

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

August 12, 2010

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

PSF No.: 09HD-112

Hawaii

Agreement in Concept for the Issuance of Direct Lease to Mauna Kea Moo, LLC for Dairy Purposes, Niupea-Kaala, Hamakua, Hawaii, Tax Map Key: 3<sup>rd</sup>/4-1-04:33 and Manowaikohau-Kekualele, Hamakua, Hawaii Tax Map Key: 3<sup>rd</sup>/4-2-07:02.

APPLICANT:

Mauna Kea Moo, LLC, a Hawaii limited liability corporation whose business and mailing address is P.O. Box 461, Papaikou, Hawaii 96774.

LEGAL REFERENCE:

Section 171-59(b), Hawaii Revised Statutes, as amended.  
*Disposition by Negotiation.* Includes agricultural processing as defined, "the processing of agricultural products, including dairying, grown, raised or produced in Hawaii."

LOCATION:

Portion of Government lands of Niupea-Kaala, Hamakua, Hawaii, identified by Tax Map Key: 3<sup>rd</sup>/4-1-04:33, and portion of Government lands of Manowaikohau-Kekualele, Hamakua, Hawaii Tax Map Key: 3<sup>rd</sup>/4-2-07:02, as shown on the attached maps labeled Exhibits A.

AREA:

Parcel 33	
3 <sup>rd</sup> /4-1-04:33	333.68 acres, more or less.
Parcel 02	
3 <sup>rd</sup> //4-2-07:02	<u>1,061.69</u> acres, more or less
Total area	1,395.37 acres, more or less

ZONING:

State Land Use District: agriculture  
County of Hawaii CZO: 40-acre agriculture

**TRUST LAND STATUS:**

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES

**CURRENT USE STATUS:**

Vacant and unencumbered.

**CHARACTER OF USE:**

Dairy purposes.

**LEASE TERM:**

Thirty (30) years

**COMMENCEMENT DATE:**

The first day of the month to be determined by the Chairperson.

**ANNUAL RENT:**

Fair market annual rent to be determined by independent appraiser, subject to review and approval by the Chairperson.

**METHOD OF PAYMENT:**

Semi-annual payments, in advance.

**RENTAL REOPENINGS:**

At the 10th and 20th years of the lease term, by staff or independent appraisal.

**PERFORMANCE BOND:**

Twice the annual rental amount.

**PROPERTY CHARACTERISTICS:**

Tax Map Key: 3<sup>rd</sup>/ 4-1-04:33:

Utilities – None

Slope – moderate

Elevation – 1,000 feet to 1,800 feet

Rainfall – moderate to high

SCS Soil Series – Low humic latosol, moderately fine.

Land Study Bureau – University of Hawaii

Legal access to property – Staff has verified that there is legal access to the property off of Hawaii Belt Road.

**Tax Map Key: 3<sup>rd</sup>/4-2-07:02:**

Utilities – None

Slope – moderate

Elevation – 900 feet to 2,000 feet

Rainfall – moderate to high

SCS Soil Series – Low humic latosol, moderately fine.

Land Study Bureau – University of Hawaii

Legal access to property – Staff has verified that there is legal access to the property off of Hawaii Belt Road via Old Government Road.

Subdivision – Staff has verified that the subject properties to be auctioned are legally subdivided lots.

Encumbrances – Staff has verified that there are no encumbrances on the properties.

**CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:**

Applicant will have an environmental assessment prepared and published in accordance with the requirements of Hawaii Revised Statutes (HRS) Chapter 343 and Chapter 11-200, Hawaii Administrative Rules (HAR).

**DCCA VERIFICATION:**

Place of business registration confirmed:	YES <u>X</u>	NO <u>__</u>
Registered business name confirmed:	YES <u>X</u>	NO <u>__</u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u>__</u>

**APPLICANT REQUIREMENTS:**

Applicant shall be required to:

- 1) Pay for the costs of public notice pursuant to HRS Section 171-16;
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
- 3) Publish an environmental assessment with the Office of Environmental Quality Control in compliance with the HRS Chapter 343 and HAR Chapter 11-200, and obtain Finding of No Significant Impact (FONSI) for the project;

**REMARKS:**

Tax Map Key: 3<sup>rd</sup>/ 4-1-04:33 (Parcel 33) and Tax Map Key: 3<sup>rd</sup>/4-2-07:02 (Parcel 2) were last leased to Hamakua Sugar Company, Inc. under General Lease No. S-3614 and General Lease No. S-3612, respectively, for agricultural purposes. Both leases terminated in 1991 and the land has been sitting fallow since that time.

Staff has received a number of inquiries from ranchers, alternative energy companies, dairy operators, and commercial forestry companies regarding the availability of these parcels for their various proposed uses. Hamakua Biomass Energy, LLC and Sunfuels Hawaii LLC identified the parcels as two of many parcels desired for their alternative energy operations.

At its meeting of November 14, 2008, Items D-5 & D-6, the Board authorized the Land Division to enter into negotiations for lease of up to 10,500 acres of State lands to Hamakua Biomass, and 10,000 acres to Sunfuels subject to a number of conditions. To date, the conditions have not been fulfilled, and no specific request has been brought to the Board for a lease of the subject parcel. Staff is seeking the Board's authorization to issue a direct lease of the parcels for dairy purposes rather than hold the land for alternative energy use.

Although water is not readily available on parcel 2, there is a county water line available for limited use on parcel 33.

As indicated in Exhibits A, Parcel 2 surrounds a landlocked parcel designated as TMK (3) 4-2-07:01 (parcel 1), area 4.7 acres, owned by Kamehameha Schools / Bishop Estate. Land Division's files contain no record of a legal easement over parcel 2 in favor of parcel 1. The applicant will be required to fence off parcel 1.

Utilities are not available. The applicant will need to arrange for water and electricity, if required.

Currently, there are only two major operating dairies in the State of Hawaii and both are on the Island of Hawaii. According to the Applicant, there is a tremendous demand for locally produced milk and milk products and it is believed that this operation will significantly increase the supply of locally produced milk.

The owner of Mauna Kea Moo, LLC is Kees Kea. Mr. Kea grew up on a family dairy farm in the Netherlands gaining much experience and expertise in the operation and production of milk and dairy products. He has gained further experience as owner/manager of a dairy operation in Tillamook Oregon. In 2003, Kees came to Hawaii to assist in the operations of Island Dairies, Inc. where he became a partner. During his time at the dairy, he made many improvements in animal health and reproduction, increasing the amount of young stock. He also implemented improvements to the odor abatement program thereby reducing the number of complaints from adjacent neighbors. Although the partnership did not work out, he realized that value-added products such as cheese, butter and yogurt in addition to milk would make a dairy flourish on the island.

The Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Upon approval in concept from the Board for the issuance of a direct lease for dairy purposes, Applicant will solicit comments from various agencies as part of the Environmental Assessment process.

**RECOMMENDATION:** That the Board:

That the Board, subject to the Applicant fulfilling all of the Applicant requirements listed above, approve in concept the issuance of a direct lease to Mauna Kea Moo, LLC, covering the State-owned parcels identified as Tax Map Key: 3<sup>rd</sup>/ 4-1-04:33 (Parcel 33) and Tax Map Key: 3<sup>rd</sup>/4-2-07:02 (Parcel 2) for a commercial dairy operation pursuant to Section 171-59(b) with the understanding that the approval in concept shall not be deemed to be an approval of a lease as staff shall return to the Board at a later date for approval of the lease disclosing the Environmental Assessment and its Finding of no Significant Impact (FONSI).

Respectfully Submitted,

  
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Gordon C. Heit  
Land Agent 

APPROVED FOR SUBMITTAL:

  
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Laura H. Thielen, Chairperson 

# O'OKALA DAIRY PARCELS

