Congress that the U.S. has a special political relationship with the Native Hawaiian community that is guided by a trust responsibility. Within this paradigm, the Native Hawaiian people are treated similar to and afforded many of the rights and protections available to over 560 recognized Native American tribes. However, the U.S. has yet to reestablish a formal government-to-government relationship with the Native Hawaiian peoples.

The government-to-government relationship separates legislation, programs, and services benefitting native peoples from those based on racial classifications. Because a formal government-to-government relationship has not been reestablished, Native Hawaiian rights and benefits under state and federal law are potentially vulnerable to misinterpretation as impermissibly race-based. Reestablishment of a formal government-to-government relationship, therefore, is viewed by many as the most important element for the protection of Native Hawaiian rights and benefits under state and federal law, including the HHCA.

For over a decade, the HHC has consistently expressed support for mechanisms that would provide a process for the reestablishment of a formal government-to-government relationship between the Native Hawaiian community and the United States specifically because of the legal safeguards that would then serve to protect the HHCA and the Hawaiian Home Lands Trust. Below is a record of HHC actions in support:

Date	Title (Action)	HHC Vote
7/22/2014	Re-Affirming the Hawaiian Homes Commission Support of Mechanisms to Achieve Formal Federal Recognition	Approve
5/26/2011	Native Hawaiian Government Reorganization Act of 2011 (Support S.675/H.R.1250)	Approve
7/20/2010	Native Hawaiian Federal Recognition Bill H.R.2314 (Support H.R. 2314)	Approve

2/24/2009	Federal Recognition Bills - S.381/H.R.862 (Support S.381/H.R.862)	Approve
3/20/2007	Native Hawaiian Government Reorganization Act of 2007 (Support S.310/H.R.505)	Approve
2/15/2005	Native Hawaiian Government Reorganization Act of 2005 (Support S.147/H.R.309)	Approve
6/25/2002	Response to Constitutional Challenges, Legal and Legislative Strategies (Support S.746/H.R.617)	Approve

In response to the DOI's ANPRM, the HHC reaffirmed its support of federal recognition of a Native Hawaiian governing entity and mechanisms to achieve federal recognition as a means of protecting the HHCA and the interests of its beneficiaries in July 2014. The Department, in turn, commented in support of the ANPRM.

Although DHHL commented in general support of the ANPRM, the Department also made two key recommendations:

1. That any rule include protections for the Hawaiian home lands, including lands leased to homestead beneficiaries, that would prevent inclusion in the yet-to-be determined Native Hawaiian government without adequate input and control over this decision by beneficiaries; and
2. That any rule consider the input of the Hawaiian home lands beneficiary communities as distinct from the input of the general Native Hawaiian community, and preserve the opportunity for beneficiary communities to move forward, if so desired, even if the broader Native Hawaiian community is not interested in an administrative process at this time.

PROPOSED RULE, 43 C.F.R. PART 50

The rule proposed by DOI would establish an administrative procedure and criteria for the Secretary to use if the Native Hawaiian community forms a government, which then seeks a formal government-to-government relationship with the United States. Implicit in the structure is that the Native Hawaiian community must organize to form a governing entity because the rule does not create that entity nor does it explicitly provide a roadmap for the forming a governing entity. It does, however, set forth criteria and other standards that the Secretary would consider in determining whether to reestablish a formal government-to-government relationship with the Native Hawaiian community.

In direct response to the Department's first recommendation, and similar comments received from HHCA beneficiaries, the rule includes specific protections that make clear the promulgation of the rule would not diminish any right, protection, or benefit granted by the HHCA; the HHCA would be preserved regardless of reorganization or recognition of a Native Hawaiian government; and as a requirement for recognition, the reorganized Native Hawaiian government must include in its governing documents protections for the rights, protections, and benefits granted under the HHCA and Hawaiian Home Lands Recovery Act.¹

Relatedly, the proposal also treats HHCA beneficiary input as distinct from the broader Native Hawaiian community. It ensures HHCA beneficiary participation by prohibiting the exclusion of "HHCA-eligible Native Hawaiians" from membership in the governing entity and by requiring ratification of governing documents by not only a majority of Native Hawaiians who vote but also a majority of HHCA-eligible Native Hawaiians who vote.² These provisions ensure that Hawaiian home lands beneficiary voices are not lost among the potentially large numbers of the broader Native Hawaiian community, and that decision-making that could impact the Hawaiian home lands include adequate input and control by beneficiaries.

Several issues arise for the Department under the framework, as proposed. First, there are significant administrative implications for the Department. The proposed definition of "HHCA-eligible Native Hawaiian" is fifty percent Native Hawaiian blood quantum "regardless of whether the individual resides on Hawaiian home lands, is an HHCA lessee, is on a wait list for an HHCA lease, or receives any benefits under the HHCA."³ The proposal further requires certification of blood quantum for purposes of the roll, which may be satisfied by "enumeration in official DHHL records demonstrating eligibility under the HHCA, excluding non-citizens of the United States" or by "enumeration on a roll of Native Hawaiians certified by a State of Hawaii commission or agency . . . where enumeration is based on documentation that verifies descent."⁴ The potential impact on the Department is two-fold: 1. A flood of requests from lessees and applicants for records demonstrating HHCA

¹ See Department of the Interior Procedures for Reestablishing a Formal Government-to-Government Relationship with the Native Hawaiian Community, 80 Fed. Reg. 59113 at 59120, 59130, 59132 (proposed October 1, 2015) (to be codified at 43 C.F.R. pt. 50).

² *Id.* at 59120, 59130-31.

³ *Id.* at 59129.

⁴ *Id.* at 59130.

eligibility; and 2. A flood of applicants who may be interested only in certification for inclusion on the roll. Essentially, the Department could become the default blood quantum certification agency. The second issue involves the potential impact of certification as "HHCA-eligible" if that certification is done by another state entity. Is there liability for the Department if someone demands inclusion on the waitlist having been certified HHCA-eligible by another state entity? As a technical matter, the term "HHCA-eligible" can be confusing because qualified relatives of 25% to 49% Native Hawaiian blood quantum actually are HHCA-eligible as transferees or successors.⁵

Regarding the Department's second recommendation, the proposed rule takes a selective and narrow view. Although recognizing HHCA beneficiaries as distinct, there is no option that would allow beneficiary communities to move forward even if the broader Native Hawaiian community is not yet ready or willing. Only one universal Native Hawaiian governing entity can be recognized under the DOI's proposal.⁶ The DOI attributes its decision to there being one unified government at the time of the overthrow.⁷ The Native Hawaiian experience as a unified Kingdom, however, was very short but there is a long history and culture as separate kingdoms. Recognition of the government-to-government relationship with more than one entity when similar or related peoples are involved is a model familiar to existing relationships with Native American tribes. For example, the bands that made up the Lakota Nation are each recognized with their own governing entity and territory. In Alaska, over 200 village corporations are recognized. For native Hawaiians, some beneficiary communities are highly organized, informed, and active. The opportunity for multiple recognized governing entities is not only more culturally appropriate and achievable but also advantageous for the protection of the HHCA and the related interests of beneficiaries.

RECOMMENDATION:

To ensure maximum legal protection for the HHCA and the interests of beneficiaries under the HHCA, staff recommends approval of a Hawaiian Homes Commission resolution in support of the United States Department of the Interior proposed rule 43 C.F.R. Part 50, Procedures for Reestablishing a Formal Government-to-Government Relationship with the Native Hawaiian Community.

⁵ See HHCA § 208(5).

⁶ 80 Fed. Reg. at 59129.

⁷ *Id.* at 59121.

Hawaiian Homes Commission
Resolution Number XXX

Expressing Support for the Department of the Interior's Proposed Rule, 43 C.F.R. Part 50 and Urging the Department of the Interior to Revise the Proposed Rule to Include the Possibility of Recognition of More than One Native Hawaiian Governing Entity

WHEREAS, in adopting the Hawaiian Homes Commission Act, 1920, the United States first acknowledged a special trust responsibility for the native Hawaiian people; and

WHEREAS, the United States retained oversight and responsibility for certain key trust elements of the Hawaiian Homes Commission Act in 1959 when, as part of the compact for admission into the Union, the State of Hawaii agreed to faithfully manage and administer the Hawaiian Homes Commission Act; and

WHEREAS, the Hawaiian Home Lands Recovery Act (1995) reaffirmed the trust relationship between the United States and Hawaiian Home Lands beneficiaries; and

WHEREAS, over 150 federal statutes acknowledge a special political and trust relationship with the Native Hawaiian people, and afford the Native Hawaiian people rights and benefits similar to those enjoyed by recognized Native American tribes; and

WHEREAS, the United States has a government-to-government relationship with over 560 recognized Native American tribes but has yet to reestablish a government-to-government relationship with the Native Hawaiian people; and

WHEREAS, since 2000 several law suits have challenged programs under the Hawaiian Homes Commission Act as unconstitutionally race-based, and each of those claims were dismissed on procedural grounds; and

WHEREAS, the formal government-to-government relationship with the United States is what separates legislation, programs, and services benefitting native peoples from those based on racial classifications; and

WHEREAS, the reestablishment of a formal government-to-government relationship with the United States stands to provide the Hawaiian Homes Commission Act maximum protection under federal and state law;

NOW THEREFORE BE IT RESOLVED that the Hawaiian Homes Commission supports a formal government-to-government relationship between the United States and the Native Hawaiian people; and

BE IT FURTHER RESOLVED that the Hawaiian Homes Commission supports the United States Department of the Interior's proposed rule 43 C.F.R. Part 50, Procedures for Reestablishing a Formal Government-to-Government Relationship with the Native Hawaiian Community, published on October 1, 2015, and the continued intent to treat the Native Hawaiian people as a political body; and

BE IT FURTHER RESOLVED that the Hawaiian Homes Commission acknowledges and supports efforts by the Department of the Interior to include safeguards in the proposed rule for the protection of the Hawaiian Homes Commission Act; and

BE IT FURTHER RESOLVED that the Hawaiian Homes Commission acknowledges and supports efforts by the Department of the Interior to ensure the voices of Hawaiian home lands beneficiary communities are treated distinctly in the proposed rule; and

BE IT FURTHER RESOLVED that the Hawaiian Homes Commission urges the Department of the Interior to revise the proposed rule to include the possibility of recognition of more than one Native Hawaiian governing entity; and

BE IT FURTHER RESOLVED, that copies of this Resolution be transmitted in its entirety to the United States Secretary of the Interior; members of the Hawaii Congressional Delegation; and the Honorable David Ige, Governor of the State of Hawaii.

ADOPTED ON THIS 16th day of November 2015, at Kula, on the Island of Maui, State of Hawaii, by the Hawaiian Homes Commission in Regular Meeting assembled.

DEPARTMENT OF HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION
NOVEMBER 16 & 17, 2015
KULA & WAILUKU, MAUI

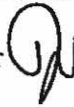
AGENDA SECTION D

HOMESTEAD SERVICES DIVISION

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

November 16, 2015

TO: Chairman and Members, Hawaiian Homes Commission
From: Dean T. Oshiro, Acting HSD Administrator 
SUBJECT: **Homestead Services Division Status Reports**

RECOMMENDED MOTION/ACTION

NONE

DISCUSSION

The following reports are for information only:

- Exhibit A: Homestead Lease & Application Totals
and Monthly Activity Reports
- Exhibit B: Delinquency Report

November 16, 2015

SUBJECT: Homestead Lease and Application Totals and Monthly Activity Reports

LEASE ACTIVITY REPORT

Month through October 31, 2015

	As of 9/30/15	Add	Cancel	As of 10/31/15
Residential	8,311	0	1	8,310
Agricultural	1,097	1	1	1,097
Pastoral	408	0	0	408
Total	9,816	1	2	9,815

The number of Converted Undivided Interest Lessees represents an increase of 383 families moving into homes. Their Undivided Interest lease was converted to a regular homestead lease.

	As of 9/30/15	Converted	Rescinded/ Surrendered/ Cancelled	As of 10/31/15
Undivided	951	0	1	950

Balance as of 10/31/15

Awarded	1,434
Relocated to UNDV	7
Rescinded	101
Surrendered	5
Cancelled	2
Converted	383
Balance to Convert	950

Lease Report For the Month Ending October 31, 2015

	RESIDENCE			AGRICULTURE			PASTURE			TOTAL LEASES		
	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL
OAHU												
Kalawahine	92	0	0	92	0	0	0	0	0	0	0	92
Kanehili	346	0	0	346	0	0	0	0	0	0	0	346
Kapolei	276	0	0	276	0	0	0	0	0	0	0	276
Kaupea	326	0	0	326	0	0	0	0	0	0	0	326
Kaupuni	19	0	0	19	0	0	0	0	0	0	0	19
Kewalo	250	0	0	250	0	0	0	0	0	0	0	250
Kumuhau	51	0	0	51	0	0	0	0	0	0	0	51
Lualualei	149	0	0	149	31	0	0	31	0	0	0	180
Maluohai	156	0	0	156	0	0	0	0	0	0	0	156
Nanakuli	1,049	0	0	1,049	0	0	0	0	0	0	0	1,049
Papakolea	64	0	0	64	0	0	0	0	0	0	0	64
Princess Kahanu Estates	271	0	0	271	0	0	0	0	0	0	0	271
Waiahole	0	0	0	0	16	0	0	16	0	0	0	16
Waianae	421	0	0	421	11	0	0	11	0	0	0	432
Waimanalo	745	0	0	745	2	0	0	2	0	0	0	747
TOTAL	4,215	0	0	4,215	60	0	0	60	0	0	0	4,275
MAUI												
Hikina	30	0	0	30	0	0	0	0	0	0	0	30
Kahikinui	0	0	0	0	0	0	0	0	75	0	0	75
Keokea	0	0	0	0	65	0	0	65	0	0	0	65
Leahi	104	0	0	104	0	0	0	0	0	0	0	104
Paukukalo	181	0	1	180	0	0	0	0	0	0	1	180
Waiehu 1	38	0	0	38	0	0	0	0	0	0	0	38
Waiehu 2	107	0	0	107	0	0	0	0	0	0	0	107
Waiehu 3	112	0	0	112	0	0	0	0	0	0	0	112
Waiehu 4	98	0	0	98	0	0	0	0	0	0	0	98
Waiohuli	598	0	0	598	0	0	0	0	0	0	0	598
TOTAL	1,268	0	1	1,267	65	0	0	65	75	0	0	1,407
EAST HAWAII												
Discovery Harbour	2	0	0	2	0	0	0	0	0	0	0	2
Kamoa	0	0	0	0	0	0	0	0	25	0	0	25
Kaunana	44	0	0	44	0	0	0	0	0	0	0	44
Keaukaha	471	0	0	471	0	0	0	0	0	0	0	471
Kuristown	3	0	0	3	0	0	0	0	0	0	0	3
Makuu	0	0	0	0	123	0	0	123	0	0	0	123
Panaewa	0	0	0	0	262	1	1	262	0	0	0	262
Pihonua	17	0	0	17	0	0	0	0	0	0	0	17
Puueo	0	0	0	0	12	0	0	12	0	0	0	12
University Heights	4	0	0	4	0	0	0	0	0	0	0	4
Waiakea	299	0	0	299	0	0	0	0	0	0	0	299
TOTAL	840	0	0	840	397	1	1	397	25	0	0	1,262
WEST HAWAII												
Honokaia	0	0	0	0	0	0	0	0	23	0	0	23
Humuula	0	0	0	0	0	0	0	0	5	0	0	5
Kamoku	0	0	0	0	0	0	0	0	16	0	0	16
Kanihale	225	0	0	225	0	0	0	0	0	0	0	225
Kawaihae	186	0	0	186	0	0	0	0	1	0	0	187
Laiopua	280	0	0	280	0	0	0	0	0	0	0	280
Lalarnilo	30	0	0	30	0	0	0	0	0	0	0	30
Nienie	0	0	0	0	0	0	0	0	21	0	0	21
Puukapu/Waimea/Kuhio Vil	114	0	0	114	110	0	0	110	214	0	0	438
Puupulehu	30	0	0	30	0	0	0	0	0	0	0	30
TOTAL	865	0	0	865	110	0	0	110	280	0	0	1,255
KAUAI												
Anahola	535	0	0	535	46	0	0	46	0	0	0	581
Hanapepe	47	0	0	47	0	0	0	0	0	0	0	47
Kekaha	117	0	0	117	0	0	0	0	0	0	0	117
Puu Opae	0	0	0	0	0	0	0	0	1	0	0	1
TOTAL	699	0	0	699	46	0	0	46	1	0	0	746
MOLOKAI												
Hoolehua	158	0	0	158	344	0	0	344	21	0	0	523
Kalamuta	161	0	0	161	72	0	0	72	3	0	0	236
Kapsakea	47	0	0	47	0	0	0	0	3	0	0	50
Moomomi	0	0	0	0	3	0	0	3	0	0	0	3
O'ne Ali	29	0	0	29	0	0	0	0	0	0	0	29
TOTAL	395	0	0	395	419	0	0	419	27	0	0	841
LANAI												
Lanai	29	0	0	29	0	0	0	0	0	0	0	29
TOTAL	29	0	0	29	0	0	0	0	0	0	0	29
STATEWIDE TOTAL	8,311	0	1	8,310	1,097	1	1	1,097	408	0	0	9,815

**HOMESTEAD AREA AND ISLANDWIDE APPLICATIONS WAITING LIST MONTHLY REPORT FOR THE MONTH ENDING
October 31, 2015**

AREA WAITING LIST

DISTRICT AREA	RESIDENCE				AGRICULTURE				PASTURE				TOTAL
	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL	
Oahu District	1,019	0	1	1,018	3	0	0	3	0	0	0	0	1,021
Maui District	73	0	0	73	4	0	0	4	5	0	0	5	82
Hawaii District	135	0	0	135	15	0	0	15	62	0	0	62	212
Kauai District	58	0	0	58	3	0	0	3	29	0	0	29	90
Molokai District	20	0	0	20	19	0	0	19	1	0	0	1	40
TOTAL	1,305	0	1	1,304	44	0	0	44	97	0	0	97	1,445

ISLANDWIDE WAITING LIST

ISLAND	RESIDENCE				AGRICULTURE				PASTURE				TOTAL
	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL	
Oahu	9,344	17	5	9,356	3,524	6	1	3,529	0	0	0	0	12,885
Maui	3,671	10	5	3,676	4,539	6	0	4,545	585	2	0	587	8,808
Hawaii	5,639	6	7	5,638	7,013	5	2	7,016	1,839	1	0	1,840	14,494
Kauai	1,578	2	1	1,579	2,187	1	2	2,186	287	2	0	289	4,054
Molokai	761	0	1	760	1012	0	1	1011	195	0	0	195	1,966
Lanai	82	0	0	82	0	0	0	0	0	0	0	0	82
TOTAL	21,075	35	19	21,091	18,275	18	6	18,287	2,906	5	0	2,911	42,289

AREA AND ISLANDWIDE LISTS

	RES	AG	PAS	TOTAL	ADDITIONS		CANCELLATIONS	
	OAHU	10,374	3,532	0	13,906	New Applications	58	New Lease Award
MAUI	3,749	4,549	592	8,890	Rescissions	0	Voluntary/Trans	14
HAWAII	5,773	7,031	1,902	14,706	Reinstate	0	NHQ Unqualified	0
KAUAI	1,637	2,189	318	4,144	HHC Adjustment	0	Lessee Transferee	0
MOLOKAI	780	1,030	196	2,006	TOTAL	58	Dec'd, No Succ	0
LANAI	82	0	0	82			Voluntary Cancellation	0
TOTAL	22,395	18,331	3,008	43,734			TOTAL	26

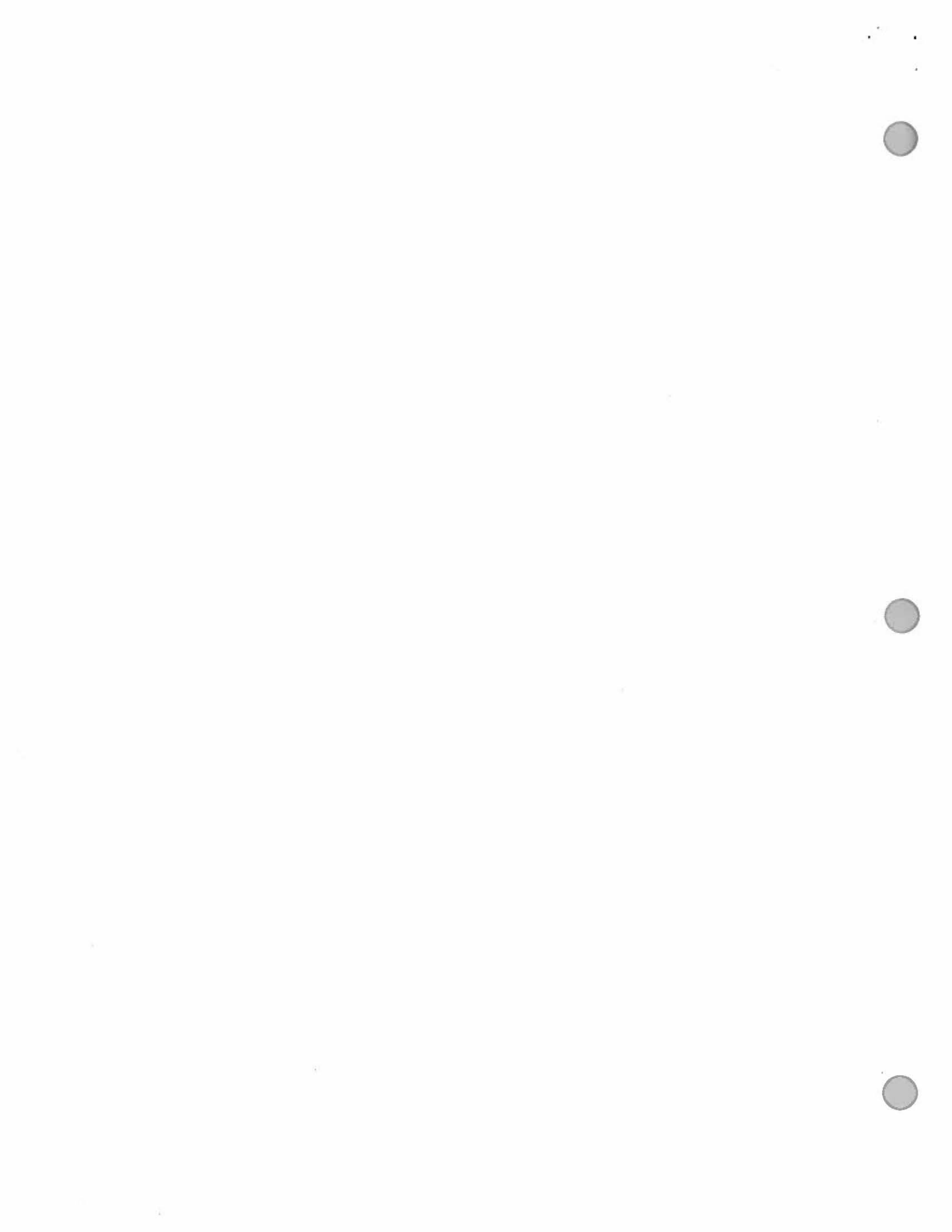
ITEM NO. D-1
EXHIBIT A

HOMESTEAD AREA AND ISLANDWIDE APPLICATIONS WAITING LIST MONTHLY REPORT FOR THE MONTH ENDING

October 31, 2015

	RESIDENCE				AGRICULTURE				PASTURE				TOTAL
	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL	Last Month	Add	Cancel	TOTAL	
OAHU DISTRICT													
Nanakuli	182	0	0	182	0	0	0	0	0	0	0	0	182
Waianae	160	0	0	160	0	0	0	0	0	0	0	0	160
Lualualei	0	0	0	0	3	0	0	3	0	0	0	0	3
Papakolea/Kewalo	73	0	0	73	0	0	0	0	0	0	0	0	73
Waimanalo	604	0	1	603	0	0	0	0	0	0	0	0	603
Subtotal Area	1,019	0	1	1,018	3	0	0	3	0	0	0	0	1,021
Islandwide	9,344	17	5	9,356	3,524	6	1	3,529	0	0	0	0	12,885
TOTAL OAHU APPS	10,363	17	6	10,374	3,527	6	1	3,532	0	0	0	0	13,906
MAUI DISTRICT													
Paukukalo	73	0	0	73	0	0	0	0	0	0	0	0	73
Kula	0	0	0	0	4	0	0	4	5	0	0	5	9
Subtotal Area	73	0	0	73	4	0	0	4	5	0	0	5	82
Islandwide	3,671	10	5	3,676	4,539	6	0	4,545	585	2	0	587	8,808
TOTAL MAUI APPS	3,744	10	5	3,749	4,543	6	0	4,549	590	2	0	592	8,890
HAWAII DISTRICT													
Keaukaha/Waiakea	72	0	0	72	0	0	0	0	1	0	0	1	73
Panaewa	0	0	0	0	15	0	0	15	0	0	0	0	15
Humuula	0	0	0	0	0	0	0	0	0	0	0	0	0
Kawaihae	19	0	0	19	0	0	0	0	0	0	0	0	19
Waimea	44	0	0	44	0	0	0	0	61	0	0	61	105
Subtotal Area	135	0	0	135	15	0	0	15	62	0	0	62	212
Islandwide	5,639	6	7	5,638	7,013	5	2	7,016	1,839	1	0	1,840	14,494
TOTAL HAWAII APPS	5,774	6	7	5,773	7,028	5	2	7,031	1,901	1	0	1,902	14,706
KAUAI DISTRICT													
Anahola	50	0	0	50	3	0	0	3	21	0	0	21	74
Kekaha/Puu Opae	8	0	0	8	0	0	0	0	8	0	0	8	16
Subtotal Area	58	0	0	58	3	0	0	3	29	0	0	29	90
Islandwide	1,578	2	1	1,579	2,187	1	2	2,186	287	2	0	289	4,054
TOTAL KAUAI APPS	1,636	2	1	1,637	2,190	1	2	2,189	316	2	0	318	4,144
MOLOKAI DISTRICT													
Kalamaula	4	0	0	4	0	0	0	0	0	0	0	0	4
Hoolehua	7	0	0	7	19	0	0	19	1	0	0	1	27
Kapaakea	8	0	0	8	0	0	0	0	0	0	0	0	8
One Alii	1	0	0	1	0	0	0	0	0	0	0	0	1
Subtotal Area	20	0	0	20	19	0	0	19	1	0	0	1	40
Islandwide	761	0	1	760	1,012	0	1	1,011	195	0	0	195	1,966
TOTAL MOLOKAI APPS	781	0	1	780	1,031	0	1	1,030	196	0	0	196	2,006
LANAI DISTRICT													
Islandwide	82	0	0	82	0	0	0	0	0	0	0	0	82
TOTAL LANAI APPS	82	0	0	82	0	0	0	0	0	0	0	0	82
TOTAL AREA ONLY	1,305	0	1	1,304	44	0	0	44	97	0	0	97	1,445
TOTAL ISLANDWIDE	21,075	35	19	21,091	18,275	18	6	18,287	2,906	5	0	2,911	42,289
TOTAL STATEWIDE	22,380	35	20	22,395	18,319	18	6	18,331	3,003	5	0	3,008	43,734

ITEM NO. D-1
EXHIBIT A



DELINQUENCY REPORT - STATEWIDE

November 16, 2015

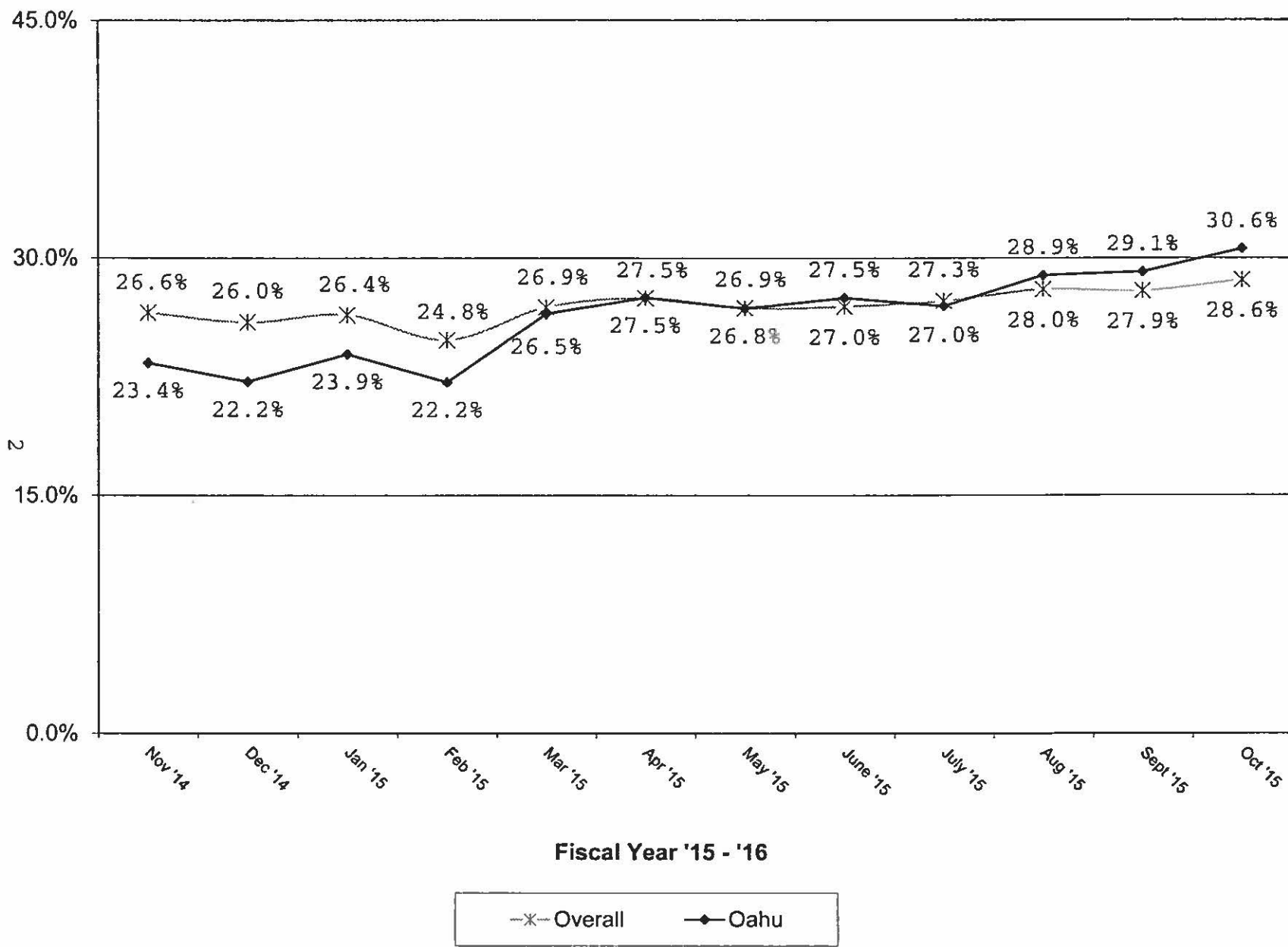
(\$Thousands)

	R I S K												% of Totals	
	Total Outstanding		Total Delinquency		30 Days (low)		60 Days (Medium)		90 Days (High)		180 Days (Severe)		10/31/2015	
	No.	(000s) Amt.	No.	(000s) Amt.	No.	(000s) Amt.	No.	(000s) Amt.	No.	(000s) Amt.	No.	(000s) Amt.	No.	\$
DIRECT LOANS														
OAHU	392	29,785	94	9,113	18	1,693	10	871	14	840	52	5,709	24.0%	30.6%
EAST HAWAII	233	13,468	95	5,485	16	728	11	437	13	422	55	3,898	40.8%	40.7%
WEST HAWAII	68	5,914	15	879	1	105	0	0	3	367	11	407	22.1%	14.9%
MOLOKAI	70	2,039	16	550	1	16	4	140	2	68	9	326	22.9%	27.0%
KAUAI	108	7,773	18	1,024	4	173	4	196	3	247	7	408	16.7%	13.2%
MAUI	<u>72</u>	<u>5,400</u>	<u>17</u>	<u>1,372</u>	<u>4</u>	<u>187</u>	<u>1</u>	<u>54</u>	<u>5</u>	<u>293</u>	<u>7</u>	<u>838</u>	<u>23.6%</u>	<u>25.4%</u>
TOTAL DIRECT	943	64,379	255	18,424	44	2,902	30	1,698	40	2,237	141	11,587	27.0%	28.6%
	100.0%	100.0%	27.0%	28.6%	4.7%	4.5%	3.2%	2.6%	4.2%	3.5%	15.0%	18.0%		
Advances (including RPT)	273	6,627	273	6,627	0	0	0	0	273	6,627			100%	100%
DHHL LOANS & Advances	1,216	71,006	528	25,051	44	2,902	30	1,698	313	8,865	141	11,587	43.4%	35.3%
LOAN GUARANTEES as of June 30, 2015														
SBA	1	112	0	0	0	0	0	0	0	0			0.0%	0.0%
USDA-RD	329	42,116	58	7,025	0	0	0	0	58	7,025			17.6%	16.7%
Habitat for Humanity	70	3,272	17	1,142	0	0	0	0	17	1,142			24.3%	34.9%
Maui County	5	74	0	0	0	0	0	0	0	0			0.0%	0.0%
Nanakuli NHS	1	7	1	7	0	0	0	0	1	7			100.0%	100.0%
City & County	24	367	10	230	0	0	0	0	10	230			41.7%	62.7%
FHA Interim	8	1,551	0	0	0	0	0	0	0	0			0.0%	0.0%
OHA	88	987	5	47	0	0	0	0	5	47			5.7%	4.8%
TOTAL GUARANTEE	526	48,486	91	8,451	0	0	0	0	91	8,451			17.3%	17.4%
PMI Loans	311	59,819	26	5,770	2	536	0	0	24	5,234			8.4%	9.6%
HUD REASSIGNED for Recovery	148	19,363	128	18,378	1	81	1	74	4	349	122	17,874	86.5%	94.9%
FHA Insured Loans	<u>2,797</u>	<u>413,090</u>	<u>264</u>	<u>33,311</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>264</u>	<u>33,311</u>			<u>9.4%</u>	<u>8.1%</u>
TOTAL INS. LOANS	3,256	492,272	418	57,459	3	617	1	74	292	38,894	122	17,874	12.8%	11.7%
OVERALL TOTALS(EXC Adv/RP*	4,725	605,137	764	84,334	47	3,519	31	1,772	423	49,582	263	29,460	16.2%	13.9%
ADJUSTED TOTALS	4,998	611,764	1,037	90,961	47	3,519	31	1,772	696	56,210	263	29,460		14.9%

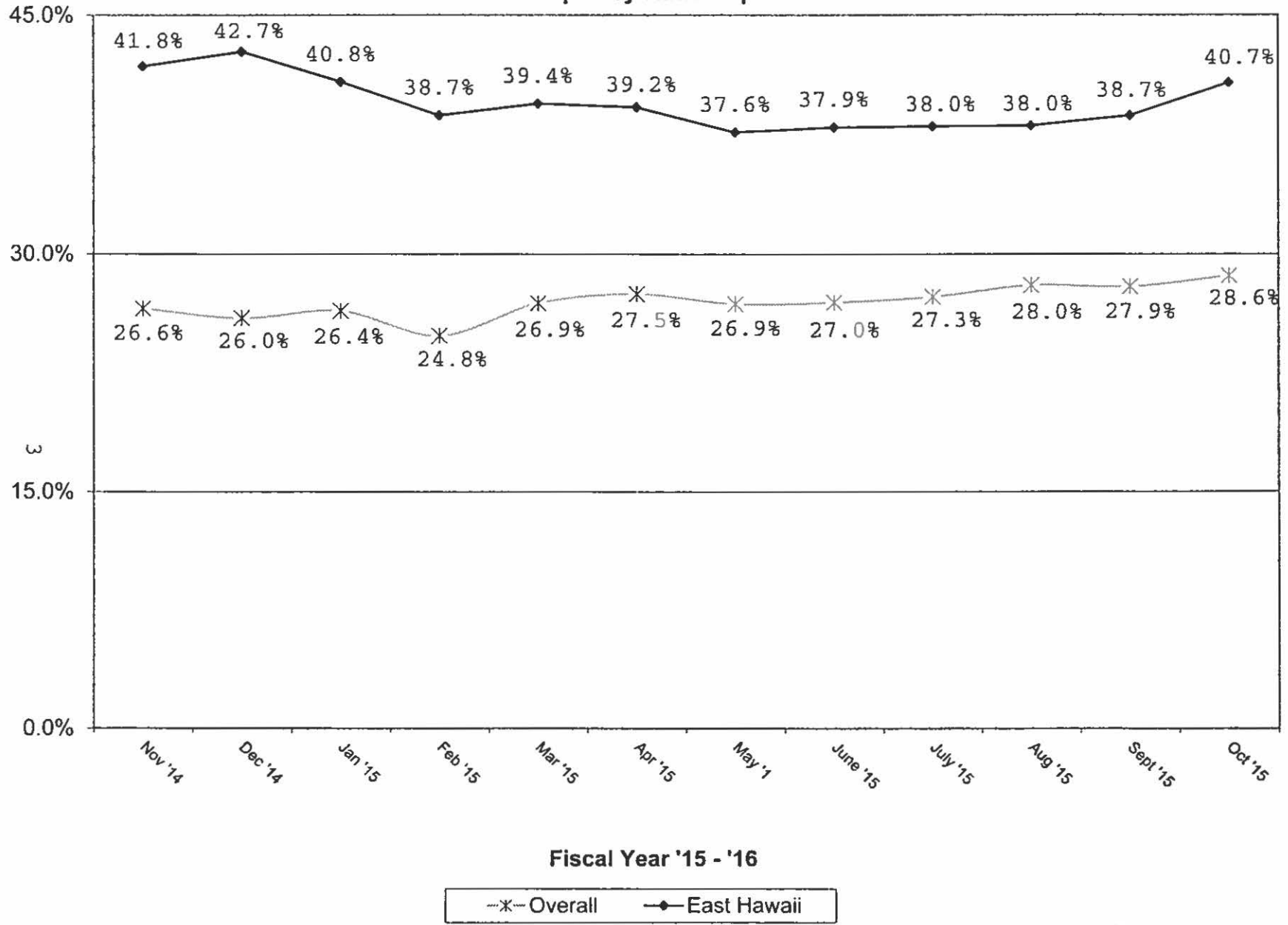
Note: HUD 184A loan program has 362 loans, with a total outstanding principal balance of \$82,753,504.18 as of June 30, 2015. 18 loans, totalling \$4,258,216.32, are delinquent.

EXHIBIT B
ITEM NO. D-1

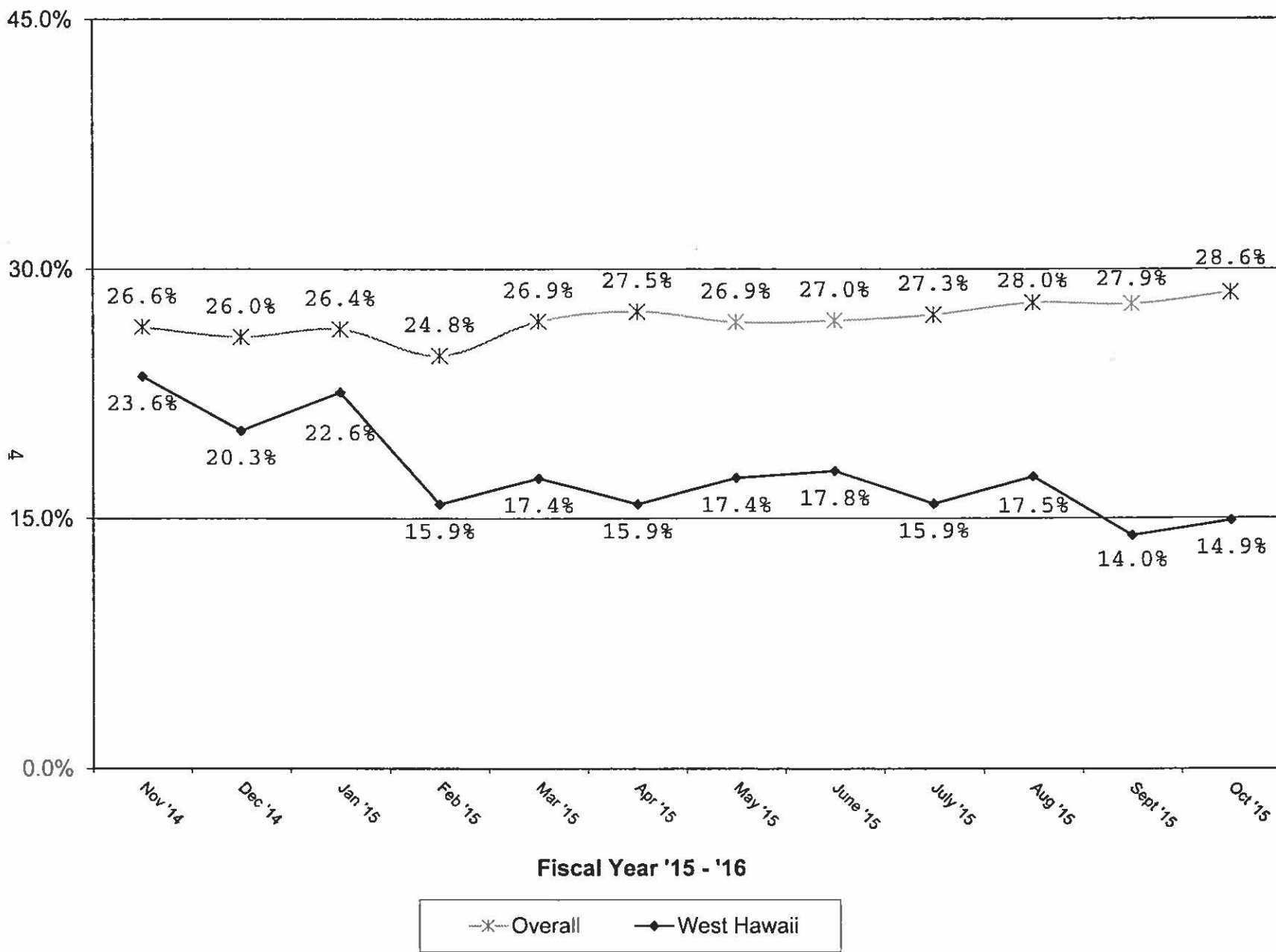
**OAHU
Direct Loans
Delinquency Ratio Report**



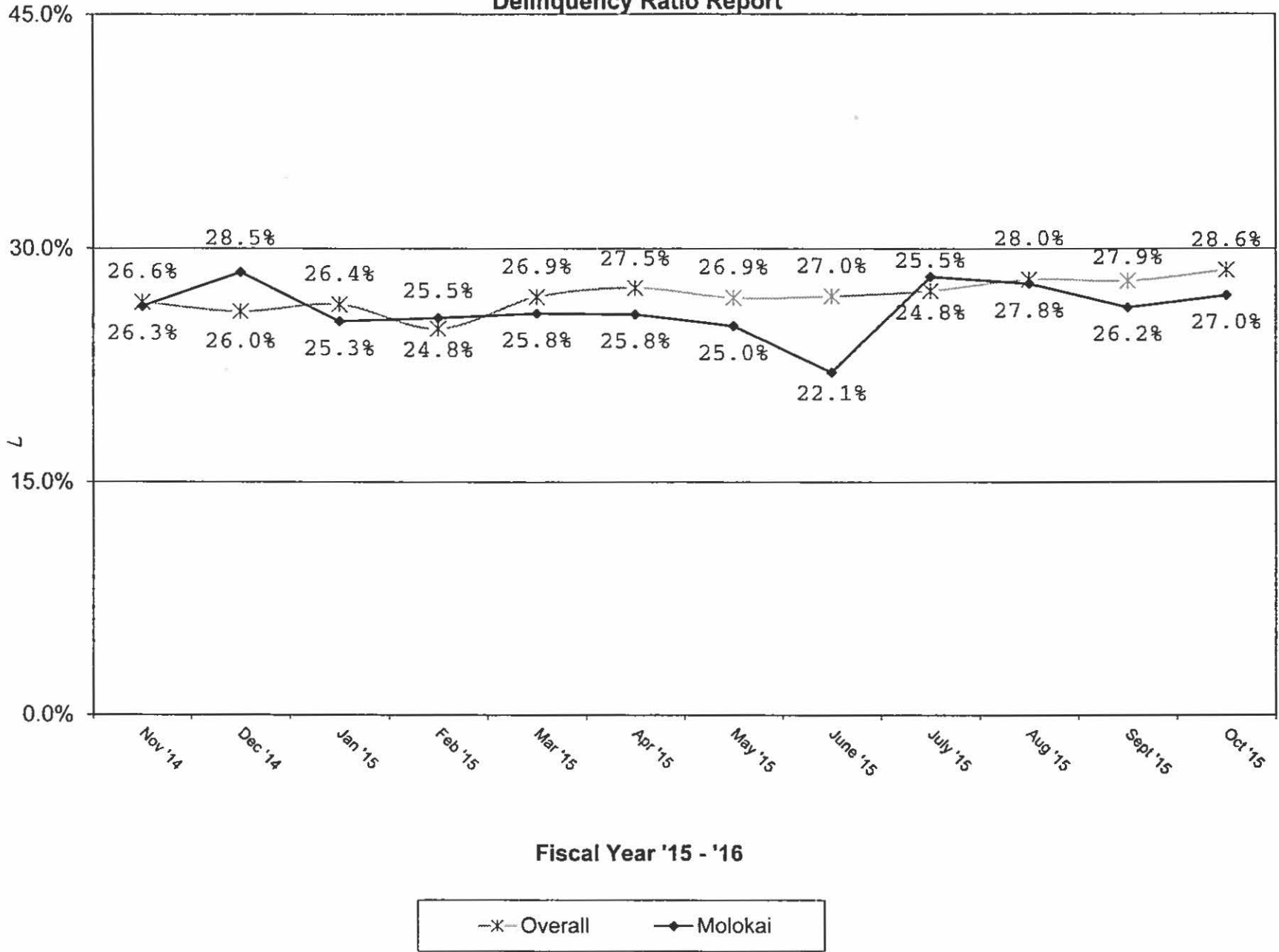
**EAST HAWAII
Direct Loans
Delinquency Ratio Report**



**WEST HAWAII
Direct Loans
Delinquency Ratio Report**

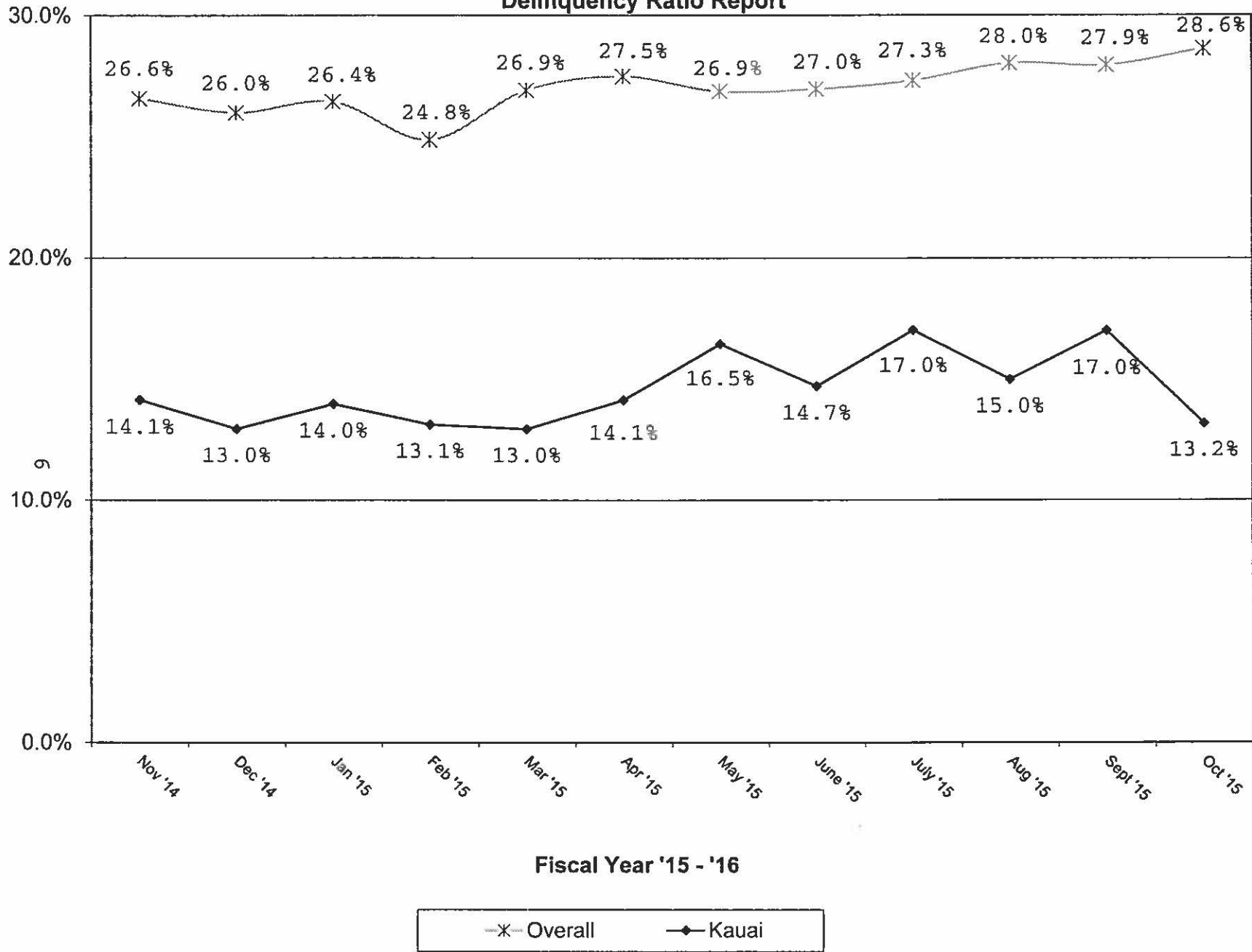


MOLOKAI
Direct Loans
Delinquency Ratio Report



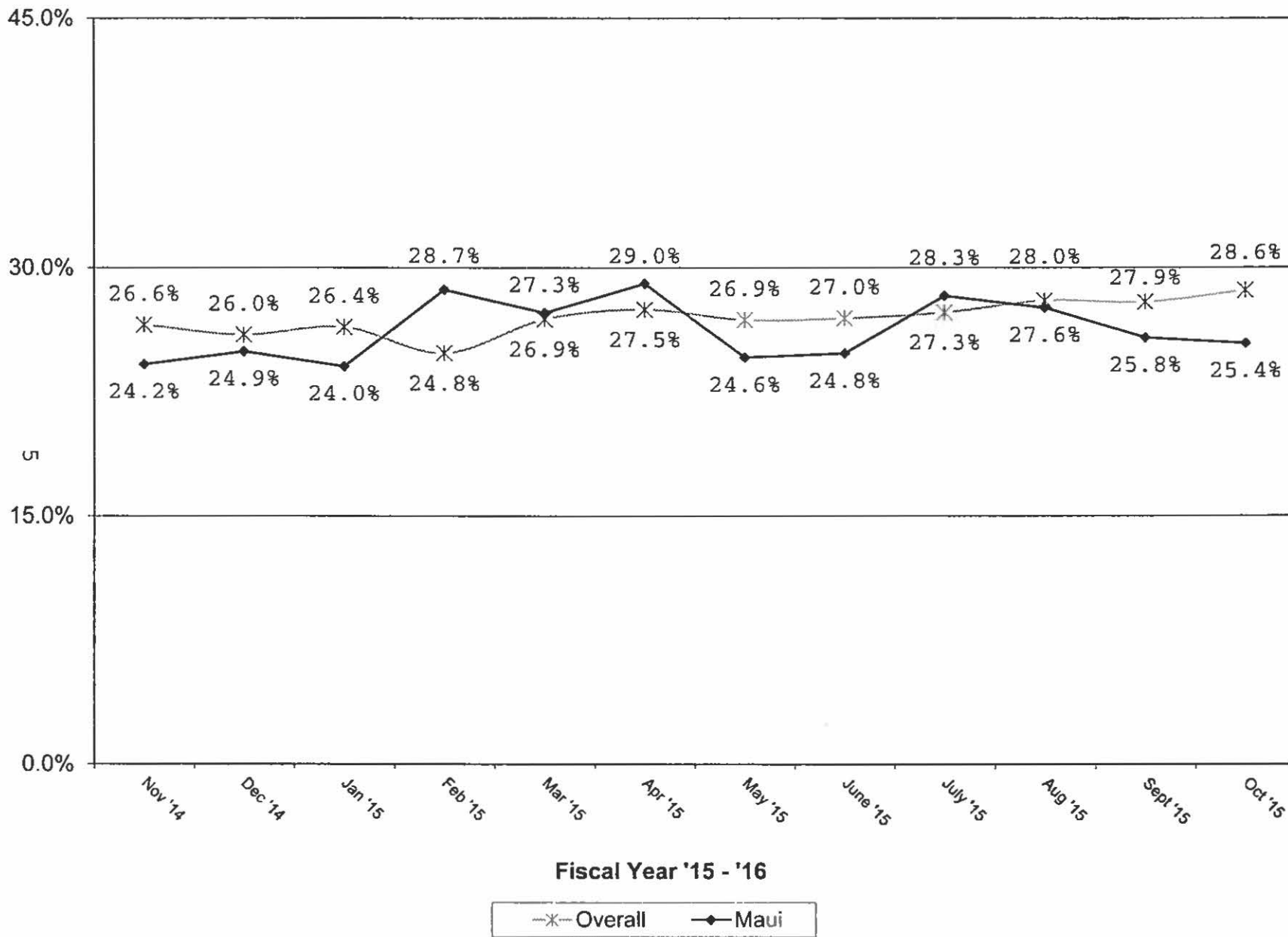
ITEM NO. D-1
EXHIBIT B

**KAUAI
Direct Loans
Delinquency Ratio Report**



ITEM NO. D-1
EXHIBIT B

MAUI
Direct Loans
Delinquency Ratio Report





STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

November 16, 2015

TO: Chairman and Members, Hawaiian Homes Commission
FROM: Dean Oshiro, Acting HSD Administrator
Homestead Services Division
SUBJECT: **Approval of Consent to Mortgage**

RECOMMENDED MOTION/ACTION

To approve the following consents to mortgages for Federal Housing Administration (FHA) insured loans, Department of Veterans Affairs (VA) loans, United States Department of Agriculture, Rural Development (USDA, RD) guaranteed loans, United States Housing and Urban Development (HUD 184A) guaranteed loans and Conventional (CON) loans insured by private mortgage insurers.

DISCUSSION

<u>PROPERTY</u>	<u>LESSEE</u>	<u>LENDER</u>	<u>LOAN AMOUNT</u>
<u>OAHU</u>			
Nanakuli Lease No. 4524 TMK: 1-8-9-010:022	KAHAPEA, Sylvester K. (Cash Out Refi) (FHA)	GEM Mortgage	\$ 182,864
Maluohai Lease No. 5513 TMK: 1-9-1-119:023	HATORI, Inez K. (Cash Out Refi) (FHA)	Hightechlend ing Inc.	\$ 285,500
Kewalo Lease No. 4415 TMK: 1-2-5-021:006	KALANI, Louis R. (Cash Out Refi) (FHA)	GEM Mortgage	\$ 193,467
Waianae Lease No. 8730 TMK: 1-8-5-033:089	BAILEY, Milton K., Sr. (Cash Out Refi) (FHA)	GEM Mortgage	\$ 221,000

OAHU

Nanakuli Lease No. 3317 TMK: 1-8-9-004:131	KELII, Kaleo-O-Kalani (203K Purchase) (FHA)	HomeStreet Bank	\$ 297,495
Maluohai Lease No. 9870 TMK: 1-9-1-120:044	KAUAKAHI, Michael P. (Purchase) (FHA)	Mann Mortgage LLC	\$ 353,000
Kumuhau Lease No. 11287 TMK: 1-4-1-040:004	PEREIRA, Jayson K. K. (Cash Out Refi) (FHA)	Hightechlend ing Inc.	\$ 390,000
Lualualei Lease No. 5568 TMK: 1-8-6-023:053	HOLU, Kasey K. (Purchase) (FHA)	Guild Mortgage Co.	\$ 128,000
Maluohai Lease No. 9809 TMK: 1-9-1-120:017	APA, Ryan K. (Cash Out Refi) (FHA)	Guild Mortgage Co.	\$ 276,000
Kanehili Lease No. 11747 TMK: 1-9-1-153:022	KALEIKINI-FUKUDA, Shannon K. (Purchase) (HUD- 184A)	HomeStreet Bank	\$ 178,000
Waianae Lease No. 4477 TMK: 1-8-5-031:002	SAUNDERS, Kevin K. (Limited Cash Out Refi) (FHA)	HomeStreet Bank	\$ 59,166

MAUI

Waiehu II Lease No. 9457 TMK: 2-3-2-022:019	GOSHERT, Bernard W., Jr. (Cash Out Refi) (FHA)	GEM Mortgage	\$ 225,000
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ITEM NO. D-2

MAUI

Waiehu III
Lease No. 10043
TMK: 2-3-2-024:014

AKI,
James Y. (Limited
Cash Out Refi)
(HUD-184A)

HomeStreet
Bank

\$ 161,600

Waiohuli
Lease No. 10128
TMK: 2-2-2-028:084

AIWOHI-ALO,
Kainea K. (Cash Out
Refi) (HUD-184A)

HomeStreet
Bank

\$ 188,870

Waiehu II
Lease No. 9540
TMK: 2-3-2-023:047

HEMA,
David M. (Cash Out
Refi) (FHA)

HomeStreet
Bank

\$ 134,940

Hikina
Lease No. 12290
TMK: 2-2-2-031:032

AKIONA,
Derek K. (Limited
Cash Out Refi)
(HUD-184A)

HomeStreet
Bank

\$ 326,230

Leialii
Lease No. 11512
TMK: 2-4-5-036:073

NOBRIGA,
Corrine L. A. (Cash
Out Refi) (FHA)

Mann
Mortgage LLC

\$ 276,000

KAUAI

Anahola
Lease No. 3676
TMK: 4-4-8-015:045

KAUVAKA,
Jaylene M. (Cash
Out Refi) (FHA)

Bank of
Hawaii

\$ 259,500

Anahola
Lease No. 5676
TMK: 4-4-8-005:023

LOO,
Audrey K. (Cash Out
Refi) (FHA)

GEM Mortgage

\$ 175,000

Anahola
Lease No. 6011
TMK: 4-4-8-016:055

KOKO,
Patrick K. C. K.
(Cash Out Refi)
(HUD-184A)

HomeStreet
Bank

\$ 240,380

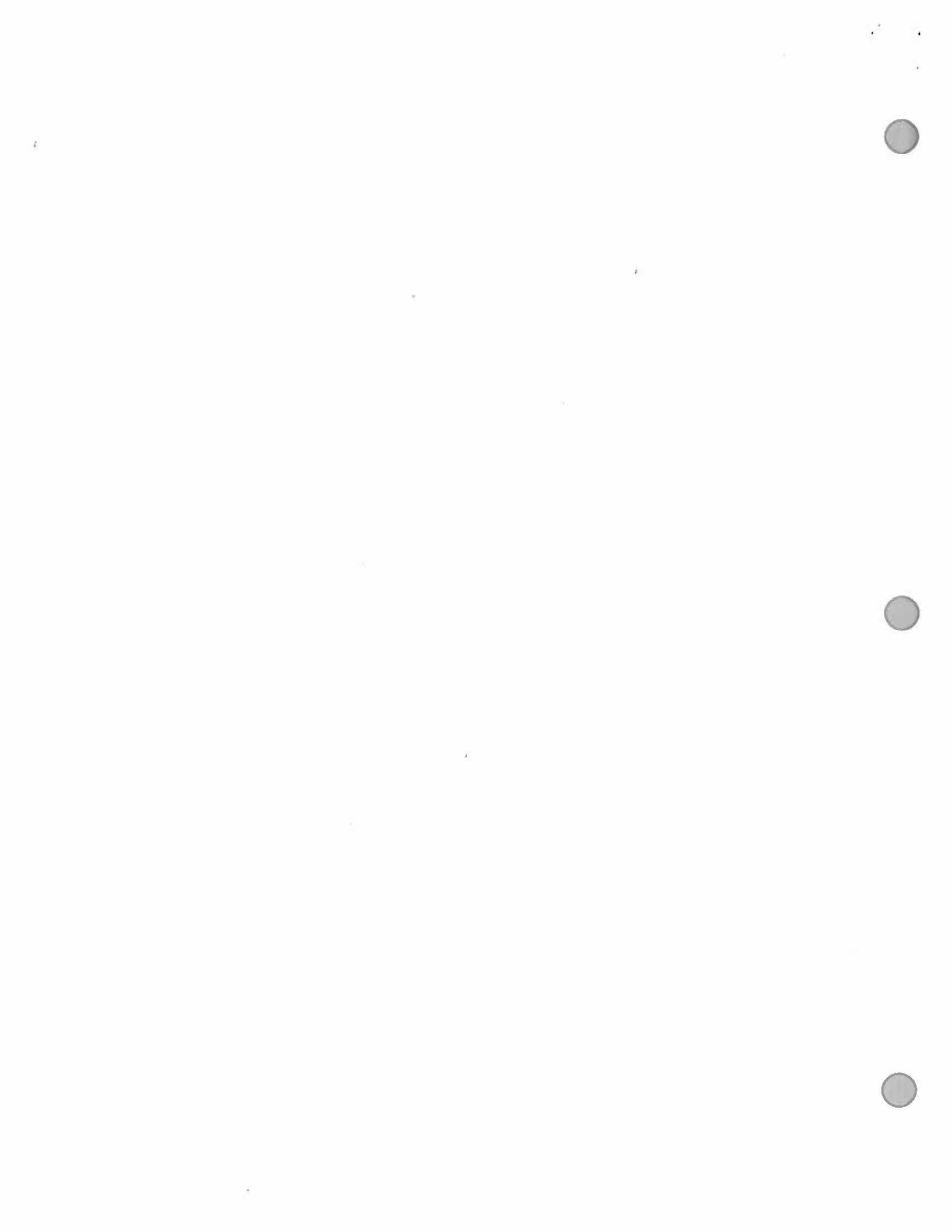
ITEM NO. D-2

HAWAII

Waiakea Lease No. 3545 TMK: 3-2-2-057:042	WAIKIKI, John Harry K. G. L. (Streamline) (FHA)	Guild Mortgage Co.	\$ 90,000
Keaukaha Lease No. 1489 TMK: 3-2-1-021:002	DELOS SANTOS, Ann (Cash Out Refi) (FHA)	HomeStreet Bank	\$ 140,130
Kawaihae Lease No. 9648 TMK: 3-6-1-009:022	MANUEL, Daniel K. (Cash Out Refi) (HUD-184A)	HomeStreet Bank	\$ 221,190
Keaukaha Lease No. 1878 TMK: 3-2-1-020:068	LEONG, Donna K. (Rate & Term Refi) (FHA)	Mann Mortgage LLC	\$ 130,000
Keaukaha Lease No. 6318 TMK: 3-2-1-021:099	KAAWA, Kini K. (Purchase) (FHA)	Mann Mortgage LLC	\$ 168,000
Kuhio Village Lease No. 2980A TMK: 3-6-4-007:080	WELLER, Matthew J. (Purchase) (FHA)	HomeStreet Bank	\$ 381,636
Kuhio Village Lease No. 4925 TMK: 3-6-4-007:021	YAMASHITA, Penny M. (Purchase) Purchase) (FHA)	HomeStreet Bank	\$ 326,970

RECAP

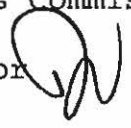
	<u>NO.</u>	<u>FHA</u> <u>AMOUNT</u>	<u>NO.</u>	<u>VA</u> <u>AMOUNT</u>	<u>NO.</u>	<u>USDA-RD</u> <u>AMOUNT</u>
FY Ending 6/30/15	291	\$ 63,019,783	9	\$2,421,822	32	\$7,742,283
Prior Months	75	\$ 19,049,840	0	\$ 0	3	\$1,148,000
This Month	<u>21</u>	<u>4,693,668</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total FY '15-'16	96	\$ 23,743,508	0	\$ 0	3	\$1,148,000
HUD 184A						
FY Ending 6/30/15	92	\$22,210,337				
Prior Months	25	\$ 7,211,444				
This Month	<u>6</u>	<u>1,316,270</u>				
Total FY '15-'16	31	\$ 8,527,714				



STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

November 23, 2015

TO: Chairman and Members, Hawaiian Homes Commission
FROM: Dean Oshiro, Acting HSD Administrator 
Homestead Services Division
SUBJECT: **Approval to Schedule Loan Delinquency Contested Case Hearings**

RECOMMENDED MOTION/ACTION

To authorize the scheduling of the following loan delinquency contested case hearings as shown below.

DISCUSSION

The department has been working to resolve the problem of loan delinquencies. The past due delinquent loan status with lessees continues to be a problem for the department; therefore, we recommend that contested case hearings be scheduled:

<u>Lessee</u>	<u>Lease No.</u>	<u>Area</u>	<u>Loan No.</u>	<u>Monthly Payment</u>	<u>Amount at 10/15</u>	<u>Balance at 10/15</u>
<u>Oahu</u>						
Lima, Audrey	11418	Kaupea	TBD	TBD	TBD	TBD
Janicki, Downie	755	Nanakuli	TBD	TBD	TBD	TBD
Bradley, William R.I.K. Haili, Kuuipo P. Haili, Hiilani C. Haili, Mathew K. III	2845	Kewalo	12009	\$203	\$10,414	\$10,893
<u>Lanai</u>						
Kekiwi, Eleanor	10975	Lanai	18144	\$960	\$8,112	\$129,441

<u>Lessee</u>	<u>Lease No.</u>	<u>Area</u>	<u>Loan No.</u>	<u>Monthly Payment</u>	<u>Amount at 10/15</u>	<u>Balance at 10/15</u>
<u>Kauai</u>						
Freitas, Melanie P. & Freitas, Maile L.	8834	Anahola	18860	\$927	\$5,120	\$134,943
<u>Hawaii</u>						
Dowsett, Maryann	4759	Waimea	19012	\$222	\$1,337	\$12,714

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

November 16, 2015

TO: Chairman and Members, Hawaiian Homes Commission
THROUGH: Dean T. Oshiro, Acting HSD Administrator
FROM: Ross K. Kapeliela, Application Officer
Homestead Services Division

SUBJECT: **Approval of Homestead Application Transfers/Cancellations**

RECOMMENDED MOTION/ACTION

To approve the transfers and cancellations of applications from the Application Waiting Lists for reasons described below:

DISCUSSION

1. Requests of Applicants to Transfer

HAWAII ISLANDWIDE RESIDENTIAL LEASE LIST

HELELOA, Lorrin H.	04/13/78	OAHU	RES	07/06/15
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2. Deceased Applicant

NONE FOR SUBMITTAL

3. Awards of Leases

WAIMANALO AREA, OAHU ISLANDWIDE RESIDENTIAL LEASE LIST

KEALAKAI, Phylis P.	Assigned Residential Lease #3152, Lot 7A in Nanakuli, Oahu dated 08/26/15. Remove application dated 05/09/72.
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OAHU ISLANDWIDE RESIDENTIAL LEASE LIST

KEKAUOHA, John K., Jr. Assigned Residential Lease
#3472, Lot 178 in Waiakea,
South Hilo, Hawaii (Keaukaha)
dated 07/27/15. Remove
application dated 10/10/14.

SOARES, Wayne Ryan Assigned Residential Lease
#11217, Lot 6 in Waimanalo,
Oahu (Kumuhau) dated 06/10/15.
Remove application dated
08/26/14.

TOGIAI, Jane K. Assigned Residential Lease
#11581, Lot 18322 in Kapolei,
Honouliuli, Ewa, Oahu
(Kanehili) dated 04/26/10.
Remove application dated
10/03/05.

MAUI ISLANDWIDE RESIDENTIAL LEASE LIST

GUTH, Naomi M. L. K. Assigned Residential Lease
#11534, Lot 1 in Wahikuli,
Lahaina, Maui (Leialii) dated
09/10/15. Remove application
dated 02/16/10.

HAIA, Keevan N. Assigned Residential Lease
#11496, Lot 79 in Wahikuli,
Lahaina, Maui (Leialii) dated
08/10/15. Remove application
dated 10/23/07.

KAILILAAU, Sherri Ann U. Assigned Residential Lease
#10304 (UNDV007) in Kula, Maui
(Waiohuli) dated 08/17/15.
Remove application dated
09/15/03.

PU, Frederick K., Jr. Assigned Residential Lease
#5435, Lot 12 in Paukukalo,
Maui dated 08/26/15. Remove
application dated 02/03/11.

HAWAII ISLANDWIDE RESIDENTIAL LEASE LIST

DAVIS, Maria K. K. Assigned Residential Lease
#4103, Lot 31A in Waimanalo,
Oahu dated 05/22/15. Remove
application dated 06/17/99.

DUDOIT, Jules E. Assigned Residential Lease
#9315, Lot 2 in Kealakehe,
North Kona, Hawaii (Kanihale)
dated 04/07/15. Remove
application dated 04/18/86.

MATA, Miriam K. Assigned Residential Lease
#10186, Lot 12 in Lalamilo,
South Kohala, Hawaii dated
09/15/15. Remove application
dated 03/16/15.

MOLOKAI ISLANDWIDE RESIDENTIAL LEASE LIST

HANOHANO, Malcom M. Assigned Residential Lease
#11807, Lot 18638 in Kapolei,
Honouliuli, Ewa, Oahu
(Kanehili) dated 04/17/15.
Remove application dated
12/11/06.

4. Native Hawaiian Qualification

NONE FOR SUBMITTAL

5. Voluntary Cancellation

OAHU ISLANDWIDE AGRICULTURAL LEASE LIST

TEO, David K. To cancel application dated
08/03/09 at the request of
applicant dated 10/23/15.

OAHU ISLANDWIDE RESIDENTIAL LEASE LIST

TEO, David K. To cancel application dated
08/03/09 at the request of
applicant dated 10/23/15.

HAWAII ISLANDWIDE AGRICULTURAL LEASE LIST

KAHAWAI, Charles L., Sr. To cancel application dated 02/12/86 at the request of applicant dated 09/30/15.

HAWAII ISLANDWIDE RESIDENTIAL LEASE LIST

KAHAWAI, Charles L., Sr. To cancel application dated 02/12/86 at the request of applicant dated 09/30/15

KEKAHUNA, John I. To cancel application dated 09/13/83 at the request of applicant dated 10/14/15.

6. Successorship

NONE FOR SUBMITTAL

7. Additional Acreage

NONE FOR SUBMITTAL


Last Month's Transactions	7
Last Month's FY 2015-2016 Transaction Total	70
<u>This Month's Transactions</u>	
Transfers from Island to Island	1
Deceased	0
Cancellations:	
Awards of Leases	12
NHQ	0
Voluntary Cancellation	5
Successorship	0
Additional Acreage	0
This Month's FY 2015-2016 Transaction Total	88

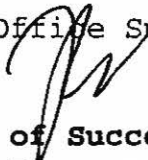
STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

November 16, 2015

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Dean Oshiro, Acting Administrator
Homestead Services Division 

FROM: Juan Garcia, Oahu District Office Supervisor
Homestead Services Division 

SUBJECT: **Ratification of Designation of Successors to Leasehold Interest and Designation of Persons to Receive the Net Proceeds**

RECOMMENDED MOTION/ACTION

To ratify the approval of the designation of successor to the leasehold interest and person to receive the net proceeds, pursuant to Section 209, Hawaiian Homes Commission Act, 1920, as amended. This designation was previously approved by the Chairman.

*See attached list of Lessee.

Leasehold Interest:

Ratified for November 2015	9
Previous FY 2015 - 2016	<u>34</u>
FY 2015 - 2016 Total to Date	43

Ratified for FY '14 - '15	45
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Net Proceeds

Ratified for November 2015	0
Previous FY 2015 - 2016	<u>0</u>
FY 2015 - 2016 Total to Date	0

Ratified for FY '14 - '15	1
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**LIST OF LESSEES WHO DESIGNATED SUCCESSORS TO THEIR
LEASEHOLD INTEREST
FOR MONTH OF November 2015**

<u>Deceased Lessee</u>	<u>Designated Successor</u>
1. Lowaena P. Hau Lot No.: 36 Area: Makuu, Hawaii Lease No. 6980	<u>PRIMARY:</u> Susan K. Kamalani, Sister <u>ALTERNATE:</u> N/A <u>DESIGNEE TO RECEIVE NET PROCEEDS:</u> N/A
2. Ralph J. Kahoonei Lot No.: 68 Area: Nanakuli, Oahu Lease No. 4526	<u>PRIMARY:</u> Marlene K. N. Kahoonei, Wife <u>ALTERNATE: Joint Tenants</u> Makanaloa L. Kahoonei, Son Kauilani K. K. Arce, Daughter <u>DESIGNEE TO RECEIVE NET PROCEEDS:</u> N/A
3. Gaylord T. Lee Lot No.: 9 Area: Kewalo, Oahu Lease No. 2136	<u>PRIMARY:</u> Nelanette U. Lee, Wife <u>ALTERNATE:</u> Nathan K. H. K. Lee, Son <u>DESIGNEE TO RECEIVE NET PROCEEDS:</u> N/A

Deceased Lessee

Designated Successor

4. Herbert Lee
Lot No.: 320
Area: Keaukaha, Hawaii
Lease No. 4264

PRIMARY:
Sandra Lynn P. Lum, Sister

ALTERNATE:
N/A

DESIGNEE TO RECEIVE NET
PROCEEDS:
N/A

5. Tuck Wah Lee
Lot No.: 49-A
Area: Panaewa, Hawaii
Lease No. 6897

PRIMARY:
Alicia Rose Lee, Granddaughter

ALTERNATE:
N/A

DESIGNEE TO RECEIVE NET
PROCEEDS:
N/A

6. Paul H. Nakanelua, Jr.
Lot No.: UNDV
Area: Waichuli, Maui
Lease No. 10392

PRIMARY:
Kyle K. Nakanelua, Son

ALTERNATE:
N/A

DESIGNEE TO RECEIVE NET
PROCEEDS:
N/A

Deceased Lessee

Designated Successor

7. Henry Niheu, Jr.
Lot No.: 53
Area: Puukapu, Hawaii
Lease No. 6922

PRIMARY: Joint Tenants
Kalaiokamalino K. Niheu,
Daughter
Kalamaoka'a'ina K. S. Niheu,
Daughter

ALTERNATE: Joint Tenants
Angus K. Hanson-Niheu, Son
Kealiikauilaku'uhaku'aiopiani-
Kaleianuenuue III H. Niheu,
Daughter

DESIGNEE TO RECEIVE NET
PROCEEDS:
N/A

8. Jeanette M. Salvador-Blake
Lot No.: 57
Area: Keokea, Maui
Lease No. 7416

PRIMARY: Joint Tenants
Yvette N. Ocampo, Daughter
Serah M. Ocampo, Granddaughter

ALTERNATE:
N/A

DESIGNEE TO RECEIVE NET
PROCEEDS:
N/A

9. Haroldine L. Ventura
Lot No.: 415-A
Area: Keaukaha, Hawaii
Lease No. 6813

PRIMARY:
Anthony Ventura, Jr., Son

ALTERNATE:
Kiki Leona Lynn Ventura,
Daughter

DESIGNEE TO RECEIVE NET
PROCEEDS:
N/A

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

November 16, 2015

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Dean Oshiro, Acting Administrator
Homestead Services Division

FROM: Juan Garcia, Oahu District Office Supervisor
Homestead Services Division

SUBJECT: **Approval of Assignment of Leasehold Interest**

RECOMMENDED MOTION/ACTION

To approve the assignment of the leasehold interest, pursuant to Section 208, Hawaiian Homes Commission Act, 1920, as amended, and subject to any applicable terms and conditions of the assignment, including but not limited to the approval of a loan.

DISCUSSION

Seventeen (17) assignments of lease.

<u>LESSEE</u>	<u>TRANSFeree</u>
1. Name: Kauhi K. Ahana Res. Lease No.: 12036 Lease Date: 6/13/2007 Lot No.: 17061 Area/Island: Kaupea, Oahu Property Sold: Yes Amount: \$380,000.00 Improvements: 3 bedroom, 2 bath dwelling	Name: Viheart L. Smith Relationship: None Loan Assump: No Applicant: Yes, Oahu IW Res., 12/08/1982

Reason for Transfer: "My father just passed away and I had to move in to take care of my mother." Special Condition: Transferee to obtain funds to pay the purchase price.

LESSEE

TRANSFeree

2. Name: Leinani L. Aina Name: Chanelle L. Aina-Paaoao
 Res. Lease No.: 4065 Relationship: Granddaughter
 Lease Date: 10/26/1973 Loan Assump: No
 Lot No.: 98 Applicant: No
 Area/Island: Waiakea, Hawaii
 Property Sold: Yes
 Amount: \$65,000.00
 Improvements: 3 bedroom 1-1/2 bath dwelling

Reason for Transfer: "Transfer to granddaughter to receive brother's lease, as the successor." Special Condition: Transferee to obtain funds to pay the purchase price.

3. Name: Florence H. Apa Name: Justin L. I. Apa
 Res. Lease No.: 3201 Relationship: Grandson
 Lease Date: 9/19/1958 Loan Assump: No
 Lot No.: 38 Applicant: Oahu IW Res.,
 Area/Island: Papakolea, Oahu 8/23/2004
 Property Sold: Yes
 Amount: \$250,000.00
 Improvements: 4 bedroom, 3 bath dwelling

Reason for Transfer: "Sale to grandson." Special Condition: Transferee must qualify to assume or payoff existing City & County of Honolulu loan.

4. Name: Lavaina L. G. Brown Name: Ruth Ann L. Sallis
 Res. Lease No.: 4005 Relationship: Daughter
 Lease Date: 10/20/1972 Loan Assump: No
 Lot No.: 64 Applicant: No
 Area/Island: Kewalo, Oahu
 Property Sold: No
 Amount: N/A
 Improvements: 7 bedroom, 2 bath dwelling

Reason for Transfer: "Give lease to daughter."

LESSEE

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5. Name: Terry-Allen K. K. A. Name: Sanoe K. Marfil
 S. Brown Relationship: Cousin
 Res. Lease No.: 423 Loan Assump: No
 Lease Date: 11/25/1930 Applicant: Yes, Oahu IW Res.,
 Lot No.: 196 8/21/2000
 Area/Island: Nanakuli, Oahu
 Property Sold: Yes
 Amount: \$300,000.00
 Improvements: 4 bedroom, 2 bath dwelling

Reason for Transfer: "Moving and unable to secure a loan."
Special Condition: Transferee to obtain funds to pay the purchase price.

6. Name: Lana-May K. L. K. F. Name: Amberlynn W. Rivera
 Franco Relationship: None
 Res. Lease No.: 7887 Loan Assump: No
 Lease Date: 10/27/1994 Applicant: Yes, Kauai IW
 Lot No.: 4 Res., 12/4/2006
 Area/Island: Anahola, Kauai
 Property Sold: Yes
 Amount: \$270,000.00
 Improvements: 3 bedroom, 1 bath dwelling

Reason for Transfer: " I am not able to move there at this time." - Lana May, "Wanted to move there in two years when I retire. But, with Hawaiian Homes policy I have to live there now. For that reason, I cannot at this time." - Irwin Akui . Special Condition: Transferee to obtain funds to pay the purchase price.

7. Name: Emelia H. Green Name: Donna-Mae R. Neitzel
 Res. Lease No.: 12631 Relationship: Daughter
 Lease Date: 7/30/2010 Loan Assump: No
 Lot No.: 18398 Applicant: No
 Area/Island: Kanehili, Oahu
 Property Sold: Yes
 Amount: \$297,490.00

Improvements: 5 bedroom, 3 bath dwelling

Reason for Transfer: "To give my daughter the lease."
Special Condition: Transferee to obtain funds to pay the purchase price.

LESSEE

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8. Name: April M. K. Kupau Name: April M.K. Kupau &
 Res. Lease No.: 3978 Lynette Leialoha McClain
 Lease Date: 2/25/1972 Relationship: Lessee & Sister
 Lot No.: 71 Loan Assump: No
 Area/Island: Waimanalo, Oahu Applicant: No
 Property Sold: No
 Amount: N/A
 Improvements: 4 bedroom, 2 bath dwelling

Reason for Transfer: "Adding sister onto the lease."

9. Name: Wilma Naomi Makilan & Name: John C. Makilan, Jr.
 John C. Makilan, Jr. Relationship: Son
 Res. Lease No.: 7321 Loan Assump: No
 Lease Date: 10/6/1994 Applicant: No
 Lot No.: 91
 Area/Island: Nanakuli, Oahu
 Property Sold: Yes
 Amount: \$92,000.00
 Improvements: 2 bedroom, 2 bath dwelling

Reason for Transfer: "To take Wilma N. Makilan off lease and to have son John C. Makilan Jr. to take over lease".
Special Condition: Transferee to obtain funds to pay the purchase price.

10. Name: Lincoln K. Naeole Name: Jamie K. Velasco
 Res. Lease No.: 11733 Relationship: None
 Lease Date: 04/21/2012 Loan Assump: No
 Lot No.: 18499 Applicant: Yes, Oahu IW Res.,
 Area/Island: Kanehili, Oahu 5/02/2011
 Property Sold: Yes
 Amount: \$500,000.00
 Improvements: 5 bedroom, 3 bath dwelling

Reason for Transfer: "Moving to Florida for work". Special Condition: Transferee to obtain funds to pay the purchase price.

LESSEE

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| 11. | Name: Kaimiola M. Nee | Name: Susanna L. Ontai |
| | Res. Lease No.: 11435 | Relationship: None |
| | Lease Date: 8/28/2007 | Loan Assump: No |
| | Lot No.: 17144 | Applicant: Yes, Oahu IW Res., |
| | Area/Island: Kaupea, Oahu | 7/25/2014 |
| | Property Sold: Yes | |
| | Amount: \$429,000.00 | |
| | Improvements: 4 bedroom, 2-1/2 bath dwelling | |

Reason for Transfer: "To be closer to family". Special Condition: Transferee to obtain funds to pay the purchase price.

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| 12. | Name: Christina M. K. Sallas | Name: Lynette K. C. Kokubun |
| | Res. Lease No.: 9928 | Relationship: None |
| | Lease Date: 3/1/2005 | Loan Assump: No |
| | Lot No.: 63 | Applicant: Yes, Maui IW Res., |
| | Area/Island: Waiehu Kou III, Maui | 5/20/2003 |
| | Property Sold: Yes | |
| | Amount: \$460,000.00 | |
| | Improvements: 5 bedroom, 3 bath dwelling | |

Reason for Transfer: "Sale of home." Special Condition: Transferee to obtain funds to pay the purchase price.

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|-----|--|-------------------------------|
| 13. | Name: Eileen P. Tiwanak | Name: Clarence H. Luke |
| | Res. Lease No.: 11919 | Relationship: None |
| | Lease Date: 8/31/2007 | Loan Assump: No |
| | Lot No.: 17222 | Applicant: Yes, Oahu IW Res., |
| | Area/Island: Kaupea, Oahu | 9/10/2014 |
| | Property Sold: Yes | |
| | Amount: \$385,000.00 | |
| | Improvements: 3 bedroom, 2 bath dwelling | |

Reason for Transfer: "Transfer to niece who is 25% Hawaiian via Clarence, brother". See simultaneous transfer below.

LESSEE

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14. Name: Clarence H. Luke Name: Maile D. H. C. Tiwanak
 Res. Lease No.: 11919 Relationship: Daughter
 Lease Date: 8/31/2007 Loan Assump: No
 Lot No.: 17222 Applicant: No
 Area/Island: Kaupea, Oahu
 Property Sold: Yes
 Amount: \$385,000.00
 Improvements: 3 bedroom, 2 bath dwelling

Reason for Transfer: "Transfer to daughter who is less than 50% Hawaiian". Special Condition: Transferee to obtain funds to pay the purchase price.

15. Name: Redenia K. K. Autele Name: Melanie N. Luning
 Res. Lease No.: 12498 Relationship: Daughter
 Lease Date: 12/6/2008 Loan Assump: No
 Lot No.: UNDV Applicant: No
 Area/Island: Kapolei, Oahu
 Property Sold: No
 Amount: N/A
 Improvements: None

Reason for Transfer: "Want daughter to have her own home."

16. Name: Blossom P. Feiteira Name: Patrick A. K. K. Y. H.
 Res. Lease No.: 10349 Feiteira & Roxanne T. K. M.
 Lease Date: 6/18/2005 L. L. Feiteira
 Lot No.: UNDV Relationship: Son & Daughter
 Area/Island: Waiohuli, Maui Loan Assump: No
 Property Sold: No Applicant: No
 Amount: N/A
 Improvements: None

Reason for Transfer: "Desire to pass to children."

LESSEE

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17.	Name: Gladys I. Tano Pas. Lease No.: 9015 Lease Date: 2/1/1991 Lot No.: 141 Area/Island: Puukapu, Hawaii Property Sold: No Amount: N/A Improvements: None	Name: Gladys I. Tano & Chad K. Tano Relationship: Lessee & Son Loan Assump: No Applicant: No
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Reason for Transfer: "Want to add my son to my lease."

Assignments for the Month of November '15	17
Previous FY '15 - '16 balance	<u>81</u>
FY '15 - '16 total to date	98
 Assignments for FY '14 - '15	 259



STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

November 16, 2015

TO: Chairman and Members, Hawaiian Homes Commission
THROUGH: Dean Oshiro, Acting HSD Administrator *JO*
FROM: Juan Garcia, Oahu District Office Supervisor
Homestead Services Division *JG*
SUBJECT: **Approval of Amendment of Leasehold Interest**

RECOMMENDED MOTION/ACTION

To approve the amendment of the leasehold interest listed below.

DISCUSSION

Thirteen (13) amendments of lease.

1. Lessee: Wallace W. Ahuna
Res. Lease No.: 1424
Lot No., Area, Island: 209A1, Keaukaha, Hawaii
Amendment: To amend the lease title and lessor name, to incorporate the currently used terms, covenants, and conditions in the lease, and to extend the lease term to an aggregate term of 199 years.

2. Lessee: Florence Apa
Res. Lease No.: 3201
Lot No., Area, Island: 38, Papakolea, Oahu
Amendment: To amend the lease title and lessor name, and to amend the property description, to incorporate the currently used terms, covenants, and conditions in the lease.

3. Lessee: Lavaina L. G. Brown
Res. Lease No.: 4005
Lot No., Area, Island: 64, Kewalo, Oahu
Amendment: To amend the Lessor's name, and to incorporate the currently used terms, covenants, and conditions in the lease.
4. Lessee: Terry-Allen K. K. A. S. Brown
Res. Lease No.: 423
Lot No., Area, Island: 196, Nanakuli, Oahu
Amendment: To amend lease title and lessor name.
5. Lessee: Shannon L.K. Kaleikini-Fukuda
Res. Lease No.: 11747
Lot No., Area, Island: 18559, Kanehili, Oahu
Amendment: To amend the commencement date, lot number, and property description due to final subdivision approval.
6. Lessee: Rose H. Lani
Res. Lease No.: 3960
Lot No., Area, Island: 28, Waimanalo, Oahu
Amendment: To amend the lease title and lessor's name and to incorporate the currently used terms, covenants, and conditions in the lease.
7. Lessee: Anne K. Makalii-Seward
Res. Lease No.: 2119
Lot No., Area, Island: 30, Kewalo, Oahu
Amendment: To amend the lease title and lessor name, to incorporate the currently used terms, covenants, and conditions in the lease.
8. Lessee: Henry Niheu, Jr.
Agr. Lease No.: 6922
Lot No., Area, Island: 53, Puukapu, Hawaii
Amendment: To amend the commencement date and property description due to final subdivision approval.

9. Lessee: Llewellyn Rodrigues
Agr. Lease No.: 17
Lot No., Area, Island: 3, Hoolehua, Molokai
Amendment: To amend the lease title and lessor name, to incorporate the currently used terms, covenants, and conditions in the lease, and to extend the lease term to an aggregate term of 199 years.
10. Lessee: Nancy J. Viernes and Llewellyn Rodrigues
Res. Lease No.: 17A
Lot No., Area, Island: 22A, Kalamaula, Molokai
Amendment: To amend the lease title and lessor name, to incorporate the currently used terms, covenants, and conditions in the lease, and to extend the lease term to an aggregate term of 199 years.
11. Lessee: Gail Schmidt
Res. Lease No.: 1816
Lot No., Area, Island: 244-A, Nanakuli, Oahu
Amendment: To amend the lease title and lessor name, to incorporate the currently used terms, covenants, and conditions in the lease, and to extend the lease term to an aggregate term of 199 years.
12. Lessee: Noland Umuiwi
Agr. Lease No.: 1467
Lot No., Area, Island: 152, Panaewa, Hawaii
Amendment: To amend the lease title and lessor name, to incorporate the currently used terms, covenants, and conditions in the lease.
13. Lessee: German H. K. Wessel
Res. Lease No.: 1866
Lot No., Area, Island: 369A, Keaukaha, Hawaii
Amendment: To amend the lease title and lessor name, to incorporate the currently used terms, covenants, and conditions in the lease, and to extend the lease term to an aggregate term of 199 years.

Amendments for the Month of November, '15	13
Previous FY '15 - '16 balance	<u>44</u>
FY '15 - '16 total to date	57
Amendments for FY '14 - '15	163

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

November 16, 2015

TO: Chairman and Members, Hawaiian Homes Commission
THROUGH: Dean Oshiro, Acting HSD Administrator
FROM: Juan Garcia, Oahu District Office Supervisor
Homestead Services Division
SUBJECT: **Approval to Issue a Non-Exclusive License for Rooftop
Photovoltaic Systems for Certain Lessees**

RECOMMENDED MOTION/ACTION

To approve the issuance of a non-exclusive license to allow the Permittee to provide adequate services related to the installation, maintenance, and operation of a photovoltaic system on the premises leased by the respective Lessees.

The non-exclusive license is necessary as the Lessee can not issue his/her own licenses.

DISCUSSION

Eight (8) non-exclusive licenses.

1. Lessee: Joseph Alana, Jr.
Res. Lease No.: 5315
Lot No., Area, Island: 64, Waianae, Oahu
Permittee: RevoluSun Power LLC
2. Lessee: Eugene Albinio
Res. Lease No.: 8980
Lot No., Area, Island: 99, Waianae, Oahu
Permittee: Sunrun Inc.
3. Lessee: Kevin N. Huddy
Res. Lease No.: 7327
Lot No., Area, Island: 97, Nanakuli, Oahu
Permittee: Sunrun Inc.

4. Lessee: Paulette C. H. Jardine
 Res. Lease No.: 7549
 Lot No., Area, Island: 28, Waimanalo, Oahu
 Permittee: Sunrun Inc.

5. Lessee: Genevieve K. Kalama
 Res. Lease No.: 6726
 Lot No., Area, Island: 64, Waianae, Oahu
 Permittee: Sunrun Inc.

6. Lessee: Gary K. Kama, Jr.
 Res. Lease No.: 11391
 Lot No., Area, Island: 17198, Kaupea, Oahu
 Permittee: Sunrun Inc.

7. Lessee: Martin L. Kaolulo
 Res. Lease No.: 3944
 Lot No., Area, Island: 51, Waimanalo, Oahu
 Permittee: Sunrun Inc.

8. Lessee: Susie K. Tamanuvao
 Res. Lease No.: 9796
 Lot No., Area, Island: 13691, Maluohai
 Permittee: Sunrun Inc.

Non-Exclusive License for the Month of October '15	8
Previous FY '15 - '16 balance	<u>132</u>
FY '15 - '16 total to date	140
 Non-Exclusive License for FY '14 - '15	 104


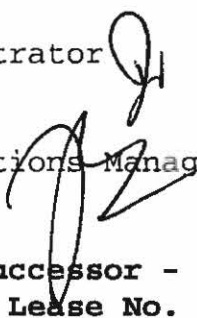
STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

November 16, 2015

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Dean Oshiro, Acting Administrator
Homestead Services Division

FROM:  Mona Kapaku, District Operations Manager
Homestead Services Division 

SUBJECT: **Commission Designation of Successor -
FREDERICK JAY SNIFFEN, SR., Lease No. 10417
Lot No. UNDV, Waiohuli, Maui**

RECOMMENDED MOTION/ACTION

1. To approve the designation of Theresa Elizabeth Kenolio Sniffen (Theresa), as successor to Residential Lease No. 10417, Undivided Interest, Waiohuli, Maui, for the remaining term of the lease.

DISCUSSION

On June 18, 2005, Frederick Jay Sniffen, Sr. (Decedent), was awarded Department of Hawaiian Home Lands Residential Lot Lease No. 10417, Undivided Interest, Waiohuli, Maui (Lease).

On October 10, 2007, the Department received by mail an unsigned Designation of Successor to Hawaiian Home Lands Homestead Lease in which the Decedent designated his wife, Theresa as primary successor and his grandson, Keola Puu, as alternate successor to the Lease. The designation is determined to be invalid as it was not properly signed by the Decedent.

On February 11, 2008, Frederick Jay Sniffen, Sr. passed away without properly designating a successor.

In compliance with the Administrative Rule 10-3-63, the department published legal ads in the Honolulu Star Advertiser, The Garden Isle, the Hawaii Tribune Herald, the West Hawaii Today, and The Maui News on March 8, 18, 22, and April 1, 2015, to notify

all interested, eligible and qualified heirs of the Decedent, to submit their lease successorship claims.

The Department received one successorship claim from the Decedent's wife, Theresa, who has been determined to be 50% Hawaiian ancestry and is eligible for successorship to lease.

Pursuant to Section 209 of the Hawaiian Home Commission Act of 1920 (Act), as amended, when a lessee fails to designate a successor, the commission is authorized to terminate the lease or to continue the lease by designating a successor. Section 209 states in part that the department may select from only the following qualified relatives of the decedent:

1. Husband or wife; or
2. If there is no husband or wife, then the children; or
3. If there is no husband, wife, or child, then the grandchildren; or
4. If there is no husband, wife, child, or grandchild, then brothers or sisters; or
5. If there is no husband, wife, child, grandchild, brother, or sister, then from the following relatives of the lessee who are native Hawaiian: father and mother, widows or widowers of the children, widows or widowers of the brothers and sisters, or nieces and nephews.

There is no outstanding debt attached to the Lease and the lease rent has a credit of \$88.00. Real property tax is not being assessed on the undivided leasehold interest lease.

The Department requests approval of its recommendation.



STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

November 16, 2015

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Dean Oshiro, Acting Homestead Services Administrator

FROM:  Mona Kapaku, Homestead District Operations Manager
Homestead Services Division 

SUBJECT: **Commission Designation of Successor -
JOSEPHINE L. KIESEL-LEE,
Lease No. 9169, Lot No. 37, Kahikinui, Maui**

RECOMMENDED MOTION/ACTION

To approve the designation of Jess Kiesel Lee (Jess), as successor to his late grandmother, Josephine L. Kiesel-Lee's Pastoral Lease No. 9169, Lot No. 37, Kahikinui, Maui, for the remaining term of the lease, subject to his acceptance of the terms and conditions of the Lease.

DISCUSSION

Josephine Kiesel-Lee (Decedent) was awarded Department of Hawaiian Home Lands Pastoral Lot Lease No. 9169, commencing on May 29, 1999. On December 1, 1999, the Decedent had designated her son, Gerald Kiesel Lee (Gerald), as her successor.

On June 6, 2011, the Decedent passed away. On January 7, 2015, Gerald submitted his renouncement to the Decedent's lease, in favor of retaining his own Waiohuli Residence lease.

In compliance with the Administrative Rule 10-3-63, the department published legal ads in the Maui News, the Hawaii Tribune Herald, the West Hawaii Today, the Honolulu Star-Advertiser, and the Garden Isle on March 8, 18, 22 and April 1, 2015, to notify all interested, eligible, and qualified heirs of the Decedent, to submit their lease successorship claims.

The department received a successorship claim from the Decedent's grandson, Jess. Jess is 37.5% Hawaiian and was determined to be eligible for succession.

Pursuant to Section 209 of the Hawaiian Homes Commission Act of 1920, as amended (Act), when a lessee fails to designate a successor, the commission is authorized to terminate this lease or to continue the lease by designating a successor. Section 209 states in part that the department may select from only the following qualified relatives of the decedent:

1. Husband or wife; or
2. If there is no husband or wife, then the children; or
3. If there is no husband, wife, or child, then the grandchildren; or
4. If there is no husband, wife, child, or grandchild, then brothers or sisters; or
5. If there is no husband, wife, child, grandchild, brother, or sister, then from the following relatives of the lessee who are native Hawaiian: father and mother, widows or widowers of the children, widows or widowers of the brothers and sisters, or nieces and nephews.

There are no improvements to the homestead lot therefore, there is no property tax due. The lease rent has a credit balance of eighty-two dollars.

The Department requests approval of its recommendation.

DEPARTMENT OF HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION
NOVEMBER 16 & 17, 2015
KULA & WAILUKU, MAUI

AGENDA SECTION F

LAND MANAGEMENT DIVISION

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

November 16 - 17, 2015

To: Chairman and Members, Hawaiian Homes Commission

Through: Peter "Kahana" Albinio, Jr., Acting Administrator
Land Management Division *P. Albinio*

From: Shelly Carreira, Land Agent *S. Carreira*
Land Management Division

Subject: Approval to Issue Master Benefit License to Maui Electric Company, Limited for Homestead Developments, County of Maui (Various TMKS)

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission approve the following:

1. The issuance of a Master Benefit License to Maui Electric Company, Limited, for the right and privilege to build, construct, reconstruct, rebuild, repair, maintain, operate or remove poles, anchors, guy wires, pull boxes, handholes, transformer vaults, switchgears, and overhead and/or underground lines, appliances and/or equipment over, across, under and through portions of Hawaiian home lands parcels under homestead development in the County of Maui for the sole purpose of providing electric service to the homestead parcels; and
2. Authorize to the Chairman to approve addendums to the Master License to add additional homestead subdivisions and lots.

DISCUSSION

The Department of Hawaiian Home Lands (DHHL) staff and Maui Electric Company, Limited (MECO) staff, along with our deputy attorney general and MECO attorney, have been working on drafting a Master Benefit License with MECO in order to streamline the license process for the electric companies that service our homestead lessees. This Master Benefit License will grant MECO the right to enter Hawaiian home lands in order to facilitate the distribution of electrical service for the homestead lessees and subdivisions. A copy of the Master Benefit License is attached as Exhibit "A".

Addendums to this Master Benefit License will be drafted to include existing homestead developments that do not have an executed

agreement with MECO to document the electrical easements necessary to energize the project. All future new requests for power will also be addressed by this License by way of Addendums along with the appropriate engineering drawings, survey maps, file plans, etc. as they pertain to each specific site. This process is for benefit licenses only.

At the May 18, 2015 regular Hawaiian Homes Commission (HHC) meeting, the HCC granted its approval to issuance of a Master Benefit License to Hawaiian Electric Company, Inc. (HECO) for homestead development on the island of Oahu. The HHC approved HECO Master Benefit License is fully executed and recorded, as shown in attached Exhibit "B". With the exception of minor revisions to clarify definition and the inclusion of provision no. 18(ii) addressing Licensee's approval of enclosing the utility site, the MECO Master Benefit License remains consistent with language used in the HECO Master Benefit License.

Previously, all requests for benefit licenses for electrical easements were addressed through multiple, separate licenses for each specific project. This Master Benefit License would keep all electrical easements in one single document and would help speed up the current process DHHL and MECO have to go through to provide power to our beneficiaries.

The DHHL is currently operating under a May 31, 1985 approval granted by the Hawaiian Homes Commission, in which the Chairman was granted authority to issue benefit licenses, in accordance with department Administrative Rules, for easements over, under and across Hawaiian home lands for utilities and improvements servicing Hawaiian home lands (See Exhibit "C"). Because DHHL has historically granted separate, individual licenses, staff is requesting additional approval for this Master License out of an abundance of caution.

RECOMMENDATION

Land Management Division requests approval of the motion as stated.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

MASTER BENEFIT LICENSE NO. ____
(Utility Company)

THIS LICENSE, made and issued this _____ day of _____, 2015 by the State of Hawaii, its DEPARTMENT OF HAWAIIAN HOME LANDS, whose principal place of business is 91-5420 Kapolei Parkway, Kapolei, Hawaii 96707, and whose mailing address is P. O. Box 1879, Honolulu, Hawaii 96805, hereinafter called "LICENSOR," and MAUI ELECTRIC COMPANY, LIMITED, a Hawaii corporation, whose principal place of business is 210 West Kamehameha Avenue, Kahului, Hawaii 96732, and whose mailing address is P. O. Box 398, Kahului, Hawaii 96733-6898, hereinafter called "LICENSEE."

WITNESSETH THAT:

LICENSOR, pursuant to the authority granted to it by Section 207(c)(1) of the Hawaiian Homes Commission Act, 1920, as amended (HHCA), is authorized to grant licenses as easements for railroads, telephone lines, electric power and light lines, gas mains and the like.

LICENSOR has determined that the easement established herein is essential in order to provide electrical services to LICENSOR'S beneficiaries in LICENSOR'S subdivisions in the County of Maui, State of Hawaii.

NOW, THEREFORE, LICENSOR, for good and sufficient consideration, does hereby grant and convey unto LICENSEE, its successors and approved assigns, a right and privilege to build, construct, reconstruct, rebuild, repair, maintain, operate and remove poles, anchors, guy wires, pull boxes, handholes, transformer vaults, switchgears, and overhead wire lines and/or underground lines, appliances and/or equipment over, across, under and through a portion of those certain parcels of land situate on Hawaiian home lands as described on the Addendums attached hereto on the Islands of Maui, Molokai, and Lanai, County of Maui, State of Hawaii, for the sole purpose of providing electrical services to the parcels, the LICENSE herein granted being over, across, under and through a portion of said land, said portion being shown and/or described on the Addendums, annexed hereto, hereinafter collectively referred to as the "easement area," including the right but not the obligation to trim and keep trimmed any vegetation, shrubbery, bushes or trees in the way of its lines and appurtenances, and including also the right of entry upon the

"easement area" and adjoining land of LICENSOR for the construction, maintenance, operation and removal of LICENSEE'S lines and appurtenances over, across, under and through the "easement area".

TO HAVE AND TO HOLD the same unto LICENSEE, its successors and approved assigns, in perpetuity, commencing on the dates as shown on the Addendums attached hereto, unless sooner terminated as hereinafter provided.

AND the LICENSEE hereby covenants and agrees with LICENSOR that:

1. NON-EXCLUSIVE LICENSE. LICENSOR reserves unto itself, and its successors, the full use and enjoyment of the easement area, and the right to grant to others rights and privileges for any and all purposes affecting the easement area, provided however that the rights herein reserved shall not be exercised by the LICENSOR or any agent, representative or assign of the LICENSOR, in a manner which interferes unreasonably with the LICENSEE'S use of the "easement area" for the purposes for which this LICENSE is granted.

2. DUE CARE AND DILIGENCE. LICENSEE shall use due care and diligence in the construction, installation, modification, operation, repair, renewal, maintenance and removal of its improvements and shall keep its appliances, equipment and improvements in good and safe condition and repair, and will exercise its rights hereunder in such a manner as to occasion as little interference as is reasonably necessary with the use of the "easement area" by the owner and occupants thereof, and should the appliances, equipment or improvements cause any damage or nuisance or waste or spoil the "easement area" the LICENSEE shall repair and restore the "easement area" within a reasonable time period thereafter.

3. INDEMNITY. LICENSEE shall, except as may be prohibited by law, indemnify, and hold harmless the LICENSOR, its officers and employees for any and all claims occasioned in whole or in part by LICENSEE'S, its officers, employees, contractors and/or assigns actions or omissions arising out of the exercise of this License, including but not limited to, all claims and demands for loss, damage, injury or death to persons or property that may arise by reason of the construction, maintenance, operation, renewal and removal of any appliances, equipment and improvements, not caused by the negligence of LICENSOR, its agents, servants or employees acting within the scope of their employment, and from and against all damages, costs, counsel fees, expenses or liabilities incurred or resulting from any such claim or demand or

any action or proceeding brought thereon. This obligation shall survive the termination of this LICENSE.

4. CONDEMNATION. If at any time the "easement area" across which the LICENSE extends, or any part thereof, shall be condemned or taken for any public project by any governmental authority, LICENSEE shall have the right to claim and recover from the condemning authority, but not from LICENSOR, such compensation as is payable for the LICENSE and for LICENSEE'S appliances, equipment and improvements, if any, used in connection with this LICENSE, which shall be payable to LICENSEE as its interests appears.

5. ABANDONMENT. In the event all or a portion of the "easement area" hereby granted, shall be abandoned or shall remain unused by LICENSEE for the purpose granted for a continuous period of two (2) years, all rights granted hereunder shall terminate, and LICENSEE shall remove its appliances, equipment, and improvements and restore the land as nearly as is reasonably possible to the condition existing immediately prior to the time of installation or construction of such appliances, equipment and improvements, LICENSOR hereby consenting and agreeing to such removal. Failure of LICENSEE to remove its appliances, equipment and improvements and/or restore the "easement area" within ninety (90) days after notification to do same from LICENSOR by personal service, registered or certified mail to LICENSEE at its last known address, will constitute a breach and LICENSOR may remove LICENSEE'S appliances, equipment and improvements and/or restore the land to a condition similar to that existing immediately prior to the time of installation and LICENSEE shall reimburse LICENSOR for all reasonable costs in connection with the removal and/or restoration.

6. RELOCATION. If LICENSOR shall determine that the continued exercise of the LICENSE rights granted herein constitutes undue interference with a subdivision or development of the land over which the "easement area" crosses, LICENSOR shall have the right to terminate the LICENSE granted to the extent necessary to eliminate such interference, provided, that it shall grant to LICENSEE, time being of the essence and as a precondition thereto, a substitute easement within the reasonable vicinity to permit LICENSEE to effect relocation of any facility or portion thereof, which substitute easement shall be subject to the same terms and conditions as contained in this LICENSE. The cost of any such relocation shall be borne by LICENSOR.

7. ASSIGNMENT. This LICENSE or any rights granted herein shall not be sold, assigned, conveyed, leased, mortgaged or otherwise transferred or disposed of, directly or by operation of

law, except with the prior written consent of the LICENSOR, which consent will not be unreasonably withheld.

8. PREMISES LICENSED AS-IS. LICENSOR is licensing the "easement area" to LICENSEE "as-is". The LICENSEE has inspected the "easement area" and knows the conditions thereof and fully assumes all risks incident to its use.

9. COMPLIANCE WITH APPLICABLE LAWS. The LICENSEE, in the exercise of the rights granted herein, shall comply with all of the requirements of the municipal, state, and federal authorities and observe all municipal ordinances and state and federal laws, pertaining to the "easement area", now in force or which may hereinafter be in force.

10. HAZARDOUS MATERIAL. The LICENSEE shall not cause or authorize the escape, disposal, or release of any hazardous materials except as permitted by law. LICENSEE shall not authorize the storage or use of such materials in any manner not sanctioned by law nor authorize to be brought onto the "easement area" any such materials except to use in the ordinary course of LICENSEE'S business. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of hazardous materials by LICENSEE, then the LICENSEE shall be responsible for the reasonable costs thereof. In addition, LICENSEE shall execute affidavits, representations and the like from time to time at LICENSOR'S request, regarding the presence of hazardous materials on the "easement area" placed or released by LICENSEE.

The LICENSEE agrees to indemnify, defend, and hold LICENSOR harmless from any damages and claims resulting from the release of hazardous materials on the easement area, including their migration to other areas, caused by LICENSEE or persons acting under LICENSEE. These covenants shall survive the expiration or earlier termination of this License.

For the purpose of this License, "hazardous material" shall mean any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil as defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, and the Federal Clean Water Act, or any other federal, state or local environmental law, regulation, ordinance, rule, or by law, whether existing as of the date hereof, previously enforced, or subsequently enacted.

11. BREACH. If LICENSEE shall fail to observe or perform any of the covenants, terms and conditions herein contained, and on its part to be observed and performed, LICENSOR shall deliver

written notice of the breach or default by service as provided by Section 634-35, or 634-36, Hawaii Revised Statutes, or by registered mail or certified mail to LICENSEE at its last known address, making demand upon LICENSEE to cure or remedy the breach or default within sixty (60) days from the date of receipt of notice. Upon failure of LICENSEE to cure or remedy the breach or default within the time period provided herein or within such additional period as LICENSOR may allow for good cause, LICENSOR may terminate this License without prejudice to any other remedy or right of action.

In the event the LICENSE is terminated at the reasonable discretion of LICENSOR, LICENSEE shall remove its appliances, equipment and improvements and restore the land as nearly as is reasonably possible to the condition existing and immediately prior to the time of installation or construction of such appliances, equipment and improvements, LICENSOR hereby consenting and agreeing to such removal. Failure of LICENSEE to remove its appliances, equipment and improvements and/or restore the "easement area" within one hundred eighty (180) days after notification to do same from LICENSOR by personal service, registered or certified mail to LICENSEE at its last known address, will constitute a breach and LICENSOR may remove LICENSEE'S appliance, equipment and improvements and/or restore the land to a condition similar to that existing immediately prior to the time of installation, and LICENSEE shall reimburse LICENSOR for all reasonable costs in connection with the removal and/or restoration.

12. RIGHT TO ENTER. LICENSOR or any other governmental entity, and the agents or representatives thereof, shall have the right to enter and cross any portion of said "easement area" for the purposes of performing any public or official duties, provided, that in the exercise of such rights, LICENSOR or any other governmental entity shall not interfere unreasonably with LICENSEE'S use and enjoyment of the "easement area."

13. EXTENSION OF TIME. That notwithstanding any provision contained herein to the contrary, wherever applicable, LICENSOR may for good cause shown, allow additional time beyond the time or times specified herein to LICENSEE, in which to comply, observe and perform any of the terms, conditions and covenants contained herein.

14. SEVERABILITY. Whenever possible, each provision of this LICENSE shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this LICENSE should be prohibited, or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition

or invalidity without invalidating the remaining provisions of this LICENSE.

15. SINGULAR/PLURAL. The singular or plural depends on its appropriate use.

16. AGREEMENT. This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and approved assigns.

17. ADDENDUMS. The individual parcels subject to this License are set forth in the attached Exhibits and any future Addendums attached hereto and incorporated herein. No Addendum shall be valid or effective unless approved individually, in writing, by both parties to this License.

18. ENCLOSURE OF UTILITY SITES. LICENSEE requires 24 hours per day access to all existing or new utility sites to maintain and operate its equipment for services to LICENSOR'S lessees. In times of emergencies, the enclosing of a utility site may compromise LICENSEE'S ability to provide reliable and timely services to LICENSOR'S lessees, but LICENSEE is willing to consider any request to enclose LICENSEE'S utility site on the condition the requester submits an enclosure plan for review and comments. LICENSEE will not unreasonably withhold approval provided (i) the costs for such enclosure is borne by the requester, and (ii) the enclosure in LICENSEE'S opinion, does not materially impair LICENSEE'S ability to access its facilities contained within the utility site or its ability to service said facilities. Should LICENSEE take more than thirty (30) days to review and respond, the request would automatically be approved with no condition being imposed by LICENSEE.

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IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed the day and year first above written.

Approved by the Hawaiian Homes Commission on

State of Hawaii
DEPARTMENT OF HAWAIIAN HOME LANDS

By _____
Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

LICENSOR

MAUI ELECTRIC COMPANY, LIMITED
A Hawaii corporation

By _____

Name _____

Its _____

LICENSEE

Approved as to Form:

Deputy Attorney General
State of Hawaii

MECO APPROVED

Land & Rights of Way

By _____

STATE OF HAWAII)
) SS.
CITY & COUNTY OF HONOLULU)

On this _____ day of _____, 2015, before me appeared JOBIE M. K. MASAGATANI, to me personally known, who, being by me duly sworn, did say that she is Chairman of the Hawaiian Homes Commission and acknowledged to me that she executed the same freely and voluntarily for the use and purposes therein set forth.

Notary Public, State of Hawaii

Printed Name: _____

My commission expires: _____

NOTARY CERTIFICATION STATEMENT

Document Identification or Description:

Doc. Date: _____ or Undated at time of notarization.

No. of Pages: _____ Jurisdiction: _____ Circuit
(in which notarial act is performed)

Signature of Notary

Date of Notarization and
Certification Statement

Printed Name of Notary

STATE OF HAWAII)
) SS.
County of Maui)

On this _____ day of _____, 2015, before me appeared _____, to me personally known, who, being by me duly sworn, did say that such person is the _____ of MAUI ELECTRIC COMPANY, LIMITED, a Hawaii corporation and the foregoing _____ page instrument entitled MASTER BENEFIT LICENSE NO. 812 (Utility Company) dated _____, was signed on behalf of said corporation by authority of its Board of Directors, and said Officer acknowledged said instrument to be the free and act and deed of said corporation. This acknowledgement is deemed to include my Notary Certification.

Notary Public, State of Hawaii

Printed Name of Notary Public

My commission expires: _____

NOTARY CERTIFICATION STATEMENT

Document Identification or Description:

Doc. Date: _____ or Undated at time of notarization.

No. of Pages: _____ Jurisdiction: _____ Circuit
(in which notarial act is performed)

Signature of Notary

Date of Notarization and
Certification Statement

Printed Name of Notary

This is a copy of Bureau of Conveyances
Document No. 56440440, and/or
Land Court Document No. ,
affecting Certificate of Title No. ,
recorded on 6/15/15 at 8:01 o'clock pm.
TITLE GUARANTY OF HAWAII, INCORPORATED

After Recordation Return By: Mail () Pickup (X) To: ES

Affects Tax Map Keys: (1) Various

HECO RW 2001-014

9 pages
T6460#2066

MASTER BENEFIT LICENSE NO. 794
(UTILITY COMPANY)

between

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
as LICENSOR

and

HAWAIIAN ELECTRIC COMPANY, INC.
as LICENSEE

ITEM NO. F-1

EXHIBIT "B"

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

MASTER BENEFIT LICENSE NO. 794
(Utility Company)

THIS LICENSE, made and issued this 28th day of May, 2015 by the State of Hawaii, its DEPARTMENT OF HAWAIIAN HOME LANDS, whose principal place of business is 91-5420 Kapolei Parkway, Kapolei, Hawaii 96707, and whose mailing address is P. O. Box 1879, Honolulu, Hawaii 96805, hereinafter called "Licensor," and HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation, whose principal place of business is 900 Richards Street, Honolulu, Hawaii 96813, and whose mailing address is P. O. Box 2750, Honolulu, Hawaii 96840-0001, hereinafter called "Licensee."

WITNESSETH THAT:

Licensor, pursuant to the authority granted to it by Section 207(c)(1) of the Hawaiian Homes Commission Act, 1920, as amended (HHCA), is authorized to grant licenses as easements for railroads, telephone lines, electric power and light lines, gas mains and the like.

Licensor has determined that the easement established herein is essential in order to provide electrical services to Licensor's beneficiaries in Licensor's subdivisions on the island of Oahu, State of Hawaii.

NOW, THEREFORE, Licensor, for good and sufficient consideration, does hereby grant and convey unto Licensee, its successors and approved assigns, a right and privilege to build, construct, reconstruct, rebuild, repair, maintain, operate and remove poles, anchors, guy wires, pull boxes, handholes, transformer vaults, switchgears, and overhead wire lines and/or underground lines, appliances and/or equipment over, across, under and through a portion of those certain parcels of land situate on Hawaiian home lands as described on the Addendums attached hereto on the island of Oahu, City and County of Honolulu, State of Hawaii, for the sole purpose of providing electrical services to the parcels, the license easements herein granted being over, across, under and through a portion of said land, said portion being shown and/or described on the Addendums, annexed hereto, hereinafter collectively referred to as the "easement area," including the right but not the obligation to trim and keep trimmed any vegetation, shrubbery, bushes or trees in the way of its lines and appurtenances, and including also the right of entry upon the "easement area" and adjoining land of Licensor for the construction, maintenance, operation and removal of Licensee's lines and appurtenances over, across, under and through the "easement area".

TO HAVE AND TO HOLD the same unto Licensee, its successors and approved assigns, in perpetuity, commencing on the dates as shown on the Addendums attached hereto, unless sooner terminated as hereinafter provided.

AND the Licensee hereby covenants and agrees with Licensor that:

1. NON-EXCLUSIVE LICENSE. Licensor reserves unto itself, and its successors, the full use and enjoyment of the easement area, and to grant to others rights and privileges for any and all purposes affecting the easement area, provided however that the rights herein reserved shall not be exercised by the Licensor or any agent, representative or assign of the Licensor, in a manner which interferes unreasonably with the Licensee's use of the "easement area" for the purposes for which this License is granted.

2. DUE CARE AND DILIGENCE. Licensee shall use due care and diligence in the construction, installation, modification, operation, repair, renewal, maintenance and removal of its improvements and shall keep its appliances, equipment and improvements in good and safe condition and repair, and will exercise its rights hereunder in such a manner as to occasion as little interference as is reasonably necessary with the use of the "easement area" by the owner and occupants thereof, and should the appliances, equipment or improvements cause any damage or nuisance or waste or spoil the "easement area" the Licensee shall repair and restore the "easement area" within a reasonable time period thereafter.

3. INDEMNITY. Licensee shall, except as may be prohibited by law, indemnify, and hold harmless the Licensor, its officers and employees for any and all claims occasioned in whole or in part by Licensee's, its officers, employees, contractors and/or assigns actions or omissions arising out of the exercise of this License, including but not limited to, all claims and demands for loss, damage, injury or death to persons or property that may arise by reason of the construction, maintenance, operation, renewal and removal of any appliances, equipment and improvements, not caused by the negligence of Licensor, its agents, servants or employees acting within the scope of their employment, and from and against all damages, costs, counsel fees, expenses or liabilities incurred or resulting from any such claim or demand or any action or proceeding brought thereon. This obligation shall survive the termination of this License.

4. CONDEMNATION. If at any time the "easement area" across which the License extends, or any part thereof, shall be condemned or taken for any public project by any governmental authority, Licensee shall have the right to claim and recover from the condemning authority, but not from Licensor, such compensation as is payable for the License and for Licensees' appliances, equipment and improvements, if any, used in connection with this License, which shall be payable to Licensee as its interests appears.

5. ABANDONMENT. In the event all or a portion of the "easement area" hereby granted, shall be abandoned or shall remain unused by Licensee for the purpose granted for a continuous period of two (2) years, all rights granted hereunder shall terminate, and Licensee shall remove its appliances, equipment, and improvements and restore the land as nearly as is reasonably possible to the condition existing immediately prior to the time of installation or construction of such appliances, equipment and improvements, Licensor hereby consenting and agreeing to such removal. Failure of Licensee to remove its appliances, equipment and improvements and/or restore the "easement area" within ninety (90)



days after notification to do same from Licensor by personal service, registered or certified mail to Licensee at its last known address, will constitute a breach and Licensor may remove Licensees appliances, equipment and improvements and/or restore the land to a condition similar to that existing immediately prior to the time of installation and Licensee shall reimburse Licensor for all reasonable costs in connection with the removal and/or restoration.

6. RELOCATION. If Licensor shall determine that the continued exercise of the License rights granted herein constitutes undue interference with a subdivision or development of the land over which the "easement area" crosses, Licensor shall have the right to terminate the License granted to the extent necessary to eliminate such interference, provided, that it shall grant to Licensee, time being of the essence and as a precondition thereto, a substitute easement within the reasonable vicinity to permit Licensee to effect relocation of any facility or portion thereof, which substitute easement shall be subject to the same terms and conditions as contained in this License. The cost of any such relocation shall be borne by Licensor.

7. ASSIGNMENT. This License or any rights granted herein shall not be sold, assigned, conveyed, leased, mortgaged or otherwise transferred or disposed of, directly or by operation of law, except with the prior written consent of the licensor, which consent will not be unreasonably withheld.

8. PREMISES LICENSED AS-IS. Licensor is licensing the "easement area" to License "as-is". The Licensee has inspected the "easement area" and knows the conditions thereof and fully assumes all risks incident to its use.

9. COMPLIANCE WITH APPLICABLE LAWS. The Licensee, in the exercise of the rights granted herein, shall comply with all of the requirements of the municipal, state, and federal authorities and observe all municipal ordinances and state and federal laws, pertaining to the "easement area", now in force or which may hereinafter be in force.

10. HAZARDOUS MATERIAL. The Licensee shall not cause or authorize the escape, disposal, or release of any hazardous materials except as permitted by law. Licensee shall not authorize the storage or use of such materials in any manner not sanctioned by law nor authorize to be brought onto the "easement area" any such materials except to use in the ordinary course of Licensee's business. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of hazardous materials by Licensee, then the Licensee shall be responsible for the reasonable costs thereof. In addition, Licensee shall execute affidavits, representations and the like from time to time at Licensor's request, regarding the presence of hazardous materials on the "easement area" placed or released by Licensee.

The Licensee agrees to indemnify, defend, and hold Licensor harmless from any damages and claims resulting from the release of hazardous materials on the easement area, including their



migration to other areas, caused by Licensee or persons acting under Licensee. These covenants shall survive the expiration or earlier termination of this License.

For the purpose of this License, "hazardous material" shall mean any pollutant, toxic substance, hazardous waste, hazardous material, hazardous substance, or oil as defined in or pursuant to the Resource Conservation and Recovery Act, as amended, the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, and the Federal Clean Water Act, or any other federal, state or local environmental law, regulation, ordinance, rule, or by law, whether existing as of the date hereof, previously enforced, or subsequently enacted.

11. BREACH. If Licensee shall fail to observe or perform any of the covenants, terms and conditions herein contained, and on its part to be observed and performed, Licensor shall deliver written notice of the breach or default by service as provided by Section 634-35, or 634-36, Hawaii Revised Statutes, or by registered mail or certified mail to Licensee at its last known address, making demand upon Licensee to cure or remedy the breach or default within sixty (60) days from the date of receipt of notice. Upon failure of Licensee to cure or remedy the breach or default within the time period provided herein or within such additional period as Licensor may allow for good cause, Licensor may terminate this License without prejudice to any other remedy or right of action.

In the event the License is terminated at the reasonable discretion of Licensor, Licensee shall remove its appliances, equipment and improvements and restore the land as nearly as is reasonably possible to the condition existing and immediately prior to the time of installation or construction of such appliances, equipment and improvements, Licensor hereby consenting and agreeing to such removal. Failure of Licensee to remove its appliances, equipment and improvements and/or restore the "easement area" within one hundred eighty (180) days after notification to do same from Licensor by personal service, registered or certified mail to Licensee at its last known address, will constitute a breach and Licensor may remove Licensee's appliance, equipment and improvements and/or restore the land to a condition similar to that existing immediately prior to the time of installation, and Licensee shall reimburse Licensor for all reasonable costs in connection with the removal and/or restoration.

12. RIGHT TO ENTER. Licensor or any other governmental entity, and the agents or representatives thereof, shall have the right to enter and cross any portion of said "easement area" for the purposes of performing any public or official duties, provided, that in the exercise of such rights, Licensor or any



other governmental entity shall not interfere unreasonably with Licensee's use and enjoyment of the "easement area."

13. EXTENSION OF TIME. That notwithstanding any provision contained herein to the contrary, wherever applicable, Licensor may for good cause shown, allow additional time beyond the time or times specified herein to Licensee, in which to comply, observe and perform any of the terms, conditions and covenants contained herein.

14. SEVERABILITY. Whenever possible, each provision of this License shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this License should be prohibited, or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remaining provisions of this License.

15. SINGULAR/PLURAL. The singular or plural depends on its appropriate use.

16. AGREEMENT. This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and approved assigns.

17. ADDENDUMS. The individual parcels subject to this License are set forth in the attached Exhibits and any future Addendums attached hereto and incorporated herein. No Addendum shall be valid or effective unless approved individually, in writing, by both parties to this License.

18. ENCLOSURE OF UTILITY SITES. Licensee requires 24/7 access to all existing or new utility sites located on homestead lands to maintain and operate its equipment for services to the surrounding DHHL homesteaders. In times of emergencies, the enclosing of a utility site may compromise Licensee's ability to provide reliable and timely services to those homesteaders, but Licensee is willing to consider any request to enclose a HECO utility site on the condition the requester submits an enclosure plans for review and comments. Licensee will not unreasonably withhold approval provided the costs for such enclosure is borne by the requester and should Licensee take more than thirty (30) days to review and respond, the request would automatically be approved with no condition being imposed by Licensee."

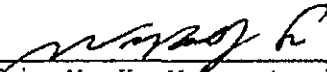
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IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed the day and year first above written.

Approved by the Hawaiian
Homes Commission on
May 18, 2015

State of Hawaii
DEPARTMENT OF HAWAIIAN HOME LANDS

By 
Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

LICENSOR

HAWAIIAN ELECTRIC COMPANY, INC.
a Hawaii corporation

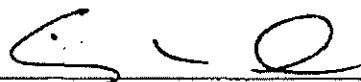
By 


Name SUSAN A. U

Its VICE PRESIDENT

LICENSEE

Approved as to Form:


Deputy Attorney General
State of Hawaii

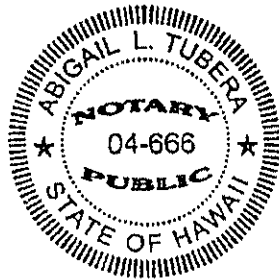
APPROVED
Land & Rights of Way
By 

License No. 794



STATE OF HAWAII)
) SS.
CITY & COUNTY OF HONOLULU)

On this 5th day of June, 2015, before me appeared WILLIAM J. AILA, JR., to me personally known, who, being by me duly sworn, did say that he is Deputy to Chairman Jobie M. K. Masagatani, and he executed the foregoing instrument on behalf of Chairman Jobie M. K. Masagatani and acknowledged to me that he executed the document freely and voluntarily for the use and purposes therein set forth.



Abigail L. Tubera
Notary Public, State of Hawaii
Printed Name: **ABIGAIL L. TUBERA**
My commission expires: 11.21.16

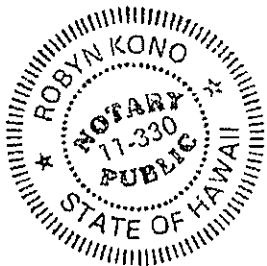
NOTARY CERTIFICATION STATEMENT	
Document Identification or Description:	<u>Master Benefit license No. 794</u>
Doc. Date: <u>05.28.15</u> or <input type="checkbox"/> Undated at time of notarization.	
No. of Pages: <u>89</u> Jurisdiction: <u>1st</u> Circuit (in which notarial act is performed)	
Signature of Notary: <u>Abigail L. Tubera</u>	Date of Notarization and Certification Statement: <u>06.05.15</u>
ABIGAIL L. TUBERA	
Printed Name of Notary	

NA



STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On this _____ day of MAY 28 2015, 2015, before me appeared SUSANA LI, to me personally known, who, being by me duly sworn, did say that such person is the VICE PRESIDENT of HAWAIIAN ELECTRIC COMPANY, INC., a Hawaii corporation and the foregoing 8 page instrument entitled MASTER BENEFIT LICENSE NO. 794 (Utility Company) dated undated, was signed on behalf of said corporation by authority of its Board of Directors, and said Officer acknowledged said instrument to be the free and act and deed of said corporation. This acknowledgement is deemed to include my Notary Certification.



Robyn Kono
Notary Public, State of Hawaii

Robyn Kono

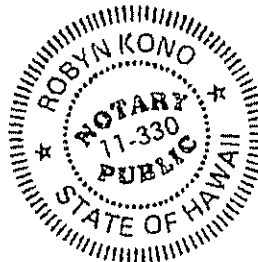
Printed Name of Notary Public

My commission expires: 11-13-15

NOTARY CERTIFICATION STATEMENT

Document Identification or Description:

Master Benefit License No 794



Doc. Date: _____ or Undated at time of notarization.

No. of Pages: 89 Jurisdiction: 1st Circuit
(in which notarial act is performed)

Robyn Kono

MAY 28 2015

Signature of Notary

Date of Notarization and
Certification Statement

Robyn Kono

Printed Name of Notary

PK N.P



MINUTES OF May 31, 1985, Meeting held in Anahola, Kauai

ITEM C-4

SUBJECT: Authorization to Issue Licenses for Easements Exclusively Servicing HHL Homesteaders and Beneficiaries

COMMISSIONERS	MOTION	SECOND	AYES	NAYS	ABSTAIN
Padeken			X		
Ahuna					
Drake	X		X		
Harchett			X		
Kalahiki			X		
Kamai					
Yadao		X	X		
TOTAL			5		
Action Approved	X			Deferred	
Denied				Tabled	

MOTION/ACTION

That the Commission approve to authorize the Chairman to issue licenses, in accordance with Department Administrative Rules, for easements over, under, and across Hawaiian home lands for utilities and improvements servicing homestead lessees.

Motion carried unanimously.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

MAY 31, 1985

TO: Chairman and Members, Hawaiian Homes Commission
FROM: Rodney Asada, Income & Maintenance Branch *Rodney Asada*
SUBJECT: Authorization to Issue Licenses for Easements Over,
Under, and Across Hawaiian Homesteads Lands for
Utilities and Improvements Exclusively Servicing HHL
Homesteaders and Beneficiaries

RECOMMENDED MOTION/ACTION

Request Commission approval to authorize the Chairman to issue licenses, in accordance with Department Administrative Rules, for easements over, under, and across Hawaiian home lands for utilities and improvements servicing homestead lessees.

DISCUSSION

Licenses for easements such as railroads, telephone lines, electric power and light lines, gas mains, and the like, within Hawaiian homestead lands are an integral part of said lands which are developed with prior Commission approval. Accordingly, the issuance of such licenses should be considered to be a routine procedure in the overall development of homestead lands and, as such, issued under the authority of Administrative Rules 10-2-16(a) and Section 202, Title 2, Hawaiian Homes Commission Act, 1920, as amended, which states, in part:

The commission may delegate to the chairman such duties, powers, and authority or so much thereof, as may be lawful or proper for the performance of the functions vested in the commission.

Should the Commission concur, the Department will be able to resolve the problem of timely scheduling of utilities and improvements installations within homestead lands. As a result, the Department will be able to implement more effective, cost-saving planning, especially as it affects the current homestead awards acceleration program. Naturally the Commission shall be kept fully informed of all such transactions.

RECOMMENDATION

I&M Branch recommends that the Commission authorize the Chairman to issue licenses for easements over, under, and across Hawaiian homestead lands for utilities and improvements exclusively serving HHL homesteaders and beneficiaries.


ITEM NO. C-4


STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

November 16-17, 2015

To: Chairman and Members, Hawaiian Homes Commission

Through: Peter "Kahana" Albinio, Jr., Acting Administrator
Land Management Division 

From: Allen G. Yanos, Property Development Agent 

Subject: Approval to Issue Right-of-Entry Permit and General Lease to Boulevard Associates, LLC and Delegate to the HHC Chairman the Authority to Negotiate the Final Terms and Conditions of the Lease at Kahikinui, Island of Maui, Tax Map Key No. (2) 1-9-001:003 (por)

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission (HHC) authorizes the following:

1. The issuance of a Right-of-Entry ("ROE") permit for due diligence activities for the purpose of developing a wind project generating up to 60MW of energy on land at the Southeastern portion of Tax Map Key No. (2) 1-9-001:003 (portion) at Kahikinui, Island of Maui, covering approximately 500 acres within the delineated area shown on Exhibit "A" attached hereto ("the Project Location Area"). Issuance shall be upon the terms and conditions in Exhibit "B" attached hereto;
2. A General Lease to Boulevard Associates, LLC, an affiliate of NextEra Energy, Inc., a Florida corporation, ("Boulevard Associates") for the development, construction, operations and maintenance of the aforesaid wind project upon the terms and conditions in Exhibit "B"; and
3. Delegation of authority to the HHC Chairman to negotiate the final terms and conditions of the General Lease.

DISCUSSION/HISTORY

This request for approval is the culmination of a long process initiated by the HHC in January, 2013 to take advantage of an opportunity to offer land in Honokowai, Pulehunui, and Kahikinui, on

the Island of Maui, for renewable energy projects and to generate revenue for the Hawaiian Home Lands Trust. The primary authority for this process is Section 171-95.3, HRS, which permits DHHL to lease land for a renewable energy project and to negotiate directly with a renewable energy producer. DHHL consulted with the State Department of Business, Economic Development & Tourism as part of this process.

Among the many respondents that submitted a letter of interest in response to DHHL's public notice on January 15, 2013, pursuant to Section 171-95.3(a), HRS, for parties interested in developing various renewable energy projects on the Island of Maui was NextEra Energy Resources, LLC ("NEER"). NEER responded to DHHL's public notice, submitting a letter of interest in developing a wind project at Kahikinui and setting forth the required information pursuant to Section 171-95.3(a), HRS. Numerous companies responded to the public notice for renewal energy projects but following meetings with DHHL's beneficiaries, DHHL eventually pursued a wind project at Kahikinui because of its excellent wind resource and opposition to renewable energy projects at Honokowai and Pulehunui.

Four developers of wind projects at Kahikinui submitted letters of interest for review and evaluation by DHHL. DHHL selected two finalists out of the four for further clarification of their proposed wind projects and face-to-face negotiations.

Following negotiations with the two finalists and a request to submit their final and best offers, NEER was selected in January, 2015 to develop the wind project. Subsequently, NEER identified Boulevard Associates, as the related entity that would be the actual developer of the project and the proposed lessee.

DHHL conducted two public hearings held in Wailuku, on the Island of Maui, on July 29 and 30, 2015, pursuant to Section 171-95.3(c), HRS where the wind project will be located. Notices of the public hearings were published in the newspapers statewide. DHHL distributed the outline of Boulevard Associates' proposal for the wind project to the attendees at the hearings and received testimony from the general public.

The HHC accepted the Beneficiary Consultation Report providing the official public record of beneficiary issues, questions, concerns, and comments made at the public hearings on the Island of Maui on July 29 and 30, 2015 relative to the proposed Kahikinui wind project at its October 19-20, 2015 meeting.

The ROE and General Lease terms and conditions negotiated up to this point for the HHC's evaluation and determination to award or not award a lease to Boulevard Associates at its November, 2015 HHC meeting on Maui (in fulfillment of Section 171-95.3 (d), HRS) are reflected in Exhibit "B". To the extent possible and practical, the concerns raised by the HHC and clarifications requested at its August, 2015 meeting have been addressed and are reflected in the terms and

conditions in Exhibit "B". These terms and conditions are acceptable to Boulevard Associates and DHHL, and subject to final language and approval during the balance of the lease negotiation process.

Some of the information, specifically, the additional rent and additional community benefits will not be finalized until after the Power Purchase Agreement ("PPA") is negotiated with Maui Electric Company ("MECO") and approved by the Public Utilities Commission ("PUC"). The PPA is the agreement between Boulevard Associates and MECO to sell power to MECO at a negotiated price and terms. For the purposes of this request for approval, the lease rent, additional lease rent, and additional community benefits fee are not being publicly disclosed for the time being. The reason for this is that Boulevard Associates has requested that the lease rents remain confidential until after the PPA is executed and approved by the PUC. Also, Boulevard Associates anticipates responding to a future MECO Request for Proposals to purchase energy from renewable energy projects on Maui. If the lease rents are disclosed prior to the RFP, other firms competing with Boulevard Associates for the RFP will have an unfair advantage.

Further, some of the other terms and conditions for the General Lease may need to change as circumstances in the future also change. For that reason, the Land Management Division respectfully requests that the HHC Chairman be delegated the authority to negotiate the final terms and conditions of the General Lease.

Setting aside any individual prejudices or sentiments about the wind project, the HHC's ultimate consideration whether or not to award the ROE and General Lease to Boulevard Associates should be based on the following: 1) is the wind project in the best interests of the Hawaiian Home Lands Trust; and 2) will the wind project help to further the purpose of the Hawaiian Homes Commission Act and fulfill the desire of Prince Jonah Kuhio Kalaniana'ole to place more native Hawaiians on their land and achieve self-sufficiency?

Notwithstanding the arguments and sentiments by many against the wind project or any renewable energy project, for that matter, at Kahikinui, the following are what the Land Management Division finds as some of the major compelling reasons for approval:

- The wind project will be another renewable energy resource for the County of Maui and help achieve the State's commitment to clean energy by having the utility companies generate 100% of their electricity sales from renewable energy resources by the Year 2045.
- The wind project will generate a substantial revenue stream for the Hawaiian Homes Land Trust for at least twenty (20) years on land that has not typically generated much revenue in the past. DHHL will have the right of first refusal to take over the wind

project, if it so chooses after conducting due diligence, at the end of the Lease term.

- The Kahikinui community, through the Ka Ohana O Kahikinui, supports the wind project because of the community benefits that will help provide for its residents' needs, especially for the improvement of existing roads to make them safer, construction of new roads to access their homestead lots, and for water source development. The minimum \$300,000.00 annual community benefit will provide funds over the course of the Lease term for projects to further enhance the residents' lives and help pursue their plans to be more self-sufficient.
- The Kahikinui community sees the wind project as a potential catalyst to attract like-minded, younger families who do not mind the simple lifestyle and who can help bring new life to the region, creating a more vibrant homestead community. Many job openings will become available during the construction phase of the project that will also serve as a catalyst.
- Boulevard Associates has addressed the Kahikinui community's desire to locate the wind project away from their homestead properties' view plane by considering sites within the Project Location Area in the southeastern portion of the region, below the highway. Boulevard Associates has also held meetings with Ka Ohana O Kahikinui and clearly understands the concerns to protect the region's archaeological and cultural sites and historic legacy.
- Kahikinui has been identified as a region with a superior wind resource. Boulevard Associates is an affiliate of NextEra Energy, Inc. which has the financial wherewithal and expertise to successfully develop a world-class project at Kahikinui. Its wind project is not dependent on the construction of any cable between Maui and Oahu, and the construction of the wind project is not dependent on the proposed merger between its parent company, NextEra Energy, Inc. and the Hawaiian Electric Company.
- If the wind project is not approved or there is opposition to any renewable energy project in Kahikinui, it may be years before another opportunity comes along that will directly benefit the Kahikinui community financially. In addition, other adjacent landowners may entertain expansion of their existing wind project or allow the development of new wind projects on their properties leaving the Kahikinui community with limited input on the decision-making and not being able to benefit directly from the project but yet subjected to the visual impact of more wind turbines on their side of the island.

November 2015

RECOMMENDATION

Land Management Division recommends approval of the requested motion/action as stated.

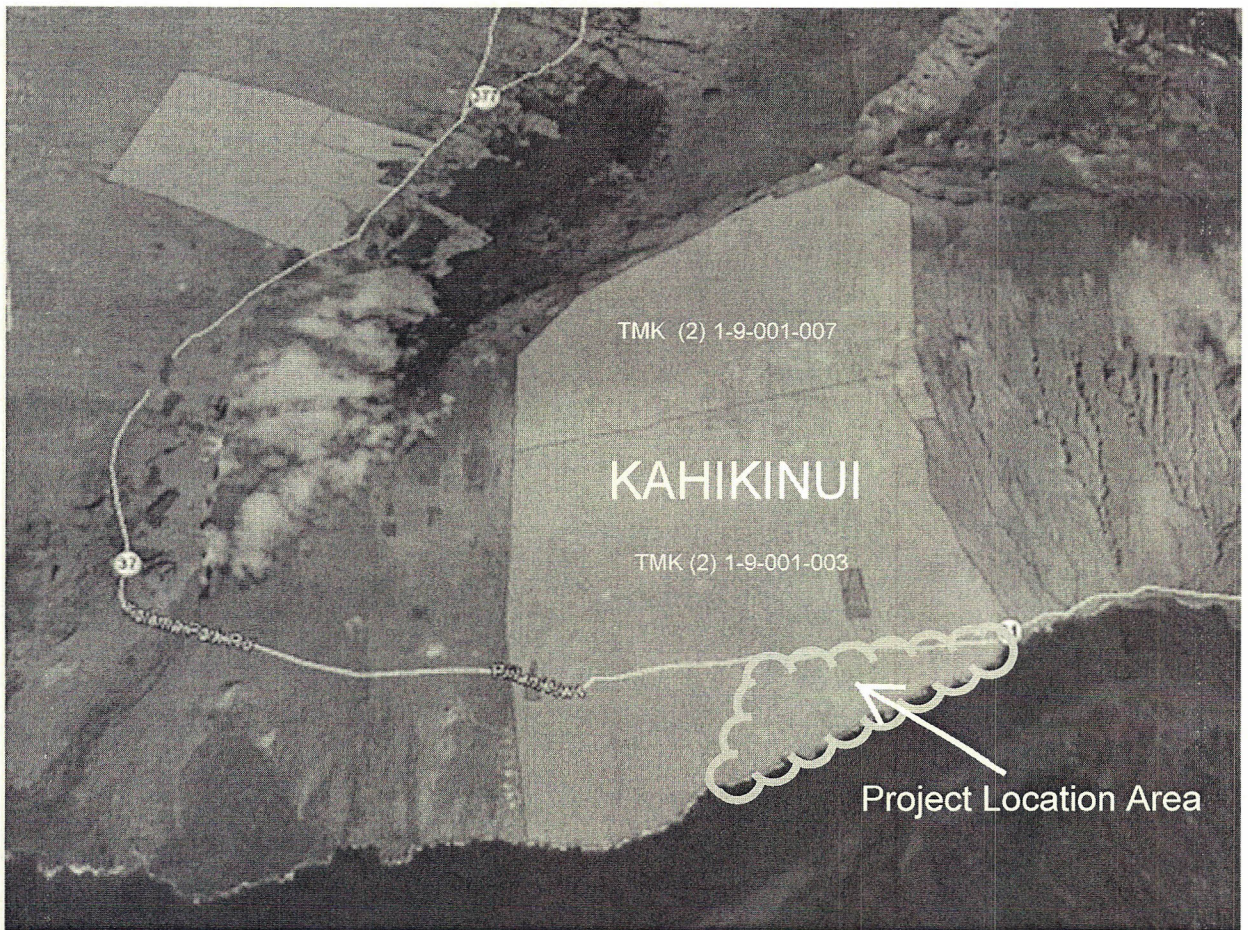


Exhibit "A"

**KAHIKINUI WIND PROJECT RIGHT-OF-ENTRY
AND LEASE TERMS**

1. Use. 500 acres within the Project Location Area shall be used as a buffer and during construction. 30 acres, more or less, will eventually be used for the wind turbine sites and other related improvements with final acreage to be mutually agreed upon once final design is completed. The sites will be surveyed and metes and bounds descriptions furnished as part of the legal description to the General Lease document. (Note: Section 201N-14, HRS, "Exemption from Subdivision Requirements" permits the leasing of a portion of a legal lot as a site for a renewable energy project or access to the project.)

Upon construction of the project, DHHL will provide an easement for access via improved roadways to and from the wind project. Development or use of the balance of the land area will be subject to final approval of DHHL. Residential use is strictly prohibited.

2. Right-of-Entry ("ROE"). DHHL will grant BOULEVARD ASSOCIATES an initial three (3)-year ROE for its due diligence and investigation for the wind project. The ROE term may be extended for additional two (2) one-year periods.

3. ROE Fee. The non-refundable fee for the three (3)-year ROE shall be One Hundred Seventy-Five Thousand Dollars (\$175,000.00) per annum. Within thirty (30) days after the Effective Date of the ROE, BOULEVARD ASSOCIATES shall pay DHHL, in advance, the fee for two (2) years, for a total of Three Hundred Fifty Thousand Dollars (\$350,000.00). On or prior to the third anniversary of the Effective Date of the ROE, BOULEVARD ASSOCIATES shall pay to DHHL, in advance, the fee for the third year.

In the event BOULEVARD ASSOCIATES exercises its options to extend the ROE term, BOULEVARD ASSOCIATES shall pay the extension fee in the amount of Two Hundred Thousand Dollars (\$200,000.00) per annum prior to the commencement of any such extension of the ROE term.

4. General Lease. Subject to BOULEVARD ASSOCIATES' final negotiation of the Power Purchase Agreement ("PPA") with Maui Electric Co. (MECO), DHHL will work with BOULEVARD ASSOCIATES on a General Lease pursuant to the requirements of Section 171-95.3, HRS, as amended. BOULEVARD ASSOCIATES shall bear all legal costs associated with the Lease and DHHL participation in this transaction that are reasonable and customary.

Exhibit "B"

As of November 14, 2015

5. Term of General Lease. Term of the General Lease shall be twenty (20) years or coterminous with the term of the PPA but in no event shall exceed twenty-five (25) years. The Lease term shall commence upon the receipt of all necessary entitlements for the commencement of construction at which time the ROE will be canceled at the effective date of the Lease.

6. Lease Rent. Annual lease rent for the ultimate use of 30 acres shall be a Base Rent in the amount of \$X.XX per annum, plus Additional Rent in the amount of \$X.XX per annum during the entire term of the Lease¹. Lessee is responsible for real property tax and any other assessments relating to the land.

7. Commencement of Lease Rent Payments. DHHL has waived a previously-proposed Project Success Fee which will instead be replaced by the Base Rent and Additional Rent which shall accrue upon commencement of the Lease, but not be payable to DHHL until forty-five (45) days after Commercial Operations Date ("COD")². After COD, BOULEVARD ASSOCIATES shall pay the accrued Base Rent and Additional Rent due (covering the first year when construction is ongoing and no revenue is generated), in addition to the ongoing annual Base Rent and Additional Rent due thereafter.

8. Community Benefits Fee. BOULEVARD ASSOCIATES shall pay a Community Benefits Fee of Three Hundred Thousand Dollars (\$300,000.00) per annum plus Additional Community Benefits in the amount of \$X.XX per annum which shall be due and payable after COD, to DHHL.

9. Surrender Fee. During the Lease term, in the event BOULEVARD ASSOCIATES determines that the wind project is no longer feasible, which determination shall be made in BOULEVARD ASSOCIATES' sole and absolute discretion, BOULEVARD ASSOCIATES shall have the right to terminate the Lease by giving advance notice to DHHL (the "**Surrender Notice**"). The Surrender Notice shall specify the date for the termination of the Lease, which date shall not be less than ninety (90) days from the date of the Surrender Notice (the "**Surrender Date**"). The Lease shall be of no further force or effect as of the Surrender Date; provided, however, that BOULEVARD ASSOCIATES shall pay to DHHL a fee in an amount equal to (i) two (2) years of Base Rent plus (ii) an amount equal to the two (2) previous years of Additional Rent (the "**Surrender Fee**").

¹ The Base Rent and Additional Rent in this paragraph, and the Additional Community Benefits in Paragraph 8 shall be confidential, not for public disclosure, pursuant to Section 92F-13(3), HRS, until the PPA is executed and approved by the Public Utilities Commission.

² COD, for the purpose of the Lease, shall be defined as the date that MECO determines that the wind project is capable of producing and delivering power from the wind project to the power grid.

As of November 14, 2015

10. Surrender and Decommission Bond. DHHL's standard surrender provisions shall apply. However, in the event that BOULEVARD ASSOCIATES is not required to post a bond to remove any improvements for the wind project at the end of the Lease term, on the 15th anniversary of the Effective Date of the Lease, BOULEVARD ASSOCIATES shall post a performance bond and name DHHL as a recipient of the bond. The bond shall be in a form and substance reasonably satisfactory to DHHL securing performance of the removal obligations, which bond shall be equal to the estimated amount, if any (the "**Net Removal Cost**"), by which the cost of removing the Improvements exceeds the salvage value of such Improvements, which Net Removal Cost shall be determined by BOULEVARD ASSOCIATES in good faith. BOULEVARD ASSOCIATES shall keep such bond, or a like replacement bond, in force throughout the remainder of the Lease term. Notwithstanding the foregoing, the Net Removal Cost shall not exceed \$200,000 per wind turbine installed as part of the wind project.

11. Right of First Refusal. During the last two (2) years of the Lease term, in the event that all or any portion of the wind project is offered for sale and/or BOULEVARD ASSOCIATES receives a *bona fide*, acceptable offer to purchase the same, BOULEVARD ASSOCIATES grants DHHL a Right of First Refusal to purchase the wind project (or portion of the wind project, as the case may be) at the same price and under the same terms and conditions as the acceptable offer. Lessee shall give notice of the offer, including a copy of the offer, in the manner provided in the Lease. The Right of First Refusal must be exercised by DHHL, if at all, by written confirmation sent to BOULEVARD ASSOCIATES by certified mail, return receipt requested (the "**Exercise Notice**"), and received by BOULEVARD ASSOCIATES no later than fourteen (14) calendar days after the date of BOULEVARD ASSOCIATES' notice to DHHL of the offer (the "**Deadline**"). If BOULEVARD ASSOCIATES does not receive the Exercise Notice before the Deadline, then DHHL's Right of First Refusal shall terminate and DHHL shall have no further right to purchase the wind project (or a portion thereof, as applicable). The Right of First Refusal shall be for a term equal to the term of Lease and any and all extensions thereof.

12. BOULEVARD ASSOCIATES shall comply with all federal, state and county regulations or requirements regarding environmental issues and the safe handling and disposal of any hazardous materials. Upon termination, BOULEVARD ASSOCIATES shall be responsible for any clean-up of any contamination or hazardous material brought onto the site or caused by BOULEVARD ASSOCIATES' activities.

13. Stockpiling of any material such as rocks, concrete, construction debris, green waste, and dirt on the premises shall be strictly prohibited.

14. BOULEVARD ASSOCIATES shall provide proof of and keep in full force a general liability insurance policy of no less than \$1

As of November 14, 2015

million per occurrence, and \$2 million in the aggregate and an automobile liability insurance policy of no less than \$500,000.00 per occurrence, and \$1 million in the aggregate, if BOULEVARD ASSOCIATES operates any motor vehicle on the premises. DHHL shall be named as additional insured on all policies.

15. BOULEVARD ASSOCIATES shall comply with all federal, state, and county statutes, regulations, codes and ordinance applicable to the proposed use of the site, including compliance with Chapter 343, HRS.

16. BOULEVARD ASSOCIATES shall pay for all the costs of establishing utility services to the site for the wind project and pay for all consumption of utilities. For the avoidance of doubt, BOULEVARD ASSOCIATES is responsible for all power grid upgrade costs required by MECO for the interconnection of the Project to MECO's power grid.

17. BOULEVARD ASSOCIATES shall obtain DHHL's prior approval of any construction plans for the wind project.

18. BOULEVARD ASSOCIATES will abide by local hiring preferences pursuant to language mutually agreed upon by BOULEVARD ASSOCIATES and DHHL.

19. BOULEVARD ASSOCIATES shall be responsible for the security of the wind project and all personal property thereon.

20. Standard terms of a Right-of-Entry and General Lease documents or as may be negotiated between BOULEVARD ASSOCIATES and DHHL.

21. Other terms and conditions deemed prudent by the Chairman of the Hawaiian Homes Commission.

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

November 16-17, 2015

To: Chairman and Members, Hawaiian Homes Commission

From: Peter "Kahana" Albinio Jr., Acting Administrator
Land Management Division *P. Albinio*

Kaleo L. Manuel, Acting Program Manager
Planning Office *K. Manuel*

Subject: Issuance of a General Lease, Waimea Hawaiian Homestead
Association Inc., Waimea, Puukapu, Hawaii Island TMK
(3) 6-4-038:011 (por.)

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission (HHC) grant its **FINAL** approval to issue a sixty-five (65)-year General Lease to Waimea Hawaiian Homestead Association Inc., a 501(c)3 non-profit community organization, to use a 161-acre parcel of Hawaiian home lands in Puukapu, identified by Tax Map Key No. (3) 6-4-038:011 (por.), and as shown as the cross-hatched area on Exhibit "A."

The final approval is subject to the following terms and conditions:

1. LESSEE: Waimea Hawaiian Homestead Association Inc. (WHHAI), with the ability to assign the lease to Waimea Nui Community Development Corporation (WNCDC), an IRS 501c3 organization. Any proposed lease assignment to another entity other than the WNCDC is subject to the approval of the Hawaiian Homes Commission.
2. TERM: Sixty-five (65) year term that shall commence effectively on the date that the LEASE document is fully executed by the LESSEE and LESSOR.
3. LAND AREA: Approximately 161 acres of Hawaiian Home Lands in Puukapu, Waimea, Island of Hawaii.
4. BASE RENT: Gratis for the term of the lease.

5. ADDITIONAL RENT: At such time when LESSEE reports annual increase in net assets of \$20,000 or more, additional rent shall be charged in the amount of 10% of the reported annual increase in net assets. As used herein, annual increase in net assets shall equal LESSEE's revenues less expenses as reported on IRS form 990.

6. PERMITTED USE: LESSEE shall use the premises for the projects identified in the May 2015 Final EA, namely: homestead cemetery/chapel, equestrian center, community agriculture complex, and golf facility. The equestrian center and golf facility uses shall be permitted subject to the provisions in paragraph 7 below. Other future uses as envisioned in the Waimea Nui Community Development Initiative Conceptual Master Plan dated March 5, 2013 may be permitted via lease amendment subject to approval by the Hawaiian Homes Commission.

7. LESSEE shall obtain a private letter ruling from the IRS or alternative form of certification from the IRS confirming that all proposed activities and uses of the Premises that are not specifically identified in the LESSEE's IRS Form 1023 are in furtherance of charitable exempt purposes prior to the implementation of those activities.

8. LESSEE shall inform LESSOR immediately if it loses its tax-exempt status or if any revenue generated from activities on the premises is deemed subject to taxation.

9. LESSOR shall have the right to terminate the lease, or any portion of it, if LESSEE loses its tax-exempt status or is determined to be conducting unrelated trade or business activities on the Premises.

10. As part of LESSOR's regular review of LESSEE activities, and in exchange for gratis base rent, LESSEE shall submit an ANNUAL PROGRESS REPORT to LESSOR each year on the anniversary date of lease commencement. The ANNUAL PROGRESS REPORT shall document the LESSEE'S activities of the previous lease year and shall include but not be limited to the following:

- a. Pre-construction and construction progress report that provides a description of pre-construction and construction milestones completed in the respective year of the ANNUAL PROGRESS REPORT. LESSEE shall also provide LESSOR with an anticipated schedule of completion of pre-construction and construction milestones for the following lease year.

- b. Upon completion of the construction of the infrastructure and facilities necessary to implement LESSEE's programs, a narrative program report that describes LESSEE's progress on achieving its charitable purpose as articulated in its IRS 1023 Form shall be included in the ANNUAL PROGRESS REPORT. LESSEE shall work with LESSOR to identify specific reporting requirements and applicable metrics to monitor progress towards achieving the LESSEE's charitable purpose. Minimum reporting requirements shall include number of beneficiaries served and a description of how LESSEE has been serving beneficiaries.

- c. A financial report that includes standard annual financial statements and the LESSEE's IRS 990 Form for the preceding fiscal year, as well as a budget for the following lease year, shall be included in the ANNUAL PROGRESS REPORT.

- d. Letters from the board of the Waimea Hawaiian Homestead Association Inc. and the boards of other current or future beneficiary membership organizations in the Waimea Nui region indicating whether or not the LESSEE has satisfactorily provided programs and services to its respective organization's members in the respective year of the ANNUAL PROGRESS REPORT. Note: Waimea Nui Region is defined as the region that is specified in the 2012 DHHL Waimea Nui Regional Plan.

11. LESSOR shall have the right to charge rent equal to the fair market rental of the property if the LESSEE does not submit ANNUAL PROGRESS REPORTS to the LESSOR in a timely manner. Fair market rent shall be determined by an independent appraiser selected by the LESSOR.

12. No revenue generated by the LESSEE on the Premises shall be used to pay dividends or make payments, beyond reasonable salary or contract payments, to any individual or organization. No remuneration shall be paid to any officer or director of WNCDC or WHHAI by any third party, sublessee or beneficiary membership organizations utilizing any portion of the premises.

13. LESSEE shall at no time own less than 51% of leasehold interest in all facilities located on the Premises.

14. LESSEE may only sublease the premises with the consent of the LESSOR and the LESSOR shall have the right to review and approve rent to be charged to the proposed sub-lessee and revise the rent charged to the LESSEE based on the rental rate charged to the proposed sub-lessee.

15. Any subletting of the premises initiated by the LESSEE shall include a condition in which the sublease will be terminated upon the termination of this lease agreement.

16. LESSOR shall have the right to withdraw portions of the premises from this lease agreement if, after an 18-year period, such portions of the premises are not being used by the LESSEE for purposes permitted by the lease.

17. Upon review of LESSEE'S activities, if the LESSOR determines that the LESSEE'S activities are not adequately servicing DHHL beneficiaries, LESSOR shall have the right to charge LESSEE rent in an amount equal to the fair market rental of the property. Fair market rent shall be determined by an independent appraiser selected by the LESSOR. LESSOR shall also reserve the right to place this lease on a "probationary status" if upon review of LESSEE'S activities, the LESSOR determines that the LESSEE'S activities are not adequately servicing DHHL beneficiaries. If after one year on "probation", LESSEE does not demonstrate improvement in providing adequate services to DHHL beneficiaries, then LESSOR reserves the right to terminate this lease.

Standard General Lease Terms & Conditions

18. Pursuant to HHCA § 204(a)(2), Lessor shall have the right to withdraw the premises, or any portion thereof, from the lease at any time for the purposes of the Hawaiian Homes Commission Act.

19. LESSEE shall comply with all federal, state and county regulations or requirements regarding environmental issues and the safe handling and disposal of toxic or hazardous materials. Upon termination of this lease, LESSEE shall be responsible for environmental clean-up of any contamination or hazardous materials brought onto the site or caused by LESSEE'S activities on the site.

20. LESSEE shall pay all property taxes that the LESSOR or LESSEE may be assessed during the term of this lease. Failure of the LESSEE to pay all property taxes in a timely manner shall trigger the termination of this lease.

21. LESSEE shall maintain commercial property insurance, general liability insurance, worker's compensation and employers' liability insurance, and other types of insurance as may be required by LESSOR. LESSOR shall be named as an additional insured on any required insurance policy. Types and amounts of required coverage shall be specified in the general lease document.

22. The non-refundable processing (\$200.00) and documentation (\$75.00) fee of \$275.00 shall be waived.

23. LESSEE shall comply with all federal, state and county statutes, regulations, codes and ordinances applicable to LESSEE'S use of the premises.

24. LESSEE agrees to pay for all the costs of establishing utility services to the property and pay for all consumption of utilities on the Premises, should LESSEE'S use require such utility services.

25. LESSEE shall obtain LESSOR'S prior approval for any alteration of the topography except surface grubbing to remove vegetation. LESSEE shall be responsible for any flooding or erosion caused by LESSEE'S use or alteration of the property.

26. Prior to vacating the Premises, LESSEE shall remove, at LESSEE'S sole cost, all of the LESSEE'S equipment, constructed improvements, trash, goods and materials and restore the area to a condition as good as or better than that which existed prior to LESSEE'S use. LESSEE shall also notify LESSOR to do a site inspection when LESSEE has completed removal.

27. LESSEE shall keep the Premises neat and clean at all times and shall not allow its trash to spread to other surrounding areas.

28. LESSEE shall be responsible for the security of the Premises and all of LESSEE'S personal property thereon.

29. The lease document is subject to the approval of the State of Hawaii Department of Attorney General.

30. Other terms and conditions deemed prudent by the Hawaiian Homes Commission may be added.

DISCUSSION

Since August 2012, WHHAI has been actively developing its own capacity to plan, implement and manage a community development initiative on Tax Map Key No. (3) 6-4-038:011 (por.). The Waimea Nui Regional Community Development Initiative is comprised of several elements to address the cultural, economic and social needs of beneficiaries in the Waimea Nui region. The facilities that make up this initiative came from the expressed desires of the homestead community, and are aimed at creating the fundamental infrastructure needed to build a vibrant, self-sufficient community grounded in traditional Hawaiian values. The priority projects of the initiative that WHHAI is focusing on in the near term include: an agricultural complex, cemetery, golf facility, and equestrian center. This undertaking was also identified as a priority project in the 2012 DHHL Waimea Nui Regional Plan.

At the September 23-24, 2013 meeting, the Hawaiian Homes Commission granted a preliminary approval to issue a 65-year general lease to Waimea Hawaiian Homestead Association Inc. (WHHAI) for the development of its proposed Waimea Nui Regional Community Development Initiative (Exhibit B). Preliminary approval was conditioned upon the following:

- Completion of a Final Environmental Assessment (FEA) of the project and a finding of no significant impact (FONSI) declaration by the HHC;
- DHHL along with WHHAI must conduct at least one informational meeting for the beneficiaries that reside in or near the Waimea Nui region to provide information to beneficiaries regarding this project and consider any input received;
- The Waimea Nui Community Development Corporation obtain Internal Revenue Service (IRS) 501c3 status.

All three of the above conditions have been met. The HHC declared a FONSI based on the FEA of the project at its May 18-19 2015 meeting (Exhibit C). DHHL conducted a beneficiary consultation meeting in Waimea to amend the DHHL Island Plan land use designation for this project on March 5, 2015 and the HHC accepted the beneficiary consultation report from that meeting and additional comments received on the project during the 30-day comment period as public record of beneficiary input and feedback at its April 20-21 2015 meeting (Exhibit D). The WNCDC obtained IRS 501c3 status on October 2, 2014 (Exhibit E).

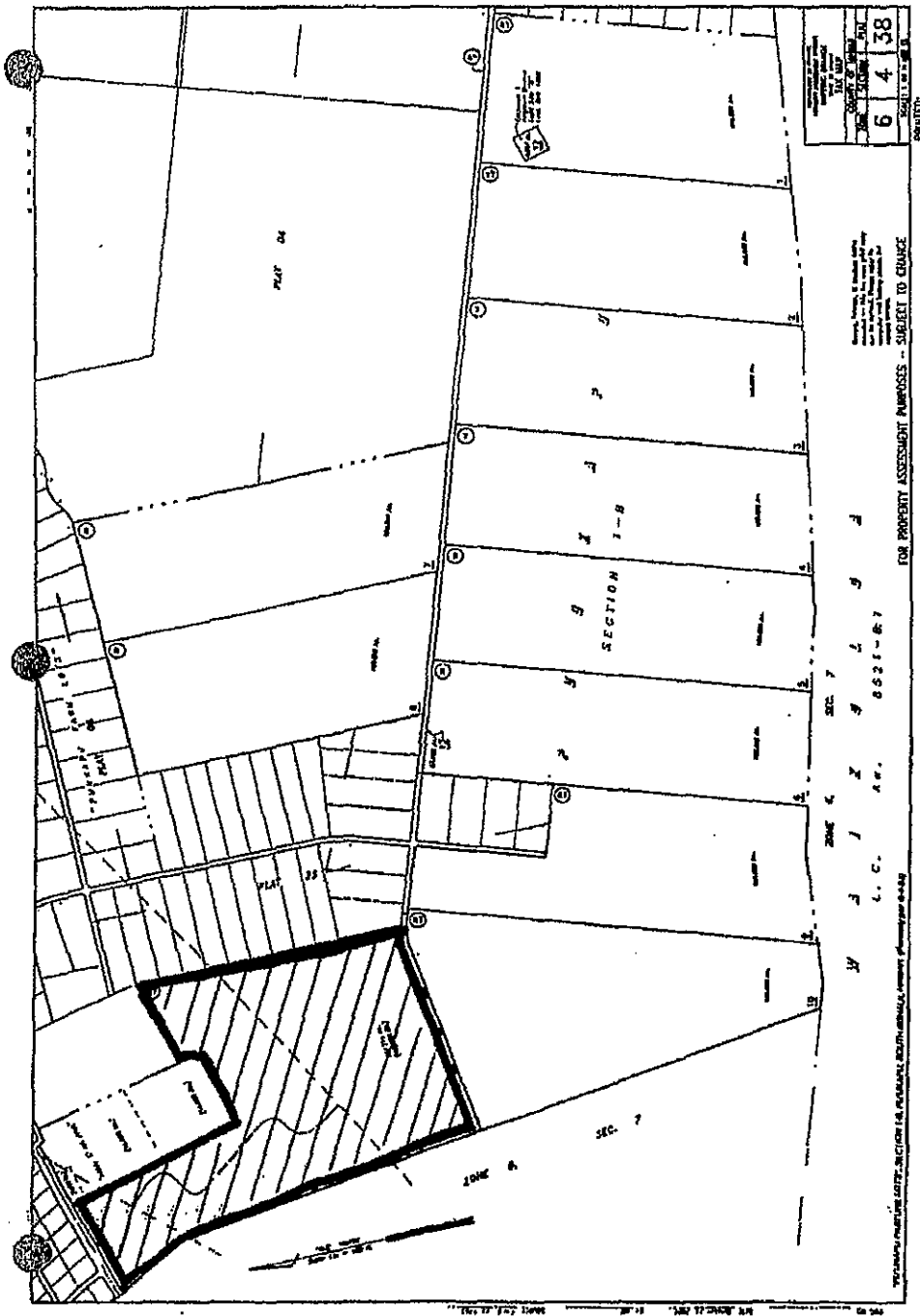
After the lease is executed, it is the intent of both DHHL and WHHAI to continue further discussion to clarify an operational definition of "revenue" and "expenses" for the purposes of calculating additional rent owed DHHL. It is also the intention of both DHHL and WHHAI to continue further discussion on the concept of the creation of a special fund in which excess net income generated on the premises is deposited into the special fund for the purposes of providing financial assistance to other homestead community economic development projects across the pae aina.

Authorization

§171-43.1 of the Hawaii Revised Statutes, as amended, titled Lease to eleemosynary organizations, authorizes the commission to lease, at nominal consideration or any rental amount the commission deems appropriate; by direct negotiation and without recourse to the public auction, public lands to an eleemosynary organization which has been certified to be tax exempt under sections 501(c)1 or 501 (c)3 of the Internal Revenue Code of 1986, as amended; and on such other terms and conditions as the commission may determine. The lands shall be used by such eleemosynary organizations for the purposes which their charter was issued and for which they were certified by the Internal Revenue Service.

RECOMMENDATION

Land Management Division and Planning Office requests approval of the motion as stated.



303


EXHIBIT "A"

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

September 23 - 24, 2013

To: Chairman and Members, Hawaiian Homes Commission

From: Linda Chinn, Administrator
Land Management Division 

Subject: Preliminary Approval to the Issuance of a General Lease to
Waimea Hawaiian Homestead Association, Inc., Waimea, Hawaii

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission ("HHC") grant its **PRELIMINARY** approval to the issuance of a 65-year general lease to Waimea Hawaiian Homestead Association, Inc. (WHHA) to use a portion of Hawaiian home lands located in Puukapu, Waimea, island of Hawaii, further identified by TMK No. (3) 6-4-038:011 (por.) (See Exhibit "A"), for the development of the proposed community facility, to include cultural, educational, and economic components.

This **PRELIMINARY** approval is intended to provide WHHA, the Waimea Nui Community Development Corporation (WNCDC), its beneficiary CDC organization, and its financiers with sufficient comfort to expend resources and pursue financial commitments.

The **PRELIMINARY** approval is subject to the following basic terms and conditions and is subject to **FINAL** approval by the Hawaiian Homes Commission:

- (1) **LESSEE:** Waimea Hawaiian Homestead Association, Inc., (WHHA) with the ability to assign the lease to Waimea Nui Community Development Corporation (WNCDC), its development arm, upon IRS award of the non-profit status
- (2) **TERM:** 65 years
- (3) **LAND AREA:** Approximately 161 acres of Hawaiian Home Lands in Puukapu, Waimea, Hawaii, in total, although property may be subdivided consistent with phased implementation of the community-envisioned Waimea Nui Region Community Development Initiative.
- (4) **PURPOSE:** The site shall be used for homestead economic development (including agricultural training) and community

EXHIBIT B

Item No. F-3

September 2013

public purposes. Through extensive consultation with beneficiaries and especially the Waimea Hawaiian Homesteaders' Association (WHHA) members, WNCDC and WHHA have compiled community requested projects for the site that balance public service and revenue sustainability.

- (5) COMMUNITY BENEFITS AGREEMENT: WHHA/WNCDC shall work with DHHL to formulate and agree to a Community Benefits Agreement (CBA) to address benefits to the Waimea region of HHCA beneficiaries and/or the larger Hawaii Island community, and should include economic and employment benefits, community development including capacity building and education, as well as philanthropic support of Hawaiian culture, youth and elders.
- (6) BASE RENT: To be determined later based on the final development plan on proposed land uses.
- (7) BENEFICIARY CONSULTATION - Before FINAL approval is brought to the HHC for consideration, DHHL along with WHHA must conduct at least one informational meeting for the beneficiaries that reside in or near the Waimea Nui region to provide information to the beneficiaries and consider any input received.

DISCUSSION

Since August 2012, WHHA has been actively developing its own capacity to plan, implement and manage the envisioned projects. WHHA has created the Waimea Nui Community Development Corporation (WNCDC), its beneficiary CDC organization, which is currently in the process of getting its IRS 501(c)(3) status.

The Waimea Nui Region Community Development Initiative (CDI) is comprised of several elements to address the cultural, economic and social needs of the Waimea area, especially the Waimea Hawaiian Homesteads. The numerous facilities that make up the CDI came from the expressed desires of the homestead community, and are aimed at creating the fundamental infrastructure needed to build a vibrant, self-sufficient community grounded in traditional Hawaiian values. The priority projects of the CDI that WHHA is focusing in the near term include: the agricultural park, cemetery, and golf facility.

The community has been the driving force to make this CDI a reality. However, with the elimination of the Kulia I Ka Nu'u program and the component of Kulia that dealt with community economic development, DHHL has not had a mechanism to assist communities like WHHA to advance their projects.

EXHIBIT "B"

September 2013

As DHHL looks at how best to proceed forward with supporting community economic development, DHHL has identified the Waimea Nui Initiative as a strong candidate to implement one test pilot project to see how collaboration can best work. Under this pilot, DHHL proposes that it work with the WHHA to complete the necessary pre-development planning, feasibility, and environmental studies for the first set of projects envisioned by WHHA within the Initiative. Through the pilot project, DHHL would contract and manage a consultant and work closely with WHHA.

To proceed forward, the 161-acre parcel under consideration will need to remain in DHHL's inventory as the pre-development planning, feasibility, and environmental studies are being completed since the contract will be a DHHL contract. Once this work is complete, however, FINAL approval for a long-term general lease to WHHA/WNCDC can be brought to the HHC for action.

The anticipated time frame for the completion of the consultant's proposed scope of work is approximately six to nine months.



RECOMMENDATION

Land Management Division requests approval of the recommended motion as stated.

EXHIBIT "B"

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

May 18-19, 2015

To: Chairman and Members, Hawaiian Homes Commission
Thru: M. Kaleo Manuel, Acting Planning Program Manager 
From: Andrew H. Choy, Planner 
Subject: Declare a Finding of No Significant Impact
(FONSI) for Final Environmental Assessment (FEA)
Waimea Nui Regional Community Development TMK No.
(3) 6-4-038:011 (por.) Waimea Nui, Hawaii Island

Recommended Action

That the Hawaiian Homes Commission declare a FONSI based on the FEA for the Waimea Nui Regional Community Development Initiative.

Discussion

BACKGROUND

At its September 2013 meeting, the Hawaiian Homes Commission authorized the Chairman to undertake a pilot project in which DHHL works with the Waimea Hawaiian Homestead Association (WHHA) to complete the necessary pre-development planning, feasibility, and environmental studies for the first set of projects envisioned by WHHA within the Waimea Nui Community Development Initiative (Exhibit A). Through the pilot project, DHHL has contracted and managed a consultant to work closely with WHHA to complete planning studies, feasibility studies, and an environmental assessment in accordance with Hawaii Revised Statutes (HRS) Chapter 343 for the project area. Upon completion, WHHA would be poised to solicit funding from private and public sources to complete the design and construct the first set of projects, offering WHHA the opportunity to operate and maintain an envisioned community economic development project that is self-sustaining and supports economic development within the region.

The Waimea Nui Regional Community Development Initiative consists of the following priority projects:

Priority Project	Acres
Homestead Cemetery/Chapel	10
Equestrian Center	14.7
Community Agriculture Complex	42.2
Golf-Facility	32.2

DRAFT ENVIRONMENTAL ASSESSMENT

In February 2015, DHHL staff and the Waimea Hawaiian Homestead Association presented the public review draft environmental assessment (DEA) conducted for this project to the Hawaiian Homes Commission (Exhibit B). The DEA assessed the potential environmental impact to the surrounding environment of the Waimea Nui Regional Community Development Initiative. In summary the DEA found that these proposed uses will have no to minimal impact on the surrounding environment.

The DEA also addressed the proposed project uses for consistency with existing plans and applicable land use policies. For the most part, the priority projects are consistent with the existing plans and applicable land use policies in the region. However, the DHHL Hawaii Island Plan Land Use Designation for the project area will need to be amended from General Agriculture to Community Use in order for the project to be completely consistent (see HHC May 2015 Agenda Item G-1).

Based upon the analysis completed in the DEA, staff anticipated a finding of no significant impact (AFONSI) for the priority projects of the Waimea Nui Regional Community Development Initiative. Per Hawaii Administrative Rules (HAR) 11-200-11, the DEA and AFONSI are required to be published in the state Office of Environmental Quality Control "Environmental Notice" bulletin for a 30-day public review and comment period. The public comment period was from February 8, 2015 to March 10, 2015. DHHL also accepted comments from agencies after the close of the comment period.

FINAL ENVIRONMENTAL ASSESSMENT (SUMMARY)

Various government agencies at the federal, state, and county level, as well local community groups and associations were asked to comment on the DEA. Revisions to the DEA were made based on the comments received during the public consultation period. These changes are reflected in the FEA (Exhibit C). The FEA includes a ramsayer format that indicates which sections of the original DEA were modified.

A summary of the more important key substantive issues identified by other agencies during the public comment period and how those comments were addressed in the FEA are highlighted in the following table. A complete record of comments received and responses to those comments are included in appendix A of Exhibit C.

EXHIBIT "C"

Agency	Comment (Summary)	Response to Comment
Dept. of Agriculture (DOA)	Recommend that the total water demand incorporate DOA's 3,400 gallons per acre per day (GPAD) estimate.	FEA incorporates DOA recommendation to utilize the 3,400 GPAD estimate to project water use.
DOA	Explain what the impact of the new water demand based on the 3,400 GPAD estimate will have on the existing Waimea Irrigation System (WIS).	The project will incorporate storage into the system design with the intent of drawing water from the WIS during evening hours when irrigation systems of other users are not in use. This will ensure adequate water pressure in the WIS. DOA will be the lead agency overseeing the design phase of the water system and DOA will have oversight to ensure that the water system will be designed to not adversely affect the WIS.
Dept. of Transportation Airports Division	Ensure that the proposed project does not attract wildlife to the project area. Additional wildlife, especially birds, will pose a hazard to airplanes that utilize the Waimea-Kohala Airport.	The project will avoid creating above-ground standing water that will attract wildlife. The project will provide adequate drainage so that storm water will not pond. The project will incorporate an underground closed water treatment system.
State Historic Preservation Division (SHPD)	Additional information is needed regarding the background history of this parcel, results of subsurface testing, and identification of the two historic properties prior to acceptance of the Archaeological Inventory Survey (AIS) pursuant to HAR 13-284-5.	Additional information requested by SHPD has been provided and a new updated AIS is included in the FEA. The AIS will be listed as Appendix C (Revised) in the FEA with an April 2015 date. Upon submittal of the new information that was requested, the AIS was accepted by SHPD.

EXHIBIT "C"

<p>County Department of Public Works (DPW)</p>	<p>The additional traffic created by the proposed projects is not insignificant and may warrant traffic mitigation improvements by the developer including intersection improvements, traffic signals, and other traffic calming measures.</p>	<p>WNR-CDI programs will be coordinated in such a manner that will avoid AM and PM peak hours. In addition, the WNR-CDI will be servicing primarily homestead residents in the near vicinity. As such, impacts to the main Mamalahoa Highway is expected to be minimal.</p> <p>In order to assist DPW with its Mamalahoa Highway improvement project, DHHL is considering cost sharing the widening of Kahilu Road with DPW so that the Kahilu Road can be used as a suitable bypass during the County's Mamalahoa highway improvement project.</p> <p>We hope that collaborative efforts such as the above situation between DHHL and DPW to improve regional traffic will be taken into consideration and be credited as a meaningful improvement by the developer to improve existing regional traffic conditions. Additional consultation with DPW about traffic mitigation measures including possible opportunities to collaborate on traffic improvements will occur.</p>
--	--	--

As stated previously, staff anticipated a finding of no significant impact based on the findings of the DEA. The comments in the above table were the most substantive comments that were received during the public comment period. Appropriate mitigation measures and solutions were identified to address these comments. The mitigation measures and solutions were incorporated into the FEA.

Comments from other agencies either concurred with the findings of the DEA or suggested other policy standards that the project should consider during its development. These policy standards were incorporated into the FEA. As a result, the comments received during the public-comment period and the incorporation of those comments in the FEA will cause the WNR-CDI to have an even more reduced impact on the surrounding environment.

Based on the 13 criteria for determining significance of potential effect a project may have on the environment as outlined in Hawaii Revised Statutes Chapter 343 and Section 11-200-12 State Administrative Rules (discussed in greater detail in Chapter Six of Exhibit C) staff concludes that the WNR-CDI will not have a significant impact on the project area or surrounding environment.

Recommended Motion/Action

Staff respectfully requests that the HHC approve the recommended motion as stated.

PLANNING OFFICE
DEPARTMENT OF HAWAIIAN HOME LANDS

April 20-21, 2015

TO: Chairman and Members
Hawaiian Homes Commission

THROUGH: M. Kaleo Manuel *KM*
Acting Planning Program Manager

FROM: Andrew H. Choy, Planner *AC*

SUBJECT: Accept the Beneficiary Consultation Report for the
Proposed Amendment to the DHHL Hawaii Island Plan Land
Use Designation for TMK (3)-6-4-038:011 Waimea, Hawaii
Island

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission accepts this Beneficiary Consultation Report as public record of beneficiary input and feedback relative to the Proposed Amendment to the DHHL Hawaii Island Plan Land Use Designation for TMK (3)-6-4-038:011 Waimea, Hawaii Island.

DISCUSSION

Background

The Hawaii Island Plan was adopted by the HHC in 2002. Island plans serve two main purposes: (1) Identify island-specific needs, opportunities, constraints, and development priorities and (2) Provide land use controls that designate allowable uses for DHHL land holdings. DHHL Island Plans specify 10 different types of land use. The 2002 Hawaii Island Plan designated TMK (3)-6-4-038:011 (EXHIBIT A) as "General Agriculture" use. The "General Agriculture" land use designation is defined as lands set aside for:

"Intensive or extensive farming or ranching allowed. [General Agriculture lands] May serve as an interim use until opportunities for higher and better uses become available."

EXHIBIT "D"

ITEM G-1

Since the adoption of the Hawaii Island Plan in 2002, the Waimea Hawaiian Homestead Association (WHHA) has completed a master plan for a variety of uses meant to benefit the homestead community on TMK (3)-6-4-038:011. The current initiative, also known as the Waimea Nui Regional Community Development Initiative, is composed of four priority projects:

Priority Project	Acres
Homestead Cemetery/Chapel	10
Equestrian Center	14.7
Community Agriculture Complex	42.2
Golf-Facility	32.2

These proposed uses are more consistent with the Hawaii Island Plan "Community Use" land use designation than the "General Agriculture" designation. The "Community Use" designation will also allow for the WHHA to develop future projects on the 161 acre parcel in the future. The "Community Use" designation can be defined as:

"Common areas for community uses and public facilities. Includes space for parks and recreation, cultural activities, community-based economic development, utilities, and other public facilities."

Amendments to DHHL Island Plan land use designations must be approved by the HHC as the HHC has exclusive land use authority over Hawaiian Home Lands per the Hawaiian Homes Commission Act. Beneficiary feedback and input collected from DHHL Beneficiary Consultation on the proposed amendment is one of the types of information that the HHC must in its decision to amend Island Plan land use designations.

Beneficiary Consultation

The Department's Beneficiary Consultation Policy, approved January 2009, recognizes that meaningful, timely, and effective beneficiary consultation is essential to the successful implementation of Hawaiian Homes Commission policies, programs, and projects. The purpose of this DHHL beneficiary consultation

was to collect beneficiary feedback and input on a proposed land use designation to the DHHL Island Plan for TMK (3)-6-4-038:011. The existing land use designation is "General Agriculture." DHHL would like to designate the parcel "Community Use" in order to accommodate the future plans and programs proposed for this parcel by the Waimea Hawaiian Homestead Association (WHHA). WHHA has proposed a community economic development initiative that consists of several projects to be located on TMK (3)-6-4-038:011 as detailed in Exhibit A.

The proposed amendment to the DHHL Hawaii Island Plan went through the following steps prior to the March 5, 2015 Beneficiary Consultation meeting to ensure that beneficiaries were informed about the opportunity to provide feedback on this project prior to HHC approval.

STEP 1. THE PROPOSED ACTION IS DESCRIBED:

The meeting will provide information on a proposed Land Use Designation Amendment to the DHHL Hawaii Island Plan in the Waimea Region related to TMK parcel (3)-6-4-038:011. The existing Land Use Designation for the parcel is "General Agriculture." DHHL would like to amend the Land Use Designation for this parcel to "Community Use." DHHL would like to designate the parcel "Community Use" in order to accommodate the future plans and programs proposed for this parcel by the Waimea Hawaiian Homestead Association Inc.

STEP 2. BENEFICIARIES WERE NOTIFIED OF OPPORTUNITIES TO CONSULT (See Exhibit B):

1. An invitation letter to attend the March 5, 2015 Beneficiary Consultation meeting Waimea. Approximately 700 letters were mailed lessees, undivided interest lessees, and all Homestead applicants who reside in the Waimea zipcode of 96743.

STEP 3. PRESENTATION MATERIALS FOR ALL MEETINGS ARE AVAILABLE FOR FEEDBACK (See Exhibit C):

1. Presentation materials were posted online for public review and comment March 9, 2015.

STEP 4. COMMENTS ARE COMPILED INTO MEETING REPORTS
(See Exhibit D):

1. March 5, 2015 Waimea Beneficiary Consultation Meeting Notes and List of Meeting Participants.
2. April 4, 2015 30-day period for additional comments on project ends.

The March 5, 2015 Beneficiary Consultation meeting in Waimea was well-attended. The proceeding table and data below attempt to capture the level of participation and engagement at the meeting.

Table 1: Summary of March 5, 2015 DHHL Hawaii Island Plan Proposed Land Use Amendment Beneficiary Consultation Attendance and Participation

Beneficiary Consultation Meeting	Estimated Attendance	No. Sign In	No. Self-ID as DHHL Beneficiaries	No. of Comments
March 5, 2015 Kūhiō Hale	70-80	72	39	24
Written Comments Received during 30-Day Comment Period	--	--	--	3

Summary of Beneficiary Consultation Comments and Staff Recommendations

1. Comments Received During the Beneficiary Consultation Process Support the Proposed Land Use Amendment to the DHHL Hawaii Island Plan for TMK (3)-6-4-038:011.

The proposed land use amendment was well received by beneficiaries. Several of the comments of support included:

"To give you all some background, in 2001 when we participated in the Island Plan [process], DHHL had to come up with a land use plan. We asked that the whole acreage be set aside for community use at that time. It's been 63 years

since we started homesteading in Waimea - now we are finally going to have a place for the community - Eo - it's good."

"[I] support this land use change because it directly benefits beneficiaries of our land trust."

"I am in favor of and would appreciate DHHL moving forward to designate the subject parcel as 'Community Use.'

DHHL staff recommends that the Hawaiian Homes Commission support the proposed land use amendment to the DHHL Hawaii Island Plan.

2. *The Waimea Nui Regional Community Development Initiative is driven by the Waimea Hawaiian Homestead Association and not DHHL.*

Many of the meeting attendees were WHHA members and have been active participants in developing the concepts for this initiative. Many of them reminded other participants that this is not a DHHL driven initiative, it is a community driven initiative and DHHL is just playing a supportive role in the process.

"This has been in the planning phase for 40-50 years - not a new development. The Department is not providing the groundwork - all of us went door to door and did the survey, decided as a community that this is what we needed."

"If you have any questions [about the initiative] - don't drill DHHL [with questions], ask the WHHA Committee members, it's the Association's project. DHHL is doing what we want them to do."

DHHL staff recommends that in future messaging and communication about this project DHHL continues to emphasize that this is a WHHA-driven project.

3. *Ensure that the Waimea Nui Regional Community Development Initiative Benefits DHHL Beneficiaries.*

Several meeting participants referenced instances in the past in which a community facility located on Hawaiian Home Lands has been used in a manner that does not directly benefit DHHL

beneficiaries. These participants would like to ensure that this initiative benefits DHHL beneficiaries.

"...Kanu [charter school], -- kind of disturbing - Hawaiian kids were trying to get in to [that] school, but were denied."

"...I'm for it [the initiative], just don't make a mistake like Kanu...I don't see Hawaiian kids at the charter school...Make sure we don't make the same mistake. Make sure this project benefits beneficiaries."

DHHL staff recommends working with WHHA to develop regular reporting to monitor and demonstrate how beneficiaries are benefiting from the uses proposed in this initiative.

CONCLUSION

Based on the comments received during the DHHL beneficiary consultation process:

- (1) DHHL beneficiaries support the proposed land use amendment to the DHHL Hawaii Island Plan for TMK (3)-6-4-011:038, Waimea, Hawaii Island;
- (2) The Waimea Nui Regional Community Development Initiative is driven by the Waimea Hawaiian Homestead Association and not DHHL;
- (3) Ensure that the Waimea Nui Regional Community Development Initiative Benefits DHHL Beneficiaries.

RECOMMENDATION

Staff respectfully requests that the Hawaiian Homes Commission accept this beneficiary consultation report as the public record of beneficiary input and feedback relative to the Proposed Amendment to the DHHL Hawaii Island Plan Land Use Designation for TMK (3)-6-4-038-011 Waimea, Hawaii Island.

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: OCT 02 2014

WAIMEA NUI COMMUNITY DEVELOPMENT
CORPORATION
PO BOX 126
KAMUELA, HI 96743

Employer Identification Number:
46-2823884
DLN:
17053277336023
Contact Person: MARK BRECKNER ID# 95217
Contact Telephone Number:
(877) 829-5500
Accounting Period Ending:
December 31
Public Charity Status:
170(b)(1)(A)(vi)
Form 990 Required:
Yes
Effective Date of Exemption:
May 23, 2013
Contribution Deductibility:
Yes
Addendum Applies:
No

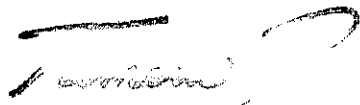
Dear Applicant:

We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code. Contributions to you are deductible under section 170 of the Code. You are also qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

Organizations exempt under section 501(c)(3) of the Code are further classified as either public charities or private foundations. We determined that you are a public charity under the Code section(s) listed in the heading of this letter.

For important information about your responsibilities as a tax-exempt organization, go to www.irs.gov/charities. Enter "4221-PC" in the search bar to view Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, which describes your recordkeeping, reporting, and disclosure requirements.

Sincerely,



Director, Exempt Organizations

Letter 947

EXHIBIT "E"

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

MIANS, TSUNSHI
11 DECEMBER
STATE OF HAWAII



JORIE M. K. MANAGATANI
TREASURER
HAWAIIAN HOMES COMMISSION

WILLIAM J. ARA, JR.
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1878
HONOLULU, HAWAII 96805

November 3, 2015

Mr. Michael Hodson, President
Waimea Hawaiian Homestead Association Inc.,
P.O. Box 126
Kamuela, HI 96796

Dear Mr. Hodson:

Subject: Request for General Lease to use Hawaiian Home
Lands situated at TMK: (3) 6-4-038:011 (pcr.)
Puukapu, Waimea, Island of Hawaii

After careful consideration, the Land Management Division (LMD) of the Department of Hawaiian Home Lands (DHHL) is agreeable with your intent to general lease a portion of TMK: (3) 6-4-038:011.

However, prior to seeking acceptance and approval by the Hawaiian Homes Commission, we need to reach an understanding on certain material terms and conditions. In this regard, we propose the following for your consideration:

Terms & Conditions Unique to this General Lease

1. LESSEE: Waimea Hawaiian Homestead Association Inc. (WHHAI), with the ability to assign the lease to Waimea Nui Community Development Corporation (WNCDC), an IRS 501c3 organization. Any proposed lease assignment to another entity other than the WNCDC is subject to the approval of the Hawaiian Homes Commission.
2. TERM: Sixty-five (65) year term that shall commence effectively on the date that the LEASE document is fully executed by the LESSEE and LESSOR.
3. LAND AREA: Approximately 161 acres of Hawaiian Home Lands in Puukapu, Waimea, Island of Hawaii.

EXHIBIT "F"

4. BASE RENT: Gratis for the term of the lease.
5. ADDITIONAL RENT: At such time when LESSEE reports annual increase in net assets of \$20,000 or more, additional rent shall be charged in the amount of 10% of the reported annual increase in net assets. As used herein, annual increase in net assets shall equal LESSEE'S revenues less expenses as reported on IRS form 990.
6. PERMITTED USE: LESSEE shall use the premises for the projects identified in the May 2015 Final EA, namely: homestead cemetery/chapel, equestrian center, community agriculture complex, and golf facility. The equestrian center and golf facility uses shall be permitted subject to the provisions in paragraph 7 below. Other future uses as envisioned in the Waimea Nui Community Development Initiative Conceptual Master Plan dated March 5, 2013 may be permitted via lease amendment subject to approval by the Hawaiian Homes Commission.
7. LESSEE shall obtain a private letter ruling from the IRS or alternative form of certification from the IRS confirming that all proposed activities and uses of the Premises that are not specifically identified in the LESSEE'S IRS Form 1023 are in furtherance of charitable exempt purposes prior to the implementation of those activities.
8. LESSEE shall inform LESSOR immediately if it loses its tax-exempt status or if any revenue generated from activities on the premises is deemed subject to taxation.
9. LESSOR shall have the right to terminate the lease, or any portion of it, if LESSEE loses its tax-exempt status or is determined to be conducting unrelated trade or business activities on the Premises.
10. As part of LESSOR'S regular review of LESSEE activities, and in exchange for gratis base rent, LESSEE shall submit an ANNUAL PROGRESS REPORT to LESSOR each year on the anniversary date of lease commencement. The ANNUAL PROGRESS REPORT shall document the LESSEE'S activities of the previous lease year and shall include but not be limited to the following:
 - a. Pre-construction and construction progress report that provides a description of pre-construction and

Mr. Michael Hodson
November 3, 2015
Page 3

construction milestones completed in the respective year of the ANNUAL PROGRESS REPORT. LESSEE shall also provide LESSOR with an anticipated schedule of completion of pre-construction and construction milestones for the following lease year.

- b. Upon completion of the construction of the infrastructure and facilities necessary to implement LESSEE's programs, a narrative program report that describes LESSEE's progress on achieving its charitable purpose as articulated in its IRS 1023 Form shall be included in the ANNUAL PROGRESS REPORT. LESSEE shall work with LESSOR to identify specific reporting requirements and applicable metrics to monitor progress towards achieving the LESSEE's charitable purpose. Minimum reporting requirements shall include number of beneficiaries served and a description of how LESSEE has been serving beneficiaries.
- c. A financial report that includes standard annual financial statements and the LESSEE's IRS 990 Form for the preceding fiscal year, as well as a budget for the following lease year, shall be included in the ANNUAL PROGRESS REPORT.
- d. Letters from the board of the Waimea Hawaiian Homestead Association Inc. and the boards of other current or future beneficiary membership organizations in the Waimea Nui region indicating whether or not the LESSEE has satisfactorily provided programs and services to its respective organization's members in the respective year of the ANNUAL PROGRESS REPORT. Note: Waimea Nui Region is defined as the region that is specified in the 2012 DHHL Waimea Nui Regional Plan.

11. LESSOR shall have the right to charge rent equal to the fair market rental of the property if the LESSEE does not submit ANNUAL PROGRESS REPORTS to the LESSOR in a timely manner. Fair market rent shall be determined by an independent appraiser selected by the LESSOR.

12. No revenue generated by the LESSEE on the Premises shall be used to pay dividends or make payments, beyond reasonable salary or contract payments, to any individual or organization. No

EXHIBIT "F"

Mr. Michael Hodson
November 3, 2015
Page 4

remuneration shall be paid to any officer or director of WNCDC or WHHAI by any third party, sublessee or beneficiary membership organizations utilizing any portion of the premises.

13. LESSEE shall at no time own less than 51% of leasehold interest in all facilities located on the Premises.

14. LESSEE may only sublease the premises with the consent of the LESSOR and the LESSOR shall have the right to review and approve rent to be charged to the proposed sub-lessee and revise the rent charged to the LESSEE based on the rental rate charged to the proposed sub-lessee.

15. Any subletting of the premises initiated by the LESSEE shall include a condition in which the sublease will be terminated upon the termination of this lease agreement.

16. LESSOR shall have the right to withdraw portions of the premises from this lease agreement if, after an 18-year period, such portions of the premises are not being used by the LESSEE for purposes permitted by the lease.

17. Upon review of LESSEE'S activities, if the LESSOR determines that the LESSEE'S activities are not adequately servicing DHHL beneficiaries, LESSOR shall have the right to charge LESSEE rent in an amount equal to the fair market rental of the property. Fair market rent shall be determined by an independent appraiser selected by the LESSOR.

Standard General Lease Terms & Conditions

18. Pursuant to HHCA § 204(a)(2), Lessor shall have the right to withdraw the premises, or any portion thereof, from the lease at any time for the purposes of the Hawaiian Homes Commission Act.

19. LESSEE shall comply with all federal, state and county regulations or requirements regarding environmental issues and the safe handling and disposal of toxic or hazardous materials. Upon termination of this lease, LESSEE shall be responsible for environmental clean-up of any contamination or hazardous materials brought onto the site or caused by LESSEE'S activities on the site.

20. LESSEE shall pay all property taxes that the LESSOR or LESSEE may be assessed during the term of this lease. Failure of the

Mr. Michael Hodson
November 3, 2015
Page 5

LESSEE to pay all property taxes in a timely manner shall trigger the termination of this lease.

21. LESSEE shall maintain commercial property insurance, general liability insurance, worker's compensation and employers' liability insurance, and other types of insurance as may be required by LESSOR. LESSOR shall be named as an additional insured on any required insurance policy. Types and amounts of required coverage shall be specified in the general lease document.

22. The non-refundable processing (\$200.00) and documentation (\$75.00) fee of \$275.00 shall be waived.

23. LESSEE shall comply with all federal, state and county statutes, regulations, codes and ordinances applicable to LESSEE'S use of the premises.

24. LESSEE agrees to pay for all the costs of establishing utility services to the property and pay for all consumption of utilities on the Premises, should LESSEE'S use require such utility services.

25. LESSEE shall obtain LESSOR'S prior approval for any alteration of the topography except surface grubbing to remove vegetation. LESSEE shall be responsible for any flooding or erosion caused by LESSEE'S use or alteration of the property.

26. Prior to vacating the Premises, LESSEE shall remove, at LESSEE'S sole cost, all of the LESSEE'S equipment, constructed improvements, trash, goods and materials and restore the area to a condition as good as or better than that which existed prior to LESSEE'S use. LESSEE shall also notify LESSOR to do a site inspection when LESSEE has completed removal.

27. LESSEE shall keep the Premises neat and clean at all times and shall not allow its trash to spread to other surrounding areas.

28. LESSEE shall be responsible for the security of the Premises and all of LESSEE'S personal property thereon.

29. The lease document is subject to the approval of the State of Hawaii Department of Attorney General.

30. Other terms and conditions deemed prudent by the Hawaiian Homes Commission may be added.

EXHIBIT "F"

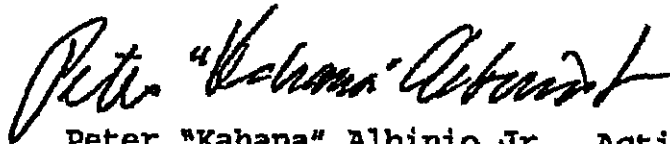
Mr. Michael Hodson
November 3, 2015
Page 6

If the terms and conditions contained herein and described above are acceptable, please sign, date and return a copy of this letter. Department staff will then prepare the request to the Hawaiian Homes Commission (Commission) for approval to issue the lease, consistent with the terms outlined above.

This signed letter will not be binding on either party, although it will be used as a basis for requesting Commission approval and for drafting the lease. Nor will this letter constitute a defacto lease or any other disposition of Hawaiian home lands. Only the actual lease itself - if approved by the Commission and signed by the parties - will be binding.

If you have questions, contact Andrew H. Choy, at (808)620-9279 or email andrew.h.choy@hawaii.gov.

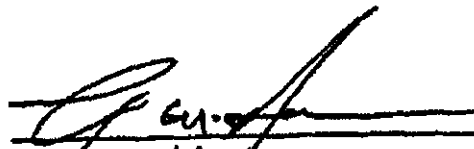
Aloha,



Peter "Kahana" Albinio Jr., Acting
Administrator
Land Management Division

AGREED AND ACCEPTED:

**WAIMEA HAWAIIAN HOMESTEAD
ASSOCIATION INC.,**

By 
Its President
Michael Hodson

Date Nov 5, 2015

EXHIBIT "F"

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

November 16-17, 2015

TO: Chairman and Members, Hawaiian Homes Commission

THROUGH: Kahana Albinio, Acting Administrator
Land Management Division *K. Albinio*

FROM: Mike Robinson, Property Development Agent
Land Management Division *mu*

SUBJECT: Hawai'i USDA Forest Service Albizia Research Project
Proposal, Hilo and Pi'ihonua Makai, Hawai'i.

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission grant its approval to issue a one (1) year Right of Entry to access implement an Albizia Research Project on approximately seventeen and one half (17.5) acres Hawaiian home lands situated in Pi'ihonua Farm Lots (2.5 acres), Island of Hawaii, further identified by Tax Map Key number (3)2-6-09:005 (por), and Hilo, Hawaii (15 acres) identified by Tax Map Key numbers (3)2-1-25:002; 003; 004; and 005 (por).

This approval is subject, but not limited to the following conditions:

1. The purpose and intent of this ROE is strictly for PERMITTEE to access and implement it Albizia Research Project and for no other purpose whatsoever;
2. The term for this ROE shall be on a month-to-month basis, for a period not to exceed one (1) year, effectively commencing as of the date that the ROE is signed and fully executed by the respective parties. PERMITTEE understands that this is a month-to-month permit to use Hawaiian home lands and may be cancelled by PERMITTOR, at PERMITTOR'S sole discretion and for any reason whatsoever, at any time during the month-to-month term, upon thirty 30 days advance notice in writing to PERMITTEE;
 - a. The term of the license can be extended for two (2) additional one (1) year periods to not exceed an aggregate of three (3) years at the option of the Hawaiian Homes

Commission. PERMITTEE must apply for the extension three (3) months prior to expiration of the term and approval shall be subject to the Hawaiian Homes Commission review and evaluation of PERMITTEE'S progress;

3. PERMITTEE shall obtain applicable permits and approvals from government agencies prior to the commencement of any work on the property that requires such permits and approvals;
4. The monthly fee for this ROE shall be established at TWENTY AND NO/100 DOLLARS (\$20.00) (\$240.00/annum where PERMITTEE shall pay without notice or demand, at the Fiscal Office of the DEPARTMENT OF HAWAIIAN HOME LANDS, 91-5420 Kapolei Parkway, Kapolei, Hawaii and whose mailing address is P. O. Box 1721, Honolulu, Hawaii 96806-1721 due and payable on the 1st day of every month;
5. PERMITTEE shall be required to pay a non-refundable processing and documentation fee of \$175.00;
6. PERMITTEE shall provide proof of a comprehensive public liability insurance policy of no less than \$2,000,000.00 for each occurrence, naming the Department of Hawaiian Home Lands (DHHL) as an additional insured prior to commencement of work and throughout the term of this ROE;
7. PERMITTEE shall keep and maintain the Premises and any and all equipment and personal properties of PERMITTEE upon the Premises in a strictly clean, neat, orderly and sanitary condition, free of waste, rubbish and debris and shall provide for the safe and sanitary handling and disposal of all trash, garbage and other refuse resulting from its activities on the Premises;
8. PERMITTEE shall comply with all federal, state and county regulations or requirements regarding environmental issues and the safe handling and disposal of toxic or hazardous materials. Upon expiration of this ROE, PERMITTEE shall be responsible for environmental clean-up of any contamination or hazardous materials brought on the site or caused by PERMITTEE'S activities on the site;
9. Prior to vacating the Premises, PERMITTEE shall remove, at PERMITTEE'S expense, all of the PERMITTEE'S equipment, constructed improvements, trash, goods and materials and restore the area to a condition as good as or better than that which existed prior to PERMITTEE'S use. PERMITTEE shall

also notify PERMITTOR to do a site inspection when PERMITTEE has completed removal;

10. PERMITTEE shall exercise due care and diligence to prevent injury to persons and damages to or destruction of property belonging to DHHL;
11. Entry under the ROE is limited to PERMITTEE'S employees, agents, and subcontractors solely for the purposes stated herein;
12. PERMITTEE shall be responsible for the security of the Premises and all of PERMITTEE'S personal property thereon;
13. The ROE document shall be subject to other standard terms and conditions of similar documents issued by DHHL and will be subject to the review and approval by the Office of the Attorney General, State of Hawaii; and
14. The ROE shall be subject to other terms and conditions deemed prudent and necessary by the Chairman of the Hawaiian Homes Commission.

DISCUSSION

The USDA Forest Service, Institute of Pacific Islands Forestry (IPIF), Hilo, Hawaii has submitted a research proposal (Exhibit "A") to DHHL.

The proposal would require access onto Hawaiian home lands at Piihonua, Hawaii identified by Tax Map Key number (3)2-6-09:005 (por), and Hilo, Hawaii identified by Tax Map Key numbers (3)2-1-25:002; 003; 004; and 005 (por) for the purpose of conducting scientific research on Albizia weed tree control and forest restoration. A total of seventeen and a half (17.5) acres would be required to treat Albizia trees and install research plots at these sites. Research plots would then be studied for a minimum of three (3) years.

Although this research is expected to benefit DHHL and other landowners significantly, the minimal monthly fee of \$20.00 is required for DHHL to administer this project. Administration would include such actions as DHHL staff visiting the research site and copying/distributing research reports when they are generated per the attached proposal (Exhibit A).

The Institute of Pacific Islands Forestry has been in Hawaii since 1957 and re-located to their Hilo facility in 2005. As part of United States' Department of Agriculture's Forest Service, IPIF offers a wide variety of research expertise throughout the Pacific Rim.

Within the designated parcels, the project would document the fate of Albizia trees as they decompose following application of lethal doses of herbicide. Data would be collected and provided to describe the potential failure zone of hazard trees over time and to inform landowners as to the best management practices for controlling Albizia. The response of Hawaii's wet forest ecosystems to the control of Albizia stands would be documented.

The death and decomposition of individual trees and stand level forest succession following Albizia control actions (i.e., herbicide treatment) would also be determined. Additionally, specific parameters of tree decomposition, level of termite interactions, plant community composition, forest structure, biomass accumulation, soil and plant tissue nutrient dynamics, and light availability would be measured.

Particular attention would be focused on how trees decompose following herbicide treatment (i.e., how and when snags fall apart, and where debris falls during the process), and the probability of post-control Albizia seedling recruitment and growth.

This documentation would determine the impact of proposed broad scale Albizia control strategies with regard to hazard tree mitigation and post-control forest succession, and would guide changes to such strategies if they are deemed necessary. Details of the proposed research is attached as Exhibit "A".

Land Management Division (LMD) in recent years has received numerous requests from various research entities to assist in the control and eradication of invasive weeds and native forest restoration projects. Said research can document the effectiveness of management efforts, assist in their refinement, and help develop new strategies for success. Formal research can create partnerships with DHHL which leads to funding support and leveraging of DHHL's limited resources. It can involve DHHL with state-of-the-art technology and information which allows DHHL lands to be on the "cutting edge" of innovation and creativity. Research findings can also be transferred to DHHL beneficiaries

interested in pursuing similar weed control strategies on their leases.

To date most research on DHHL has been confined to areas with short term "as available" status. This has kept DHHL from participating in longer term research efforts which attract greater funding and personnel commitment by research entities such as the USDA Forest Service's Institute of Pacific Islands Forestry.

By designating specific areas in which land management research is considered an acceptable and appropriate land use, DHHL can demonstrate commitment to longer term scientific projects and more fully compete for research resources that become available.

RECOMMENDATION

Land Management Division requests approval of the motion as stated.

Exhibit A - USDA Forest Service Research Proposal

TITLE: Monitoring patterns and processes of *Falcataria moluccana* (Albizia) decay and forest succession following herbicide treatment in Hawaii's lowland wet forests.

PROPOSED

LOCATIONS: Waiakea Homesteads near the South Hilo Sanitary Landfill, Hilo, HI:

Area to be treated with herbicide: approximately 15 acres on TMK's (3)2-1-25:2, (3)2-1-25:3, (3)2-1-25:4, (3)2-1-25:5 (see attached map)

Monitoring Sites: two approximately 1.25 acre plots on TMK's (3)2-1-25:3 and (3)2-1-25:5 (see attached map)

Piihonua Farm Lots, Hilo, HI:

Monitoring Sites: two approximately 1.25 acre plots on TMK (3)2-6-9:5 (see attached map)

DATE: November 16, 2015.

DURATION: 3-year project

PROJECT LEADERS:

R. Flint Hughes, Research Ecologist, Institute for Pacific Islands Forestry, Pacific Southwest Research Station, USDA Forest Service, 60 Nowelo Street, Hilo, HI 96720, (808) 933-8121 ext. 117. fhughes@fs.fed.us.

Caitlin Morrison, Ecologist, Big Island Invasive Species Committee; University 23 E. Kawili St., Hilo, HI 96720; bigislandkd@hotmail.com

Springer Kaye, Manager, Big Island Invasive Species Committee; University 23 E. Kawili St., Hilo, HI 96720; (808) 933-3340; skaye@hawaii.edu.

Bill Buckley, Albizia Program Coordinator, Big Island Invasive Species Committee, 23 E. Kawili St. Hilo, HI 96720. Office (808)933-3340; BuckleyW@Hawaii.edu.

PROJECT OBJECTIVES: Our project will document: 1) the fate of Albizia trees as they decompose following application of lethal doses of herbicide, providing data to describe the potential failure zone of hazard trees over time, to inform best management practices and recommendations, and 2) the response of Hawaii's wet forest ecosystems to the control of Albizia stands. We will track the death and decomposition of individual trees and stand level forest succession following Albizia control actions (i.e., herbicide treatment), measuring specific parameters of tree decomposition, plant community composition, forest structure, biomass accumulation, soil and plant tissue nutrient dynamics, and light availability. Particular attention will be focused on how trees decompose following herbicide treatment (i.e., how and when snags fall apart, and where debris falls during the process), and the probability of post-control Albizia seedling recruitment and growth. This documentation will determine the impact of proposed broad scale Albizia control strategies with regard to hazard tree mitigation, and post-control forest succession, and will guide changes to such strategies if they are deemed necessary.

JUSTIFICATION:

In the brief time span from August 7, 2014 to September 27, 2014, millions of dollars have been expended by Hawaii State and County agencies, power utilities, and individuals dealing with damage

from Albizia trees felled by hurricane Iselle. Millions more will undoubtedly be spent to control and eliminate Albizia stands along transportation corridors and in Forest Reserves from which Albizia populations originated. Stands of Albizia were already known to gradually replace dominant native Ohia stands and facilitate changes to a weedy understory (Hughes and Denslow 2005). The risks and responsibilities of managing Albizia trees fall on thousands of homeowners and rural landowners in addition to government and utility professionals. The project will therefore provide information that meets the goals of Urban and Community Forestry Program, Forest Stewardship program, and USDA NRCS cost-share programs. Given the degree of damage wrought by Albizia, and the collective determination of the broad coalition of Hawaii's urban and community stakeholders to eliminate Albizia from Hawaii's landscapes as much as possible, it is clear that this is an urban and community forest health issue.

For more than a decade, Hughes and his working group have published research to increase understanding of Albizia on natural and human environments of Hawaii and American Samoa (Hughes and Denslow 2005, Hughes and Uowolo, 2006, Hughes et al 2013). Currently, Kaye and Hughes are working closely with Hawaii County, State, Utility, and private stakeholders to develop and implement a comprehensive strategy to control Albizia in critical areas (e.g., energy and transportation corridors), and reduce its spread over larger areas (e.g., forest reserves and fallow land). Our work will provide insight and guidance regarding the strengths and/or weaknesses of such control efforts in protecting forest diversity and health.

DESCRIPTION:

a. Background: Hurricane Iselle struck Hawaii Island on August 7, 2014. It was the third strongest storm to impact Hawaii since 1950, exhibiting heavy rain, sustained winds of 80 m.p.h., and gusts greater than 110 m.p.h. Estimates of the costs of damage from Iselle reached into the tens of millions, primarily due to damage to papaya crops, roads and power lines. The bulk of the damage was caused by



trees felled by Iselle's high winds; which overwhelmingly consisted of 100 to 130 ft. tall stands of the highly invasive, fast-growing *Falcataria moluccana* (a.k.a. Albizia). In days immediately following Iselle the Hawaiian Electric and Light (HELCO) spent nearly \$1 million to clear roads of downed trees in the devastated areas so that HELCO employees and contractors could begin the process of restoring operation of the power grid, a process that took weeks to complete and cost many more millions of dollars. Similar costs were incurred by state and county departments of transportation, and costs to residents of the impacted areas were incalculable but comparably substantial.

As a result, a broad coalition of Hawaii’s residents, national, state, and county legislators, governmental agencies, and public and private utility companies have galvanized around the need to eliminate stands of Albizia that may currently, or in the future, pose threats to public health and welfare. This concern has resulted in a request from Hawaii’s national congressional delegation to the USDA/USDI Secretaries to assist Hawaii with current and future problems posed by Albizia. An Albizia Task Force has been organized and directed to provide a comprehensive strategy to eliminate Albizia stands from priority areas and control their spread and establishment. At its core, this strategy will remove hazard trees (i.e. those posing an immediate threat to infrastructure) using the most economical and effective means available (e.g., cutting down or trimming suitably and killing with herbicide), and kill non-hazard trees using herbicide applications that are highly successful and cost effective (Hughes et al. 2013). These efforts are anticipated to be sufficiently funded to take place over extensive regions of Hawaii Island, and will likely be implemented across areas of Albizia infestation on other Hawaiian Islands. Our work proposed here is intended to understand and inform the effectiveness of these combined Albizia control strategies.

b. Methods: A pair of forest plots, each 100 yards x 50 yards in area, will be established in Albizia stands near the waste transfer station in Hilo that have been selected for herbicide control treatments (See accompanying map). In one plot of the pair of plots will be located within the treatment area; that is, all Albizia trees will be killed within the plot in the treatment area. The other adjacent control plot of the pair will not be treated with herbicide and will serve as a “control” for comparison with the treated plot for the three year duration of the study. Site locations include stands located on substrates of four of Hawaii’s Volcanos: Kilauea, Mauna Loa, Mauna Kea, and Kohala, which collectively represent a broad range of soil depth, development, and nutrient availability as well as a variety of forest community types (Table 1).

Table 1. Environmental characteristics of proposed study sites.

Site, Hawaii Island District, Land Manager	Location (UTM; 5Q)	Volcano, Substrate Age (years)	Elevation (m ASL)
Keauohana Forest Reserve, Puna, DLNR DOFAW	295072 m E; 2148730 m N	Kilauea, 200-400	245
Lava Tree State Park, Puna, DLNR DSP	300291 m E; 2155242 m N	Kilauea, 400-750	200
South Hilo Sanitary Landfill, South Hilo, DHHL	285439 m E 2179341 m N	Mauna Loa, 750-1,500	25
Piihonua Farm Lots, South Hilo, DHHL	276635 m E; 2181622 m N	Mauna Kea, 5-10 x 10 ³	235
Akaka Falls, North Hilo, private property	274641 m E; 2196537 m N	Mauna Kea, 65-75 x 10 ³	550
Waipio Ridge, Kohala F.R., Hamakua, DOFAW	227711 m E; 2227379 m N	Kohala, 250-700 x 10 ³	390

Within each forest plot, 20 individual Albizia trees will be tagged, measured, and monitored following protocols detailed in Appendix 1 (attached). In addition, we will measure plant community composition, plant cover, woody debris mass and decomposition, and Albizia seedling densities. All stand level parameters will be measured in both “control” and “treated” plots prior to Albizia control treatments, immediately after treatment, and at 6 month intervals over the course of the project. That is, each of the stand level parameters monitored within herbicide treated Albizia stands will also be monitored in adjacent Albizia stands that have not been treated with herbicide. Seedling recruitment will be monitored over time in sets of cleared and uncleared 1x1 m permanent quadrats. Subterranean termite populations will be monitored in both the “control” and “treated” plots according to protocols detailed in Appendix 2 (attached).

c. Products/Deliverables: Findings will be delivered via presentations, reports, and publications. Presentations will be provided on a regular basis to the broad coalition of Albizia Control Stakeholders. Semi-annual reports documenting ongoing updates of the work will be submitted in coordination with Ms. Kathleen Friday (R5). Final findings will be published in peer-reviewed journals. Presentations will also be made at the Annual Hawaii Conservation Conferences (HCC 2015, 2016, 2017), Annual Hawaii Ecosystems Meetings, and the Society of American Foresters National Conferences. We will also provide a white paper report to the coalition of Albizia Stakeholders, and provide the FHM Working Group and UCF council with annual presentations over the duration of the project. Among the other products, a Hazard Tree Guideline Report and an Albizia Best Management Practices Report will be produced for dissemination among the widest possible group of private and public stakeholders.

Activities:

2015: First month - Establish forest plots in study areas and complete initial individual Albizia tree characteristics, vegetation, soil and tissue sampling and analysis to establish pre-Albizia control benchmark in both treatment plot and control plot. Treat and kill Albizia trees with herbicide in around each monitoring plot. Sixth month – Complete second round of vegetation, soil and tissue sampling, and analysis in forest plots 2 months following herbicide control of Albizia.

2016: First month - Complete third round of vegetation, soil and tissue monitoring, sampling and analysis in forest plots 8 months following control of Albizia. Sixth month - Complete fourth round of vegetation, soil and tissue monitoring, sampling and analysis in forest plots 14 months following control of Albizia.

2017: First month - Complete fifth round of vegetation, soil and tissue monitoring, sampling and analysis in forest plots 20 months following herbicide control of Albizia. Sixth month – Complete summary reports and prepare results of monitoring project for publication.

2017: At the completion of the project, ALL monitoring equipment will be COMPLETELY REMOVED, and all Albizia trees that have remained on the site in the control area will be treated with milestone herbicide to ensure that they are killed. This will be done without fail.

Relevant Citations:

Hughes RF, Denslow JS. 2005. Invasion by an N₂-fixing tree, *Falcataria moluccana*, alters function, composition, and structure of wet lowland forests of Hawai'i. *Ecological Applications* 15: 1615-1628.

Hughes RF, Uowolo A. 2006. Impacts of *Falcataria moluccana* invasion on decomposition in Hawaiian lowland wet forests: The importance of stand-level controls. *Ecosystems*, 9, pp. 977-991.

Hughes RF, Uowolo AL, Togia TP. 2012. Effective control of *Falcataria moluccana* in forests of American Samoa: Managing invasive species in concert with ecological processes. *Biological Invasions*; DOI 10.1007/s10530-011-0164-y.

Hughes RF, Johnson MT, Uowolo A. 2013. The invasive alien tree *Falcataria moluccana*: its impacts and management. Pp. 218-223 *in* Proceedings of the XIII International Symposium on Biological Control of Weeds; Wu, Y., Johnson, T., Sing, S., Raghu, S., Wheeler, G., Pratt, P., Warner, K., Center, T., Goolsby, J., and Reardon, R., (eds). USDA Forest Service, FHTET-2012-07. 530p.

Appendix 1.

All *Albizia* trees >1.8 m in height and >10 cm dbh occurring in each 50 m x 150 m plot will be tagged with numbered metal plates, after which all *Albizia* trees will be treated with lethal doses of herbicide. As baseline data, we will record the following for each resulting *Albizia* snag: dbh (taken at 1.4 m above ground), height (measured with a clinometer), lean (degrees) of the snag from perpendicular to ground using a clinometer, and decay class (Table 2, below).

Table 2. Criteria used to classify *Falcataria moluccana* snags into decay classes

(after Raphael and White 1984).

Decay class	leaves	twigs	branches	limbs	trunk
1	present	present	intact	intact	intact
2	absent	present	intact	intact	intact
3	absent	mostly intact	intact	intact	intact
4	absent	mostly broken	mostly intact	intact	intact
5	absent	absent	mostly broken	mostly intact	intact
6	absent	absent	absent	mostly broken	mostly intact
7	absent	absent	absent	absent	mostly broken
8	absent	absent	absent	absent	absent

All snags will be re-measured for every parameter at 6 month intervals over the course of the project. Coarse woody debris mass and deposition will be monitored within each of the three 18 m radius nested plots located in each 50 m x 150 m plot. In addition, at least 20 selected snags along the margins of each 0.5 ha plot will be monitored during each 6 month sampling interval as to the direction and the distance that woody debris (i.e., branches, limbs, trunks) falls from each decaying snag. Samples of fallen wood debris will be collected from each selected snag to estimate the density (fresh and dry mass/volume) of falling wood debris over time. Lastly, at three of the study sites (i.e., Lava Tree State Park, South Hilo Sanitary Landfill, and Piihonua Farm Lots), all trees along one of the 100 m sides of the study plot will be subjected to a "hard trim" by HELCO arborists so that the majority of the canopy mass near the border of the plot is removed and the remaining mass of the canopy "leans" away from the boarder of the plot. Following this "hard trim", trees will be treated to a lethal dose of herbicide, and the subsequent snags will be monitored at 6 month intervals to determine the direction and the distance that woody debris (i.e., branches, limbs, trunks) falls from each decaying snag. This last procedure will simulate the *Albizia* control approach proposed for use along roads and transmission line corridors and will assess the effectiveness of this approach.

Appendix 2. Termite Monitoring Program

Introduction:

At the HHC meeting in September in Hilo, commissioners expressed their concerns that an increase in dead and dying wood could potentially cause an outbreak of “ground” or Formosan subterranean termites (*Coptotermes formosanus*). This is of particular importance to the commission in the Waiakea Homesteads area, as a new subdivision for beneficiaries is being planned in the vicinity.

Ground termites have been present in Hilo for decades. They are known to attack live and dead trees, although their food preferences are largely unknown, including their preference for Albizia trees. Experts agree that while an increase in dead wood will not attract more termites to the area, any termites already present in the area will have more food available to them, and as a result their population could increase. It is important to note, however, that large amounts of organic material, including woody materials, are already present in the Waiakea Homesteads area, due to the proximity of the county green waste station. To mitigate any potential increase in termite population, we propose the following termite monitoring program:

Termite monitoring protocols:

Cardboard bait traps will be placed in both the control and treated plots and number of termites will be compared between the sites. Cardboard will be used as bait since *Coptoformes* show preference for cardboard over wood. PVC tubes filled with equal amounts of rolled corrugated cardboard will be placed in each forest plot. After one week, tubes will be retrieved and any termites will be collected from the cardboard and weighed. Since the average weight of *Coptoformes* is known, the number of termites can then be determined. Any significant increase in the number of termites collected in the treatment sites will be reported. Cardboard bait traps will be set out monthly.

In addition, visible signs of termite damage will be noted around individual tagged Albizia trees. Every six months, the outside of the individual trees and wood samples taken from the limb and bole (trunk) of each tree will be searched for termites themselves and/or mud (shelter) tubes.

Sources/ Verbal Testimony:

Dr. Thomas Shelton, US Forest Service Southern Research Station Wood Products Insect Research Station
Will Lee, Exterminator and Owner of Will Kill Termites and Pests

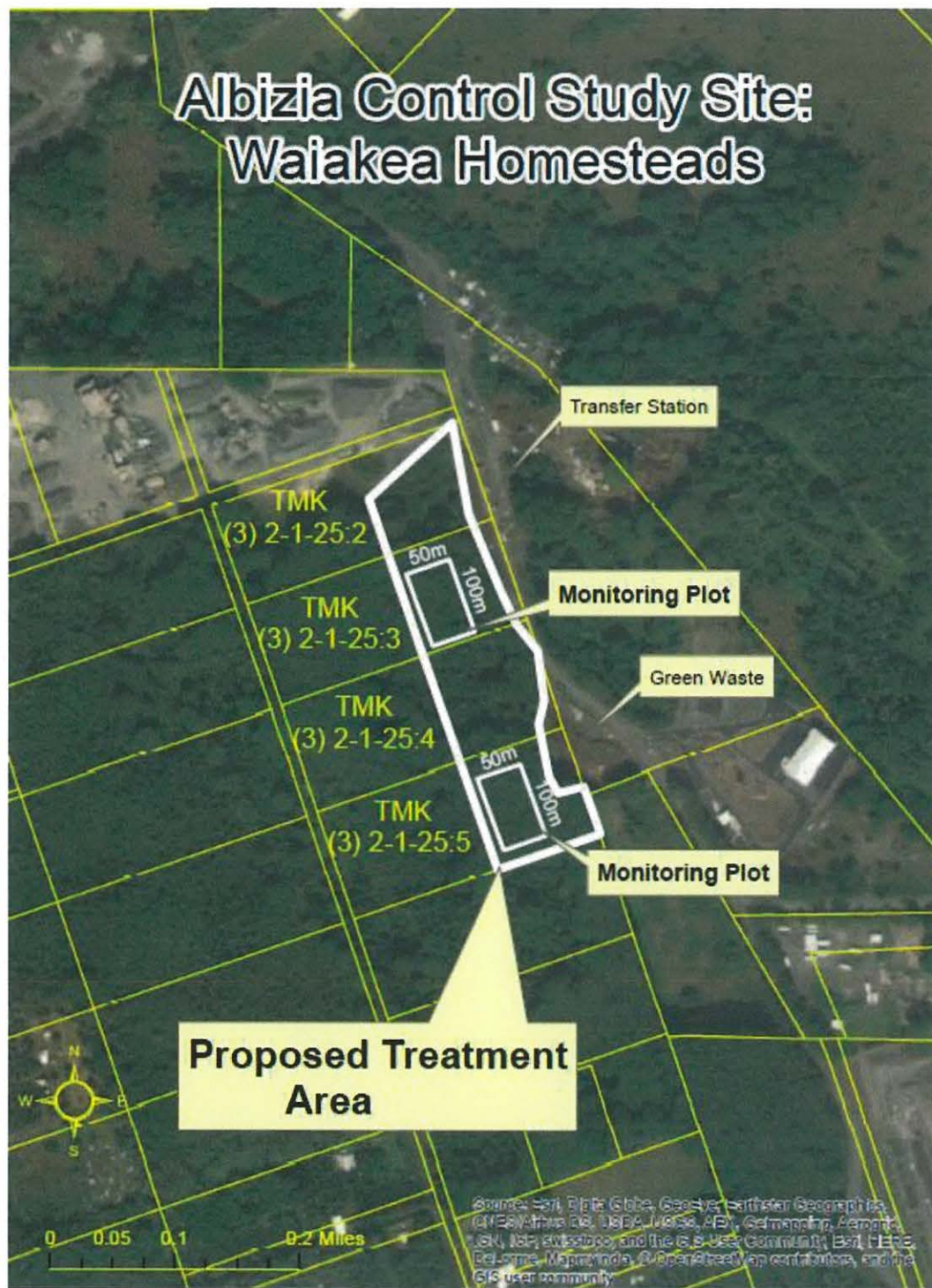
Dr. Julian Yates, UH Manoa, Principal Researcher, UH Termite Project

Yates, JR and Tamashiro, M. 1990. The Formosan Subterranean Termite in Hawaii. HITAHR, College of Tropical Agriculture and Human Resources, University of Hawaii. Research Extension Series 117

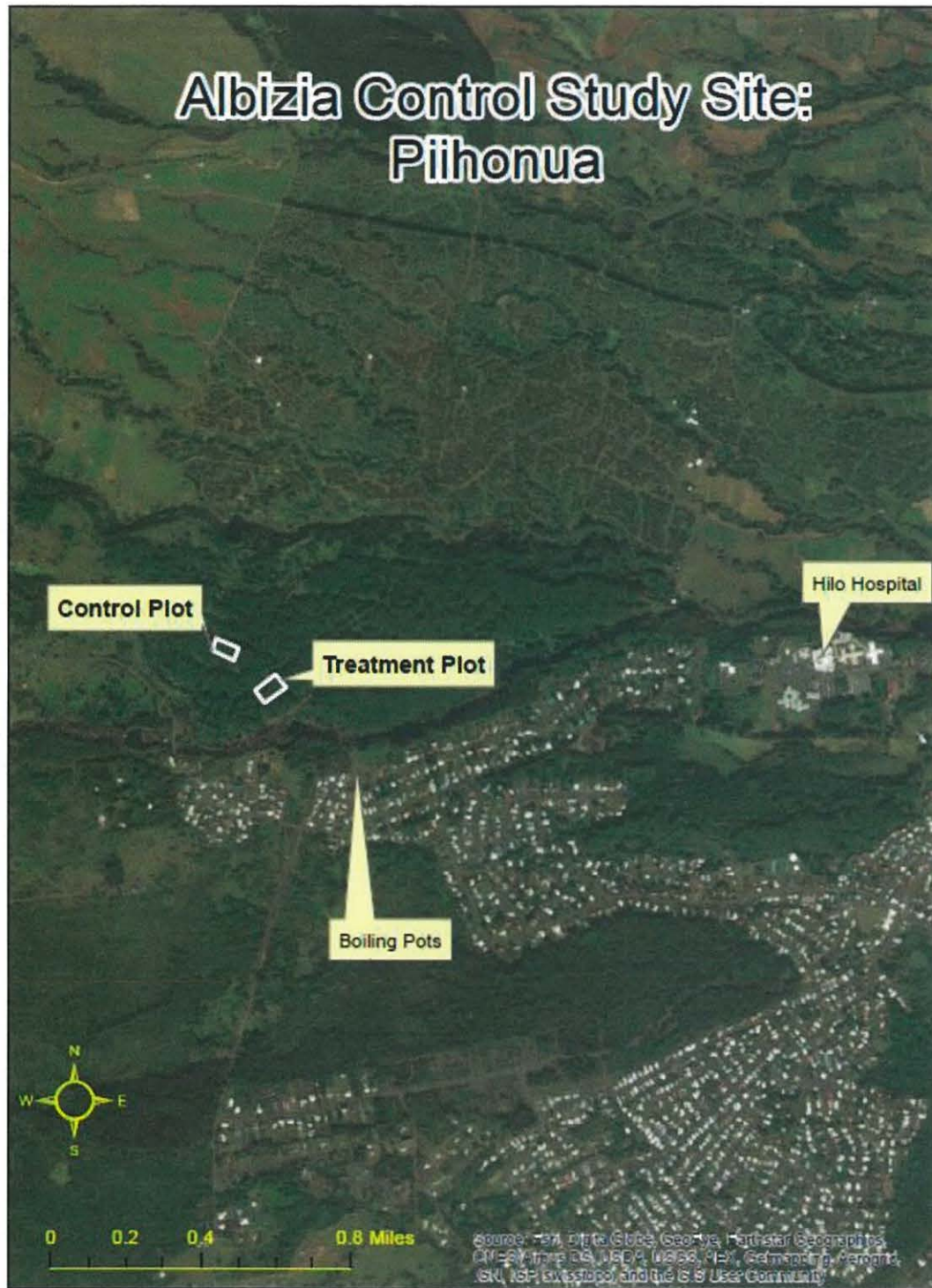
Albizia Control Study Site: Waiakea Homesteads



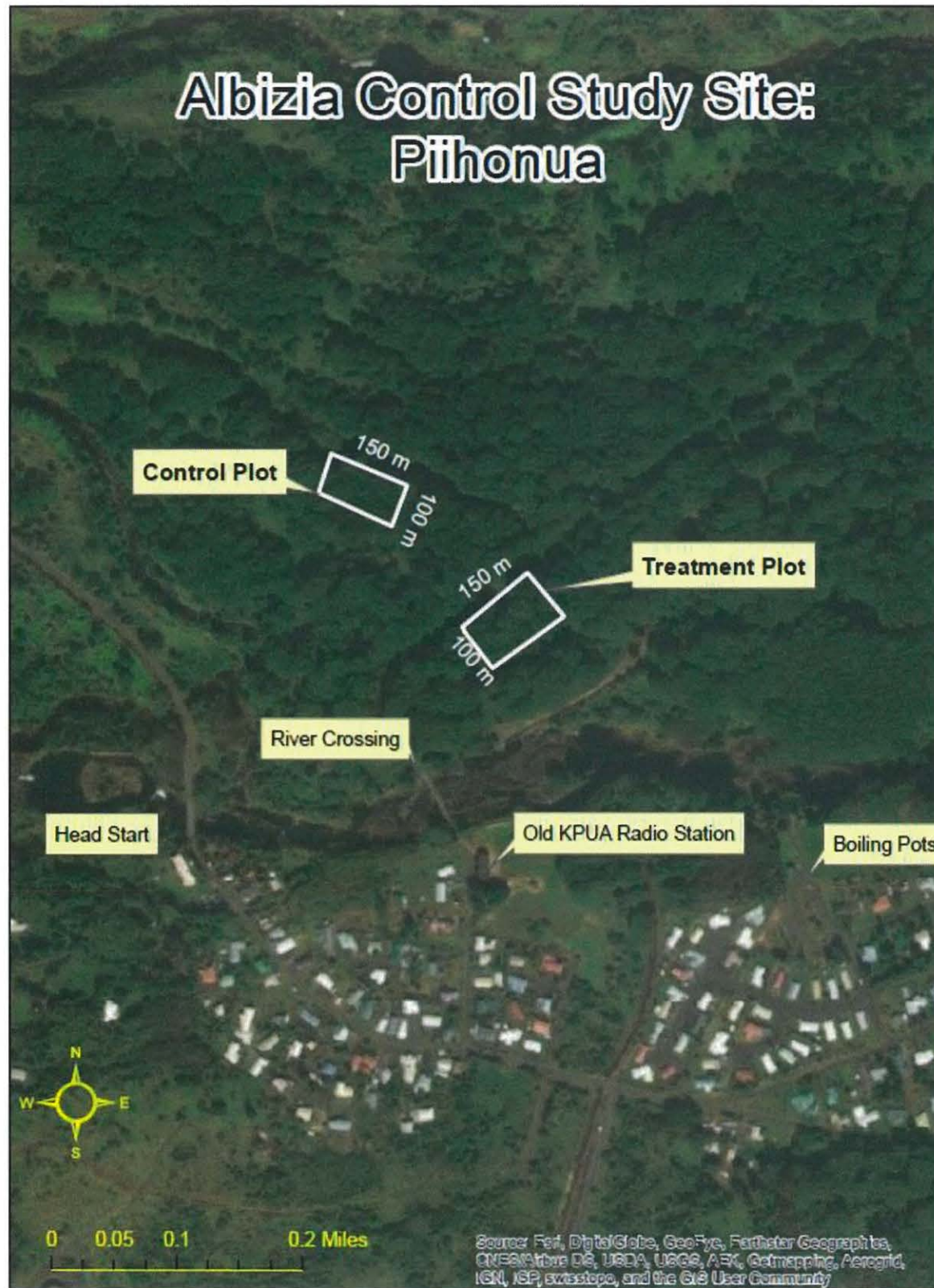
Albizia Control Study Site: Waiakea Homesteads



Albizia Control Study Site: Piihonua



Albizia Control Study Site: Piihonua



DEPARTMENT OF HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION
NOVEMBER 16 & 17, 2015
KULA & WAILUKU, MAUI

AGENDA SECTION G

PLANNING DIVISION

Note: The following items will be distributed under separate cover.

- G-4 For Information Only – Draft Environmental Assessment for Honokaia Water System, Waimea Nui, Hawai‘i, TMK (3) 2-6-001:001-046; (3) 4-7-007:005,

State of Hawai'i
Department of Hawaiian Home Lands

November 16, 2015

To: Chairman and Members, Hawaiian Homes Commission

From: Kaleo Manuel, Planning Program Manager
Kaleo Manuel

Subject: For Information Only - Update on Water Use Permit
Applications in Kualapu'u Moloka'i and the remand of
the Kukui Hawai'i Supreme Court Case

RECOMMENDED MOTION/ACTION

None; for information only.

DISCUSSION

Recent actions by the Commission on Water Resource Management (CWRM) have reopened proceedings regarding the use of groundwater in the Kualapu'u Aquifer on the island of Moloka'i that have been going on for over a quarter century. These proceedings can substantially affect the rights and actual water use of the Department of Hawaiian Home Lands (DHHL) and beneficiaries on the island. The purpose of this submittal is to update the Hawaiian Homes Commission (HHC) on this ongoing and rapidly developing issue.

Brief Background

The matters involved here are complex and involve multiple separate proceedings before the CWRM and two cases before the Hawai'i Supreme Court (HSC), and have spanned decades. Seven key issues are particularly relevant to the matters now at hand:

- 1) Designation of groundwater on Moloka'i by CWRM;
- 2) DHHL's water reservation in the Kualapu'u Aquifer;
- 3) The filing of a Water Use Permit Application by Moloka'i Ranch in the Kualapu'u Aquifer, and a subsequent HSC case;
- 4) the filing of a different Water Use permit Application by a Moloka'i Ranch subsidiary in a neighboring aquifer,

- and a subsequent HSC case;
- 5) DHHL's and Maui County's Water Use Permit Applications;
 - 6) an ongoing scientific study of groundwater; and
 - 7) the Moloka'i Water Working Group. These are each briefly summarized below.

1) Moloka'i Groundwater designated. In 1990, many concerned Moloka'i residents, particularly DHHL beneficiaries, filed a Petition with the CWRM to designate groundwater on the island of Moloka'i as a Water Management Area (WMA). WMA designation was sought because only in such areas does the CWRM require the filing of Water Use Permit Applications (WUPA) that require proposed water users to evaluate their use against DHHL's rights. CWRM decisions on WUPA are also non-ministerial and subject to interested parties (such as DHHL) requesting a Contested Case Hearing (CCH), a quasi-judicial hearing, on the matter. CCH decisions can be further appealed to the courts by a party. Further, if CWRM issues a resulting Water Use Permit (WUP), it is required that they "[S]hall be subject to the rights of the department of Hawaiian home lands as provided in section 221 of the Hawaiian Homes Commission Act, whether or not the condition is explicitly stated in the permit." HRS 174C-49(e).

In 1992 in response to the petition for designation of a WMA, CWRM designated all aquifers on the island as WMAs (see Exhibit 1, Molokai Hydrologic Units).

2) DHHL Water Reservation. By administrative rule, as is allowed in WMAs, CWRM reserved for DHHL 2.905 million gallons a day (mgd) of water in the Kualapu'u Aquifer, effective as of June 10, 1995. HAR §13-171-63.

3) Moloka'i Ranch WUPA in Kualapu'u Aquifer filed; HSC decision. Moloka'i Ranch (MR) and its subsidiaries, the Maui County Department of Water Supply (MDWS), and DHHL all have wells in close proximity to each other in the Kualapu'u Aquifer. All three parties filed WUPA for their wells; the DHHL and MDWS WUPA are described separately below.

The initial application for MR's Well 17 was on June 8, 1993. The application by MR for Well 17 was the subject of a CCH requested by DHHL and others; the Office of Hawaiian Affairs (OHA), DHHL, and individual intervenors Judy Caparida and Georgina Kuahuia participated. Key issues involved the impact of Well 17 on DHHL uses, reservations, and the traditional and customary practices of Hawaiians.

After a complex and lengthy series of proceedings, on December 19, 2001 CWRM issued a final decision granting MR's subsidiary Kukui Moloka'i, Inc. (KMI) a WUP. The parties, including DHHL appealed, and the HSC rejected the CWRM decision on Dec. 6, 2007 and remanded it, in part for failing to protect the rights of DHHL. That is known now as the **Kukui** case (In re Contested Case Hearing on Water Use Permit Application by Kukui (Molokai), Inc., 116 Hawaii 481, 174 P.3d 320 (2007)).

4) MR WUPA in Kamiloloa Aquifer filed; HSC decision. On Jan 25, 1996 MR filed a WUPA for a new well in the nearby Kamiloloa Aquifer. MR filed for this WUPA while the proceedings of the CCH on **Kukui** were ongoing, as they thought they may not receive sufficient water from Well 17 for their proposed developments.

DHHL, OHA, and others objected and that WUPA went through a CCH. The HSC in what became known as the **Wai'ola** case overturned CWRM and remanded on Jan. 4, 2004. In re Waiola o Molokai, Inc., 103 Hawaii 401, 430, 83 P.3d 664, 693 (2004). The Court found, in part, that the CWRM had not protected the rights of the DHHL.

One of the potentially confusing aspects of these matters is that while the WUPA was filed for the well in **Wai'ola** after the WUPA for Well 17 in **Kukui**, the HSC ruled on **Wai'ola** first.

5) DHHL and MDWS WUPA in Kualapu'u. DHHL and MDWS also filed WUPAs for their wells in Kualapu'u. After DHHL's initial WUP was granted for its two wells, in September 1997 DHHL applied for additional water from those wells. CWRM staff recommended a complete denial of the request because of the potential effect on the aquifer and other wells, and MR filed for a CCH. The parties entered into mediation that ultimately did not resolve the issues, and DHHL still has an outstanding WUPA for its current needs for its water system.

The MDWS desires to move its pumping away from the DHHL and MR wells, but it still has an outstanding WUPA for its well.

6) United States Geological Survey (USGS) Groundwater model. To help resolve the issues raised in **Kukui** and **Wai'ola**, since 2009 OHA, DHHL MDWS & CWRM funded the USGS to develop a groundwater model to assist in spacing wells. Developing the model has been complex and has been delayed numerous times since its start. It is expected that the model will be completed and available to the parties for their use by the end of 2015.

7) Moloka'i Water Working Group (MWWG). Originally formed at the behest of recently retired CWRM Chairman Bill Paty in 1992, the MWWG was created to work on the Maui County Water Use and Development Plan update for the island. It has met a number of times in intervening years and has also been a useful, on island forum to discuss critical water matters outside of legal proceedings. Despite the utility of the MWWG, it last took action in 2008 and its continued meeting has not been supported by CWRM.

Current Issues:

Communications over the last year between DHHL and CWRM staff had indicated that the CWRM might wait until the USGS study was completed, and perhaps the MWWG was reconvened, prior to proceeding with the pending WUPA for MR, DHHL, and MDWS. On May 29, 2015 a meeting was held on Maui among staff of the CWRM, USGS, MDWS, and DHHL. At that meeting MDWS noted its pending 0.9 mgd WUPA from Kualapu'u aquifer; that it sought to avoid negative effects on other wells; and it stated its need for the USGS study to determine well site alternatives and their impact on the aquifer and other wells. HHC and the DHHL asked CWRM to defer its review of these three WUPA until January 2016 in order to integrate the USGS groundwater study into its assessment.

Instead, CWRM is proceeding with 1) reconsideration of the pending WUPA in Kualapu'u, and is also 2) proceeding with the remand of the **Kukui** decision. These actions raise key implications for the DHHL.

1) Kualapu'u WUPA reconsideration. By letter dated October 20, 2015, CWRM deputy Jeffrey Pearson noticed the Department of upcoming CWRM proceedings on three WUPA for the Kualapu'u aquifer, which has a sustainable yield of 5.0 mgd. CWRM has not yet published an agenda for the meeting at which these WUPA will be discussed, but specified a November 13, 2015 deadline for comments or objections on the WUPAs.

Table I. Outstanding WUPA in the Kualapu`u Aquifer

WUPA No.	Well Name/ Well No.	Applicant Name	Proposed water use (mgd)
00973	"Well 17"/ 4-901-001	Moloka`i Public Utilities, Inc. (a MR subsidiary)	1.026
00499	Kualapu`u Mauka/ 0801-003	Mauki Department of Water Supply	0.900
00448	Kauluwai 1 & 2/ 4-801-001 & 002	Department of Hawaiian Home Lands	0.637

2) *Kukui Remand.* CWRM is also considering the MPU WUPA for Kualapu`u water resources as part of a remand from the Hawai`i Supreme Court *Kukui* case. By the same letter sent by CWRM on October 20, 2015 on the Kualapu`u WUPA, CWRM indicated they would be taking up a remand of the *Kukui* case and potentially seeking to combine all parties WUPA into the *Kukui* remand. They are requiring parties involved in the *Kukui* case to confirm in writing to CWRM by November 13, 2015 that they will continue as part of the contested case proceedings. Further, by a "minute order" issued by CWRM Deputy Pearson on October 30, 2015, they have required that the parties' counsel file a status conference statement on the proposed scope of the remand by 4:00 pm on November 6, 2015, and attend a status conference on November 9, 2015.

DHHL was represented in the *Kukui* case by Deputy Attorney General Lee Crowell, who has since passed away. Deputy Attorney General Matthew Dvonch is initially representing DHHL in these matters and filed a timely status conference statement that is attached here as Exhibit 2.

3) *Key implications for DHHL.* The CWRM actions in this matter necessarily raise a number of key implications for DHHL and its beneficiaries on Moloka`i. Some of these implications are addressed in DHHL's status conference statement (Exhibit 2). Two others relate to CWRM noticing an outdated WUPA for DHHL, and the desire by DHHL to have outside counsel on this matter, discussed below.

The CWRM has noticed outdated WUPA from DHHL and MDWS. Only MR's WUPA is presented on current forms furnished by CWRM. The Department's WUPA is dated September 12, 1996 and MDWS' WUPA is

dated April 16, 1998, whereas MR submitted their WUPA on June 27, 2014. While CWRM's letter implied that DHHL has declined a January 2014 invitation to update its WUPA, that is incorrect; DHHL staff and consultants communicated in 2014 to CWRM staff that DHHL wanted to wait until the USGS study was completed to update its application, and the CWRM Deputy at the time indicated that would be how matters would proceed.

The HHC Chairman has determined that for a number of reasons, DHHL should be served by outside counsel in these proceedings. The HHC on March 19, 2012 authorized DHHL to: (1) hire independent counsel to assist with the assertion of Hawaiian Home Lands water and other rights, reservation of water for its "foreseeable needs", and negotiate use of related ground and surface water rights, sources, storage, and distribution facilities; (2) authorize use of up to \$150,000 in funds from the existing approved Planning Office budget for this purpose; and (3) authorize the Chairman to negotiate such terms and conditions as deemed appropriate.

With the concurrence of the Attorney General on August 14, 2013 and approval of the Governor on October 14, 2013, outside counsel was obtained under this authority to represent the DHHL on water issues in Kekaha/Waimea, Kaua'i and Pūlehunui, Maui.

In their FY 2015-2016 Budget, the HHC authorized use of an additional \$150,000 in funds in the approved Planning Office budget for other water legal counsel as necessary. Under the authority of the HHC action on March 19, 2012 and the budgeted authority for FY 2015-2016, DHHL is seeking the approvals necessary from the Attorney General and Governor to obtain outside counsel in these matters.

CONCLUSION

The recent CWRM actions in these matters - noticing of the WUPAs in Kualapu'u and remanding of the Kukui decision - are highly significant matters for the HHC, DHHL, and beneficiaries. Consistent with Goal 2 of the HHC Water Policy Plan, the DHHL shall in these proceedings "Aggressively, proactively, consistently and comprehensively advocate for the kuleana of the beneficiaries, the DHHL, and the HHC to water before all relevant agencies and entities."

RECOMMENDATION

None; for information only.

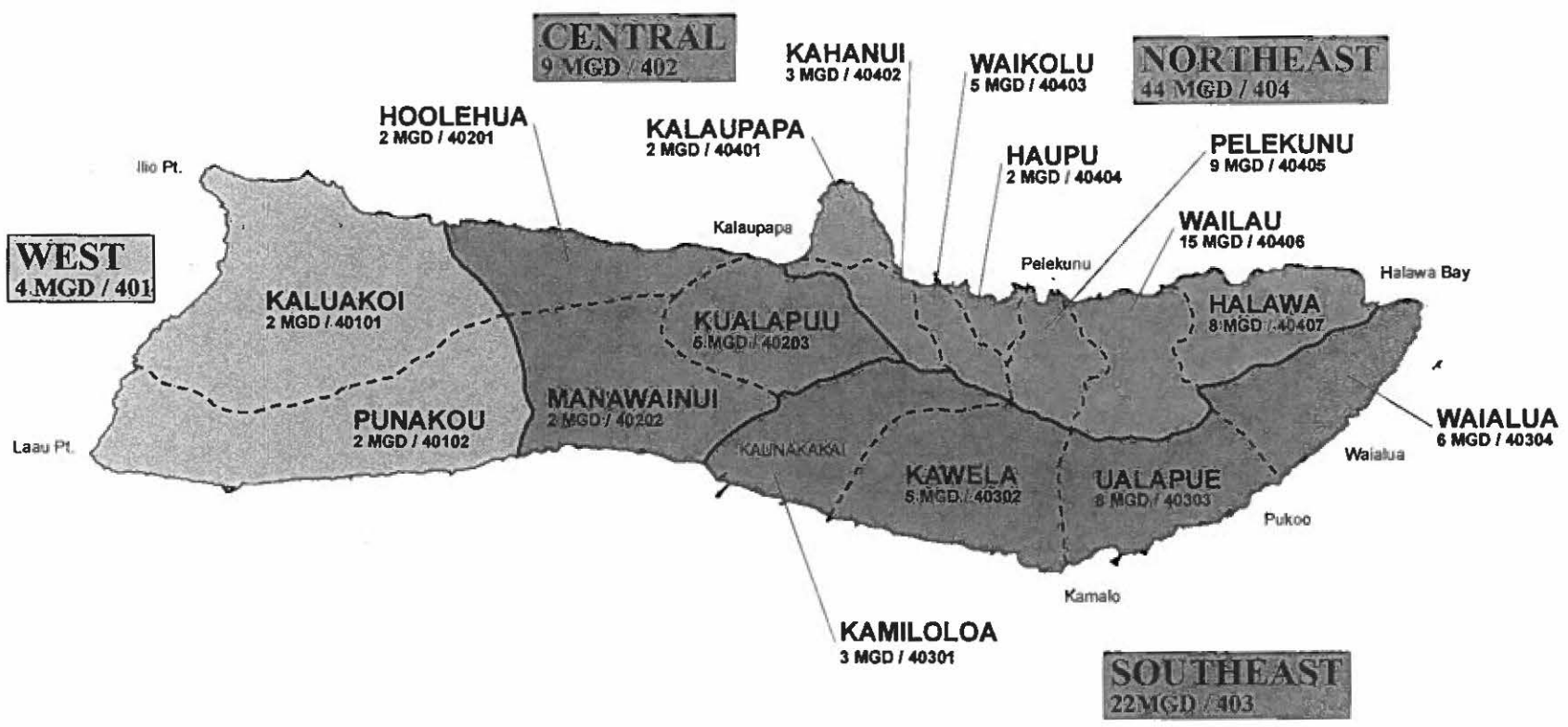


COMMISSION ON
WATER RESOURCE MANAGEMENT

ISLAND OF MOLOKAI

TOTAL = 79 MGD

HYDROLOGIC UNITS
Sustainable Yield / Aquifer Code



Map ID: 1021

ITEM G-1 EXHIBIT 1

08/28/2008

Map Projection: Universal Transverse Mercator

DOUGLAS S. CHIN
Attorney General of Hawaii

6465

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DIANE K. TAIRA 3761
MATTHEW S. DVONCH 9000
Deputy Attorneys General
Department of the Attorney
General, State of Hawai'i
425 Queen Street
Honolulu, Hawai'i 96813
Telephone: (808) 587-2978
Facsimile: (808) 586-1372
Attorneys for Intervenor
DEPARTMENT OF HAWAIIAN HOME
LANDS

BEFORE THE COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAI'I

In the Matter of the Contested Case Hearing
on the Water Use Permit Application
Originally Filed by Kukui (Molokai), Inc.,
Now Refiled as a New Ground Water Use by
Molokai Public Utilities, LLC

Case No. CCH-MO-97-01

INTERVENOR DEPARTMENT OF
HAWAIIAN HOME LANDS' STATUS
CONFERENCE STATEMENT;
DECLARATION OF MATTHEW S.
DVONCH; EXHIBIT "A"; CERTIFICATE
OF SERVICE

INTERVENOR DEPARTMENT OF HAWAIIAN
HOME LANDS' STATUS CONFERENCE STATEMENT

Pursuant to the Minute Order Setting Status Conference issued by the Commission on Water Resource Management (Commission) on October 30, 2015, the Department of Hawaiian Home Lands (DHHL) submits this status conference statement.

I. Background

This contested case initially concerned an application by Kukui (Molokai), Inc. (KMI), a subsidiary of Molokai Properties Limited, for a ground water use permit for existing use of 2 million gallons per day (mgd) from Well 17 in the Kualapu'u Aquifer System Area. DHHL, the

Office of Hawaiian Affairs (OHA), and two Native Hawaiian individuals intervened and objected to KMI's permit application on numerous grounds. Specifically, DHHL argued that: (1) the Commission failed to treat its 2.905 mgd reservation as an existing use under the public trust doctrine; (2) the Commission failed to adequately scrutinize KMI's request to divert water from Well 17; (3) the Commission erred in denying DHHL's request to increase pumpage from its well due to concerns about whether such increased pumpage would affect chloride levels in the well field, while simultaneously approving KMI's request for new uses where those same concerns were present; (4) the Commission impermissibly placed the burden on DHHL to prove that KMI's requested uses would negatively impact the water quality at DHHL's own well site; and (5) the Commission erred by considering KMI's application as a late filing for existing uses, instead of requiring KMI to apply for a new use permit under section 174C-49, Hawaii Revised Statutes (HRS).

The Commission ultimately granted KMI an existing use permit for 936,000 gallons per day and a proposed use permit for an additional 82,000 gallons per day. On appeal, KMI's permits were invalidated by the Hawaii Supreme Court in In re Contested Case Hearing on Water Use Permit Application by Kukui (Molokai), Inc., 116 Hawaii 481, 174 P.3d 320 (2007) (Kukui) and the case was remanded to the Commission for further proceedings. The Commission attempted to recommence proceedings in 2008, but the case fell dormant.

On June 30, 2014, Molokai Public Utilities, Inc. (MPU), another subsidiary of Molokai Properties Limited, filed an application for ground water use permit for new use that seeks to draw 1,026,518 gallons per day from Well 17. The Commission has apparently incorporated MPU's permit application into this contested case and is treating it as superseding KMI's 1993 permit application.

II. The Kukui Opinion

In Kukui, the Hawaii Supreme Court invalidated KMI's existing and proposed use permits on several grounds. The Court held: (1) although DHHL's 2.905 mgd reservation cannot be considered an existing use, it is a public trust purpose entitled to the full panoply of constitutional protections afforded to other public trust purposes; (2) the Commission did not adequately scrutinize KMI's request to divert water from Well 17 because it failed to consider whether KMI's requested usage could be satisfied by alternative sources of water; (3) the Commission did not adequately explain its rationale denying DHHL's request to increase pumpage from its own well because of increased chloride level concerns while simultaneously approving KMI's application for new uses where the same concerns were present; (4) the Commission impermissibly placed the burden of proof on DHHL to show whether KMI's diversion of water from Well 17 would negatively impact the water quality at DHHL's own well site; (5) the Commission improperly considered KMI's late-filed application for existing uses; (6) the Commission failed to consider what effect the closure of the hotel and golf course would have on KMI's requested usage; and (7) the Commission impermissibly placed the burden of proof on the Native Hawaiian individual intervenors to show that their traditional and customary practices would be harmed by KMI's requested usage.

The Court remanded the case to the Commission for further proceedings consistent with its various holdings.

III. Scope of Remand

A. Outstanding Motion

When the Commission attempted to commence remand proceedings in 2008, the intervenor parties filed a joint Motion to Partially Dismiss Molokai Properties' Petition for Water

Use. The motion sought to dismiss KMI's water use permit application for non-domestic purposes because of the announcement that Molokai Properties Limited, KMI's parent company, would be ceasing major operations on Moloka'i. The motion was premised on the Kukui Court's admonition that the Commission must consider whether KMI's closure of the hotel and golf course would change its proposed water usage.

If the Commission intends to treat MPU's recent application as completely superseding KMI's application, the motion to dismiss may be moot. In any event, the Commission never ruled on the motion and should do so before this matter proceeds further.¹

B. The Commission Should Stay This Matter Until The United States Geological Survey Study On The Aquifer Is Completed

The United States Geological Survey is conducting a groundwater recharge and availability study for the Kualapu'u Aquifer to estimate the effect of additional groundwater withdrawal on salinity and water levels in nearby existing wells, including Well 17 and wells owned by DHHL and DWS. USGS anticipates that this study will be completed in December 2015. This study will undoubtedly assist the parties in determining whether the additional water requested by MPU will affect the quality and amount of water available in DHHL's wells.

DHHL suggests that the Commission stay this contested case proceeding until the parties, as well as Commission staff, have had an opportunity to review and analyze the USGS study. Only then can the parties be prepared to discuss in detail the issues raised by MPU's application.

¹ The Commission should also consider starting a *new* contested case proceeding for MPU's recent application. Many of the facts on the ground have changed since the 1990s and MPU's application will be held to a more stringent standard under HRS § 174C-49 and Kukui. It may make more sense for the parties and the Commission to start anew with a new contested case.

C. MPU's Application

MPU appears to have resolved at least one of the Court's criticisms by filing an application for new uses under HRS § 174C-49, as opposed to the untimely application for existing uses invalidated in Kukui. The issues to be decided on remand must necessarily be premised on MPU's recent application for new uses.² Under the more stringent requirements of HRS § 174C-49, MPU must be able to show that its proposed use:

- (1) Can be accommodated with the available water source;
- (2) Is a reasonable-beneficial use as defined in section 174C-3;
- (3) Will not interfere with any existing legal use of water;
- (4) Is consistent with the public interest;
- (5) Is consistent with state and county general plans and land use designations;
- (6) Is consistent with county land use plans and policies; and
- (7) Will not interfere with the rights of the Department of Hawaiian Home Lands as provided in section 221 of the Hawaiian Homes Commission Act, 1920, as amended.

In considering whether MPU's application meets the requirements of HRS § 174C-49, the Commission must abide by the following rulings of the Kukui Court:

- The Commission must take DHHL's 2.905 mgd reservation into account when considering MPU's application, and must protect that reservation "whenever feasible." See also In re Waiola o Molokai, Inc., 103 Hawaii 401, 430, 83 P.3d 664, 693 (2004).

² Because the status conference in this matter was set on such short notice, DHHL has not had an adequate opportunity to fully identify all of the issues the Commission must consider regarding MPU's recent application. In making this status conference statement, DHHL is not waiving its right to identify other issues that need to be decided on remand upon a more thorough analysis of MPU's application.

- The Commission must apply more than minimal scrutiny to MPU's application to ensure that its requested uses meet the requirements of the public trust doctrine. Under Kukui, the burden of proof is to be placed on MPU to show that its request constitutes a "reasonable-beneficial use" that is "consistent with public interest."
- MPU must be able to show that there is no practicable alternative to satisfy its water needs.
- MPU has the burden of showing that its requested uses will neither negatively impact the quality of water from DHHL's own well nor impermissibly burden the exercise of traditional and customary practices by the Native Hawaiian individual intervenors.
- The Commission must not ignore changes in MPU's actual plans for water usage when considering whether to allocate water to MPU.

In considering all of these issues, the Commission must take a proactive approach in protecting public rights (including DHHL's existing water reservation) at every stage of this proceeding:

... the Commission must not relegate itself to the role of a mere "umpire passively calling balls and strikes for adversaries appearing before it," but instead must take the initiative in considering, protecting, and advancing public rights in the resource at every available stage of the planning and decisionmaking process... In sum, the state may compromise public rights in the resource pursuant only to a decision made with a level of openness, diligence, and foresight commensurate with the high priority these rights command under the laws of our state.

In re Water Use Permit Applications, 94 Hawaii 97, 162, 9 P.3d 409, 474 (2000). Accordingly, the Commission must exercise a higher level of scrutiny to MPU's application and must place the burden on MPU to show that its proposed uses are consistent with DHHL's rights under the public trust doctrine.

D. Leasing Of Space In The Molokai Irrigation System And Chapter 343, HRS Compliance

MPU's use of water from Well 17 requires transportation through the Molokai Irrigation System (MIS). As extensively briefed by the intervenor parties in 2008, the MIS is owned and operated by the Department of Agriculture of the State of Hawai'i (DOA). MPU's new application raises two issues: (1) In order to transport any water from Well 17 through the MIS, MPU must have an agreement with DOA for use of the MIS; and (2) any agreement with DOA for use of the MIS would require an environmental assessment under Chapter 343, HRS.

HRS § 343-5 requires that an environment assessment be completed for "actions that...[p]ropose the use of state or county lands..." In Moloka'i Homesteaders Coop. Ass'n v. Cobb, 63 Haw. 453, 629 P.2d 1134 (1981), the Hawaii Supreme Court held that agreements to use the MIS to facilitate development require compliance with Chapter 343, HRS:

The use of a government pipeline, the implicit commitment of prime natural resources to a particular purpose, perhaps irrevocably, and the substantial social and economic consequences of the governmental approval of the proposal would dictate the preparation of an EIS.

Id. at 467, 629 P.2d at 1144. MPU has not submitted a final environmental assessment to the Office of Environmental Quality Control.

To date, MPU has not shown that it has a renewed agreement with DOA to use the MIS, nor has it done the environmental assessment required by Chapter 343, HRS. At the very least, the Commission should require that MPU demonstrate compliance with Chapter 343, HRS and show that it has the legal right to transport the water it seeks under the new permit application before acting on its application.

E. Related Water User Permit Applications for DHHL and DWS

In addition to recommending this contested case, the Commission issued a request for comments concerning water use permit applications submitted by DHHL and DWS in 1996 and 1998, respectively. In those applications, DHHL and DWS seek to draw water from the same well field as MPU's Well 17. Commission staff has indicated that they will recommend incorporating the DHHL and DWS applications into this contested case proceeding so that all three applications can be evaluated by the Commission simultaneously. See Letter from Jeffrey T. Pearson to Jobie Masagatani dated October 20, 2015, attached as Exhibit "A" to the Declaration of Matthew S. Dvonch dated November 6, 2015 at ¶ 3.

DHHL does not support commencing contested case proceedings regarding its 1996 water use permit application. DHHL believes that: (1) its permit should be processed like any other permit, subject to amendment by DHHL, if necessary, given the length of time the application has been pending; and (2) the Commission is capable on deciding the issues raised by MPU's application without incorporating DHHL's permit application into these proceedings.

IV. Conclusion

This matter should be stayed pending the USGS study on the Kualapu'u Aquifer System Area and the parties should be given adequate time to review it. Proceeding without the benefit of the study would undermine the parties' understanding of how MPU's withdrawal of more water will affect the aquifer and the DHHL and DWS wells.

Once the case proceeds, the Commission must apply the criteria found in HRS § 174C-49 and the Kukui opinion, and must apply a higher level of scrutiny in considering MPU's application to ensure that its proposed uses are consistent with DHHL's rights under the public trust doctrine. Additionally, MPU should be required to show that it has the legal means to

transport additional water and that it has complied with the environmental assessment requirements of Chapter 343, HRS.

DATED: Honolulu, Hawai'i, November 6, 2015.



DIANE K. TAIRA
MATTHEW S. DVONCH

Deputy Attorneys General
Attorneys for Intervenor
Department of Hawaiian Home Lands

BEFORE THE COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAI'I

In the Matter of the Contested Case Hearing
on the Water Use Permit Application
Originally Filed by Kukui (Molokai), Inc.,
Now Refiled as a New Ground Water Use by
Molokai Public Utilities, LLC

Case No. CCH-MO-97-01

DECLARATION OF MATTHEW S.
DVONCH

DECLARATION OF MATTHEW S. DVONCH

I, MATTHEW S. DVONCH, declare based on my personal knowledge and belief, the following:

1. I am a duly appointed Deputy Attorney General for the State of Hawaii, and am counsel for Intervenor Department of Hawaiian Homes Lands in the above-entitled action.
2. Except where stated to be made on information and belief, this declaration is made upon personal knowledge, and if called upon, I am competent to testify to the facts set forth herein.
3. Attached hereto as Exhibit "A" is a true and correct copy of a letter I received by email from Jeffrey T. Pearson to Jobie Masagatani, Chairman of the Hawaiian Homes Commission, dated October 20, 2015.

I declare, verify, certify, and state under penalty of perjury that the foregoing statements are true and correct.

DATED: Honolulu, Hawai'i, November 6, 2015.

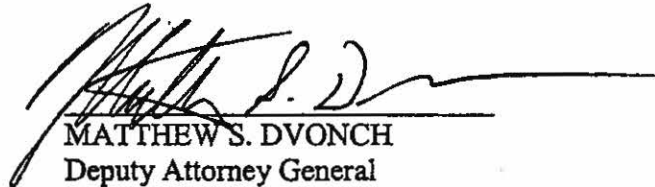

MATTHEW S. DVONCH
Deputy Attorney General

EXHIBIT "A"

ITEM G-1 EXHIBIT 2

DAVID Y. IGE
GOVERNOR OF HAWAII

DEPT. OF HAWAIIAN
HOME LANDS

2015 OCT 27 AM 10:18



SUZANNE D. CASE
CHAIRPERSON

WILLIAM D. BALFOUR, JR.
KAMANA BEAMER, PH.D.
MICHAEL G. BUCK
MILTON D. PAVAO
VIRGINIA PRESSLER, M.D.
JONATHAN STARR

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
P.O. BOX 621
HONOLULU, HAWAII 96809

October 20, 2015

GWUPA.448.renotice on remand.docx

Honorable Ms. Jobie Masagatani, Chairperson
Department of Hawaiian Home Lands
P.O. Box 1879
Kapolei, HI 96805

Dear Ms. Masagatani:

Renoticing of New Ground Water Use Permit Application
Kauluwai 1 & 2 Wells (Well Nos. 4-0801-001 & 002)
for 0.900 mgd (12-MAV) at TMK: (2) 5-2-012:029, Kualapuu, Molokai

Our January 15, 2015 letter invited DHHL to update its ground water use permit (WUPA No. 00448) for the Kauluwai 1 & 2 wells (Well Nos. 4-0801-001 & 002) originally accepted on September 19, 1997, then subsequently amended on June 18, 1998 before proceeding. To date, we have had no formal update since the withdrawal of the contested case for this application on January 24, 2002 and our request to explore a new well location. We are ready to move forward with continuing the processing this application. The application will be recirculated for review among relevant state and county agencies, interested members of the public, and parties to the Kukui Molokai Inc. (KMI) contested case CCH-MO97-1 regarding ground water uses from Well 17 (Well No. 0901-001).

Enclosed is a copy of the public notice for your water use permit application which will be published in the Maui News issues of October 23 & 30, 2015. You will be required to pay for the cost of the public notice, which runs about \$1000. We will send you an invoice shortly after your notice is published.

Please be aware that there may be objections to your application. If objections are made, the objector is required to file such objections with the Commission and is also required to send you a copy of the objections.

As outlined in our January 15, 2015 letter to you, there are also two other new ground water use applications we are also accepting for processing at this time:

1. Molokai Public Utilities, Inc. – 1.026 mgd from Well 17 (Well No. 0901-001);
2. Maui Department of Water Supply – 0.900 mgd from Kualapuu Mauka Well (Well No. 0801-003).

These applications are in competition for the remaining available sustainable yield from the Kualapuu Aquifer System Area. Therefore, we will be recommending that the Commission combine these competing use requests into the remanded CCH-MO97-1 contested case proceeding.

EXHIBIT "A"

ITEM G-1 EXHIBIT 2

Honorable Ms. Jobie Masagatani

Page 2

October 20, 2015

It will be the burden of Molokai Public Utilities, Inc., the Department of Hawaiian Home Lands, and the Maui Department of Water Supply to show that their proposed use is reasonable and beneficial and do not adversely impact public trust uses, which include traditional and customary practices within the Kualapuu Ground Water Management Area, and to address other issues highlighted by the Court in its opinion. Failure to carry this burden may result in denial or modification of your request.

If the Commission decides to combine all these applications into the remand, it will also appoint a hearing officer to conduct the remanded contested case hearing. In anticipation of the resumption of proceedings, the Commission Chair will schedule a status conference in about two weeks to establish procedural rules, begin the scoping process, and to discuss expectations in creating a schedule for the submittal of initial motions, opening briefs, witness lists, and the proceedings themselves.

You, or any other party, may respond to objections by filing a brief in support of your application with the Commission within ten (10) days of the filing of an objection. You, or the other party, must also send a copy of the response to the objector.

If you have any questions, please contact Charley Ice at 587-0218.

Sincerely,



JEFFREY T. PEARSON, P.E.
Deputy Director

CL:ss
Enclosure

PUBLIC NOTICE

Application for Water Use Permit
Kualapuu Ground Water Management Area, Molokai

The following application for water use permit has been received by the Commission on Water Resource Management and is hereby made public in accordance with Section 13-171, Hawaii Administrative Rules, "Designation and Regulation of Water Management Areas."

WUPA No. 00448 Kauluwai 1 & 2 (Well Nos. 4-0801-001 & 002)

Applicant: Department of Hawaiian Home Lands
P.O. Box 1879
Kapolei, HI 96805

Landowner: Department of Hawaiian Home Lands
P.O. Box 1879
Kapolei, HI 96805

Date Application Filed as Complete: October 12, 2015

Hydrologic Unit / Aquifer System Area: Kualapuu System, Central Sector, Molokai

Water Sources: Kauluwai 1 & 2 (Well Nos. 4-0801-001 & 002) TMK (2) 5-2-010:007

Quantity Requested: 0.637 million gallons per day

New Use: DHHL Molokai Water System

Place of Water Use: At Tax Map Key: (2) 5-2-various

Written objections or comments on the above application may be filed by any person who has property interest in any land within the hydrologic unit of the source of water supply, any person who will be directly and immediately affected by the proposed water use, or any other interested person. Written objections shall: (1) state property or other interest in the matter (provide TMK information); (2) set forth questions of procedure, fact, law, or policy, to which objections are taken; and (3) state all grounds for objections to the proposed permit. Written objections must be received by November 13, 2015. Objections must be sent to 1) the Commission on Water Resource Management, P.O. Box 621, Honolulu, Hawaii 96809 and 2) the applicant at the above address.

COMMISSION ON WATER RESOURCE MANAGEMENT



JEFFREY T. PEARSON, P.E., Deputy Director for
SUZANNE D. CASE, Chairperson

Dated: October 15, 2015

Publish in: The Maui News issues of October 23 & 30, 2015

BEFORE THE COMMISSION ON WATER RESOURCE MANAGEMENT

STATE OF HAWAII

In the Matter of the Contested Case Hearing
on the Water Use Permit Application
Originally Filed by Kukui (Molokai), Inc.,
Now Refiled as a New Ground Water Use by
Molokai Public Utilities, LLC

Case No. CCH-MO-97-01

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon the following parties by email and U.S. Mail, postage prepaid, addressed as follows:

Alan Murakami, Esq.
Moses K.N. Haia, III, Esq.
Native Hawaiian Legal Corporation
1164 Bishop Street, Suite 1205
Honolulu, Hawaii 96813
E-mail: alan.murakami@nhlchi.org
mohaia@nhlchi.org

Attorneys for Intervenors Judy Caparida and Georgina Kuahuia

Koalani Kaulukukui, Esq.
Office of Hawaiian Affairs
737 Iwilei Road, Suite 200
Honolulu, Hawaii 96817
E-mail: koalanik@oha.org

Attorney for Intervenor Office of Hawaiian Affairs

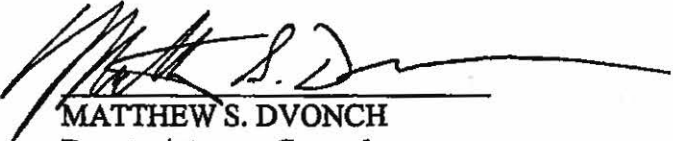
David Schulmeister, Esq.
Cades Schutte LLP
1000 Bishop Street, Suite 1200
Honolulu, Hawaii 96813
E-mail: dschulmeister@cades.com

Attorney for Molokai Public Utilities, LLC

Caleb Rowe, Esq.
Department of the Corporation Counsel
200 S. High Street, 3rd Floor
Wailuku, Hawaii 96793
E-mail: caleb.rowe@co.maui.hi.us

Attorney for County of Maui, Department of Water Supply

DATED: Honolulu, Hawaii, November 6, 2015.


MATTHEW S. DVONCH
Deputy Attorney General

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

November 16-17, 2015

To: Chairman and Members, Hawaiian Homes Commission

Through: M. Kaleo Manuel, Acting Planning Program Manager

From: Robert Freitas Jr., HHL Program Planner *RJF*
Nancy M. McPherson, HHL Program Planner *NMM*

Subject: Declare a Finding of No Significant Impact (FONSI)
for a Final Environmental Assessment (FEA),
Kumu Camp Project, Anahola, Kauai, Hawaii,
TMK (4) 4-8-007:001

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission (HHC) declare a Finding of No Significant Impact (FONSI) based on the information provided in the Final Environmental Assessment (FEA) for the Kumu Camp Project.

DISCUSSION

Background

The Kumu Youth Academy, henceforth referred to as Kumu Camp, was created by the Homestead Community Development Corporation (HCDC) on 5 acres of an 8.61 acre Department of Hawaiian Home Lands (DHHL) property, identified as TMK (4)4-8-007:001, located northwest of a group of ten privately owned beach lots along Pilikai Road, and Anahola Beach Park (DHHL-owned). An information-only submittal with detailed project background and history was provided to the HHC at your regularly scheduled meeting in October 2015, along with the FEA, therefore the following information will focus on the issue of the project's compliance with Chapter 343, Hawaii Revised Statutes (HRS), Environmental Review.

In a letter dated March 31, 2011, DHHL transmitted Revocable Permit terms and conditions to Anahola Hawaiian Homes Association (AHHA), dba HCDC, for a month-to month permit that once executed, would allow for community-based recreational use of a portion of the property, including

overnight group camping (See HHC Oct. 19-20, 2015, Item G-5, Exhibit A). Minor structures, such as a toolshed and irrigation, were permitted. These limitations were intended to enable HCDC to avoid having to prepare an Environmental Assessment. On May 28, 2012, HCDC submitted a Land Use Request form (LRF 12:014) to DHHL's Land Management Division, requesting a 35 year general lease, gratis, for the entire 8.61 acre parcel, for the Kumu Youth Academy, which would include construction of multiple structures and ground disturbance (See HHC Oct. 19-20, 2015, Item G-5, Exhibit B).

Between April 2011 and May 2013, ten (10) "tentalow" platforms, complete with private hot-water showers, were brought from Molokai to the site and installed, and a 24' by 16' restroom and an Individual Wastewater Treatment System (IWS) without leach field, that was capped and used as a holding tank, a 24' by 36' pavilion with temporary roof, two yurts, miscellaneous storage structures, and solar powered pathway lighting were constructed or installed. These activities were reported to DHHL as part of the LRF submittal on May 28, 2012. Subsequently, HCDC was informed via email that the project, now "After-the-Fact", needed to comply with Ch. 343, HRS, Environmental Review. The 1998 Hawaii State Supreme Court *Kepo'o v Watson* decision made it clear that all activities and uses on Hawaiian Home Lands are subject to Ch. 343 HRS, therefore such activities and uses must either be expressly exempted by DHHL, or must be evaluated, and potential impacts disclosed, in either an EA or an Environmental Impact Statement (EIS).

On January 24, 2014, Anahola Hawaiian Homes Association (AHHA) submitted a request to DHHL for an exemption from preparation of an EA (See Exhibit A). In a letter dated March 19, 2014, DHHL informed AHHA that an exemption could not be granted and required that HCDC prepare an Environmental Assessment (EA) pursuant to Hawaii Revised Statutes (HRS) Chapter 343 Environmental Review to evaluate the project "after the fact", as construction had already occurred (See HHC Oct. 19-20, 2015, Item G-5, Exhibit J). The Environmental Assessment for the Kumu Camp Project was intended to satisfy the requirements of HRS Chapter 343 and was prepared for HCDC by Planning Solutions, Inc.

Draft Environmental Assessment

The draft environmental assessment (DEA) prepared for Kumu Camp was published on July 8, 2015 by the Office of Environmental Quality Control (OEQC). Solicitation of comments from agencies in preparation of a Draft EA (pre-consultation)

was not conducted, the rationale being that the project was "after the fact".

The DEA describes existing conditions and assesses the potential environmental and cultural impacts to the site as well as the surrounding area, based on the design and operations of the Kumu Camp Project. Archaeological investigation was done and oral history interviews were conducted to produce a Cultural Impact Assessment. In summary, the DEA found that the existing structures and uses described for the project will have no to minimal impact on the surrounding environment.

The DEA also addressed the project's uses for consistency with existing plans and applicable land use policies. In general, the Kumu Camp Project was found to be consistent with existing State and County plans and applicable land use policies. Consistency with the DHHL Anahola Regional Plan was discussed, but consistency with the DHHL Kaua'i Island Plan and DHHL land use designations for the parcel and environs was not addressed.

The DHHL Kaua'i Island Plan was accepted by the HHC in May 2004. In that plan, the land use designation assigned to the Kumu Camp parcel and the Camp Faith parcel to the west was Special District, and the parcel mauka of the Kumu Camp parcel was designated Community Use (See Exhibit B, Land Use Designations map). Special District areas indicate lands that require special attention, need to be protected for cultural and environmental reasons or that pose challenges to development, e.g. presence of historic properties, natural hazard areas and/or sensitive ecosystems. The intention is that additional research, beneficiary consultation and master planning will occur before Special District lands can be developed and/or utilized. Ideally, master planning and environmental and cultural resource assessment would have occurred before any new construction was pursued on the site.

Based upon the facts presented and analysis completed in the DEA, staff anticipated a finding of no significant impact (AFONSI) for the Kumu Camp Project. Per Hawaii Administrative Rules (HAR) 11-200-11, the DEA and AFONSI are required to be published in the State Office of Environmental Quality Control (OEQC) "Environmental Notice" bulletin for a 30-day public review and comment period. The public comment period was from July 8, 2015 to August 7, 2015. DHHL also accepted comments from one agency after the close of the comment period.

Final Environmental Assessment (Summary)

Various government agencies at the federal, state, and county levels, as well as the Anahola Homestead Association, were asked to comment on the DEA (See Exhibit C). Revisions to the DEA were made based on the comments received during the 30-day public comment period, but also included two comment letters from DLNR-SHPD, which were received on August 24 and October 1, 2015. Changes based on responses to substantive comments received are reflected in the FEA. The FEA was submitted to the HHC at its October 19-20, 2015 meeting on Kaua'i, attached to the Item G-5 information-only submittal.

A summary of substantive comments received from agencies consulted during the public comment period and how those comments were addressed in the FEA are shown in the following table. A complete record of comments received and responses to those comments are included in Chapter 7 of the FEA document, which was transmitted to the HHC on October 19, 2015.

Agency	Comment/Summary	Response to Comment
Federal Agencies		
US Army Corps of Engineers	Urged best practices; no permit required	Confirmed that Army Corps permit will not be required
US Fish & Wildlife Service	Concerns re: Endangered Monk Seals, Hoary Bat, Seabirds and Sea Turtles. No designated critical habitat. Recommends contacting NMFS re: Monk Seals.	Will avoid disturbing, removing or trimming woody vegetation greater than 15 feet in height during hoary bat pupping season; will implement rule banning pointing of headlights towards ocean during peak shorebird fallout period; will manage vegetation to contain campsite lighting
State Agencies		
Dept. of Health, Env'tal Planning	Use Sustainable Design	HCDC will employ sustainable design
Dept. of Health, Wastewater Branch	Project located in critical wastewater disposal area. Individual Wastewater Treatment System (IWS) permit required after EA is completed	HCDC will obtain IWS permit from DOH - Wastewater after EA is completed

Agency	Comment/Summary	Response to Comment
Dept. of Health, Clean Water Branch	Concern re: National Pollutant Discharge Elimination System (NPDES) permit for storm water drainage into state waters	HCDC will comply with HAR Section 11-54 and is not seeking an NPDES permit
DLNR, Engineering Branch	Concerns re: Flood Insurance Rate Maps and Federal Law	HCDC will comply with Title 44 of Code of Federal Regulations regarding National Flood Insurance Program
DLNR, Div. of Forestry & Wildlife	Concerns re: Hawaiian Seabirds, water birds, Nene Goose and Hawaiian Hoary Bat; Recommends biological survey be conducted by waterbird biologist prior to expansion	HCDC will avoid use of spot and flood lights; continue to use solar powered campsite lights; avoid cutting or removing woody vegetation greater than 15 feet in height
DLNR, State Historic Preservation Div.	Request for 90 day extension beyond Aug. 7, 2015 deadline for comments to complete review after conducting field visit. Recommends that archaeologist be present during installation of septic tank; ensure that Burial Council is notified of their activity	Extension granted; HCDC will ensure qualified archaeologist is present during any future ground disturbing activities; HCDC will provide briefing on activities at Kumu Camp to Kauai-Niihau Burial Council
DBEDT, Office of Planning	Concerns re: Coastal Zone Management, Special Management Area (SMA), Tsunami and Flood Zone; because of temporary nature of structures no additional analysis is required	Confirmation that DEA addressed Coastal Zone Management requirements; Notes letter from County regarding adherence to SMA; Acknowledges ability to remove temporary camp site if needed
Dept. of Transportation	Agrees with DEA/FONSI and does not expect any significant impacts to State highway facilities	HCDC concurs

Agency	Comment/Summary	Response to Comment
Office of Hawaiian Affairs	1) Community meetings should have been held & Burial Council notified 2) Expand community member consultation & include Burial Council 3) If iwi kupuna or Native Hawaiian artifacts are found during ground disturbance, request that OHA be contacted	1) Meetings held at HCDC May 28, June 25 and July 2, 2012 2) Ms Lovell has commented & Burial Council notified no plans for future ground disturbance 3) HCDC acknowledges that if there is future ground disturbance it will follow current burial laws
County Agencies		
Co. of Kaua'i, Water Dept.	1) 5/8 water line for dust control only 2) Need to re-analyze water system facilities 3) HCDC must submit detailed water demand calcs 4) HCDC must obtain DHHL written approval for water meter service and use of water credits 5) HCDC must submit construction drawings of water system facilities, show domestic service, fire control and back flow prevention 6) HCDC must pay applicable charges, including Facility Reserve Charge 7) HCDC must receive a "Certification of Completion" from Water Dept.	HCDC will work with the Department of Water to address all seven of their concerns
Co. of Kaua'i, Parks & Recreation Dept.	Concurs with FONSI: no impact to Anahola Beach Park	Concurs with comment

Agency	Comment/Summary	Response to Comment
Co. of Kaua'i, Public Works Dept.	Concern re: improvements in flood zone AE	Should improvements be made in area within AE flood zone, HCDC will follow appropriate laws and regs. Current plans are to use area as passive use / picnic / open area with no improvements
Co. of Kaua'i, Planning Dept.	Conformance with Kauai General Plan and Comp. Zoning Ordinance (CZO): noted that while DHHL lands not subject to County Land Use controls, Kumu Camp has not met all applicable county standards - doesn't hold a Developed Camp Ground Use permit, Shoreline Setback Determination not made per CZO. Noted Special Management Area (SMA) Permit was not applied for based on DHHL ownership	Confirmed clarification of County designations; removed statement that HCDC met all applicable county standards; confirmed that SMA permit not required for Kumu Camp because land is owned by DHHL; language in EA revised accordingly
Co. of Kaua'i, Health Office	<ol style="list-style-type: none"> 1) Wastewater approval required 2) Clarify use of showers if used for bathing then it needs to be reported to DOH 3) Mobile Kitchen must comply with regulations 4) If serving food then sanitation regulations must be followed 5) Community noise during construction 6) Vector control required 7) Vector control crawl space required 	<ol style="list-style-type: none"> 1) Will obtain wastewater approval from DOH for IWS 2) Showers near tentals only used for rinsing off sand; showers in rest room served by IWS will be submitted for approval by Waste Water Branch 3) Mobile kitchen will not be used for food preparation and will not serve food to the public. 4) Will not operate a food establishment, nor serve liquor at the campground 5) Noise control will be within limits 6) Will comply with vector control regs

Agency	Comment/Summary	Response to Comment
Public Comments		
Carol Lovell	Concern re: Burial Council not consulted; understands that burials are present	HCDC conducted archaeological study of area and no burials were present; will follow burial laws
Pat Hunter Williams	Concern re: Burial Council not consulted; understands that burials are present	HCDC conducted archaeological study of area and no burials were present; will follow burial laws; other issues that were not related to DEA not addressed
Heu'ionalani Wyeth	Concern re: dumping, rubbish on Camp Faith property	Clarified that Kumu Camp is on a different property
Marianne George	Concern with condition of Camp Faith property	Clarified that Kumu Camp is on a different property

As stated previously, staff anticipated a Finding of No Significant Impact (AFNSI) based on the information presented in the DEA. The comments in the table above were received during the public comment period or shortly thereafter. Appropriate mitigation measures and solutions were identified to address these comments. The mitigation measures and solutions were incorporated into the FEA.

Comments from other agencies either concurred with the findings of the DEA or suggested other policy standards that the project should consider during its implementation and operation. These policy standards were incorporated into the FEA. As a result, the comments received during the public comment period and the incorporation of mitigation measures in response to those comments in the FEA will enable the Kumu Camp Project to further reduce any potential impacts to the surrounding environment.

Criteria for a Finding of No Significant Impact (FONSI)

Hawaii Administrative Rules (HAR) Section 11-200-12.2 establishes procedures for determining if an Environmental Impact Statement (EIS) should be prepared for a project, or if a Finding of No Significant Impact (FONSI) is warranted. HAR Section 11-200-12 lists the following criteria to be used in making the determination (See Ch. 5 of the FEA for a complete statement of findings):

- 1) *Involves an irrevocable commitment to loss or destruction of any natural or cultural resource;*

Operation of Kumu Camp as a community based outdoor recreational resource will not result in any irrevocable loss or destruction of these resources.

- 2) *Curtails the range of beneficial uses of the environment;*

Kumu Camp will not curtail other beneficial uses of the site. With the exception of the Individual Wastewater System, all of the structures are removable.

- 3) *Conflicts with the State's long-term environmental policies or goals as expressed in Ch. 344, HRS, and any revisions thereof, amendments thereto, court decisions, or executive orders;*

Kumu Camp is consistent with the Kauai General Plan and the State's long-term environmental policies as expressed in HRS Chapter 344.

- 4) *Substantially affects the economic or social welfare of the community or State;*

Kumu Camp will not have any substantial negative effects on economic or social welfare. The project has resulted in beneficial effects by cleaning up the site and providing recreational programs for youth.

- 5) *Substantially affects public health;*

Kumu Camp will not adversely affect air and water quality and will not affect water sources used for drinking or recreation. All State and County Dept. of Health regulations will be complied with regarding wastewater and greywater generated by the project.

- 6) *Involves substantial secondary impacts, such as population changes or effects on public facilities;*

Kumu Camp will not produce substantial secondary impacts it is not intended to foster population growth or promote economic development.

- 7) *Involves a substantial degradation of environmental quality;*

Kumu Camp will not have any long term environmental effects and will not substantially degrade environmental quality. The project is designed to have a light ecological footprint.

- 8) *Is individually limited but cumulatively has considerable effect on the environment or involves a commitment for larger actions;*

Kumu Camp does not represent a commitment to a larger action. It is an outdoor recreational resource limited to the activities and structures described in the EA.

- 9) *Substantially affects a rare, threatened, or endangered species, or its habitat;*

No rare, threatened, or endangered species, or its habitat, are known to be present on the Kumu Camp parcel. Potential effects to the Hawaiian Hoary Bat will be mitigated by avoiding the cutting or removing of woody vegetation greater than 15 feet in height.

- 10) *Detrimentially affects air or water quality or ambient noise levels;*

Operations at Kumu Camp do not have a measureable effect on water or air quality.

- 11) *Affects or is likely to suffer damage by being located in an environmentally sensitive area such as a flood plain, tsunami zone, beach, erosion-prone area, geologically hazardous land, estuary, fresh water, or coastal waters;*

The entire campsite is within a tsunami evacuation zone and evacuation plans are posted in all overnight accommodations. The camp will promptly evacuate in the event of a tsunami warning. All facilities at the camp, with the exception of the IWS, are removable. No structures are located within the AE flood zone.

- 12) *Substantially affects scenic vistas and view planes identified in county or state plans or studies;*

Kumu Camp is not in a designated scenic area. It is also located within a grove of ironwood trees, therefore is somewhat sheltered from view.

13) *Requires substantial energy consumption;*

Kumu Camp does not require any additional energy consumption. The camp uses photovoltaic solar-powered lighting and there is no electrical service to the camp. Portable generators are brought to the site occasionally for special events. There are no plans to connect to the KIUC electrical grid.

Based on the FEA analysis, agency and public comments, and mitigation measures in response to comments which have been incorporated into the FEA, DHHL staff concludes that continued operations and maintenance of the Kumu Camp Project does not satisfy any of the thirteen significance criteria listed above, therefore will not have a significant impact on the project area or surrounding vicinity. Should the HHC make a different finding that one or more significance criteria have been met and that the proposed action may have a significant effect, an Environmental Impact Statement Preparation Notice (EISPN) may be issued instead of a FONSI, per HAR §11-200-11.2.

Mitigation Measures Agreed to by HCDC in the Final EA

- 1) Will avoid cutting or removing woody vegetation greater than 15 feet in height during the Hawaiian Hoary Bat pupping season of June 1 through September 15;
- 2) Will implement a rule that no headlights shine out toward the sea for cars stopping or parking at Kumu Camp at night, as well as no use of spot lights or flood lights, during the peak seabird fledging season of September 15 through December 15;
- 3) Will manage vegetation at the campsite such that campsite lighting is kept to a minimum when viewed from the beach;
- 4) Will continue to use fully shielded, "seabird friendly" solar powered campsite lights;
- 5) Will obtain IWS permit from DOH Wastewater Branch after completion of EA;
- 6) Will only allow cold water showers for rinsing off of sand and saltwater at tentalows; hot water showers and other graywater sources will be submitted for approval by DOH Wastewater Branch with IWS application;

- 7) Will not put mobile kitchen (food truck) into operation; will not provide food to the public with or without charge from the mobile kitchen or any other location, permanent or temporary, at the campground; will not serve liquor at the campground;
- 8) Will ensure a qualified archaeologist is present and an approved Archaeological Monitoring Plan (AMP) that meets HAR §13-279 guidelines is in place during any future ground disturbing activities; will provide the Kauai-Niihau Burial Council with an overview briefing of Kumu Camp in order to provide clarification regarding purpose, facilities and activities, planning and outreach;
- 9) Will contact and engage in consultation with Mr. Ted Williams and Mr. Randy Wichman prior to any expansion efforts;
- 10) In the event that discovery of undocumented burials or other cultural deposits is made, will a) immediately cease all activity in the immediate area of the find, and 2) notify the State Historic Preservation Division and, where appropriate, the Kaua'i-Niihau Island Burial Council;
- 11) Will not place any structures within the Special Flood Hazard Area AE, with a Base Flood Elevation (BFE) of 11 feet, which runs in a narrow band along the entire makai portion of the parcel, and will only use the area as a passive, open picnic and recreational area;
- 12) Acknowledges that the 5/8-inch water line was approved by the Dept. of Water (DOW) for dust control only, and that DOW will need to re-analyze the water system facilities for the proposed use;
- 13) Will submit detailed water demand (both domestic and irrigation) calculations along with the proposed water meter size;
- 14) Will obtain written approval from DHHL for water meter service allocation and use of water credits;
- 15) Will prepare and receive DOW approval of construction drawings for necessary water system facilities, and will construct said facilities. Plans will show domestic service connection and fire service connection as

applicable, and back flow prevention system for existing water meter;

- 16) Will pay all applicable charges, including Facility Reserve Charge (FRC);
- 17) Will receive a "Certification of Completion" for construction of the necessary water system facilities from DOW

RECOMMENDED MOTION/ACTION

DHHL staff respectfully requests approval as recommended.



Date: January 24, 2014

To: Jobie Masagatani, Director DHHL
Darrell Young, Deputy
Kaleo Manuel, Planning Manager

Fr: Kipukai Kualii, HCDC President
Lorraine Rapozo, AHHA President

Re: Exemption Request

Our homestead association and our nonprofit arm request an exemption for an Environmental Assessment on our project as follow:

Project Title: Kumu Camp Campground

Project Number: Anahola#1

Project Description: Kumu Camp is a campground for youth and cultural groups with campsites on 5 acres of Hawaiian Home Lands located at Anahola Bay. Kumu Camp consists of ten (10) temporary wooden platforms that are 20x12 (240 square feet) where high quality canvas tents are located. In addition, the campground features a temporary gathering platform that is 24 x 36 (864 square feet) where hula, yoga, youth safety classes and other gatherings are coordinated. A temporary modular constructed bathroom facility that is 24 x 16 (384 square feet) is also located at the campground, with no permanent septic system, but rather a tank system that is pumped weekly. Two yurts are at the campground, used for storage of paddles and surf boards, and another for indoor classes when weather prohibits outdoor classes.

The total square footage of wooden tent platforms, wooden gathering platform and bathroom totals 3,648 located on 5 acres of Hawaiian Home Lands. Only water service is available at the site, no electricity, with temporary power produced by solar panels.

The campground is a very small footprint and a very low impact use of lands that were primarily used by local drug traffickers as a sales hub and garbage dumping location. Today, the campground is able to host 16 youth or adults in the tent structures available.

Exemption Class: Construction and location of single, new, small facilities or structures.

Exempt Item # 3

Exempt Description: Construction and location of single, new, small facilities or structures and the alteration and modification of the same and installation of new, small, equipment and facilities and the alteration and modification of same, including, but not limited to:

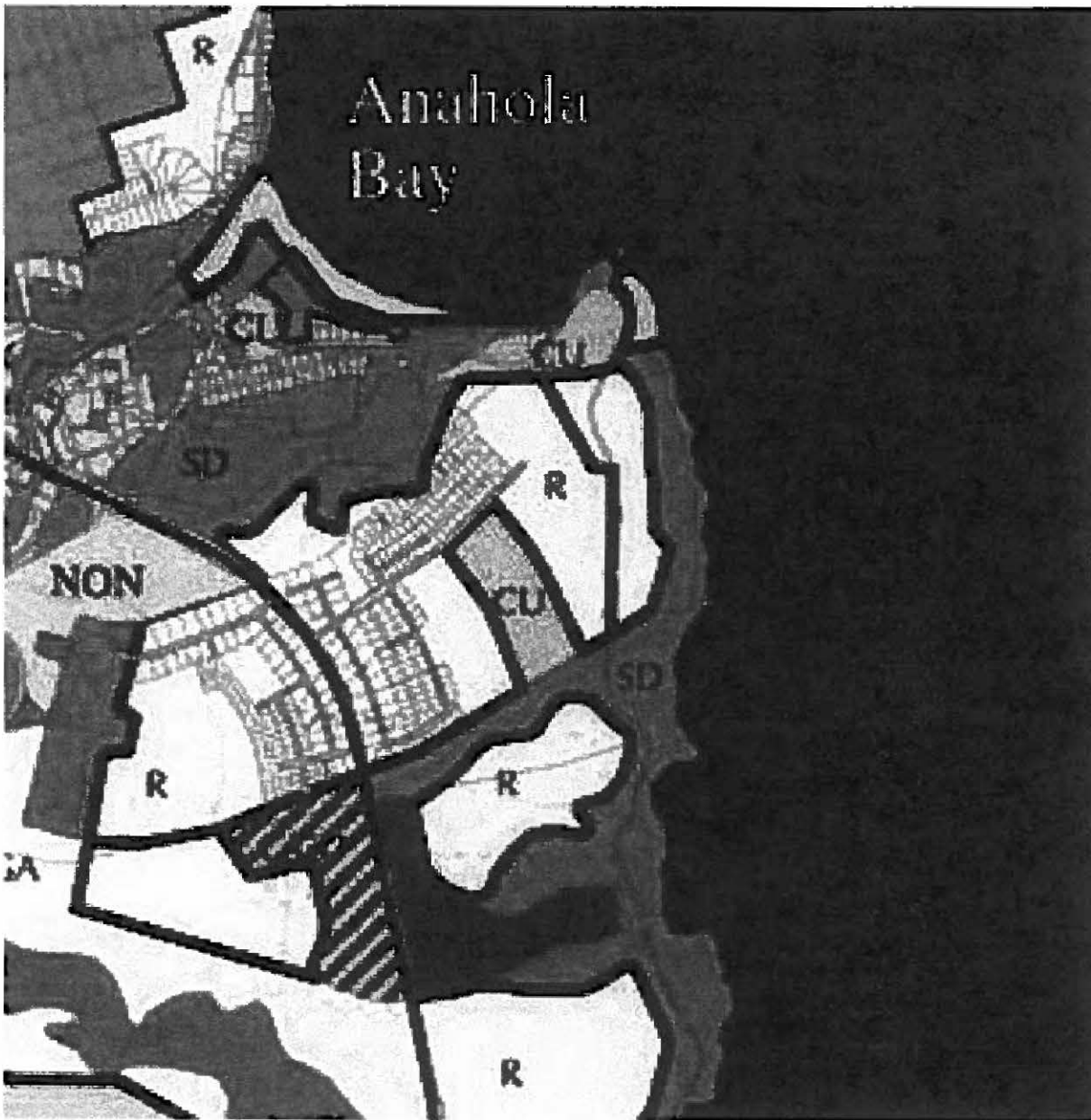
- (A) Single-family residences less than 3,500 square feet not in conjunction with the building of two or more such units;
- (B) Multi-unit structures designed for not more than four dwelling units if not in conjunction with the building of two or more such structures;
- (C) Stores, offices, and restaurants designed for total occupant load of 20 persons or less per structure, if not in conjunction with the building of two or more such structures; and
- (D) Water, sewage, electrical, gas, telephone, and other essential public utility services extensions to serve such structures or facilities; accessory or appurtenant structures including garages, carports, patios, swimming pools, and fences; and, acquisition of utility easements;

As you may know, there are 10 categories of exemption to performing an Environmental Review, Assessment or Impact Statement. We believe the Kumu Camp project to be well within the exemption limits described under Exemption #3. Kumu Camp consists of very small facilities primarily wooden camping platforms for campsites.

While Kumu Camp is located on beachfront lands the campsites are set back at 80 feet from the certified high water mark, and is designed to have a minimal footprint on the land, taking full advantage of the wooded area and natural beauty of the location. The cumulative impact remains static as no other camping platforms will be constructed, and is no more significant than any county recreational park.

We request that DHHL and the Environmental Council consider the potential effects of our project as provide by Chapter 343, HRS and Chapter 11-200 HAR and conclude that the project will probably have minimal to no significant effect on the environment and is therefore exempt from the preparation of an Environmental Assessment.

Mahalo for your consideration. Should you have any questions, please contact our AHHA Managing Board Member, Ms. Robin Danner at 808.652.0140 or via email at robin.puanani.danner@gmail.com.



Land Uses

- R** Residential
- SUB** Subsistence Agriculture
- GA** General Agriculture
- P** Pastoral
- SD** Special District
- CU** Community Use
- CON** Conservation
- Commercial**

7. CONSULTATION & DISTRIBUTION

7.1 CONSULTATION & DISTRIBUTION OF THE DRAFT EA

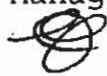
The Homestead Community Development Corporation distributed copies of the Draft Environmental Assessment to the parties listed in Table 7.1.

Table 7.1. Draft EA Distribution List

State Agencies	City and County of Kaua'i
Department of Agriculture	Department of Parks & Recreation
Department of Accounting and General Services	Department of Planning
Department of Business, Economic Development, and Tourism (DBEDT)	Department of Public Works
DBEDT - Energy Division	Department of Transportation
DBEDT - Office of Planning	Department of Water
Department of Defense	Kaua'i County Fire Department
Department of Education	Kaua'i County Police Department
Department of Hawaiian Home Lands	
Environmental Planning Office, Department of Health	
Clean Air Branch, Department of Health	
Clean Water Branch, Department of Health	
Wastewater Branch, Department of Health	
Department of Human Services	Elected Officials
Department of Labor and Industrial Relations	US Senator Brian Schatz
Department of Land and Natural Resources	US Senator Mazie Hirono
DLNR Historic Preservation Division	US Representative Mark Takai
Department of Transportation	US Representative Tulsi Gabbard
Hawaii Housing Finance and Development Corp.	State Senator Ronald D. Kouchi (Dist. 8)
Office of Hawaiian Affairs	State Representative Derek S.K. Kawakami (Dist. 14)
UH Environmental Center	Mayor Bernard P. Carvalho, Jr.
Federal Agencies	Libraries and Depositories
US Department of the Army, Regulatory Branch	Hawai'i State Library Hawai'i Documents Center (1 HC)
US Department of Agriculture	Kapa'a Public Library
US Fish and Wildlife Service	Līhu'e Regional Library
US Department of the Interior, Geological Survey	
Utility Companies	
Hawaiian Telcom	
Hawai'i Gas	
Oceanic Time Warner Cable	News Media
Kaua'i Island Utility Cooperative	Honolulu Star Advertiser
Other	Garden Island
Anahola Homestead Association	
Source: Compiled by Planning Solutions, Inc. (2014)	

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

November 16-17, 2015

To: Chairman and Members, Hawaiian Homes Commission
Thru: M. Kaleo Manuel, Acting Planning Program Manager
From: Andrew H. Choy, Planner *AC* 
Subject: For Information Only Draft Environmental
Assessment for the Kailapa Community & Resource
Center / Emergency Shelter, Kawaihae, Hawaii and
Anticipated Finding of No Significant Impact
(AFONSI) TMK (3) 6-1-010:008

Recommended Action

None. For information only.

Discussion

PURPOSE

The purpose of this informational briefing is to update the HHC on the status of this Kailapa Community Association project and provide the HHC an opportunity to provide comments on the DEA prior to publication in the Office of Environmental Quality Control's Environmental Notice Bulletin. The project was also identified as a Priority Project in the 2010 DHHL Kawaihae Regional Plan.

The DEA (Exhibit B) is posted on the DHHL website for review at:

http://dhhl.hawaii.gov/wp-content/uploads/2015/02/KAILAPA-DEA2_compressed.pdf

BACKGROUND

At its December 14, 2010 meeting, the Hawaiian Homes Commission approved the issuance of a 50-year license (License 751) to the Kailapa Community Association (KCA)

for a 14.33 acre parcel, TMK (3) 6-1-010:008, Kawaihae Island of Hawaii, for the purposes of constructing and operating a community resource center for Hawaiian homestead communities in Kawaihae and the West Hawaii Region (Exhibit A). Unfortunately, the Kailapa Community Association was one of the homestead communities that did not receive a \$250,000 grant for planning and pre-development work under the DHHL Kulia I Ka Nuu Program as the program was discontinued by the Hawaiian Homes Commission in January 2012. Despite DHHL's lack of financial assistance, the KCA has successfully obtained grant funding and has built collaborative partnerships with other organizations in its efforts to advance its community initiatives.

In 2012, the KCA partnered with the University Of Hawaii Department Of Urban and Regional Planning (UH-M DURP) to create a community planning process and concept plan for the 14.33 acre parcel entitled *Hookumu Ka Piko, Establishing the Piko* (Exhibit B - Appendix B). Through this concept plan and planning process, UH-M DURP students helped to develop a common vision and purpose for the community resource center among Kailapa homestead community members. The homestead community envisions the Resource Center / Emergency Shelter to be a piko, a center that will be a gathering place and will provide opportunities to enhance both economic and social vitality for current and future residents. It will be a gathering place for programs and activities that nurture and perpetuate physical, mental, cultural, and social health rooted in Native Hawaiian values.

A subsequent master plan was completed for the project area by R.M. Towill and Kalaoa Inc. The master plan articulates in more specific detail the physical location and dimensions of proposed improvements of the UH-M DURP concept plan (Exhibit B - Appendix C). In accordance with HRS Chapter 343, a draft environmental assessment (DEA) was prepared to analyze the potential impacts of the master plan on the project area and surrounding region. In lieu of providing KCA with financial assistance to obtain professional services to complete pre-development work for this project, DHHL staff periodically provided technical assistance and guidance (via the liaison program in the DHHL Native Hawaiian Development Program Plan) to KCA and

its consultants over an almost two-year time period during the preparation of this DEA.

DRAFT ENVIRONMENTAL ASSESSMENT (SUMMARY)

The DEA (Exhibit B) assesses the potential environmental impact to the surrounding environment of the KCA Community and Resource Center / Emergency Shelter. The Community and Resource Center / Emergency Shelter and accessory features on the property will consist of the following general components:

- Open space areas landscaped with native plants
- Native plant nursery
- Parking Area
- Gymnasium / Emergency Shelter
- Meeting Room / Classroom
- Office space / Commercial Kitchen
- Open Lanai
- Reverse Osmosis Treatment Plant and Well

The enclosed illustration in the master plan (Exhibit B - Appendix C) depicts the spatial orientation of the above projects. A more detailed description of the entire project, project's potential impact to the surrounding environment and planned mitigation measures can be found in the DEA. In summary, these proposed uses are anticipated to have minimal impact to the surrounding environment. The natural environment of the project area has already been modified from its natural state by previous DHHL construction and development activities. The project area is sparsely vegetated and dry. There are no known endangered or threatened species in the project area or surrounding vicinity. Large feral goat herds exist outside of the project area.

An *archaeological inventory survey* was conducted as a part of this DEA. Three archeological sites were found in the southern portion of the project area. These sites include Site 50-10-05-13728 Kawaihae-Puuhue Trail, Site 50-10-05-13791 which consists of a complex of 10 features and Site 50-10-05-30391, a newly identified trail segment that extends outside the project area towards Honokoa Gulch. The KCA Community and Resource Center and accessory features are sited well away from these three archaeological features and as a result, ground disturbing activities associated with the construction of these improvements will not impact these archaeological

resources. No evidence of human burials was found during the survey. However, in the unlikely event that human burial remains are discovered during construction, all work in the vicinity of the remains will cease and the State Historic Preservation Division will be contacted.

Infrastructure

The existing infrastructure will be able to accommodate additional demand created by the proposed uses. Potable water to the Kailapa subdivision is provided via the Kohala Ranch Water Company. DHHL has an existing water agreement with Kohala Ranch in which Kohala Ranch has agreed to provide up to 117,600 gallons per day to DHHL homestead lots in the Kailapa subdivision for residential use. Average existing potable water use for the Kailapa homestead area is 70,000-75,000 gallons per day. The estimated potable water demand for the project is between 3,000-6,000 gallons per day and within DHHL's permitted water use amount with the Kohala Ranch Water Company of 117,600 gallons per day. In the near-term, non-potable water for irrigational use will be trucked-in from an off-site source and stored in a 4,000 gallon tank. In the long-term, KCA may look to develop its own on-site well and reverse osmosis treatment to provide water to the project area. KCA plans to comply with all applicable rules and regulations during the well permitting and development process.

DHHL Planning System Consistency

The DEA also addresses the proposed project uses for consistency with existing plans and applicable land use policies. For the most part, the priority projects are consistent with the existing plans and applicable land use policies in the region. However, the DHHL Hawaii Island Plan Land Use Designation for the project area will need to be amended from Residential Use to Community Use in order for the project to be completely consistent. The Island Plan land use amendment will require beneficiary consultation and HHC approval.

Based upon the analysis completed in the DEA, staff anticipates a finding of no significant impact for the KCA Community Resource Center / Emergency Shelter. This determination is based upon the 13 criteria of significance

that approving agencies must consider as specified in HAR 11-200-12.

1. Involve an irrevocable loss or destruction of any natural or cultural resources.

Based on the results of the archaeological inventory survey conducted for this project, three historic properties exist in the project area, but ground disturbing activities will be located well away from these resources. For a more detailed discussion please see section 2.1.4 of the DEA.

2. Curtail the range of beneficial uses of the environment.

This project will allow Kailapa lessees and their families more access to traditional and customary resources and practice the ahupuaa concept. It will increase the range of beneficial uses of the environment. For a more detailed discussion please see section 1.2 of the DEA.

3. Conflict with the state's long-term environmental policies or goals and guidelines as expressed in Chapter 344 HRS, and any revisions thereof and amendments thereto, court decisions, or executive orders.

The project is consistent with the policies and objectives of state and county functional plans. It is consistent with the DHHL Kawaihae Regional Plan. However, a land use designation amendment to the DHHL Hawaii Island Plan must be made for consistency. For a more detailed discussion, please see section 3.2 of the DEA.

4. Substantially affects the economic or social welfare of the community or state.

The project will not have a negative affect on the economy or social welfare of the community or state. The project is expected to have a positive affect on the local economy by providing programmatic and social services to homestead residents. For a more detailed discussion, please see section 2.2 of the DEA.

5. Substantially affects public health.

The proposed project will not cause a negative impact on public health and well-being. For further discussion please see section 2.3.7 of the DEA for a more detailed discussion.

6. Involves substantial secondary impacts, such as population changes or effects on public facilities.

The proposed project will not cause a significant population increase and will increase the amount of public facilities available to serve the regional population. For further discussion, please see section 2.2.1 of the DEA.

7. Involves a substantial degradation of environmental quality.

This project does not involve a substantial degradation of environmental quality. Cumulatively this project does not have a considerable effect upon the environment and does not involve a commitment for larger actions. Please see section 1.1 of the DEA for further discussion.

8. Is individually limited but cumulatively has considerable effect upon the environment or involves a commitment for larger actions.

Cumulatively this project does not have a considerable effect upon the environment and does not involve a commitment for larger actions. Please see section 1.1 of the DEA for further discussion.

9. Substantially affects a rare, threatened or endangered species, or habitat.

The project will not affect rare, threatened, or endangered species or its habitat. Please see section 2.1.3 of the DEA for more details.

10. Detrimentially affects air or water quality or ambient noise levels.

Long-term impacts on air quality are not expected. Please see sections 2.1.5 and 2.3.1 of the DEA for further discussion.

11. Affects or is likely to suffer damage by being located in an environmentally sensitive area such as flood plain, tsunami zone, beach, or erosion-prone area, geologically hazardous land, estuary, fresh water, or coastal water.

This project is not located in any of the above areas. Please see section 1.2 of the DEA for further discussion.

12. Substantially affects scenic vistas and view-planes identified in county or state plans or studies.

This project is located in an area that will not substantially impact view planes or scenic vistas. Please see section 1.3 of the DEA for a more detailed discussion.

13. Require substantial energy consumption.

This project will not significantly impact current usage and will tie into the existing electric and telephone lines traversing the project site within the 50-foot wide electric easement. Please see section 2.3.6 of the DEA for a more detailed discussion.

NEXT STEPS FOR EA COMPLETION

The following is a list of anticipated next steps and milestones in the completion of the EA.

- DEA anticipated to be published in the December 8, 2015 OEQC bi-monthly bulletin
- 30-day public comment period on the DEA ends January 7, 2016;
- Revise DEA per public comments and complete Final Environmental Assessment (FEA) (January-February 2016);

- Present FEA to HHC; HHC issues Finding of No Significant Impact (FONSI) declaration for the project (February or March 2016)
- HHC FONSI declaration for the project and FEA submitted to OEQC for publication in OEQC bi-monthly bulletin. (March or April 2016)

NEXT STEPS FOR OVERALL PROJECT IMPLEMENTATION

In addition to the completion of the FEA and HHC declaration of FONSI for the project in accordance with Hawaii Revised Statutes Chapter 343 and HAR 11-200, the following actions will need to be completed for the implementation of the KCA Community Resource Center / Emergency Shelter:

- Beneficiary consultation on land use amendment;
- HHC approves Land Use Designation amendment to the Hawaii Island Plan for the project area TMK No. (3) 6-4-38:11 from Residential Use to Community Use;
- KCA continue to obtain additional funding for project development;
- KCA complete design and engineering work for this project;
- KCA coordinate with applicable federal, state, and county agencies regarding obtaining necessary permitting and entitlements needed prior to construction beginning.

Recommended Action

For information only. No action required.

Conclusion

In summary:

- The DEA for the KCA Community Resource Center / Emergency Shelter has been completed;


- Based on the findings of the DEA, staff anticipates a finding of no significant impact for the proposed project;
- The 30-day mandatory public review and comment period will begin December 8, 2015 and will end on January 7, 2016;
- Staff will present the FEA to the HHC in March or April 2016 and will ask the HHC for a FONSI declaration.

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

December 14, 2010

To: Chairman and Members, Hawaiian Homes Commission

From: Linda L. Chinn, Administrator
Land Management Division 

Subject: Issuance of License Agreement to Kailapa Community Association, Kawaihae, Hawaii

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission grant the following:

1. Rescind prior approval granted on September 22, 2009, for the issuance of a fifty (50) year license agreement to Kailapa Community Association (KCA) for the use of three (3) parcels of Hawaiian home lands in Kawaihae, island of Hawaii, totaling 2.181 acres for a gang mail box development (See Exhibit "A"); and

2. Approval for the issuance of a fifty (50) year license agreement to Kailapa Community Association (KCA) for the use of a parcel of Hawaiian home lands in Kawaihae, island of Hawaii, further identified as Lot 34, TMK No. (3) 6-1-010: 008, containing 14.333 acres (See Exhibit "B"), subject to the following:

a. KCA shall develop the subject parcel as the Kailapa Resource Center, incorporating the development of the gang mail boxes with other community related services.

b. Fee for the licensed area shall be a nominal fee of \$1.00 for the initial five years of the term. Fees for the remaining term shall be subject to review of KCA's progress and proposed uses for the site on a five-year review periods.

c. KCA shall at its own expense, as part of the development, comply with Chapter 343 of the Hawaii Revised Statutes, as amended, which requires assessing the impacts KCA's development will have on the surrounding community prior to construction activities.

d. KCA agrees to accept the parcels "as is". KCA shall pay for all infrastructure costs associated with the planned development, including utilities connections and services. KCA shall be responsible for mitigating any impacts, such as dust, noise, etc. that this project may have on anyone in the neighboring vicinity.

e. KCA may apply for available DHHL grants but issuance of the license agreement confers no preference in such funding. The lack of

ITEM NO.D-2

EXHIBIT "A"

DHHL financial support cannot be used as a reason for not completing the project.

f. KCA shall obtain all applicable governmental permits and all construction shall comply with Federal, State, or County laws, regulations, codes, and ordinances.

g. KCA shall, at its own expense, obtain a General Comprehensive Public Liability Insurance policy with limits of no less than two million dollars (\$2,000,000).

h. No residential uses shall be allowed.

i. The processing and documentation fee shall be waived.

j. The License Agreement document is subject to the review and approval of the Office of the Attorney General, State of Hawaii.

k. All other terms and conditions deemed prudent by the Chairman of the Hawaiian Homes Commission.

DISCUSSION

Ms. Diane Kanealii, President of Kailapa Community Association (KCA), represents the 190+ residential leases in Kawaihae, island of Hawaii. She has requested a long-term lease agreement to develop projects benefiting their community.

The Kawaihae Regional Plan was originally adopted by the Hawaiian Homes Commission on April 21, 2009. One of the priority projects identified by the community was the gang-mail box site. In order to receive mail now, the residents must either rent a postal office box from a local packing company or travel to Kamuela to pickup their mail. However, to develop the three lots identified originally was found to be difficult and expensive. It would cost an estimated \$50,000 for the ground work alone.

KCA requests approval to move the mailbox area down to the end of Kailapa Street and combine with the early education facility and playground onto the 14-acre parcel (Lot 34). The proposal will allow the ground work to be done one time so that KCA can get both projects off the ground same time. The community at KCA supported the moving of the mailbox site. This site has always been slated in development of the Kawaihae Residents lots as a site for community development.

The regional plan is currently being updated. One of the priority projects identified is the Kailapa Resource Center. KCA would like to utilize the vacant 14.3-acre parcel at the end of Kailapa Drive for the development of a community resource center, including the placement of the gang mailbox facility; a preschool and playground area; a community classroom that could be use for direct instruction or for community meeting; and administrative office space

for the community association. The center can also be used as a transportation drop off/pick up point for school buses transporting K-12 students and for the Hele On County bus services, which would provide a viable transportation alternative for the community.

The license agreement for the initial approval for the 3 lots granted in September 2009 was not issued due to the fact that KCA was not a 501(c)3 organization. On October 14, 2010, KCA finally received its tax exempt status from the Internal Revenue Service and has submitted the IRS notification and its Amended Article of Incorporation and By-Laws for our record.

Kailapa is currently going through with the Kulia I Ka Nuu process.

Land Management Division recommends approval to grant a new license agreement to the alternate site for the development of the Kailapa Resource Center, which will combine the gang mail boxes with other community related uses subject to the proposed terms and conditions.

RECOMMENDATION

Land Management Division requests approval of this motion as stated.

ITEM G-3

EXHIBIT B

KAILAPA COMMUNITY RESOURCE CENTER /
DISASTER SHELTER
DRAFT ENVIRONMENTAL ASSESSMENT
NOVEMBER 2015


Please go to DHHL website to view an electronic
copy of the 322 page document:



http://dhhl.hawaii.gov/wp-content/uploads/2015/02/KAILAPA-DEA2_compressed.pdf



STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

November 16-17, 2015

To: Chairman and Members, Hawaiian Homes Commission

Thru: M. Kaleo Manuel, Acting Planning Program Manager 

Thru:  Norman Sakamoto, Acting Administrator 
Land Development Division

From: Andrew H. Choy, Planner 
Jeffrey Fujimoto, Engineer 
Land Development Division

Subject: For Information Only - Draft Environmental
Assessment for Honokaia Water System, Waimea Nui,
Hawaii, TMK (3) 2-6-001:001-046; (3) 4-7-007:005

Recommended Action

None. For information only.

Discussion

PURPOSE

The purpose of this informational briefing is to update the Hawaiian Homes Commission (HHC) on the status of this project relative to its compliance with Hawaii Revised Statutes Chapter 343.

BACKGROUND

The Honokaia Water System project is tied to a settlement agreement as a result of litigation against DHHL. The water system is a gravity fed non-potable water system that will be connected to the County of Hawaii, Department of Water Supply (DWS) system. The Honokaia Water System consists of metal storage tank reservoir(s), approximately 40,000 linear feet of transmission lines and laterals, individual submeters and, pressure reduction valves, air

release valves, and appurtenant infrastructure. The benefitted properties are 46 lots within a DHHL pastoral subdivision in Honokaia, on Old Mamalahoa Highway near Honokaa. These lots are owned by the Department of Hawaiian Home Lands (DHHL) and leased by various lessees. All improvements would be located on portions of some of these lots or on the private DHHL roads that provide access to the lots, except for the DWS connection, which would occur on an adjacent DHHL lot.

Final plans were completed on April 14, 2015. The design included two (2) reservoir sites, both with 46,000 gallon tanks, access roads less than 12% in grade and perimeter fencing. As a cost saving measure, the system was revised to a single tank system. In lieu of the second, lower tank, a pressure reducing valve was installed. The access road/driveway to the single tank was realigned at a more direct path from the existing private road to the tank, which also reduced the amount of new property fencing. The driveway to the tank was changed from asphalt to concrete since the new grade would be approximately 18%. With eliminating the lower tank, rerouting the access road, and reducing the amount of piping and fencing, the project cost estimate was brought within the budget amount. In addition to the cost savings, DHHL believes the single tank system will be easier to operate and maintain.

WORK COMPLETED TO DATE

The following is a list of major project milestones completed to date.

May 12, 2014

DHHL contracted planning and engineering firm Akinaka and Associates, Ltd. to plan and design the Honokaia Non-Potable Water System.

August 2014 to June 2015

Akinaka and Associates, Ltd. and its sub-consultant team completed engineering and technical studies needed to design the water system, and document the existing condition of the project area and immediate vicinity for

the environmental assessment. Engineering and technical studies completed included:

- Archeological Inventory Survey;
- Flora and Fauna Survey;
- Civil, Structural and Geotechnical Engineering Analysis and Reports; and
- Topographic Surveys and Mapping.

April 2015

Akinaka and Associates, Ltd. and subcontractor Geometrician Associates in consultation with DHHL began preparation of the Draft Environmental Assessment (DEA), including written consultation with agencies and organizations to collect early feedback and input.

July 2015

Akinaka and Associates, Ltd. and subcontractor Geometrician Associates prepared a preliminary DEA for DHHL review.

August to September 2015

DHHL reviewed the preliminary DEA and provided comments. Akinaka and Associates, Ltd. and subcontractor Geometrician Associates revised the DEA based on those comments. The DEA was submitted to the State Office of Environmental Quality Control (OEQC) for publication in its bi-monthly Environmental Notice Bulletin.

October 2015

OEQC published notice of the DEA for the Honokaia Non-Potable Water System. The mandatory 30-day public comment period on the DEA is from October 8, 2015 to November 7, 2015. However, DHHL is extending the comment period to November 30, 2015, to allow additional opportunities for beneficiaries to comment on the DEA.

DRAFT ENVIRONMENTAL ASSESSMENT (SUMMARY)

The DEA (**Exhibit A**) assesses the potential environmental impact to the surrounding environment of the Honokaia Non-Potable Water System.

The enclosed Site Plan illustrates the location and features of the project. The gravity fed non-potable water system consists of a County of Hawaii, Department of Water

Supply (DWS) connection, one 104,600-gallon metal storage tank reservoir, approximately 32,000 linear feet of transmission lines and laterals, individual submeters and appurtenant infrastructure. The benefitted properties are 46 lots within a DHHL pastoral subdivision in Honokaia, on Old Mamalahoa Highway near Honokaa. The supplemental water for ranching fulfills aspects of DHHL's Waimea Nui Plan that seek to improve the pastoral program and provide for the non-potable ranching water needs of lessees in order to achieve agricultural success. For ranching needs, the Proposed Action distributes 4,800 gallons a day to the lessees, sufficient to supply approximately 320 head of cattle.

Beneficial effects include facilitating the land use and lifestyle that was intended when the subdivision was created. Very minor short-term impacts to water quality can be mitigated to negligible levels by proper adherence to construction permits and other mitigation. No significant archaeological sites are present, cultural uses will not be adversely affected, and no threatened or endangered species will be affected, given standard mitigation for timing of removal of tall woody vegetation. The existing infrastructure will be able to accommodate additional demand created by the proposed uses.

The DEA also addresses the proposed project for consistency with existing plans and applicable land use policies. It is fully consistent with the existing plans and applicable land use policies in the region.

Based upon the analysis completed in the DEA, staff anticipates a finding of no significant impact for the priority projects of the Honokaia Non-Potable Water System Project. This determination is based upon the 13 criteria of significance that approving agencies must consider as specified in HAR 11-200-12.

1. The project will not involve an irrevocable commitment or loss or destruction of any natural or cultural resources.

The project corridor is dominated by non-native, invasive species and contains only a few individuals of a limited number of common native species. No natural water bodies would be affected in any way and no significant natural

resources will be irrevocably committed or lost. The State Historic Preservation Division is expected to concur with the archaeological finding submitted to their office that no adverse effect to historic properties will occur.

2. *The project will not curtail the range of beneficial uses of the environment.*

Future beneficial uses of the environment will in general be maintained by the Proposed Action.

3. *The project will not conflict with the State's long-term environmental policies.*

The State's long-term environmental policies are set forth in Chapter 344, HRS. The broad goals of this policy are to conserve natural resources and enhance the quality of life. A number of specific guidelines support these goals. The project's goal of improving water service for DHLL pastoral uses satisfies all relevant elements of the State's environmental policies.

4. *The project will not substantially affect the economic or social welfare of the community or State.*

The improvements will benefit the social and economic welfare of Hawaii by improving water facilities for DHHL beneficiaries who have pastoral lots in Honokaia.

5. *The project does not substantially affect public health in any detrimental way.*

No effects to public health are anticipated.

6. *The project will not involve substantial secondary impacts, such as population changes or effects on public facilities.*

The Proposed Action will foster the orderly use of the Honokaia Pastoral Lots, as consistent with all relevant plans including the Hawaii County General Plan, the DHHL General Plan, Hawaii Island Plan and Waimea Nui Regional Plan.

7. *The project will not involve a substantial degradation of environmental quality.*

The implementation of best management practices for all construction will ensure that the Proposed Action will not degrade environmental quality in any substantial way.

8. *The project will not substantially affect any rare, threatened or endangered species of flora or fauna or habitat.*

No rare, threatened or endangered species of flora are present. Impacts to Hawaiian hoary bats will be avoided through timing of tall woody vegetation removal.

9. *The project is not one which is individually limited but cumulatively may have considerable effect upon the environment or involves a commitment for larger actions.*

At the current time, there does not appear to be any roadway, utility, development or other projects being undertaken on the Old Mamalahoa Highway or in adjacent DHHL lands that would combine in such a way as to produce adverse cumulative effects. The Proposed Action does not involve a commitment for larger actions that would have impacts that would accumulate with those of the Proposed Action to become significant.

10. *The project will not detrimentally affect air or water quality or ambient noise levels.*

Effects to water quality will be negligible with implementation of standard best management practices that will be required under permits. Construction may involve very brief periods of elevated noise levels, but very few sensitive noise receptors are present, and impacts will not be significant.

11. *The project will not affect or will likely be damaged as a result of being located within an environmentally sensitive area such as flood plains, tsunami zones, erosion-prone areas, geologically hazardous lands, estuaries, fresh waters or coastal waters.*

No floodplain is present, no water resources or hazards are present, and there are no geologically hazardous conditions.

12. *The project will not substantially affect scenic vistas and viewplanes identified in county or state plans or studies.*

No protected viewplanes will be impacted by the project, which will have no adverse scenic effects.

13. *The project will not require substantial energy consumption.*

Energy will be required for construction, but the provision of non-potable water will reduce the need for water hauling, and the net result should be a reduction in energy use.

NEXT STEPS FOR EA COMPLETION

The following is a list of anticipated next steps and milestones in the completion of the EA:

- Extended Public comment period ends for DEA (November 30, 2015);
- Revise DEA per public comments and complete Final Environmental Assessment (FEA) (November 2015);
- Present FEA to HHC; HHC issues Finding of No Significant Impact (FONSI) declaration for the project (December 2015); and
- HHC FONSI declaration for the project and FEA submitted to OEQC for publication in OEQC bi-monthly bulletin. (January 2016)

NEXT STEPS FOR OVERALL PROJECT IMPLEMENTATION

In addition to the completion of the FEA and HHC declaration of FONSI for the project in accordance with Hawaii Revised Statutes Chapter 343, the following actions will need to be completed for the implementation of the Honokaia Non-Potable Water System Project:

- Finalize the construction plans;

- Issue the Invitation for Bids to construct the water system; and
- Award and execute the construction contract, and issue the Notice to Proceed to start construction.

The anticipated timeline for completion of the above tasks is estimated at six (6) months from the time the FEA is completed and the HHC issues a FONSI declaration.

Conclusion

In summary:

- The DEA for the Honokaia Non-Potable Water System Project has been completed;
- The 30-day mandatory public review and comment period began October 8, 2015. The comment period is extended to November 30, 2015;
- Based on the findings of the DEA, staff anticipates a finding of no significant impact for the proposed priority projects of the Honokaia Non-Potable Water System Project;
- Staff will present the FEA to the HHC in December 2015 and will ask the HHC for a FONSI declaration.

Recommended Action

None. For information only.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

November 10, 2015

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Kaleo Manuel, Acting Planning Manager

SUBJECT: G-4 For Information Only – Draft Environmental Assessment for Honokaia Water System, Waimea Nui, Hawai‘i, TMK (3) 2-6-001:001-046; (3) 4-7-007:005,

THIS SUBMITTAL WILL BE DISTRIBUTED UNDER SEPARATE COVER



ITEM NO. G-4


STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

November 16-17, 2015

To: Chairman and Members, Hawaiian Homes Commission

Through: Peter K. Albinio, Jr. Acting Land Management
Administrator 
M. Kaleo Manuel, Acting Planning Program Manager 

From: Bob Freitas, HHL Program Planner 

Subject: For Information Only - Land Use Request from
Edward K. Taniguchi for Land Located in Anahola
Kauai, TMK (4) 4-7-002:004 (por.)

RECOMMENDED MOTION/ACTION

None; For Information Only

DISCUSSION

On the Island of Kauai DHHL has only developed pastoral homesteads in Waimea. There is currently one pastoral lessee actively ranching on (3) of the (5) lots in the region. Two (2) pastoral homestead lots are currently un-awarded. The pastoral land in Waimea is very remote and accessible only by four wheel-drive.

Historically, the homestead population has grown in the Anahola region and the Kauai Island plan continues to support development in Anahola which is planned to include future agricultural and pastoral development.

DHHL owns 4,228 acres of land in the Anahola and Kamalomalo'o region extending from the shoreline mauka to the Kealia Forest Reserve (Exhibit A). There are lands in this area that are not in homesteading but are planned for homestead development. Currently, a large portion of these lands are managed via short term revocable permits. The

following table summarizes the nine (9) pastoral revocable permits in Anahola who are raising livestock.

Rev. Permit No.	Size in acres	Annual Rent	Date Issued
47	2.8	\$336	1982
63	14.9	\$1704	1984
158	30	\$1380	1994
159	13	\$636	1994
314	63	\$2292	2004
352	5	\$1320	2005
362	50	\$1392	2005
367	11.6	\$672	2005
385	2.8	\$264	2005
Totals	193.1	\$9996.00	

DHHL currently manages lands in Anahola via pastoral revocable permits because the area lacks sufficient infrastructure to award these lands as homestead lots. Many of the permits are with non-Hawaiians who are raising cattle. Mr. Taniguchi has observed the cattle operations over the years because he is a resident of Anahola. He is number two (2) of three hundred and sixteen (316) people currently on the pastoral waiting list for Kauai, and he is number one (1) on the residential waiting list.

On July 14, 2015 Mr. Edward K. Taniguchi wrote a letter explaining that he has been patiently waiting and actively participating in the Hawaiian Homes Program since September 22, 1961, and after 54 years he is requesting a land stewardship proposal.

Mr. Taniguchi explained that when the Waimea pastoral homesteads were offered, his Mother received a lot but it was returned to DHHL because of the quality of the land to support ranching and its remoteness. Mr. Taniguchi has worked in the cattle industry and currently raises approximately 60 cows on a rented parcel of private land.

Mr. Taniguchi submitted a land use request form on October 23, 2015 for 300-500 acres of pastoral land located in Anahola, Kaua'i TMK (4)4-7-002:004(por.) (Attachment B).

Mr. Taniguchi officially discussed his concerns about waiting for a pastoral homestead award for the past 55 years with the Chairman during a Homestead Leadership meeting on Kauai and most recently on the J-agenda with the Hawaiian Homes Commission at the October 2015 meeting on Kauai. There was a discussion of potentially issuing a Kuleana Homestead Award and the need to explore options to meet Mr. Taniguchi's needs. Pursuant to these discussions and as a follow up to the meeting he provided additional background information pertaining to his request via letter (Attachment C). He discussed the possibility of DHHL issuing a Kuleana Homestead Award like the awards used for pastoral homesteaders at Kahikinui, Maui.

Hawaii Administrative Rules (HAR) Section 10-3-30 Kuleana Homestead Leases allows the Commission to establish a homestead program for settlement on unimproved available Hawaiian Home Lands. This rule sets up the criteria necessary to develop a Kuleana homestead area and further review and analysis will be required (Attachment D).

Next Steps:

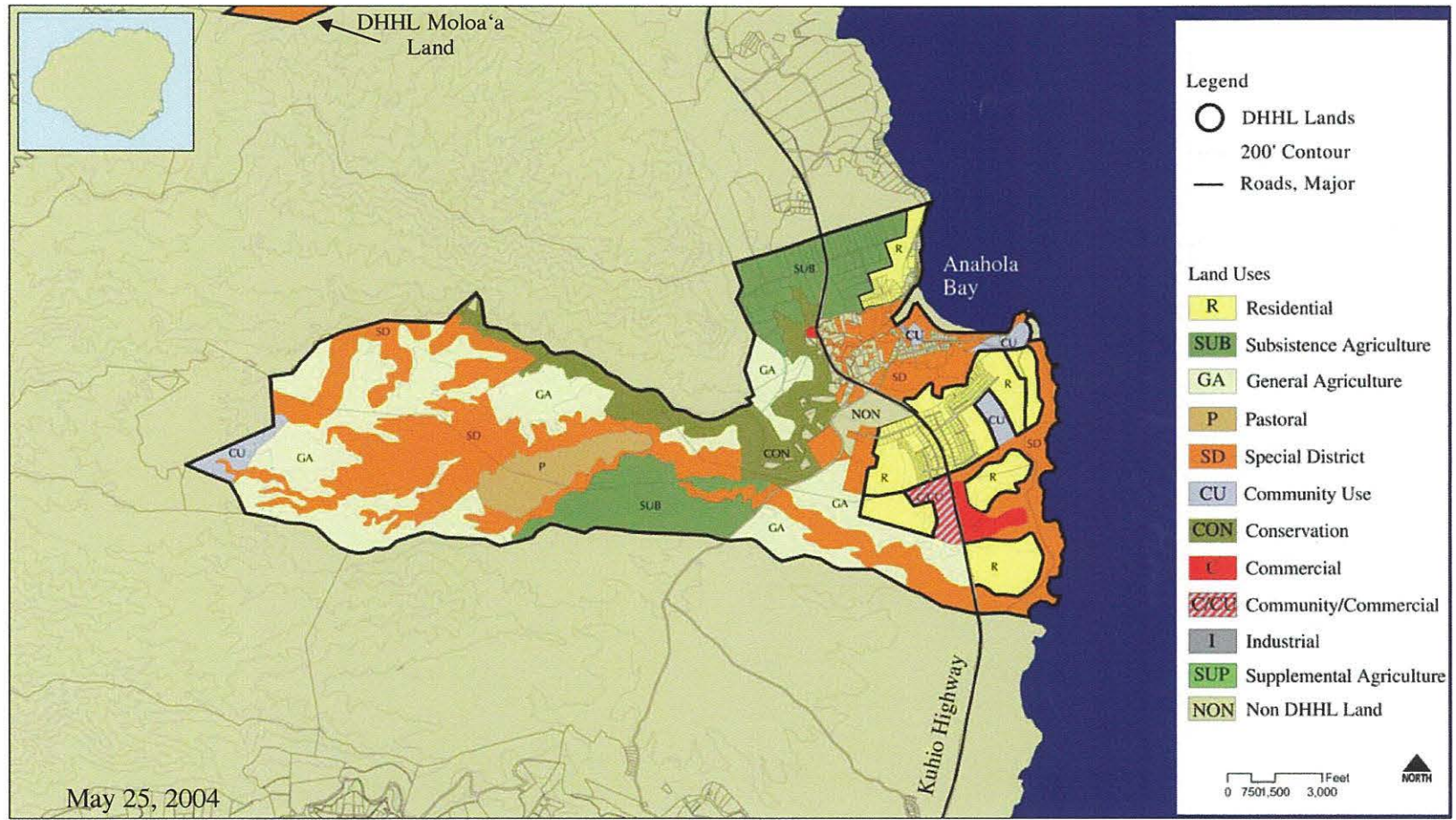
DHHL staff will continue to develop a strategy to assist Mr. Taniguchi and will report back once all of the details have been confirmed. In the interim, staff anticipates bringing to the HHC a request to issue a Right of Entry to Mr. Taniguchi as an interim disposition until a homestead pastoral disposition, either traditional or Kuleana, is made available.

RECOMMENDATION

None; For Information Only

Kaua'i Island Plan
DEPARTMENT OF HAWAIIAN HOME LANDS

• Anahola / Kamalomalo'o •



R = 565 acres; 359 existing lots & 1,218 planned @ 10,000 sf	CU = 127 acres; 44 acres mauka & 83 acres makai
SUB = 533 acres; 47 existing lots & 103 planned @ 2 acres	SD = 1,419 acres
GA = 1,018 acres;	CON = 350 acres
P = 148 acres; 14 lots @ 10 acres	C = 68 acres total

Figure 8.2
Anahola/Kamalomalo'o Land Use Plan

EXHIBIT 'A'



DAVID Y. IGE
GOVERNOR
STATE OF HAWAII



JOBIE M. K. MASAGATANI
CHAIRMAN
HAWAIIAN HOMES COMMISSION

SHAN S. TSUTSUI
LT. GOVERNOR
STATE OF HAWAII

WILLIAM J. AILA, JR.
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879
HONOLULU, HAWAII 96805

REQUEST FORM FOR NON-HOMESTEADING LAND USE PURPOSES

PART I: APPLICANT INFORMATION

Name: Edward K. Taniguchi

Address: PO Box 758 Anahola HI 96703

Phone No.: (808) 821-1206 Cell: (808) 635-8768 email: anuheamiti@yahoo.com

If Corporation/Organization/Company/LLC/Non-Profit:

Name: _____

Address: _____

Phone No.: _____ Cell: _____ email: _____

Requesting Organization is a Non-Profit

Type of Non-Profit:

- Private Nonprofit – governed by self appointed board
- Member Nonprofit – governed by voting members
- Homestead Organization – governed by HHCA beneficiary members

Requesting Organization is For Profit - Individual or Business

- Individual Sole Proprietorship Partnership
- Corporation Limited Liability Corporation Other

Is an Individual HHCA Beneficiary or is Owned by an HHCA Beneficiary Yes No

Requesting Organization is a Government Agency

- Federal State County

Officers and/or Principal Representatives: Edward K. Taniguchi

Mission of Organization: To be a self sufficient Hawaiian; raise livestock, garden vegetables, ulu, banana, kalo etc; anything else we can grow to feed our families and community.

Date Incorporated: _____ State of Incorporation: _____

Federal Tax ID#: _____ State Tax ID#: _____

PART 2: NON-HOMESTEADING LAND USE REQUEST

Describe proposed non-homesteading land use envisioned under this request as submitted _____

*Please attach additional information if necessary



Land Area requested: Acreage/Sq.Ft. At least 500 Term: AS long AS possible
 Island: Kauai Tax Map Key No.: 4-4-7-002-004 To be transferred to a 'Kuleana' lease Award

Indicate Character of Use:

- Agricultural Commercial Church Other
 Pastoral Industrial Community Facility

Does applicant have any existing land disposition issued by Hawaiian home lands for non-homesteading use purposes? Yes No

If yes, under what type of use and disposition: _____

Describe how proposed land use request will have direct or significant indirect benefit to the Trust and/or its Beneficiaries (Applicants & Lessees): DHHL would be able to follow its rules for beneficiaries by awarding me, Edward Taniguchi, a Kuleana lease. I have waited nearly 55 years, since 1961, for a lease that I am entitled to as part of Prince Kuhio's vision in 1920 when he created the Hawaiian homes act.

The following authorized representative submits this request for use of Hawaiian home lands under non-homesteading purposes and acknowledges that:

1. This is an application process that will be subject to further review, evaluation and consideration by DHHL and may require additional information to be submitted;
2. This request does not constitute any form of DHHL approval to this non-homesteading land use request as submitted;
3. In the best interest of the trust, DHHL reserves the right to exercise its prudent authority pursuant to and in accordance with the Hawaiian Homes Commission Act (Section III, Section 204(a)(2), Section 220.5, Section 207(c), Hawaii Revised Statutes, Chapter 171, as amended and the Hawaii Administrative Rules, Title 10;
4. Once the application is deemed complete, the non-homesteading land use request will be posted for a 30 day review period on the DHHL website for beneficiary and public comment;
5. Additional Island or Regional Specific Beneficiary Consultation will be required per the DHHL Beneficiary Consultation Policy;
6. All input/comments received will be provided to the Hawaiian Homes Commission if/when approval for disposition is considered by the HHC;
7. Associated non-refundable processing and documentation fees shall be assessed for each respective disposition request as follows:

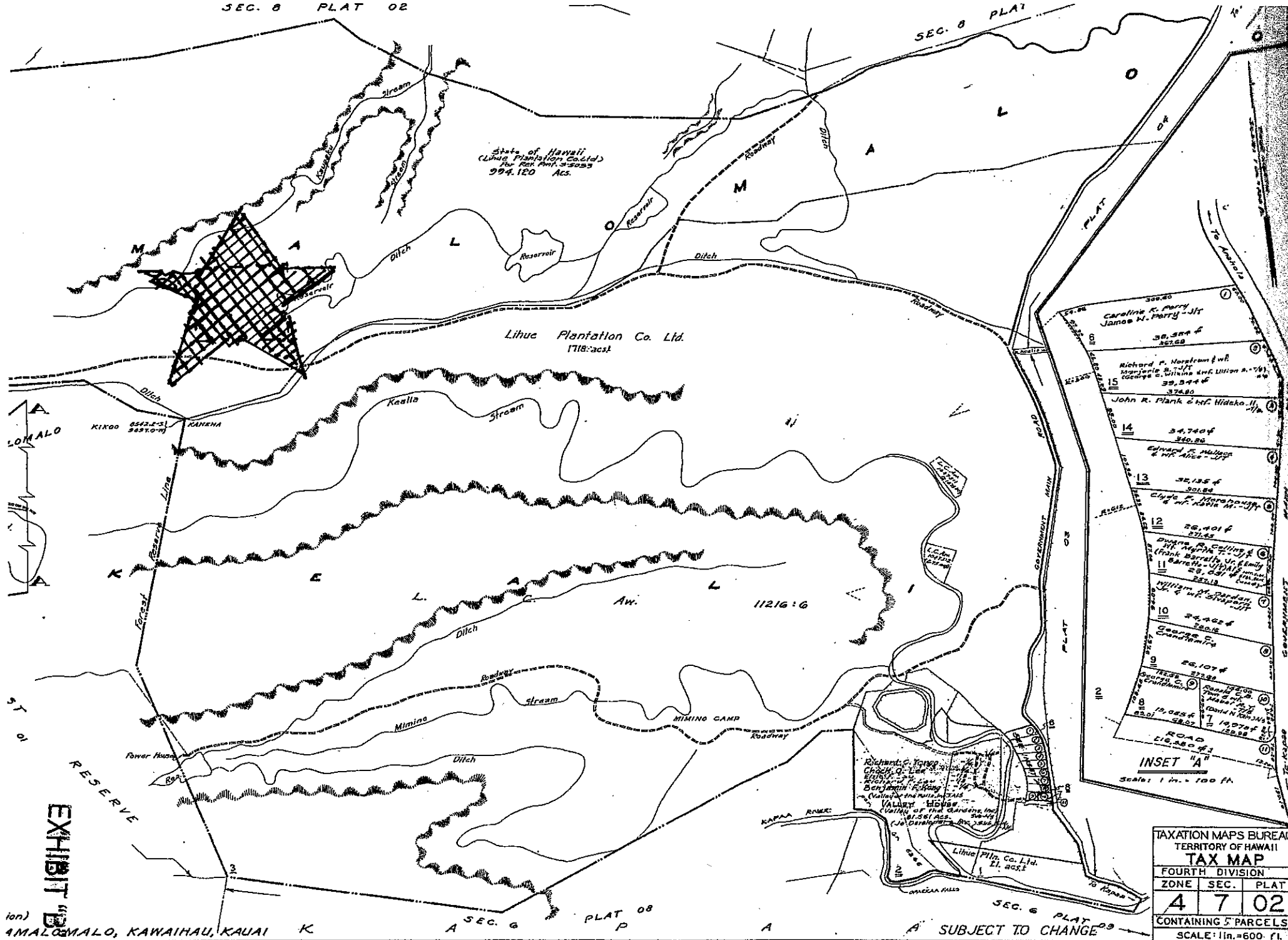
Revocable Permit - \$100.00 License - \$200.00 NA per chairman Masagatani General Lease - Cost Documentation (all)...\$75.00
Edward K. Taniguchi 10.21.2015

Print Individual or Organization Name

Date Edward K. Taniguchi

Authorized Representative Name & Title

Signature



LOHALO

KIKOO 6542.2-51
2337.0-11

KANENA

Forest Line

Power House

RESERVE

EXHIBIT "B"

ion)

4 MALO, MALO, KAWAIHAU, KAUAI

SEC. 6 PLAT 08

A

SEC. 6 PLAT 09

A

SUBJECT TO CHANGE

TAXATION MAPS BUREAU
TERRITORY OF HAWAII

TAX MAP

FOURTH DIVISION

ZONE	SEC.	PLAT
4	7	02

CONTAINING 5 PARCELS

SCALE: 1 in. = 600 ft.

PRINTED

July 14, 2015

Aloha! My name is Edward K. Taniguchi of Anahola, Kauai. After patiently waiting and actively participating in the Hawaiian Homes Department process since 1961, and after 54 years, I am offering you, the department my assistance in providing a Land Stewardship Proposal that will enable you to award me a lease immediately with no further wait.

I am 80 years young and refuse to become another waitlist statistic of a Native Hawaiian, waiting to be awarded a land lease, that never happens because I cease to exist. I have waited patiently, a majority of my life, for this land lease to happen and still nothing. However, hearing thru the grapevine and seeing for myself, land is leased to NON HAWAIIANS, no problem. I fully understand the complex factors influencing long wait times for beneficiaries to be awarded leases; long lead times for securing infrastructure financing and difficulty in obtaining new monies for it's development. I also understand the department's responsibility to fulfill its obligation to beneficiaries in a timely manner, as the main purpose of the Hawaiian Homes Commission is to facilitate land awards to beneficiaries.

This Proposal addresses DHHL'S need to seek a creative solution in order to increase land distribution and remediate the unacceptably long wait time of 54 years, in my personal case. In keeping with DHHL'S main mission statement, I offer you a way to expedite the process by stepping "outside the box", seeking alternatives and taking initiative. I ask that the department immediately award me a lease, in the form of a kuleana award of unencumbered, raw and unimproved land on the island of Kauai in the Kamalomalo'o area of Anahola.

In 1999 DHHL worked with a group of waiting beneficiaries on the Island of Maui to create the Kuleana Land Program of Kahikinui as a pilot program with the intention that future beneficiaries be given the opportunity to explore alternative homesteading in the form of contemporary, off-grid, subsistence style Kuleana Leases.

The vision for this program is based on the practice of "Kuleana" lands awarded to a Hawaiian by the King or ruling monarch of the 1850's. The granting of lands carried with it the responsibility for a Hawaiian ohana to respect and malama the lands. It was understood that when the aina was properly care for, it would in turn sustain the physical and spiritual well being of its caretakers.

As stated in the DHHL website, the Kahikinui homestead program is the "outgrowth of DHHL'S effort to expand the range of program options provided to native Hawaiian beneficiaries". The remote location of Kahikinui on the back slopes of Haleakala created prohibitive costs for possible community development and the land therefore appeared inaccessible to beneficiaries. With innovation and

EXHIBIT "C"

a willingness to work hard the off-grid subsistence community envisioned became a reality.

I ask to be allowed the same opportunity here in Kamalomalo'o, Anahola to demonstrate to DHHL and future beneficiaries that the Kuleana Program can be a complete success with pono intentions and proper land stewardship based on traditional land management concepts. My 80 years of knowledge gained through subsistence living, agriculture and cattle ranching here on Kauai and my commitment to the long term health of our island and culture have allowed me to be federally recognized as a Cultural Practitioner, Advisor and Konohiki (head man of an ahupua'a land division under the Chief) for Anahola, Kauai. I carry with me a deep connection to this aina. My knowledge comes from years of living and working on the land perpetuating 'ike passed on to me by my parents and uncles, knowledge and values that I share with present and future generations. My cultural wisdom, life experiences and old fashioned ethics ensure proper stewardship of this land in a way that will not only benefit me now and empower our community but also enable the department to fulfill various aspects of its immediate goals as shared in its mission statement objectives: to expand the variety of homesteading opportunities, implement ag and pastoral homesteading opportunities, giving consideration to rural homesteading.

Similar to Kahikinui, the location of the Hawaiian homelands of Kamalomalo'o, Anahola present prohibitive development costs for the department with no awards planned in my lifetime. My vision, however, for this land would not require any infrastructure to be provided by anyone other than myself. My goals to be accomplished for the rest of time that I have on this earth, if given this chance, would focus on using the land as a agricultural and environmental resource.

The land that I request to lease has not been in use since its return to DHHL from Amfac/Lihue Plantation. It is the furthest mauka of DHHL lands in Anahola bordering the Kealia forest reserve. I am formally requesting 300 acres of land in TMK:4-4-7-002-004 bordering the forest reserve and property now owned by Cornerstone LLC. Ample rainfall and fertile soil will allow great potential for various agriculture uses, however, inconsistent terrain would not be suitable for community development. With direction and dedication this aina could produce an abundance of food to support my family and others. Staples like kalo, banana, ulu and sweet potato to name a few would flourish. Medicinal herbs like olena, mamaki, laukahi, awa and noni would also flourish with minimal maintenance. The lower portion of the area would also be ideal for me to pasture my small herd of cattle (which I now pay for land to pasture elsewhere), goats, mules and pigs which I currently raise, while I wait for a lease offer.

EXHIBIT "C"

With many resources available to me I am prepared to immediately begin planting and fencing in the lower portion of the land (an area for my cattle). Further mauka this land is the gateway to our wao nahele or inland forests (currently DLNR Kealia, forest reserve) where native koa, ohia lehua, papala and maile can still be seen growing at the edge of Hawaiian Home Lands property. Prior to being cleared by the plantations for sugar planting, native vegetation flourished supporting a diverse eco-system and contributing to a healthy water shed. As a gateway to our sacred wao nahele and wao kele proper stewardship is necessary for this aina. This upland area holds tremendous potential for restoration efforts as a valuable environmental and cultural resource for our community, cultural practitioners, and keiki of the next generation.

The waipo'o of the ahupua'as flows into Anahola stream feeding the entire valley and eventually emptying into Anahola Bay. Our fishing village of Anahola, situated largely around the bay is home to over 47% of Kauai's Native Hawaiian population. The health of the eco-system at higher mauka elevations is of extreme importance to the overall health to the lower part of the valley, Anahola Bay and our entire community.

When beginning to understand the current state of our Anahola Watershed, it becomes increasingly clear that there is an urgent need for proper resource management, education and rehabilitation efforts to attempt to offset the projected continued growth of Anahola's population. In the words of Michael Buck who headed DLNR forestry and wildlife division for over a decade, "Hawaiian society was based on the Ahupua'a system of land management, which evolved to protect the upland water resources... The forest sustained agriculture, aquaculture and other human activities. Water was a gift from the gods and Hawaiians understood the relationship between their forests and their survival. The ancient proverb sums it up: "Hahai no ka ua I ka ulu la'au. Rain always follows the forest". The present day is no different. Unsustainable agricultural techniques and improper land management depleted our forests and diminish the quality of fresh water supplies. Our water table has dropped noticeably, our once flowing streams at the base of Kalelea have dried up, as our demand for fresh water has outstripped our supply. Flow to the main river has become intermittent and unreliable due to the damage and destruction of our upland growth.

Immediate remediation efforts are needed in each community across Hawaii. Here in Anahola, I am willing and able to begin guiding these efforts. It is noted by Michael Buck in discussing watershed restoration that reforestation of original Koa forests can help restore watersheds, habitats for native species (many endangered) as well as create sustainable commercial and cultural forest products. Here on Kauai, we have several exemplary well established community based foundations with which we have an opportunity to explore, collaborative

partnerships motivated by common (restoration) goals. Within my own immediate ohana, I have resources with backgrounds in Native Hawaiian plant botany, propagation and out planting to help move my vision forward and coordinate community involvement.

As noted on the DHHL website: the PRIMARY benefits to be expected from native forest restoration are: 1) increased water quality and air quality; 2) conservation of unique endemic plants and animals; 3) perpetuation of important Hawaiian cultural resources and 4) diversification of rural economy". Also to be expected are an increase in the number of days per year that intermittent stream flows and water is available at springs. Top soil will be protected and retained with expected erosion control, allowing proper retention of organic material, heightening natural nitrogen levels, creating a fertile receptive environment for revegetation efforts of mauka areas. Without such efforts, unregulated erosion and sedimentation continues irreversible damage to our nearshore marine waters on which our community depends. Anahola village is one of the last existing Hawaiian fishing villages in the islands and the need for protection of our way of life is urgent. We live in a critical time, where without proper leadership our keiki face a future of diminished natural resources directly connected to loss of culture, community pride, and selfworth. The keiki of tomorrow may never know our precious Kanaka way of life.

On an island that relies on external imports for the majority of what we consume I am motivated to use my knowledge and resources, working toward balancing the needs of Anahola with nourishing food grown in our ahupua'a. I wish to contribute to maintaining a healthy reef that will continue to provide fish for our fisherman, who could provide for the community. I want our bay to be the living classroom where our keiki learn life skills through participation, where our culture continues to LIVE, not just be preserved in the distant print of history books. I envision an environment where our community, young and old, mo'opuna and kupuna, may join efforts to maintain and restore our resources, where children have the opportunity to learn life lessons from their kupuna and reconnect to this 'aina that sustains us. The Kamalomalo'o area as a gateway from coastal lowlands to Mauka uplands is an invaluable ecological and cultural resource, representing the reinforcement and positive revitalization of our environment and cultural identity here in Anahola.

Infrastructure is not necessary to make this vision a reality for me. Any needed electricity for daily operations will be provided by a small solar panel or battery run unit. A battery powered water pump would be provided for irrigation and propagation, which may never be needed due to consistent rainfall and ground moisture. A simple composting unit would suffice and be environmentally sound and phone service is available with my cellular. The only thing missing for me to

accomplish my vision is the land to do it on. As I have mentioned before, I have been on your waiting list since 1961, 54 years and counting.

Today we as Hawaiians face a pivotal time in our history. One where the ike of our Kupuna is more valuable than ever. Intergrating traditional thought processes and a way of life that reflects true core Hawaiian values of aloha Aina is necessary to ensure balanced strengthening and survival of our environment, people and culture in this modern world. We are intertwined, one may not flourish without the other.

DHHL carries a heavy responsibility, you are charged with oversight of our Hawaiian lands and facilitation of the return of Hawaiians to the land. The survival of our people and our cultural identity depends on our return to our 'Aina. He Alii Ka 'Aina, He Kawaa Ke Kanaka; The Land is Chief, man is the servant.

I humbly ask that you accept my assistance to fulfill your responsibility and end my 54 year wait for a land lease designated for Hawaiians that has been exploited by commercial interests of non-hawaiians for over 100 years. I look forward to receiving my lease and helping you refine your Kuleana Land Award Model Program with true commitment to my vision. With old fashioned hard work, Aloha Aina and innovation I will demonstrate to the department that beneficiary success can not only improve the lives of one ohana, but can fortify an entire community.

Because it is possible, I can make it a reality!

With positive anticipation of your acceptance of my kokua as well as my enclosed proposal, I thank you for your time and assistance with this request.

Sincerely,



Edward K. Taniguchi

Anahola

PO BOX 758

Anahola HI 96703

(b) No lease shall be cancelled without first affording the lessee the right to a hearing as prescribed in chapter 5. [Eff 7/30/81; comp
OCT 26 1998] (Auth: HHC Act §222) (Imp: HHC Act §§210, 216)

§10-3-29 Repealed. [Eff 7/30/98; R **OCT 26 1998**]

§10-3-30 Kuleana homestead leases. (a) The commission may establish a homestead program for settlement on unimproved available Hawaiian home lands to be known as the kuleana homestead program.

(b) The commission may set aside a tract or tracts of unimproved "available lands" as defined in section 203 of the Act, for award under the kuleana homestead program. All lots awarded under this program shall be known as kuleana homestead lots.

(c) In determining whether a tract should be set aside for award as kuleana homestead lots, the commission shall consider the following:

- (1) Physical and environmental characteristics of the land;
- (2) Excessive cost to develop the tract for any reason including: the physical characteristics of the land, the distance of the land from existing electrical, water, waste water disposal, communications, and other utility systems;
- (3) Department land management plans and programs;
- (4) Applicant interest or proposals identifying tracts of land; and
- (5) Suitability for use by lessees who wish immediate access to the land for subsistence uses and who are willing to live on the land and accept an unimproved lot.

(d) The commission shall determine which homestead waiting list, or combinations thereof, may be

EXHIBIT 'D'

used to make the awards and what list, or combinations thereof, may be used if the original list used to make the awards is exhausted.

(e) The department, together with interested applicants, shall develop a plan for settlement and development of the designated tract. All settlement plans shall be subject to approval by the commission. The plan shall include, but not be limited to the following:

- (1) Location and description of the tract of land;
- (2) Approximate size and number of lots to be awarded;
- (3) Approximate location of community center and common areas;
- (4) Preliminary conceptual proposals for community management and economic development of adjacent department lands, if applicable;
- (5) Plan for the identification, protection and preservation of all significant historical, archaeological, and biological sites; and
- (6) Settlement timetable to commence after the award of the lots.

(f) The department shall provide the following for the kuleana homestead lots:

- (1) Metes and bounds descriptions of lots; d
- (2) An unpaved right-of-way to the awarded lots.

(g) A lessee of a kuleana homestead lot shall be subject to all applicable state codes, county ordinances, and departmental rules and policies governing land use, building, health, and safety unless and until the kuleana homestead association's building, health, and safety codes and permitting process become effective for that particular tract. The kuleana homestead association for that particular tract, in consultation with a licensed architect, registered in the State, may develop, adopt, and enforce its own zoning, building, and permitting process on the condition that standards contained in state health codes and health and safety sections and provisions contained in the Uniform Building Code are met and that a licensed architect, registered in the State, is

EXHIBIT "D"

willing to certify all building plans as part of the community developed permitting process. No kuleana homestead association developed zoning, building, health and safety codes and permitting processes shall be effective unless and until they are approved by the commission.

(h) All leases awarded by the department pursuant to the kuleana homestead program shall comply with this subchapter and subchapter 3 unless otherwise superseded by the settlement plan approved by the commission for a particular tract. In addition, all lessees shall comply with the following conditions:

- (1) Lessee agrees to participate as an active member in the kuleana homestead association for that particular tract and to comply with rules developed and agreements entered into by the kuleana homestead association;
- (2) Lessee agrees to accept the lot in its "as is" condition with no expectation of additional improvements beyond those specified in subsection (f); and
- (3) Lessee agrees to participate in the maintenance of the right-of-way to the kuleana homestead tract and lots. [Eff and comp **OCT 26 1998**] (Auth: HHC Act §§ 207, 219.1, 222) (Imp: HHC Act §§ 207, 219.7)

SUBCHAPTER 3 CONDITIONS IN LEASES

§10-3-31 Additional conditions, generally. In addition to the conditions in leases set forth in section 208 of the act, and in the lease document, all lessees shall be subject to the restrictions set forth in this subchapter. [Eff 7/30/81; comp **OCT 26 1998**] (Auth: HHC Act §222) (Imp: HHC Act §208)

EXHIBIT "D"

2133

DEPARTMENT OF HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION
NOVEMBER 16 & 17, 2015
KULA & WAILUKU, MAUI

AGENDA SECTION J

GENERAL AGENDA

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

November 10, 2015

TO: Chairman and Members, Hawaiian Homes Commission
SUBJECT: Request to Address the Commission – **Mahealani Mehe‘ule, Hawaiian
Community Assets**

RECOMMENDED MOTION/ACTION

None. For Information Only.

DISCUSSION:

Ms. Mehe‘ula wishes to address the Commission regarding a presentation of the in-kind services HCA has provided Maui County beneficiaries since September 2014.

ITEM NO. J-1



200 North Vineyard Blvd, A300
Honolulu, HI 96817
Ph: 808-587-7886
Toll Free: 1-866-400-1116
www.hawaiiancommunity.net

July 27, 2015

Department of Hawaiian Home Lands
Attn: Jobie Masagatani, Director
PO Box 1879
Honolulu, HI 96805

RE: Request for Placement on J Agenda – August HHC Meeting

Aloha Ms. Masagatani:

I am contacting you on behalf of Hawaiian Community Assets (HCA) to request placement on the J Agenda of the Hawaiian Homes Commission meeting in August.

I request placement on the J Agenda to present on the in-kind services HCA has provided Maui County beneficiaries since September 2014.

Thank you for the opportunity to request placement on the J Agenda. I look forward to hearing from you. Please feel free to contact me should you have any questions regarding our organization's request.

Sincerely

A handwritten signature in black ink, appearing to read "Mahealani Mehe'ula".

Mahealani Mehe'ula
Community Services Specialist

HHC Item No. J-4
Exhibit A
Date July 29, 2015

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

November 10, 2015

TO: Chairman and Members, Hawaiian Homes Commission
SUBJECT: Request to Address the Commission – **Lahela Williams, Hawaiian Community Assets**

RECOMMENDED MOTION/ACTION

None. For Information Only.

DISCUSSION:

Ms. Mehe'ula wishes to address the Commission regarding a presentation on the progress of reinstating a community review process for grants and contracts provided by the State Department of Hawaiian Home Lands.

ITEM NO. J-2



200 North Vineyard Blvd, A300
Honolulu, HI 96817
Ph: 808-587-7886
Toll Free: 1-866-400-1116
www.hawaiiancommunity.net

July 27, 2015

Department of Hawaiian Home Lands
Attn: Jobie Masagatani, Director
PO Box 1879
Honolulu, HI 96805

2015 AUG -6 AM 9:30

2015 AUG -6 AM 9:30

RE: Request for Placement on J Agenda – August HHC Meeting

Aloha Ms. Masagatani:

I am contacting you on behalf of Hawaiian Community Assets (HCA) to request placement on the J Agenda of the Hawaiian Homes Commission meeting in August.

I request placement on the J Agenda to present on the progress of reinstating a community review process for grants and contracts provided by the State Department of Hawaiian Home Lands.

Thank you for the opportunity to request placement on the J Agenda. I look forward to hearing from you. Please feel free to contact me should you have any questions regarding our organization's request.

Sincerely

Lahela Williams
Program Coordinator

HHC Item No. J-5
Exhibit A
Date 8/6/2015

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

November 10, 2015

TO: Chairman and Members, Hawaiian Homes Commission

SUBJECT: Request to Address the Commission – **TERRY MILLER, LAURA JOHNSON,
HARRY JOHNSON**

RECOMMENDED MOTION/ACTION

None. For Information Only.

DISCUSSION:

Imogene Maio Lease.

ITEM NO. J-3

2015 NOV -2 PM 3: 40

November 2, 2015

Dept. of Hawaiian Home Land
Maui District Office

Department of Hawaiian Homelands
Hale Kalaniana'ole
91-5420 Kapolei Parkway
Kapolei, HI. 96707

Chair Jobie Masagatani:

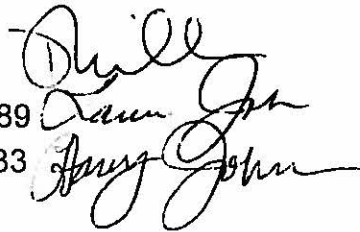
We would like to request to be on the J-Agenda of the Hawaiian Homes Commission meeting at the Paukukalo Community Center scheduled for November 17, 2015. Should you have any questions regarding this request please feel free to contact us at your earliest convenience.

Mahalo,

Terry Miller - 808 870 6823

Laura Johnson - 808 463 6389

Harry Johnson - 808 870 1633

Three handwritten signatures in black ink. The top signature is 'Terry Miller', the middle is 'Laura Johnson', and the bottom is 'Harry Johnson'.

cc: Renwick "Joe" Tassil
Kahale Richardson
Michael P. Kahikina
Doreen Napua Canto
Gene Ross Davis
Kathleen "Pua" Chin
Wallace A. Ishibashi
David B. Ka'apu

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

November 10, 2015

TO: Chairman and Members, Hawaiian Homes Commission

SUBJECT: Request to Address the Commission – **DONNA KAMAHELE**

RECOMMENDED MOTION/ACTION

None. For Information Only.

DISCUSSION:

Hawai'i Island designated beneficiary.

ITEM NO. J-4

Burrows-Nuuanu, Leatrice W

Subject: FW: J- Agenda Request

From: Kamahele4 [mailto:kamahele4@comcast.net]

Sent: Monday, November 02, 2015 5:40 AM

To: Burrows-Nuuanu, Leatrice W <leatrice.w.burrows-nuuanu@hawaii.gov>

Subject: Re: J- Agenda Request

What is the process or form required to Request to Address the Commissioner at the November meeting? Where do I fax my request and where do I send my written statement of my case? I would also like to Request to be heard by telephone or skype. I am owed \$5,000 and it will cost about \$3,500 for me to fly over, get a hotel and a rental car. I have already been put through a lot of stress already.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

November 10, 2015

TO: Chairman and Members, Hawaiian Homes Commission

SUBJECT: Request to Address the Commission – **JANEEN-ANN A. OLDS**

RECOMMENDED MOTION/ACTION

None. For Information Only.

DISCUSSION:

Sandwich Isles Communications Update.

ITEM NO. J-5



**Sandwich Isles
Communications, Inc.**
A Waimana Company

November 4, 2015

The Honorable Chair Jobie Masagatani
Department of Hawaiian Home Lands
Hale Kalaniana'ole
91-5420 Kapolei Parkway
Kapolei, Hawaii 96707

Re: Sandwich Isles Communications, Inc. Exclusive License Agreement #372

Aloha e Jobie:

Sandwich Isles Communications, Inc. requests to formally appear before the Hawaiian Homes Commission at its November meeting. We are prepared to meet at the convenience of the Commission on either November 16th or 17th, or any other date desired by the Commission.

As discussed at prior meetings, we are committed to keeping the Commission informed of the current status of SIC as well as answer any questions. We remain committed to our mission and to carrying on the company's vision of providing quality telecommunications services to Native Hawaiians on Hawaiian Home Lands statewide. We have a responsibility to improve the quality of life for those on Hawaiian Home Lands, and take this role very seriously.

We look forward to continuing our collaborative working relationship with the Department of Hawaiian Home Lands and look forward to jointly exploring how we can continue to serve the telecommunications needs of the beneficiaries on Hawaiian Home Lands so that they are not left behind on the information highway.

Me ka ha'aha'a,

Sandwich Isles Communications, Inc.

By 

Janeen-Ann A. Olds

cc: William Aila
Peter Albinio

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

November 10, 2015

TO: Chairman and Members, Hawaiian Homes Commission

SUBJECT: Request to Address the Commission – **JOHN ORNELLAS**

RECOMMENDED MOTION/ACTION

None. For Information Only.

DISCUSSION:

Lanai Land Swap Issue.

ITEM NO. J-6

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

November 10, 2015

TO: Chairman and Members, Hawaiian Homes Commission

SUBJECT: Request to Address the Commission – **BO KAHUI**

RECOMMENDED MOTION/ACTION

None. For Information Only.

DISCUSSION:

Executive Director, La'i'ōpua 2020

ITEM NO. J-7

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

November 10, 2015

TO: Chairman and Members, Hawaiian Homes Commission

SUBJECT: Request to Address the Commission – **KAHAU MAHOE-THEONE**

RECOMMENDED MOTION/ACTION

None. For Information Only.

DISCUSSION:

Accessory Dwelling Units

ITEM NO. J-8



200 North Vineyard Boulevard, A300
Honolulu, HI 96817
Ph: 808-587-7886
Toll Free: 1-866-400-1116
www.hawaiiancommunity.net

November 6, 2015

Aloha e Hawaiian Homes Commissioners:

I am writing on behalf of Hawaiian Community Assets (HCA), the thousands of beneficiary families we serve annually, and key community stakeholders to support the placement of the Mahoe-Thoene Ohana's Accessory Dwelling Unit (ADU) plan on the November Commission agenda for action. This is a follow up from a similar request I made for placement of the plan on the October Commission agenda for action. Our organization hopes the Hawaiian Homes Commission will allow for this action to take place and to consider an additional 4 ADU plans for development as a pilot project in the coming year as a way to further the intent of the Hawaiian Homes Commission Act and the emergency proclamation made by Governor Ige related to homelessness.

As stated in my testimony during the October Commission meeting, the Mahoe-Thoene Ohana are among 116 native Hawaiian beneficiary families who support the development of ADUs on Hawaiian Home Lands as a tool for self-determination and affordable housing that has the potential of reuniting families suffering from the impacts of homelessness. During the 2015 Annual Native Hawaiian Housing Caucus, 54 community stakeholders made the recommendation to invest \$10 million in NAHASDA funds for the development of 400 ADUs on Hawaiian Home Lands as part of a comprehensive approach to address our growing homeless epidemic in Hawaii. This recommendation, along with seven additional recommendations, were adopted by the 160 member organizations of the Council for Native Hawaiian Advancement during the 14th Annual Native Hawaiian Convention. These recommendations were then presented to the Governor's Task Force on Homelessness. Please find the enclosed recommendations report for your review.

Based on comments made during the October Commission meeting, we are aware of your concerns related to the development of ADUs, including renting of the units to non-native Hawaiian beneficiaries and the enforcement required to ensure beneficiaries reside in the units. These concerns do not apply to Mahoe-Thoene Ohana, nor the 4 other initial beneficiary families interested in building ADUs, as they all plan to house their beneficiary family members in the units. For this reason we ask for the Commission to consider a pilot project to build 5 ADUs on Hawaiian Home Lands and allow for Commission action on each ADU development plan with approval on a case-by-case basis. To allay your concerns, beneficiaries interested in building ADUs through the pilot project could provide (1) documentation confirming the individual to move into the ADU is a native Hawaiian beneficiary, (2) an executed rental lease agreement, and (3) sign an agreement to abide by the rental agreement or otherwise be subject to Hawaiian Home Lands' current lease cancellation process for violations. HCA commits to support all parties through our existing Renter and Hawaii Tenant Referral Services Programs, which

provides HUD-certified financial education/rental counseling to assist individuals in becoming financially qualified for affordable rental housing and provide landlords the technical assistance necessary to place renters in their units according to the Hawaii Landlord-Tenant Code, respectively. This approach would allow you as Commissioners to demonstrate a good faith effort to your beneficiaries who support ADUs as an affordable housing opportunity that furthers their self-determination and for the community to work closely with the Department of Hawaiian Home Lands to address specific and certain concerns as they arise with each ADU development. Furthermore, this practical and measured approach would lend itself to the creation of a stronger, more accurate set of rules for ADU development on Hawaiian Home Lands, should they be deemed necessary.

Mahalo nui loa for your consideration and leadership. Our organization hopes the Hawaiian Homes Commission will allow for this action to take place and to consider an additional 4 ADU plans for development as a pilot project in the coming year as a way to further the intent of the Hawaiian Homes Commission Act and the emergency proclamation made by Governor Ige related to homelessness.

Please feel free to contact me directly at 808.587.7653 or via email at jeff@hawaiiancommunity.net should you have any questions or concerns.

Sincerely

A handwritten signature in black ink, appearing to read "Jeff Gilbreath". The signature is written in a cursive, slightly slanted style.

Jeff Gilbreath
Executive Director

cc. Kehaulani Filimoeatu, HCA Board President