

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

September 9, 2010

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

PSF No.: 10HD-156

HAWAII

Approval in Concept for the Issuance of Direct Lease to Boteilho Hawaii Enterprises, Inc. for Dairy Purposes, Opihipau-Hukiaa, Kokoiki, North Kohala, Hawaii, Tax Map Key: 3rd/ 5-5-003: 4, 5 & 6, 5-5-005: 1, and 5-5-006: 2, 3, 4 & 15.

APPLICANT:

Boteilho Hawaii Enterprises, Inc., a Hawaii corporation.

LEGAL REFERENCE:

Section 171-59(b), Hawaii Revised Statutes, as amended.

TMK/ DISTRICT/ ZONING/ ENCUMBRANCE/ AREA:

TAX MAP KEY	DISTRICT	ZONING		ENCUMBRANCE	AREA (Acres)
		LUC	CZO		
3 rd / 5-5-03: 4	Opihipau, Hukiaa N. Kohala	Ag	Ag-20	General Lease No. S-5572; Boteilho Hawaii Enterprises, Inc.	136.94
3 rd / 5-5-03: 5	Opihipau, Hukiaa N. Kohala	Ag	Ag-20	General Lease No. S-5572; Boteilho Hawaii Enterprises, Inc.	31.78
3 rd / 5-5-03: 6	Opihipau, Hukiaa N. Kohala	Ag	Ag-20	General Lease No. S-5572; Boteilho Hawaii Enterprises, Inc.	39.10
3 rd / 5-5-05: 1	Kokoiki, N. Kohala	Ag	Ag-20	General Lease No. S-5574; Boteilho Hawaii Enterprises, Inc.	74.323
3 rd / 5-5-06: 2	Opihipau, Hukiaa N. Kohala	Ag	Ag-20	General Lease No. S-4950; Boteilho Hawaii Enterprises, Inc.	39.28
3 rd / 5-5-06: 3	Opihipau, Hukiaa N. Kohala	Ag	Ag-20	General Lease No. S-4950; Boteilho Hawaii Enterprises, Inc.	397.239
3 rd / 5-5-06: 4	Opihipau, Hukiaa N. Kohala	Ag	Ag-20	General Lease No. S-4950; Boteilho Hawaii Enterprises, Inc.	144.827

3 rd / 5-5-06: 15	Opihipau, Hukiaa N. Kohala	Ag	Ag-20	General Lease No. S-4950; Boteilho Hawaii Enterprises, Inc.	16.06
				TOTAL:	879.549

LOCATION:

Portion of Government lands situated at Opihipau-Hukiaa and Kokoiki, North Kohala, Hawaii, identified by Tax Map Key: 3rd/ 5-5-003: 4, 5 & 6, 5-5-005:1, and 5-5-006: 2, 3, 4 & 15, as shown on the attached map labeled Exhibit A.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

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

YES ___ NO x

CURRENT USE STATUS:

Encumbered by General Lease No. S-4950, Boteilho Hawaii Enterprises, Inc., Lessee, for dairying purposes. Lease to expire on March 31, 2020. Annual rent is \$16,800.

Encumbered by General Lease No. S-5572, Boteilho Hawaii Enterprises, Inc., Lessee, for pasture purposes. Lease to expire on February 7, 2019. Annual rent is \$8,520.

Encumbered by General Lease No. S-5574, Boteilho Hawaii Enterprises, Inc., Lessee, for pasture purposes. Lease to expire on February 7, 2019. Annual rent is \$2,760.

CHARACTER OF USE:

Dairying 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:

Utilities – All utilities are available.

Slope – slight gentle mauka-makai 4.8% slope

Elevation – 400 to 600 feet

Legal access to property – Staff has verified that there is legal access to the property off the Niulii-Mahukona Road.

Subdivision – Staff has verified that the subject property is a legally subdivided lot.

Encumbrances – Staff has verified that the following encumbrances exist on the property:

General Lease No. S-4950, Boteilho Hawaii Enterprises, Inc.

General Lease No. S-5572, Boteilho Hawaii Enterprises, Inc.

General Lease No. S-5574, Boteilho Hawaii Enterprises, Inc.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This is only a request for Land Board approval in concept for a direct lease to Boteilho Hawaii Enterprises, Inc. over an approximate 879.549 acres with authorization to proceed upon compliance of Chapter 343, HRS.

DCCA VERIFICATION:

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

APPLICANT REQUIREMENTS:

Applicant shall be required:

- 1) Pay for the costs of public notice pursuant to HRS Section 171-16;
- 2) Publish an environmental assessment with the Office of Environmental Quality Control in compliance with HRS Chapter 343 and HAR Chapter 11-200, and obtain Finding of No Significant Impact (FONSI) for the project.

BACKGROUND:

At its meeting of December 16, 1983, Item F-5, the Board of Land and Natural Resources approved a direct (35-year) lease (GLS-4950) to Boteilho Hawaii Enterprises, Inc., for dairying, cattle feeding and pasturing purposes. The lease expires on March 31, 2020. The lease covers 597.406 acres, identified by Tax Map Key: 3rd/ 5-5-006: 2, 3, 4 & 15.

At a public auction held on December 9, 1998, General Lease S-5572, a 20-year lease was awarded to Boteilho Hawaii Enterprises, Inc., as the successful bidder. The lease expires on February 7, 2019. The lease covers 207.820 acres, identified by Tax Map Key: 3rd/ 5-5-003: 4, 5 & 6.

At a public auction held on December 9, 1998, Boteilho Hawaii Enterprises was the successful bidder for GLS-5574, a 20-year pasture lease under General Lease No. S-5574. The lease expires on February 7, 2019. The lease covers 74.323 acres, identified by Tax Map Key: 3rd/ 5-5-005:1.

REMARKS:

The subject parcels are currently under lease to Boteilho Hawaii Enterprises, Inc. for dairying and pasture purposes. The current leases are the highest and best use allowable that is consistent with county zoning, which is agriculture. Boteilho Hawaii Enterprises, Inc. initially requested a 25-year extension for its leases, but later decided to instead request a cancellation for the re-issuance of a new 30-year direct lease over the same parcels for agricultural processing (dairy) purposes. The longer lease term would justify additional investment of monies for the replacement of old machinery and other major improvements.

Boteilho Hawaii Enterprises, Inc., qualifies for a direct lease pursuant to Hawaii Revised Statutes, 171-59(b) as the direct lease is for agricultural processing purposes, which involves the processing of agricultural products, including dairying, grown, raised or produced in Hawaii. Boteilho Hawaii Enterprises, Inc. has been in the dairying business for over 26 years. A disposition of a direct lease to Boteilho Hawaii Enterprises, Inc.,

encourages competition in the agricultural milk production industry as it will allow Boteilho Hawaii Enterprises to acquire much needed newer equipment so it can maintain its milk production quotas. Currently there are only two dairies left on the Big Island and in the state.

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

No agency or community comments were solicited at this time, as this is only an approval in concept for a direct dairy lease. Boteilho Hawaii Enterprises, Inc. will be soliciting comments from various agencies and interest groups as part of the environmental assessment process.

RECOMMENDATION: That the Board:

1. Subject to the Applicant fulfilling all of the Applicant requirements listed above, approve in concept the issuance of a direct lease to Boteilho Hawaii Enterprises, Inc. covering the State-owned parcels identified as Tax Map Keys: 3rd/ 5-5-03: 4, 5 & 6; 3rd/ 5-5-05: 1; and 3rd/ 5-5-06: 2, 3, 4 & 15 for commercial dairy operations 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 Land Board at a later date for approval of the lease disclosing the Environmental Assessment with a Finding of No Significant Impact.

Respectfully Submitted,

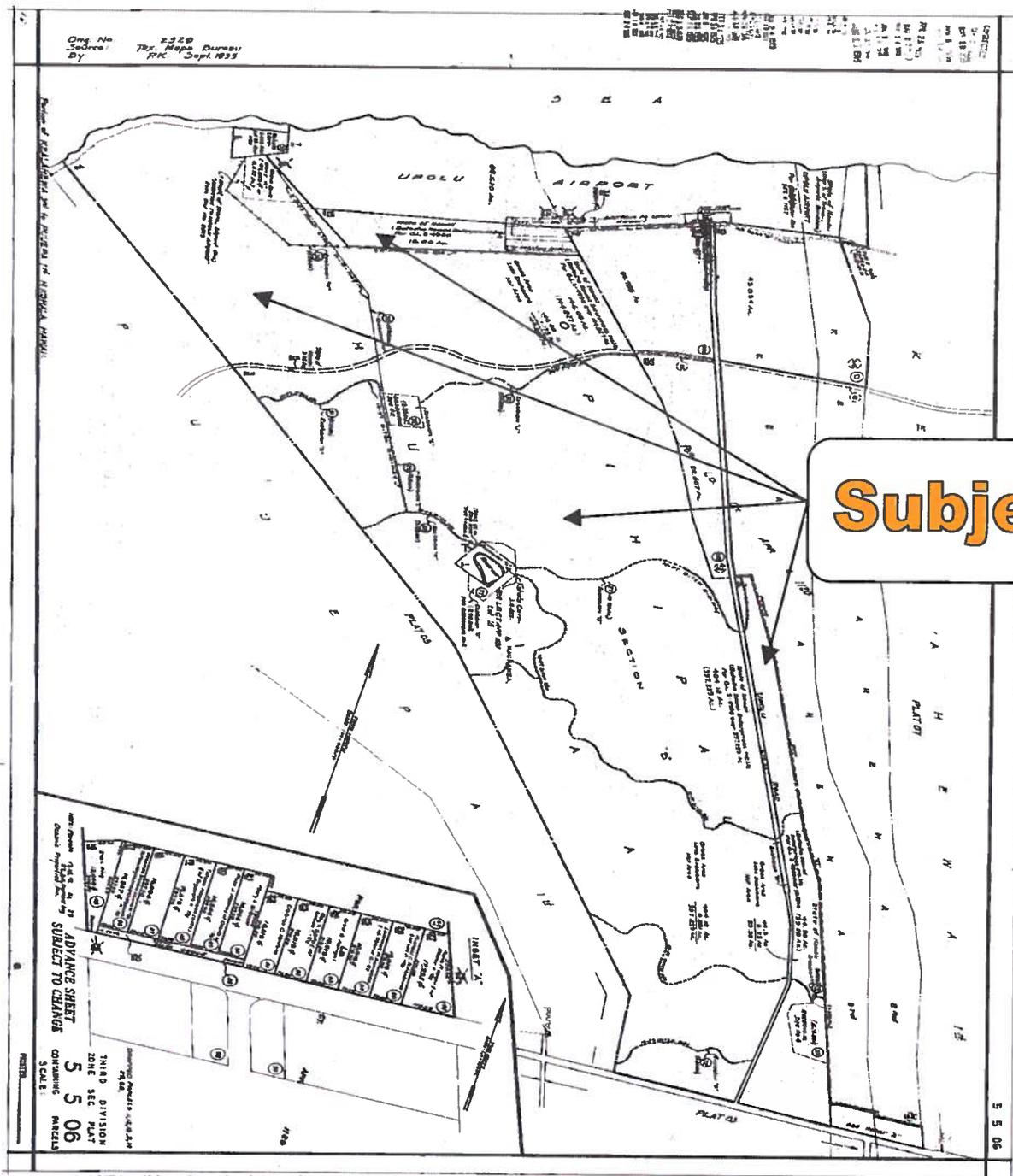


Wesley T. Matsumaga
Land Agent 

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson 



Subject

EXHIBIT A

