

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

April 24, 2009

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:05SD-257
STATEWIDE

Amend Prior Board Action of December 9, 2005 (D-1), Set Aside
to Department of Agriculture for Agriculture Purposes,
Statewide

BACKGROUND:

The Land Board at its December 9, 2005 meeting, under agenda item D-1, approved staff's recommendation subject to the Board of Agriculture approval, recommend to the Governor the issuance of a set aside to Department of Agriculture for agricultural purposes various properties managed by Land Division. The Legislature in 2003 found that certain public lands classified for agricultural use by the Department of Land and Natural Resources (DLNR) should be transferred and managed by the Department of Agriculture (DOA) for the development of farms on as widespread a basis as possible which is established by Article XI, Section 10 of the State Constitution. This resulted in the passing and signing of Act 90, Session Laws of Hawaii 2003. Later, Act 235, Session Laws of Hawaii 2005 passed establishing a non-agricultural park lands special fund at DOA for the collection of lease rents, fees, penalties, and any other revenue or funds collected from non-agricultural park lands that are transferred, or in the process of being transferred from DLNR to DOA. There are some requirements as to the DLNR properties that can be transferred, e.g. the lessees on the properties shall not be in arrears of taxes, rents; in compliance with the terms and conditions.

Statewide the breakdown of DLNR properties were as follows:

		Total Acreage:	Total Revenues:
Island of Oahu	58 DLNR tenants	608.807 acres	\$373,546
	7 vacant parcels	614.803 acres	
Island of Maui	28 DLNR tenants	752.593 acres	\$63,658
	2 vacant parcels	326.67 acres	
Island of Molokai	2 DLNR tenants	286.180 acres	\$18,000
Island of Hawaii	37 DLNR tenants	1877.300 acres	\$195,870
	2 vacant parcel	76.190 acres	
Island of Kauai	15 DLNR tenants	183.256 acres	\$45,270

As of this writing, DLNR lands that have been set aside to DOA are as follows:

GEO 4222	Tmks: (2) 5-2-1:7, 9	286.181 acres
GEO 4239	Tmks: (1) 4-1-10:41, 42, 43, 44, 48, 81, 88; 4-1-18:40, 47, 51; 4-1-26:15, 17, 19; 4-1-27:1, 6, 7, 8, 9, 10; 4-1-27:11, 12, 18, 19, 25, 26, 27, 28, 29, 30	183.532 acres
GEO 4243	Tmks: (1) 4-1-24:54, 62, 63; 4-1-25:22, 23	31.559 acres
GEO 4244	Tmks: (4) 1-9-2:13, 45	10.976 acres
GEO 4245	Tmks: (2) 1-3-4:6, 20; 2-3-3:6	434.310 acres
GEO 4250	Tmks: (3) 1-2-6:15, 16, 73; 2-1-16:1; 2-2-56:20; 4-3-3:2, 3, 4, 5, 6, 7; 4-3-3:7; 4-4-1:1; 4-6-1:7, 8, 18; 4-6-2:1, 7; 4-6-3:1, 2, 20; 4-7-4:9; 5-5-7:5; 6-6-5:21, 26	1684.014 acres
GEO 4253	Tmks: (1) 4-1-10:40, 46	8.879 acres
GEO 4257	Tmks: (1) 8-5-5:9; 4-1-10:5, 6, 8, 31, 37, 38, 39	66.767 acres
GEO 4259	Tmks: (4) 1-2-2:42, 6, 43, 22, 35; 1-9-12:28; 4-4-2:31; 1-9-2:1, 20	132.749 acres
GEO 4268	TMKS: (1) 4-1-10:7, 26, 29, 30, 34 and 4-1-25:57	41.654 acres

REMARKS:

By memorandum dated February 18, 2009, DOA Director Sandra Lee Kunimoto cites that 15 parcels have been determined to be unsuitable for production agriculture, therefore, respectfully request eliminating from transfer consideration. (Exhibit A) Staff is requesting they be removed.

RECOMMENDATION:

That the Board amend its prior action of December 9, 2005, under agenda Item D-1, by:

1. Deleting tenants identified in memorandum dated February 18, 2009 from Department of Agriculture, Director Sandra Lee Kunimoto.

2. All terms and conditions listed in its December 9, 2005 approval to remain the same.

Respectfully Submitted,



Charlene E. Unoki
Assistant Administrator

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



LINDA LINGLE
Governor



SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 Fax: (808) 973-9613

RECEIVED

09 FEB 19 10:30

February 18, 2009

DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

TO: Honorable Laura Thielen
Chairperson, Board of Land and Natural Resources

FROM: Sandra Lee Kunimoto *SLK*
Chairperson, Board of Agriculture

SUBJECT: Request to Eliminate From Consideration to Transfer
Encumbrances Pursuant to Chapter 166E, HRS

DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

2009 FEB 20 10:41

RECEIVED
LAND DIVISION

The Board of Land and Natural Resources (BLNR) at its meeting on December 9, 2005, approved the transfer of 151 interests in agricultural lands over to the Department of Agriculture (DOA) in order to comply with the intent of Act 90, SLH 2003, and codified as Chapter 166E, Hawaii Revised Statutes (HRS), Non-Agricultural Park Lands Program. The original listing of 151 leases and permits was dated November 25, 2005.

The Board of Agriculture (BOA) approved the acceptance of 143 leases and permits across the State, at its meeting held on June 13, 2006 and July 25, 2006, subject to its staff review and acceptance of the 143 leases and permits. Of these leases and permits, 108 have been E.O.'d or are in the process of being transferred.

Twenty (20) leases and permits are conditionally accepted and the remaining deficiencies are being addressed by DOA and DLNR staff.

[Fifteen (15) parcels have been determined to be unsuitable for production agriculture, therefore, we respectfully request eliminating from transfer consideration the fifteen encumbrances reflected on the attached listing of "Rejected" encumbrances. The specific reasons why each parcel is unsuitable for production agriculture is noted on the list.]

A second listing with eleven (11) parcels has been presented by your Land Division for consideration a couple of months ago. Our Agricultural Resource Management Division is currently in the process of performing site inspections and file reviews. Upon completion, those encumbrances that are in compliance with their leases, shall be requested for set aside by Governor's Executive Order.

Thank you for your assistance in this matter. Should you have any questions, please do not hesitate to call me at (808) 973-9550.

Attachment



EXHIBIT "A"

ENCUMBRANCES REJECTED BY HDOA (ALL ISLANDS)

Act 90, SLH 2003; MOA dated June 1, 2007 and Amended August 1, 2008

rev. 02/02/09

Doc. No.	Lessee	Island	Acreage	Basis for Rejection
gl4210	KIMOKEO, LINCOLN ALIILOA	Maui	0.97	Primary use is residential, very little ag activity. Parcel is too small and is unsuitable for commercial agriculture.
gl4209	DANLEY, DEANNA	Maui	1.1	Parcel is overgrown, no ag activity, no bldgs., looks vacant/abandoned. Parcel is too small and is unsuitable for acommercial agriculture.
rp7327	KANOA, ISSAC A. & GLADYS R.		1.497	Active taro grower, but property is made up of three, very small parcels. Property is not suitable for commercial farming. DLNR to retain lease.
rp6229	KAAUAMO, JR., SOLOMON	Maui	2.99	No roads, walking access along taro loi embankment only. Parcel is landlocked and not suitable for commercial agriculture.
rp6821	DAY, JOSEPH	Maui	0.85	No roads, walking access along taro loi embankment only, in fallow state, no ag activity. Parcel is landlocked and is not suitable for commercial agriculture.
rp7305	MARTIN, JR., NORMAN D.	Maui	0.56	No roads, walking access along taro loi embankment only, in fallow state, no ag activity. Very small parcel is landlocked and not suitable for commerical agriculture.
gl3857	EADE, COILA	Maui	5.2	Parcel is on the beach, not suitable for commercial agriculture. Front parcel used for catering? DLNR to retain lease.
rp6649	FLECK, JR., PHILIP & GLORIA	Maui	1.04	Parcel is landlocked; very steep gully/rocky cover. Not suitable for commercial ag use. DLNR to retain lease.
gl4272	MILNER, MICHAEL P.	Maui	1.84	No ag activity. Too small for commerical ag use. Being used to access other parcels. DLNR to retain lease.
gl4519	KAPRALIK, DAVID	Maui	1.905	Parcel used for residential, not suitable for ag use. DLNR to retain lease.
rp6180	BROWNE, SUSAN & RON	Maui	9.63	Very steep parcel, contains Hoolawa Stream, used for public access to beach. Not suitable for commercial agriculture. DLNR to retain lease.
rp6690	PALOMINO, ANNA MARIE & D. BOWKER	Maui	1.7	Parcel is very narrow on a ridgeline. Unsuitable for agriculture, should offer to adjacent landowner. DLNR to retain lease.
rp5402	HOOPII, RICHARD	Maui	0.179	Parcel is on a steep & rocky slope, unsuitable for commercial ag use. DLNR to retain lease.
rp5214	A & B - HAWAII, INC.	Maui	7.168	Parcel not suitable for commercial ag use. Strip of land adjacent to sugarcane fields. DLNR to retain lease.
rp5485	A & B - HAWAII, INC.	Maui	1.168	Parcel not suitable for commercial ag use. Strip of land adjacent to sugarcane fields and highway. DLNR to retain lease.

ACT 090

THE SENATE
TWENTY-SECOND LEGISLATURE, 2003
STATE OF HAWAII

S.B. NO. 1034
S.D. 1
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO AGRICULTURAL LANDS.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to title 11, to be appropriately designated
3 and to read as follows:

"CHAPTER

NON-AGRICULTURAL PARK LANDS

6 § -1 **Legislative findings.** The legislature finds that
7 article XI, section 10, of the State Constitution establishes
8 that "the public lands shall be used for the development of farm
9 and homeownership on as widespread a basis as possible, in
10 accordance with procedures and limitations prescribed by law."

11 Therefore, the legislature finds that certain public lands
12 classified for agricultural use by the department of land and
13 natural resources should be transferred to the department of
14 agriculture, with the approval of the board of land and natural
15 resources and the board of agriculture, for purposes and in a
16 manner consistent with article XI, section 10, of the State
17 Constitution.



1 The purpose of this chapter is to ensure the long-term
2 productive use of public lands leased or available to be leased
3 by the department of land and natural resources for agricultural
4 purposes by allowing these lands to be transferred to and
5 managed by the department of agriculture.

6 **§ -2 Definitions.** For the purposes of this chapter:

7 "Agricultural activities" means the care and production of
8 livestock, livestock products, poultry, or poultry products, or
9 apiary, horticultural, or floricultural products, or the
10 planting, cultivating, and harvesting of crops or trees.

11 "Board" means the board of agriculture.

12 "Department" means the department of agriculture.

13 "Non-agricultural park lands" means lands that are not
14 designated as agricultural parks pursuant to chapter 166.

15 **§ -3 Transfer and management of non-agricultural park**
16 **lands and related facilities to the department of agriculture.**

17 (a) Upon mutual agreement and approval of the board and the
18 board of land and natural resources:

19 (1) The department may accept the transfer of and manage
20 certain qualifying non-agricultural park lands; and

21 (2) Certain assets, including position counts, related to
22 the management of existing encumbered and unencumbered

1 non-agricultural park lands and related facilities
2 shall be transferred to the department.

3 (b) The department shall administer a program to manage
4 the transferred non-agricultural park lands under rules adopted
5 by the board pursuant to chapter 91. The program and its rules
6 shall be separate and distinct from the agricultural park
7 program and its rules. Non-agricultural park lands are not the
8 same as, and shall not be selected or managed as are lands under
9 agricultural park leases. Notwithstanding any other law to the
10 contrary, the program shall include the following conditions
11 pertaining to encumbered non-agricultural park lands:

- 12 (1) The lessee or permittee shall perform in full
13 compliance with the existing lease or permit;
- 14 (2) The lessee or permittee shall not be in arrears in the
15 payment of taxes, rents, or other obligations owed to
16 the State or any county; and
- 17 (3) The lessee's or permittee's agricultural operation
18 shall be economically viable as specified by the
19 board.
- 20 (4) No encumbered or unencumbered non-agricultural park
21 lands with soils classified by the land study bureau's
22 detailed land classification as overall (master)

1 Notwithstanding any law to the contrary, leases of encumbered
2 non-agricultural park lands transferred to the department shall
3 not have their respective length of term or rents reduced over
4 the remaining fixed term of the leases.

5 § -6 Rules. The board shall adopt rules pursuant to
6 chapter 91 to effectuate the purposes of this chapter."

7 SECTION 2. The board of agriculture and the board of land
8 and natural resources shall jointly report to the legislature,
9 not later than twenty days prior to the convening of the 2004
10 regular session, on their efforts to effectuate the transfers
11 authorized under this Act.

12 SECTION 3. This Act shall not be applied so as to impair
13 any contract existing as of the effective date of this Act in a
14 manner violative of either the Constitution of the State of
15 Hawaii or Article I, Section 10, of the United States
16 Constitution.

17 SECTION 4. This Act shall take effect upon its approval.

APPROVED BY THE
GOVERNOR ON

MAY 28 2003