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2
3 **Minutes of the Board of Agriculture**
4

5
6 **I. CALL TO ORDER**
7

8 With a quorum of the members present, the meeting of the Board of Agriculture was
9 called to order on January 26, 2016 at 9:10 a.m. by Board of Agriculture Chairperson
10 Scott Enright, at the Plant Quarantine Conference Room, 1849 Auiki Street, Honolulu,
11 Hawaii 96819.
12

13 **Members Present:**
14

15 Scott Enright, Chairperson, Board of Agriculture (Board)
16 Jerry Ornellas, Kauai Member
17 Mary Alice Evans, Department of Business, Economic Development and Tourism
18 (DBEDT), Ex Officio Member Designated Representative
19 Michelle Galimba, Member-At-Large
20 Glenn Hong, Member-At-Large
21 Clark Hashimoto, Member-At-Large
22 Suzanne Case, Chairperson, Board of Land and Natural Resources
23 Richard Ha, Hawaii Member
24 Simon Russell, Maui Member
25

26 **Members Absent:**
27

28 Dr. Maria Gallo, Dean of the College of Tropical Agriculture & Human Resources
29 University of Hawaii (CTAHR-UH), Ex Officio Member
30

31 **Others Present:**
32

33 Darren Strand, Maui Gold Pineapple Co.
34 Emmanuel Zibakalam, Hawaii Crop Improvement Association
35 Pam Mizuno, Panaewa Zoo Director
36 Ken Van Bergen, Hawaii County Parks and Recreation
37 Inga Gibson, Humane Society of the US
38 Cathy Goeggel, Animal Rights Hawaii
39 Pat Engelhard, Panaewa Zoo
40 Dennis Onishi, Hawaii County Council Member
41 Rob Hauff, Department of Land and Natural Resources (DLNR)
42 Christy Martin, Coordinating Group on Alien Pest Species (CGAPS)
43 Andrew Porter, CGAPS
44 Scott Fernandez, E.K. Fernandez Shows Inc.
45 Linda Fernandez, E.K. Fernandez Shows Inc
46 Donna Smith, E. K. Fernandez Shows Inc.
47 Chrystn Eads, Alston Hunt

- 1 Michael Wood, Outdoor Amusement Business Association
- 2 Michael Iosua, Dolphin Quest
- 3 Mary Steiner, Hawaiian Humane Society
- 4 Tyler Ralston, Private Citizen
- 5 Carole Kai Onouye, Great Aloha Run
- 6 Val King, Sea Life Park
- 7 Jackie Smythe, Private Citizen
- 8 Sook Russell, Dolphin Quest
- 9 Dane Pollock, Private Citizen
- 10 Jeff Pawloski, Sea Life Park
- 11 Lorri Crockett, Private Citizen
- 12 Lori Lum, Watanabe Ing
- 13 Leslie Campaniano, Watanabe Ing
- 14 Poka Laenui, Waianae Coast Community Alternative Development Corporation
- 15 (WCCADC)
- 16 W. Ken Koike, Farmer
- 17 Robert Ikeno, Hawaii Department of Agriculture (HDOA)/Agricultural Loan (AGL)
- 18 Randall Chang, HDOA/AGL
- 19 Randy Teruya, HDOA/ Agricultural Resource Management (ARM)
- 20 Linda Murai, HDOA/ARM
- 21 Roy Hasegawa, HDOA/ARM
- 22 Lance Sakaino, HDOA/Plant Quarantine Branch (PQB)
- 23 Amy Takahashi, HDOA/PQB Acting Manager
- 24 Neil Reimer, HDOA/Plant Industry Division Administrator
- 25 Trenton Yasui, HDOA/PQB
- 26 Wil Leon-Guererro, HDOA/PQB
- 27 Dean Matsukawa, HDOA/AGL Administrator
- 28 Keevin Minami, HDOA/PQB.
- 29 John Ueshiro, HDOA/PQB
- 30 Chris Kishimoto, HDOA/PQB
- 31 Janelle Saneishi, HDOA/Chair's Office (CHR)
- 32 Micah Munekata, HDOA/CHR
- 33 Haunani Burns, Deputy Attorney General
- 34 Delanie Prescott-Tate, Deputy Attorney General
- 35 Andrew Goff, Deputy Attorney General

36
37 **II. APPROVAL OF MINUTES FROM 11/24/15 MEETING**

38
39 Chairperson Enright called for a motion to accept the minutes of the Board's
40 November 24, 2015 meeting: Evans/Hashimoto. Hearing no comments,
41 Chairperson Enright called for the vote

42
43
44 Vote: Approved, 9/0.

45

1 **III. COMMENTS FROM THE GENERAL PUBLIC ON AGENDA ITEMS (ORAL OR**
2 **WRITTEN)**
3

4 Chairperson Enright stated that the Board will take public comments on the agenda
5 items as they come up during the meeting.
6

7 **IV. INTRODUCTION AND COMMENTS**
8

9 Chairperson Enright moved on to Communications from Divisions section.
10

11 **V. COMMUNICATIONS FROM DIVISIONS AND ADMINISTRATION**
12

13 **A. AGRICULTURAL LOAN DIVISION**
14

15 **1. Request for Approval of One (1) Farm Ownership and Improvement**
16 **Loan to Sage Farms, LLC.**
17

18 Presentation by Dean Matsukawa and Robert Ikeno, HDOA/AGL, as submitted. The
19 applicant is a small family farm in North Kohala that provides organic produce to
20 established markets in their community. The \$50,000 loan is to complete a farm
21 dwelling on the property. The applicants, husband and wife, will personally guarantee
22 the loan. Staff recommends approval.
23

24 Chairperson Enright called for a motion to entertain this request: Galimba/Russell.
25

26 Chairperson Enright asked whether the applicant was present today. Mr. Ikeno replied
27 “No.” Chairperson Enright asked Mr. Ikeno if he had done the inspection and where the
28 house was. Mr. Ikeno answered, “Yes,” that the house is 80% completed, and that he
29 believed the house is in Hawi.
30

31 Hearing no further questions or comments, Chairperson Enright called for a vote on the
32 question.
33

34 Vote: Approved, 9/0.
35

36 **2. Request for Approval of One (1) Farm Ownership Loan to Zahir**
37 **Tamimi**
38

39 Presentation by Robert Ikeno, HDOA/AGL, as submitted. The applicant has been
40 successfully farming greenhouse vegetables for the last 9 years. The applicant seeks a
41 \$555,000 loan to refinance a short-term owner financing loan obtained to purchase a
42 farm parcel in Olowalu, Maui. The loan will be secured by a first mortgage on the farm
43 parcel and junior lien financing statement on crops, equipment, and accounts. Staff
44 recommends approval.
45

46 Chairperson Enright called for a motion to entertain this request: Russell/Hashimoto.

1
2 Chairperson Enright opened the floor to questioning by the Board.

3
4 Following brief discussion, Chairperson Enright called for a vote on the question.

5
6 Vote: Approved, 9/0.

7
8 **3. Request for Approval of One (1) Farm Operating Loan to Hali`imaile**
9 **Pineapple Company, Limited.**

10
11 Presentation by Randall Chang, HDOA/AGL, as submitted. The applicant is requesting
12 a \$300,000 operating loan to plant additional acres of pineapple on Maui and to improve
13 and automate the company's irrigation system. The loan will be secured by a security
14 interest in crops, equipment, and accounts. Staff recommends approval.

15
16 Chairperson Enright called for a motion to entertain this request: Hashimoto/Ornellas.

17
18 Chairperson Enright opened the floor to questioning by the Board.

19
20 Chairperson Enright called Mr. Darren Strand, Haliimaile Pineapple Co., to address the
21 Board.

22
23 Chairperson Enright asked how production is going on the farm.

24
25 Mr. Strand said that things are going great right now. He said that when Maui Land and
26 Pine (MLP) shut down, Hali`imaile purchased MLP assets, downsized, and kept 82
27 positions. They planted additional crop to fill in production gaps. He said that, as the
28 Board knows, pineapple is a multi-year crop and they have about a year and a half crop
29 cycle. He said that in 2013, they had a lot of rainfall and cold weather which delayed
30 the crop. From that moment on, as a relatively small farm, the only way they could
31 manage this setback was through payroll and capital expenditures. Then they started
32 to look at how much they were planting. Cycle crop can come and bite you as every
33 two months you find yourself in a cash crunch. Mr. Strand said that the company has
34 decided they are not cutting back on planting and they were going to try put money into
35 the capital expenditures that they need to make a push instead of a pull in this situation.

36
37 Board member Hashimoto said that Hali`imaile has done well for the community. They
38 have taken over the pineapple production where we wouldn't have pineapple and now
39 sugar is gone. He said that they have been doing very well and that he will be voting in
40 favor of this request.

41
42 Mr. Strand said that if Board members are not familiar with Hali`imaile's group, there are
43 seven owners. Six of them are old pineapple guys and Mr. Pardee Erdman who is
44 really a phenomenal person on Maui. He said that the company's place in the

1 community is very important and that often times this is a priority over their financial
2 decisions.

3

4 Hearing no further questions or comments, Chairperson Enright called for a vote on the
5 question.

6

7 Vote: Approved, 9/0.

8

9 Chairperson Enright called for a two minute recess.

10

11 Chairperson Enright called the meeting back to order at 9:22am.

12

13 **B. AGRICULTURAL RESOURCE MANAGEMENT DIVISION**

14

- 15 **1. Request for Authorization to Terminate General Lease No. S-6022,**
16 **Issue Cancellation Document and Dispose of Lot through**
17 **Negotiation, TMK: 1st Div/5-6-006-050, Kahuku Agricultural Park, Lot**
18 **22, Koolauloa, Kahuku, Island of Oahu**

19

20 Chairperson Enright informed Board members that staff has asked to defer agenda item
21 B.1. and it will be taken up at a later time. He announced that the Board will move on to
22 Agricultural Resource Management agenda item B.2.

23

- 24 **2. Request for Consent to Assignment of General Lease No. S-4843;**
25 **TMK: (3) 7-3-049:026; Lot No. 30; Peggy J. Ratliff To Daniel G. Green;**
26 **Keahole Agricultural Park, Kalaola, North Kona, Island of Hawaii**

27

28 Presentation by Linda Murai, HDOA/ARM, as submitted. The lessee can no longer
29 maintain the farm due to physical disability, which is one of the grounds for allowing
30 lease assignment. The proposed assignee holds another lease in Keahole Agricultural
31 Park and wants to expand his turf production operation by acquiring Lot No. 30. Staff
32 recommends approval.

33

34 Chairperson Enright called for a motion to entertain this request: Russell/Hong.

35

36 Chairperson Enright opened the floor to questioning by the Board.

37

38 Board member Galimba asked whether this lease comes up for periodic reappraisal and
39 when that would happen.

40

41 Ms. Murai answered that the lease comes up for reappraisal every 10 years and the
42 next reappraisal is scheduled in 2026.

43

44

45

1
2 Hearing no further questions or comments, Chairperson Enright called for a vote on the
3 question.

4
5 Vote: Approved, 9/0.

6
7 **3. Request for Approval of Boundary Fence; General Lease No. S-4340;**
8 **Akea Farms, Inc.; TMK (2) 5-2-001:009, Molokai Farm Lots, Hoolehua-**
9 **Apana, Island of Molokai, Hawaii**

10
11 Presentation by Linda Murai, HDOA/ARM, as submitted. Staff recommends approval.

12
13 Chairperson Enright called for a motion to entertain this request: Galimba/Evans.

14
15 Board member Hashimoto asked how high this fence is going to be. Ms. Murai said that
16 she believes it is eight feet tall.

17
18 Chairperson Enright called Randy Teruya, HDOA/ARM, to address the Board.

19
20 Chairperson Enright asked Mr. Teruya whether something like fencing needs to be
21 brought to the Board, or whether we can we do that administratively.

22
23 Mr. Teruya said that, unfortunately, fencing is an improvement under the terms and
24 conditions of the general lease. This is not a small improvement; it's in the tens of
25 thousands of dollars. Staff believes that this is something that should be brought to the
26 Board for approval.

27
28 Board member Evans said that fencing could be a normal part of farming, particularly on
29 the islands that have deer, and that the farmers' willingness to invest in this
30 infrastructure would be seen as a positive thing. She said that she understood that
31 under the current terms of this lease, fencing needs to be brought to the Board, but
32 asked whether a change could be made to the general policy to recommend approval
33 by an administrator such as yourself, instead of by the Board.

34
35 Mr. Teruya said that ARM could suggest inserting a special condition into all future
36 leases to allow the administrator or the Chairperson to approve something like this. He
37 said that, this situation, however, is a situation where the leases require the lessee to
38 provide stock proof fencing around the perimeter of their premises. This is a choice that
39 the lessee makes based on circumstances. In this case, on Molokai, many of the farms
40 are being attacked by axis deer in search for food. ARM knows farmers that have hired
41 hunters to sit in their fields at night to protect their crops. Akea Farms has gone a step
42 further than the usual four to six foot fences and has decided to use an eight foot fence
43 to address the deer.

44
45 Board member Case: The Board could delegate fencing to the Chairperson or staff.

1
2 Chairperson Enright said he would take the matter up with staff.

3
4 Hearing no further questions or comments, Chairperson Enright called for a vote on the
5 question.

6
7 Vote: Approved, 9/0.

8
9 **4. Request for Approval to Construct Two (2) Shade Houses, Hawaiian**
10 **Sunshine Nursery, Inc.; General lease No. S-4773; TMK (3) 2-2-**
11 **056:052; Lot No. 26; Panaewa Agricultural Park, Waiakea, South Hilo,**
12 **Island of Hawaii**

13
14 Presentation by Linda Murai, HDOA/ARM, as submitted. The lessee plans to further
15 expand their Hilo nursery. Staff recommends approval.

16
17 Chairperson Enright called for a motion to entertain this request: Evans/ Hashimoto.

18
19 Chairperson Enright opened the floor to questioning by the Board. Hearing no
20 questions or comments, Chairperson Enright called for a vote on the question.

21
22 Vote: Approved, 9/0.

23
24 Chairperson Enright called for a five minute recess.

25
26 Chairperson Enright called the meeting back to order at 9:40am.

27
28 Chairperson Enright took Agenda Item C2 out of order to accommodate neighbor island
29 attendees.

30
31 **C. PLANT INDUSTRY DIVISION**

32
33 **Land Vertebrates**

34 **2. Request to: (1) Allow the Importation of Two Bengal Tigers, *Panthera***
35 ***tigris*, an Animal on the List of Restricted Animals (Part A), by Permit,**
36 **for Exhibition by Pana'ewa Rainforest Zoo and Gardens, a Municipal**
37 **Zoo; and (2) Update Permit Conditions for the Importation of Two**
38 **Bengal Tigers, *Panthera tigris*, an Animal on the list of Restricted**
39 **Animals (Part A), by Permit, for Exhibition by Pana'ewa Rainforest**
40 **Zoo and Gardens, a Municipal Zoo.**

41
42 Keevin Minami, HDOA/PQB Land Vertebrate Specialist, provided a synopsis of
43 Pana`ewa Zoo's request as presented in the submittal, including the facility safeguards
44 and security procedures, and provisions for veterinary care and state animal quarantine

1 on site. He said that the Zoo's tiger enclosure fence heights were approved by the US
2 Staff recommends approval.

3
4 Written testimony on this agenda item was included with Board members' meeting
5 materials . . . , etc.

6
7 Chairperson Enright called for a motion to entertain this request: Evans/ Ha.

8
9 Chairperson Enright opened the floor to public testimony.

10
11 (1) Inga Gibson, Hawaii Director of Humane Society of the US (HSUS), presented
12 testimony as submitted. She said that HSUS has concerns with Endangered Species
13 Act requirements regarding transport of these animals and she suggested that their
14 transport to a zoo facility that is unaccredited violates the Endangered Species Act.
15 She said that having a USDA permit or license does not mean the facility is up to par
16 and that these permits, once issued, are automatically renewed. She said that the
17 supplier of these tigers, CJ's Big Cats, had multiple violations. She said that HSUS's
18 ultimate concern is for these animals and the community, and that Pan`ewa Zoo did not
19 have perimeter fencing for the whole zoo or have the training to deal with these animals.
20 She said that Panaewa Zoo should be encouraged to become accredited and brought
21 up to standards before bringing in more animals.

22
23 Board member Case asked to hear a more about the source of these particular animals.

24
25 Ms. Gibson said that HSUS shared with the Advisory Committee on Plants and Animals
26 that the distributor in Oregon has a long history of serious USDA violations including
27 direct abuse of the animal.

28
29 Board member Case said that she wanted to make sure the Board's action should not
30 contribute to the problems at the source. She asked whether there are people involved
31 to address that problem in Oregon.

32
33 Ms. Gibson answered in the affirmative and said that her office is in touch with their
34 counterparts in Oregon. She said that this facility has been continually cited and that
35 there are links in her testimony to this facility. She described what she said was a
36 practice of these exhibitors to breed these animals for "take a picture with a cub"
37 situations and that once they get too big and are not so cute, these types of facilities
38 offer to donate the animals to unaccredited substandard facilities to get the animal off
39 their hands. She said that it would be contributing to the source of breeding for these
40 animals if Pana`ewa Zoo's request is approved.

41
42 (2) Ken Van Bergen, Deputy Director of Hawaii County Department of Parks and
43 Recreation (DPR) read aloud a letter from County of Hawaii Mayor Billy Kenoi. Mayor
44 Kenoi's letter said that Pana`ewa Zoo has been without a tiger since January 2014
45 when Namaste passed. Mr. Van Bergen said that, on behalf of Clayton Honma and

1 Mayor Kenoi, their Department has confidence in Pam Mizuno and appreciated
2 consideration of this request.

3
4 (3) Pat Engelhard, former Hawaii County DPR director and current president of
5 Friends of Panaewa Zoo, provided testimony in support of Pam Mizuno and her work.
6 Ms. Englehard said that Pam Mizuno is very responsible, conscientious, resourceful and
7 despite budget restrictions, she finds the funding for what needs to be done. Ms.
8 Englehard said that she is very sure that Ms. Mizuno will be able to take care of these
9 animals and that the Zoo has a really nice habitat for tigers. Ms. Englehard said that the
10 children today should be allowed to see these tiger cubs grow, just as the children
11 before watched the previous tiger, Namaste, grow. She said that by the time the cubs
12 complete quarantine, they will be a year old, so action on the Zoo's request is needed.

13
14 Pam Mizuno, Panaewa Zoo Director, addressed the Board in support of this request.
15 She first addressed the subject of USDA violations and said that it is USDA's job to
16 inform the Zoo if there is a deficiency and that the Zoo routinely fixes it and does not
17 have a problem with that relationship. She said that the Zoo currently holds a USDA
18 license and has held it all these years. Next, Ms. Mizuno said that, as to Association of
19 Zoos and Aquariums (AZA) accreditation, AZA is a private organization that accredits
20 zoos for a high fee and they send inspectors every so many years. She said that
21 Honolulu Zoo is AZA accredited and that Honolulu Zoo's accreditation has been on
22 probation sometimes. She said that about 5% of zoos are AZA accredited, that this
23 does not mean that these zoos have not been cited by USDA for violations, and that
24 accredited zoos are cited by USDA just as Pana`ewa Zoo sometimes is. Ms. Mizuno
25 then said that, as to the concern over veterinary care, Pana`ewa Zoo has an on-call
26 veterinarian, Dr. Wood, and that she has come up with a plan for the animals' care with
27 Dr. Flanigan from Houston Zoo, who actually is an AZA inspector. Lastly, Ms. Mizuno
28 said that, in regard to Endangered Species Act (ESA) requirements, it has been verified
29 that Pana`ewa Zoo does not need an ESA permit to import the tiger cubs.

30
31 Board member Hong asked why CJ Big Cats would donate the tigers.

32
33 Ms. Mizuno answered that it was because Pana`ewa Zoo called and asked them. She
34 said that someone in the community visited CJ Big Cats facility, saw their tigers, talked
35 to one of their staff members, and then talked to the director. She said that individual
36 then came back to Hilo and told her that CJ's Big Cats has tigers and that, if we were
37 interested, we should call them.

38
39 Board member Case said that she didn't think HDOA should stop questioning what the
40 impact of our source is if the source does not take care of its animals. HDOA would be
41 participating in a market that supports this kind of facility and allows it to exist.

42
43 Keevin Minami, PQB Land Vertebrate Specialist, said he has been in contact with Dr.
44 Carolyn McKinney, who is in charge of USDA animal care and welfare for the Pacific
45 region. She sent a USDA veterinarian to CJ's Big Cats and Dr. McKinney said that the

1 animals were well cared for, well fed, and that they passed inspection. CJ's Big Cats
2 are providing these animals to a good place in the Panaewa Zoo.

3
4 (2) Cathy Goeggel, Animal Rights Hawaii said that she considers Pana`ewa Zoo to be
5 a menagerie and that she could not emphasize enough the importance of a zoo being
6 AZA accredited, the most prestigious of accreditation. She said that USDA enforcement
7 is lax, and regarding USDA violations, inspectors come once a year, they will issue a
8 violation, but infrequently will fine anybody. She urged the Board to withhold approval
9 for these tigers to come from what she said was an extremely unfortunate source and to
10 require that Pana`ewa Zoo become accredited.

11
12 (3) Dr. Tyler Ralston, private citizen, testified in opposition to the request. He said that
13 the Board of Agriculture's main task is to protect the health and safety of Hawaii's
14 people and environment from dangers related to the importation of wild and exotic
15 animals. He said that AZA accreditation ensures that certain minimum standards are
16 met for public safety relating to the display of wild animals. He said that Panaewa Zoo
17 is not AZA accredited because it lacks the funds and human resources to meet the
18 accreditation requirements. He said that allowing import these tigers would put the
19 public under unnecessary risk.

20
21 (4) Scott Fernandez, EK Fernandez Shows said he had to clarify that the AZA has no
22 statutory authority. He said that USDA has the authority to issue a license and fines,
23 that all zoos get cited and have fines, and some are major, some are minor. He said
24 that the Board should let the children and people of the Big Island have the tigers.

25
26 (5) Dennis Onishi, Hawaii County Council member: said that he listened to some of the
27 testimony about zoo accreditation and how the lack of it will not be safe for the animals
28 at the Pana`ewa Zoo. He said that he could see the point if there was solid evidence
29 supporting that claim, but Panaewa Zoo had a Bengal tiger for 14 years with no
30 problem. He said that the County Parks and Recreation team will be doing whatever is
31 required for approval of this import.

32
33 Board member Galimba asked Ms. Mizuno to confirm the Pana`ewa Zoo is enclosed
34 and asked about separate fenced areas in the interior of the tiger enclosure.

35
36 Ms. Mizuno confirmed that the Zoo is enclosed and has an exterior fence. She said that
37 the perimeter fence is a USDA requirement for having a USDA license. The interior of
38 the tiger exhibit has a separating fence that was put in to restrict Namaste's access to
39 the steep slope as he got older. She said that Friends of the Zoo offered to pay for a
40 separate fence and a new pond and both sides of that separating fence have water
41 features

42
43 Board member Hong asked whether tigers climb fences
44

1 Ms. Mizuno replied that the reason the fence has to be a straight 16 foot fence or a 10
2 foot fence with a 5 foot kickback is because the tigers can actually jump. They can't
3 necessarily climb all the way to the top. They are pretty agile.

4
5 Board member Hong: whether there was any case of the tigers escaping the enclosure?
6

7 Ms. Mizuno said there was no case of escape and that the kickback feature prevents
8 that from happening.

9
10 Hearing no further questions or comments, Chairperson Enright called for a vote on the
11 question.

12
13 Vote: Approved, 9/0.
14

15 Plants

16 **1. Request for Authorization for the Chairperson to Schedule a Public** 17 **Hearing and Appoint a Hearing Officer in Connection with the** 18 **Proposed Amendments to Chapter 4-70, Hawaii Administrative** 19 **Rules, entitled "Plants and Non-Domestic Animal Quarantine, Plant** 20 **Import Rules," to Add a New Subchapter to Restrict the Importation** 21 **of *Myrtaceae* (Myrtle Family) Plants and Plant Parts to Prevent the** 22 **Introduction of New Strains of Ohi'a rust, *Puccinia psidii*, a Plant** 23 **Pathogen. (Preliminarily approved by the Board of Agriculture at its** 24 **12/3/14 and 2/24/15 Board Meetings)** 25

26 Presentation by Lance Sakaino, HDOA/PQB Acting Plant Specialist, as submitted. Staff
27 recommends approval.
28

29 Chairperson Enright called for a motion to entertain this request: Hong/Russell.
30

31 Chairperson Enright opened the floor to public testimony.
32

33 Rob Hauff, DLNR Division of Forestry and Wildlife (DOFAW), provided testimony in
34 support of this request. He said he wanted to reiterate DLNR's support for this proposed
35 rule and made the following comments. The history of this goes back to 2005 when a
36 new rust disease was found on Oahu and spread to the other islands. DLNR has been
37 concerned about this pathogen since then. There was an emergency rule that expired
38 in 2008. During the course of this rule, DLNR collaborated with scientists in Brazil and
39 elsewhere to demonstrate that different strains of this pathogen pose a greater threat to
40 Ohia than the current strain in Hawaii. In addition, there are other pests out there that
41 could harm Ohia. A recent US Forest Service pest risk assessment that was just
42 published last month identified 15 pathogens and 30 insect species as potentially
43 damaging to Ohia. These pests have not been found in Hawaii, but in other areas they
44 have affected close relatives to this species *Myrtaceae*. In light of the recent Rapid

1 Ohia Death this effort may seem a little late, however this is still important to move
2 forward. USDA APHIS is moving their rule in tandem with this proposed rule.

3
4 Board member Hong asked whether there are other known means of transport of the
5 pathogen other than Myrtle Family.

6
7 Mr. Hauff answered that *Myrtaceae* is a huge family and this pathogen has only been
8 found in species of that family.

9
10 Board member Case said that she is thrilled to see this rule moving forward.

11
12 Board member Ha commented on the seriousness of this pathogen. He said that, on
13 his farm, he used to have Rose Apple trees along the river that runs through his
14 property from the ocean to the mountain, now every tree has died. He said he
15 wondered if it is possible that something like that could happen with Rapid Ohia Death
16 (ROD).

17
18 Mr. Hauff said the concern is similar.

19
20 Chairperson Enright thanked Mr. Hauff for his excellent public service and DLNR's
21 partnership with HDOA which will continue.

22
23 Christy Martin, of Coordinating Group on Alien Pest Species (CGAPS thanked HDOA
24 for moving this rule forward and said it has been a high priority for CGAPS for a very
25 long time. She said that CGAPS is concerned with new disease strains coming in, like
26 what happened to the Rose Apple trees, that precautions are needed, and that the
27 State is facing a big challenge with ROD.

28
29 Board member Galimba asked where HDOA is in the rulemaking process and whether
30 the proposed rule goes to the Small Business Board.

31
32 PQB Specialist Mr. Sakaino said the draft rules will go to the Small Business Review
33 after Board approval, then to Budget and Finance.

34
35 Hearing no further questions or comments, Chairperson Enright called for a vote on the
36 question.

37
38 Vote: Approved, 9/0.

39
40 Chairperson Enright called for a 5 minute recess.

41
42 Chairperson Enright called the meeting back to order at 10:39am.

43
44 .

45

- 1 **3. Request to: (1) Review and Consider Inclusion of Minor Revisions**
2 **proposed by Plant Quarantine branch to proposed Amendments to**
3 **Chapter 4-71, Hawaii Administrative Rules, “Non-Domestic Animal**
4 **Import Rules” (HAR), That Include Amendment Banning Import of**
5 **Dangerous, Wild Non-Domestic Animals for Performance or**
6 **Exhibition in Circuses or Carnivals, as Preliminarily Approved by the**
7 **Board of Agriculture (Board) at its 11/24/15 Meeting;**
8 **(2) Consider the Comments of Advisory Committee on**
9 **Plants and Animals’ Members Regarding the Proposed Ban on**
10 **Import of Dangerous Wild Animals for Performance or Exhibition in**
11 **Circuses or Carnivals;**
12 **(3) Delete the Proposed Placement of the Grey Wolf,**
13 ***Canis Lupus*, and the Red Wolf, *Canis Rufus*, on the Prohibited List,**
14 **from the Proposed Amendments to Chapter 4-71, HAR; and**
15 **(4) Authorize the Chairperson to Schedule a Public**
16 **Hearing and Appoint a hearing Officer in Connection with the**
17 **Proposed Amendments to Chapter 4-71, HAR, described in (1).**
18

19 Amy Takahashi, HDOA/PQB Acting Branch Manager, Manager, presented a summary
20 of the request, as submitted.
21

22 She said that PQB is requesting the Board include minor revisions to the draft rule
23 amendments to chapter 4-71, HAR, that the Board preliminarily approved at its
24 November 24, 2015 meeting. She reminded the Board that these preliminarily
25 approved rule amendments included the prohibition on import of certain dangerous wild
26 animals for circus or carnival performance or exhibition, as well as certain proposed list
27 changes that the Board had previously preliminarily approved for future list amendment,
28 including the Nile tilapia, *Oreochromis niloticus*, and the House Cricket, *Acheta*
29 *domesticus*, and certain other rule amendments that PQB considered necessary.
30

31 Ms. Takahashi said that, on further review, PQB noted that some of the proposed
32 amendments should have been better worded, that further minor revision is in order for
33 the sake of clarity, and that certain omissions need to be corrected. She said that PQB
34 is recommending that these minor revisions be made to the proposed amendment
35 package the Board has already preliminarily approved before it proceeds to public
36 hearing. She referred to the specific minor revisions that are summarized at pages 4 –
37 6 of the Board submittal. She noted that, as to the proposed import ban of dangerous
38 wild animals for circus performance or exhibition, revised language is proposed to
39 correct and clarify the short-term import ban, as well as the description of the uses for
40 which these animals may continue to be imported, i.e., commercial filming and
41 exhibition in government zoos.
42

43 Ms. Takahashi said that when the Advisory Committee on Plants and Animals reviewed
44 these minor revisions, concern was raised by certain members about the proposed
45 import ban of wild animals for circus-type performance. She said the question was

1 asked why dangerous animals would be allowed import for commercial filming but not
2 for circuses. Ms. Takahashi read excerpts of the concerns expressed and parts of the
3 discussion in the summary of the Advisory Committee's January 15, 2016 meeting (at
4 pages 9 – 10 and 13 – 14 of the Board's submittal). She said that the Advisory
5 Committee wanted the Board to review the concerns expressed and recommended
6 Board approval of PQB's minor revisions to the amendment package. Staff
7 recommends approval.

8
9 Chairperson Enright called for a motion to entertain this request: Russell/Ha.

10
11 Chairperson Enright said that, before opening the floor to discussion, he wants to clarify
12 for the Board and the public that what is being presented to the Board are minor
13 revisions to something the Board has already approved. The Board is not taking up the
14 previous issue today, although the Board will take testimony. There will be several
15 points in the future where testimony on the rule amendments is going to be solicited:
16 when it goes to Small Business Review Board, public hearing review, and lastly, back to
17 the Board before it is approved.

18
19 Board member Case asked about the procedural status of these rule amendments and
20 if what the Board is voting on today is whether to send these amendments to public
21 hearing.

22
23 Chairperson Enright clarified that the Board will first approve the revisions to the
24 amendments before taking them out to public hearings around the State and then the
25 amendments come back to us for final approval.

26
27 Board member Case said that she would like to make sure the different HDOA rule
28 amendments go out in separate form and not in combined form so the Board can review
29 them subject by subject and vote on them individually. There are 4 separate rules. She
30 said that she continues to be concerned with Nile Tilapia as an invasive species that
31 could get into our streams.

32
33 Chairperson Enright said that, for cost reasons, the different rule amendment sets would
34 be bunched together when taking them to public hearing, but when they come back to
35 the Board, they will be separately addressed.

36
37 Chairperson Enright repeated that the Board has already approved taking this set of
38 rule amendments out to public hearing, so this request before the Board is procedural,
39 to approve minor revisions.

40
41 Chairperson Enright opened the floor to public testimony.

42
43 (1) Mary Steiner, Hawaiian Humane Society, testified in support of this request and
44 asked for Board approval for the rule amendments to go out to public hearing.
45

1 (2) Jackie Smyth, private citizen, testified that she had attended the Advisory
2 Committee hearing on this request as she I wanted to understand the process, who the
3 Humane Society of the United States (HSUS) is, and how the rule change will affect
4 Hawaii's economy.* She said she did research on the HSUS and was shocked to learn
5 about HSUS. She said that people assume HSUS is connected with the Humane
6 Society where we go to adopt animals and that has shelters for dogs and cats, but that's
7 not at all who they are. Ms. Smythe said that HSUS is a lobbying firm that has an
8 agenda, that they are being taken up in 11 different states for fraud and that they are
9 not here to help our community. She said that it was brought up by at the Advisory
10 Committee that this rule is discriminatory and there could be some sort of liability here.
11 Ms. Smythe said that this rule is being initiated by an extremist organization that has no
12 skin in the game. She said that most of HSUS's members don't understand what this
13 organization is about.

14
15 Chairperson Enright said that, to clarify, there is no one group that would be responsible
16 for the Board's action. It may have been the catalyst but there are many voices. He
17 said that the entire rulemaking process is vetted through the Attorney General's office
18 by counsel.

19
20 Board member Galimba: said that she has no problem with the minor revisions to the
21 rule amendments, but that she is troubled by some of the comments by the Advisory
22 Committee. She said that she noticed that they had a difficult time and asked the Board
23 to consider their comments and that she is troubled by the inconsistencies. She said
24 that she believes this subject will be better taken up at the Legislature and that she will
25 be voting against this request.

26
27 Chairperson Enright asked Board member Galimba whether she would be voting
28 against the revisions to the rule amendments. She answered that she would be voting
29 against the entire rule amendment. Chairperson Enright pointed out that only revisions
30 to the rule amendments are before the Board today and they are revisions to an already
31 approved Board action.

32
33 Chairperson Enright confirmed for Board member Hong that the Board will take final
34 action on the proposed amendments after public hearings.

35
36 (3) Carol Kai Onouye, private citizen, testified in opposition to the import ban affecting
37 circus animals. She said that she has no ties to E.K. Fernandez Co. other than that she
38 saw their circus. She shared her personal background about her childhood experience
39 of seeing circus animals perform here in Hawaii and how that inspired her love of
40 animals, an experience she said Hawaii's children today should be able to have. She
41 also said the import ban would be unfair to the principal local business that would be
42 affected and a large number of their employees and a lot of people would be affected.

43
44 (4) Michael Wood, Outdoor Amusement Business Association (OABA), presented
45 written and oral testimony critical of HSUS and its promotion of the proposed import ban

1 on wild animals for circus performance. He said that he represents the business that
2 exhibited the bears at last year's State Farm Fair. He said that HSUS is the driving
3 force behind an ideology to prohibit well-regulated animals, depriving citizens of an
4 educational experience they may never get and this is a concern for the outer islands.
5 HSUS. He said that HSUS is an organization that is a Political Action Committee and
6 that a majority of its funds is spent to address advancing its agendas, not to local
7 shelters for the welfare of animals or. Mr. Wood said that there should be a record of
8 violation to deprive E.K. Fernandez Shows, Inc. of continuing its long history of circus
9 animal activity, but he sees none. He said that OABA has over 10,000 signatures that
10 proved people in Hawaii liked this entertainment.

11
12 (5) Cathy Goeggel, co-founder and president of Animal Rights Hawaii, testified that two
13 persons who provided animal acts for shows in Hawaii, and an alligator wrestler called
14 Cachunga, ran afoul of federal laws regarding endangered species. She said that these
15 are the kind of people in that industry. She said that there are other ways for children to
16 watch animals in their natural environment, such as the discovery channel.

17
18 (6) Dane Pollock, private citizen, testified in opposition to the ban on wild animal import
19 for circuses. He said that his family has lived in Hawaii for 4 generations now and that,
20 growing up, it was great to visit the animals at the 50th State Fair. He said that, as a
21 parent and vendor at the 50th State Fair, it would be a tragedy to see those wild animal
22 shows end, that his kids enjoyed it and kids' excitement from the shows was evident.

23
24 (7) Inga Gibson, Humane Society of the US, said she has no objections to the request
25 for minor revisions nor to the Honolulu Zoo's amendment with the wolves. She said that
26 she can answer questions about the organization or about myself at any time, and that
27 she has dedicated her life to protection of animals.

28
29 (8) Donna Smith, EK Fernandez Shows, Inc., provided testimony in opposition to the
30 proposed rule change to ban to import wild animals for circus performance. Ms. Smith
31 said that thousands of Hawaii's working families who love what E.K. Fernandez Shows
32 does can't be here to testify, but the names of 10,000 people are on a petition opposing
33 the import ban. Ms. Smith read excerpts from her written testimony submitted on behalf
34 of E.K. Fernandez Shows', as well as written testimony submitted by different
35 organizations and individuals opposing the ban, including The Pet Hui Television Show,
36 Circus Fans Association of America, Capital International Productions, and Maui Fair
37 Alliance. These testimonies raised one or more of the following points: these animals
38 are well-cared for, well trained, and bonded with their owners' families; most of these
39 animals have been bred in captivity and domesticated; the experience of seeing live
40 animal acts and displays, especially for children, is a more impactful educational
41 experience than traditional learning and ties in to supporting conservation of these
42 animals; neighbor island children would not otherwise have the opportunity to see wild
43 animals; no additional laws are needed to regulate animal abuse and most animal act
44 presenters are diligent in providing proper care for their animals and safety measures
45 for the public.

1
2 (9) Chrystn Eads, Feld Entertainment, testified in opposition to the ban on wild animal
3 import for circuses. She said that the Advisory Committee's report didn't reference
4 several other concerns that were raised by members of the Advisory Committee. She
5 said that it didn't make sense to Ken Redman, the former Zoo Director, why some of
6 these animals are on the Prohibited List. Ms. Eads said that the question was raised
7 whether or not a formal risk analysis has been done as to whether the extreme step of
8 banning these animals was needed to protect the public. She said that the question
9 was raised whether it was appropriate to ban an entire species and that the
10 consideration should really be based on animal by animal, according to an animal
11 expert on the advisory subcommittee. She asked the Board to take a look at the
12 concerns raised at the Advisory Committee's that she said weren't brought forward
13 today by the Plant Quarantine Branch.

14
15 (10) Linda Fernandez, Chief Executive Officer, E.K. Fernandez Shows, Inc., testified in
16 opposition to the proposed ban regarding circus animals. She said that E.K. Fernandez
17 was her father-in-law and that they have a big family that is made up of 800 employees
18 and lots of non-profit groups. She said there are many vendors, too. She said that
19 changing the rule will have a big effect on all of them will affect attendance at E.K.
20 Fernandez' events, and that the change is substantial. Mrs. Fernandez said she does
21 not think there is a need for this rule change, that it is driven by a false, corrupt
22 organization, and asked that the Board not approve it.

23
24 (11) Scott Fernandez, EK Fernandez Shows, Inc., testified that E.K. Fernandez is a 3rd
25 generation kama`aina company that is invested in this community and that he thinks a
26 lot of the community is invested in E.K. Fernandez. He said that he thinks that some of
27 the players in the room are not invested in this community, they do not have 800
28 employees, and they do not pay those State taxes. He said that this proposed rule
29 change could jeopardize this company and if the rule change goes through, E.K.
30 Fernandez Shows could become extinct, because of some radical group.

31
32 (12) Dr. Tyler Ralston, private citizen testified that he was involved in initiating the
33 proposed import ban in this rule change and that he contacted HSUS, Animal Rights
34 Hawaii, and the Hawaiian Humane Society about 2 ½ years ago because it was the
35 20th anniversary of the Tyke incident in Hawaii and nothing had changed. He said that
36 he is not an extremist, that he used to think circuses were okay and went to circuses
37 growing up, but that changed after he witnessed the shooting of the escaped Tyke in
38 Kakaako. He said that shooting 87 bullets on public streets was very dangerous. He
39 said that even though E.K. Fernandez has a perfect record, a tragedy can still happen
40 and that it is only a matter of time before something else happens.

41
42 Chairperson Enright, addressing the testifiers and those present, clarified that the
43 proposed rule change was taken up in November 2014, and passed, that it will go out to
44 public hearing, then back to this Board for decision. He said that this agenda item today

1 is for some details that were left out of the rule amendments. He said that the Board
2 understands this is a passionate issue so the Board appreciates all of your testimony.

3
4 Hearing no further questions or comments, Chairperson Enright called for a vote on the
5 question.

6
7 Vote: Approved, 7/2 (Ornellas, Galimba, opposed.)

8 9 **VI. OLD BUSINESS**

10 11 **1. Discussion and Possible Action on Tenant’s November 24, 2015, Oral** 12 **Motion to Reconsider Termination of General Lease No. S-1017, Issue** 13 **Cancellation Document, and Dispose of Lot through Negotiation,** 14 **Waianae Agricultural Park, Lot 17, Island of Oahu (Lease termination** 15 **approved by the Board of Agriculture at its 11/24/15 meeting)**

16
17 Presentation by Randy Teruya, HDOA/ARM, as submitted. Staff recommends
18 approval.

19
20 Board member Hong left at 11:30am.

21
22 Poka Laenui, Waianae Coast Community Alternative Development Corporation
23 (WCCADC), I am here to speak on behalf of the lessee. I apologize for the being late at
24 the November 2014 meeting. I missed the opportunity to address you then and wanted
25 to say thank you for allowing this time today. The alternative development corporation
26 out in Waianae has been in existence for the last 25-30 years. We are trying to use this
27 lease to show an alternative way to farm. We interface with other community
28 associations like the Waianae Coast Community Health Center which provides
29 programs for the seriously mental ill and alcohol and drug programs. Programs change
30 over time. We have had to track the programs faced with financing we have had. In the
31 past 7 years, we have not had financing so we have shifted projects on this property so
32 that local families can grow local crops. This is where Ken Koike comes in. He has
33 volunteered time to do this. He farms by natural methods and has been working with
34 Master Cho. To get to the point, the lease agreement we have with the HDOA is under
35 “diversified agriculture.” Ken brought in pigs and goats and other animals. About 5 or 6
36 years ago, HDOA agents came to tell Ken that, under the lease, no animals are
37 permitted on the land. The lease says nothing about animals on the land. Our
38 response was that the lease calls for “good husbandry” and my interpretation of that is
39 animals. We went through the Department of Health and were told we met their
40 standards. HDOA said that the only animals permitted were the fish. Because of the
41 HDOA staff’s that the lease says that no animals are to be grown in this Waianae Ag
42 park area, we were forced to move our animals to a neighboring property or we would
43 lose our lease. HDOA told us to stop using our trucks to bring in feed to the other side,
44 and that they did not like the way the animals were being maintained on the other
45 property. Sometimes the fence was not strong enough and some of the pigs were

1 running back to the leased property. HDOA staff demanded that we remove those
2 animals from that site. Up until about 2 years ago when we were told to remove all
3 animals off both properties, we were paying our lease and insurance payments. Since
4 then, we have not been able to make those payments. We are broke as a result of this
5 interference. Part of this lease calls for “quiet enjoyment,” for us to do the activities that
6 the lease calls for. We had an opportunity to speak with the chairperson of this Board,
7 and sat down to discuss this lease. We don’t know what the history is but rather what
8 the lease calls for. Husbandry means animal raising. We have been trying to recover
9 as a result of interference. We are now found to be in arrears in terms of our lease
10 payment. I am not sure if we are able to make our insurance payment. We have some
11 reason to say, do not cut it yet. Let’s try to make it work. I do not want to get into a law
12 suit. We have done a lot of improvement on the property. I think there is a legal
13 question about the lack of quiet enjoyment and the interference. I recommend putting
14 aside the lease payment for 2 years so that we can get back on our feet. Let’s talk
15 together.

16
17 ARMD’s Mr. Randy Teruya: The definitions in the lease state that diversified agriculture
18 excludes any type of livestock or poultry. It is clear in the lease that animals are not
19 allowed. Waianae Agricultural Park historically was designed to be a livestock
20 agricultural park. The Department of Health, through their mapping system and their
21 knowledge of the aquifers in the area, determined that this agricultural park was in a no
22 pass zone which excludes all livestock and poultry activity. This is the basis on which
23 staff interprets the lease and rules in our Ag Park program. We notified the tenant that
24 he can’t do it, but the tenant insists that he can. It is a difference of opinion on the
25 interpretation of the lease. Right now staff stands on its previous interpretation of the
26 lease. The use of animals on the premises is not allowed. This is where we are, and
27 staff stands on its position in previous board submittal made in November.

28
29 Board member Evans: It would appear that this is a social service program rather than a
30 commercial agricultural operation. Does the department lease to social service
31 agencies for rehabilitation purposes?

32
33 Mr. Teruya: In this case, when the request for assignment for WCACDC was made, the
34 representation was that aquaculture was the primary use and that it would be used to
35 educate community members in raising of tilapia or some fish. That was the basis of
36 how the lease was assigned. Aquaculture is an accepted use of diversified agriculture.

37
38 Board member Case: If you were to negotiate the lease now, would you allow livestock?

39
40 Mr. Teruya: No we would not.

41
42 Board member Case: Is that based on the Department of Health’s requirement?

43
44 Mr. Teruya: That’s one consideration. The other consideration is that this particular
45 piece of land sits next to a residential subdivision. We have had discussion with

1 residents of this subdivision who have complained about noise, smells, and odors. It
2 would be prudent for HDOA to make sure that property is used in accordance with the
3 lease. Chapter 166, which governs the Ag Park program, says leases will be issued for
4 specific purposes. This lease was issued for diversified agriculture. There is a
5 definition in the end of the lease that defines diversified agriculture, as explained earlier.
6

7 Mr. Laenui: We are to be guided by the lease. We contacted the DOH, asking that we
8 wanted to raise chickens in a certain way and they said that it was permitted. The lease
9 says good husbandry is required and so we need DOH approval before moving in that
10 direction. We have worked with HDOA staff, saying we need a letter from DOH saying
11 that we are permitted in the activities which we are engaged in. The DOH says they
12 have no way of permitting because we want to raise 50 chickens un-cooped. There are
13 no regulations. They are talking about dairies, we are talking about raising these
14 animals alternatively. Secondly, if animals are restricted then why does the lease say
15 “good husbandry?” The third point, in regards to social service activity, the alternative
16 development corporation joint ventured with Waianae Coat Community Health Center,
17 in that sense we thought we could merge the two interests into diversified agriculture. I
18 hope that this has addressed all three of the concerns.
19

20 Ken Koike, Farmer/tenant: I was the person to go to DOH to get permits. We are not
21 classified as a Concentrated Animal Feeding Operation nor a Simple Animal Feeding
22 Operation because we do not have the concentration of animals required to obtain
23 these permits. I was denied any paper coming from DOH. I was telling them that you
24 can’t deny me, that HDOA is requiring me to get this permit. DOH said that they only
25 give permits when there is a threat to the environment that they will come in and inspect
26 the things we have constructed to make us safe, but that we are so small that we can’t
27 be a threat to the environment. I am in a dilemma.
28

29 Mr. Laenui: There has been concern with the neighbors. Essentially the complaint was
30 invalid because state law protects against this type of complaint. Agriculture needs to
31 be protected.
32

33 Board member Case: As a procedural question, I do not think this item is in our
34 submittal package.
35

36 Chairperson Enright: We have already taken action on this. We terminated the lease in
37 November 2015. The lessee asked to address the Board and has suggested that the
38 Department re-open this matter.
39

40 Board member Ornellas: It is a matter of what the lease says.
41

42 Board member Ha: I’m having a hard time with this. If the lease says what it says, then
43 tell me this: is there a way that you folks can get current in your lease obligations?
44

45 Mr. Laenui: It’s going to take us some time to get current.

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Board member Ha: Can this be done? Can we look at a plan for them to get current?

Mr. Teruya: it is something the Division Administrator would consider. At this point, I do not know what will be accepted.

Board member Galimba: How far in arrears are you?

Mr. Laenui: Five to six thousand dollars.

Board member Galimba: Do you have any plan?

Mr. Laenui: We would like to do the animals again. We would like to start up again, raise the chickens, sell the eggs, raise the young chicks and start up again.

Mr. Koike: I am responsible for 2 leases right now. I was pushed off my own farm. If you prohibit me from doing this, I cannot pay my lease. This makes it impossible for me to make healthy food for my community and pay my obligations. I moved next door and they chased me off of my neighbor's property for the same reasons.

Mr. Teruya: May I just read the definition of diversified agriculture as stated in the lease. Diversified agriculture means the conduct of activities concerned with the production and marketing of nursery products or horticultural crops such as vegetables, melons, orchards, flowers, foliage and others including activities related thereto, but shall not include any livestock and poultry operations. The restriction is very clear in the definitions in the lease.

Mr. Laenui: The lease does say "good husbandry is required" and you need DOH approval to engage in those activities. My conclusion is that husbandry deals with animals and that good husbandry is permitted on this property.

Board member Evans: (to Mr. Koike) Is it possible to farm this lot without including any animals?

Mr. Koike: Our business plan, in order to meet the lease obligations, makes it nearly impossible. The price that we can get for organic eggs and poultry for the time and cost invested for us is most viable and allows enough profit to bring in orchards, kalo, taro, breadfruit and so forth to come into harvest. It is integrated into a complex system.

Mr. Laenui: The farming is all organically done. It will take time.

Board member Evans: Randy, when the lease was executed for aquaculture, I presume rent was based on potential profit that could come down the line?

1 Mr. Teruya: The rents are not established on an income approach basis. It is done by
2 an independent appraiser, comparing the land size to similar lands in the area. The rent
3 is established on that basis. In this particular case, HUD has been changing over the
4 years from its original plan for aquaculture. We have yet to receive from the tenant any
5 revised business plan. We asked for a revised conservation plan. What we got was 289
6 square feet of a 10 acre lot. We have not seen from the tenant what their plans are.
7 There is nothing in writing. We asked for it, we never received it. A lot of requests
8 made and they were avoided or not addressed and we have continued to communicate
9 have been made by ARMD with the tenant over the deficiencies in the lease. They are
10 claiming it is harassment on our part. We are doing our job.

11
12 Mr. Laenui: We have submitted our plans. Termination is the issue.

13
14 Board member Russell: There was a mention of buildings on property. Are people
15 currently living there?

16
17 Mr. Koike: I am allowed to oversee the operations on the property.

18
19 Board member Russell: Are you currently living there?

20
21 Mr. Koike: I am protecting the equipment currently. Yes.

22
23 Mr. Laenui: We have two small buildings. Weinberg buildings are the original buildings
24 placed on the property.

25
26 Mr. Koike: I understand HDOA dilemma. We are not doing commercial grade livestock.
27 We are creating a holistic farm to make it sustainable at the lowest possible cost. This
28 is personal cash invested. I build stuff out of pallets. We do not use pesticides. The
29 idea is to protect the watershed. We do not have water because the Board of Water
30 has taken it out. We are making do with what we have. I do not want to threaten the
31 aquifer. I have come up with best financial plan until I was not allowed to do so. If I
32 can't make it out of Ag park leases, how are we supposed to raise the next generation
33 of farmers. I left my white collar job to prove that it is possible. We need better food. I
34 want to prove that we could do this in Waianae. My own government is becoming my
35 demise.

36
37 Board member Ha: I understand what you are trying to say and I understand that this is
38 a different model. At this point you are behind, is there a way to make a plan to work
39 this out? I just closed my farm with the reason being costs imbedded in operating are
40 tough. I think we should somehow give them a shot.

41
42 Chairperson Enright: Poka work with Ken to get a business plan and how you will
43 capitalize this plan. Come in and talk to me. We will take Richard's advice to find a way
44 to make it work. It is a business and you need to capitalize and you're going to need to
45 perform. It would have been my expectation if you were falling in a rear someone would

1 have contacted me to tell me that you were having a problem and would have needed
2 to negotiate before we terminated your lease. I did expect to see you that morning. I
3 was actually shocked that you weren't here. When I did see you come through the
4 door, I did see that you were still involved. You wanted the time to talk to the board, but
5 the conversation will be with me. We can do that. Call my office when I am back in
6 town.

7
8 Mr. Laenui: One of the questions we had was about good husbandry?

9
10 Chairperson Enright: We can take that up.

11
12 Board member Hashimoto: if we allow them to do chickens, then everyone will say.

13
14 Chairperson Enright: I don't know if we can. I will investigate that.

15
16 Board member Galimba: Husbandry doesn't mean animals. It has to have "animal"
17 husbandry.

18
19 Board member Hashimoto: The Kula Ag Park still says no animals. Nobody is raising
20 animals, not even goats. If it says that on the lease then, that's what it is.

21
22 Chairperson Enright: Come in to talk.

23
24 Hearing no further comments, Chairperson Enright moved to the next order of business.

25
26 **2. Plant Quarantine Branch Status Report on Ohia Rapid Death (aka Ohia**
27 **Wilt) Caused by a Fungus, *Ceratocystis fimbriata*, found on the Island of**
28 **Hawaii.**

29
30 Lance Sakaino, HDOA/PQB Acting Plant Specialist, presented PQB's Informational
31 status report on Rapid Ohia Death (ROD). This is the update from Dr. Lisa Keith with
32 USDA-ARS. There have been more than 100 locations sampled and tested. The
33 newest additions on the distribution map on the Kona side are Ocean View, Honaunau
34 and on the Hilo side are Glenwood, Volcano, Hawaii Volcano National Park, and the
35 Kahuku Padlock. We have not found the disease on any other islands, so far. From
36 9/30/15 to the present, we have run more than 270 QPCR tests in total. Of those tests,
37 52 samples were for HDOA permit testing. The pathogen was found in 40% of those
38 samples. Approximately 15 off-island samples were tested and all came back negative.
39 As to in-vitro fungicide testing, 7 fungicides have been tested in-vitro of, 6 of the 7 are
40 new since the last Board meeting. Not all fungicides are effective in the amounts
41 tested. Certain fungicides vary in efficiency based on fungal strain. Soil was previously
42 collected from four ROD infected areas in Puna and South Hilo. The ROD fungus was
43 detected in soil by carrot baiting tests in less than 5% of those samples. The QPCR test
44 was also validated for soils. Growth chamber studies have been conducted to
45 determine if ohia seedlings succumb to ROD when planted in infected soil. Ten of 25

1 plants tested showed symptoms of ROD within 2 to 6 months of inoculation. As it
2 stands now, PQB recognizes that soil is a source of movement. PQB recommends that
3 soil remain subject to quarantine in this interim rule and that PQB continue to test soil
4 with ARS and continue with this program.

5
6 Chairperson Enright opened the floor to questions from the Board.

7
8 Board member Evans: I recall that we exempted soil last year. Is it the department's
9 plan to consider asking for board approval to quarantine soil from Hawaii Island as well?

10
11 Mr. Sakaino: Yes

12
13 Board member Evans: What indicators would trigger that?

14
15 Mr. Sakaino: We did surveys on 46 nurseries, surveys required on orchid and
16 landscape nurseries. Forty-five percent of the nurseries that we surveyed had no
17 response. There is 54% that do not use soil and 1% does use soil. One of those
18 nurseries that does use soil is under a PQB compliance agreement. We are analyzing
19 soil on 4 times a year basis for those in compliance agreements. We are in attempt to
20 finalize compliance with the soil with this company.

21
22 Chairperson Enright called Dr. Neil Reimer, Plant Industry Division Administrator.

23
24 Chairperson Enright said let me understand where we are at with the soil. It isn't that
25 we are finding it in the soil around the Big Island, it is that we know that if you inoculate
26 a plant and have it in soil, the soil underneath that plant will be a carrier, host, or
27 pathway. Did we know that all along?

28
29 Neil Reimer, HDOA/Plant Industry Administrator: Yes. We knew all along that it was
30 found in soil, although a very low percentage. What we did not know at that time was
31 whether the contaminated soil could inoculate plants. We thought plants needed to be
32 wounded to become infected with the disease. In order to answer that fully, I need to
33 look at those results. It sounds like what happened was that infected soil was used,
34 plants were grown up from seed, and from that soil, became infected.

35
36 Wil Leon Guerrero, HDOA/PQB Acting Microorganism Specialist, said ROD is found in
37 the soil in low amounts. I asked Dr. Lisa Keith if this is a concern for its spread. She
38 said it is because it is a risk and the problem that they see is people going into the forest
39 and the fungal spores getting stuck to their shoes or tires and spreading it that way.
40 They still don't know if soil can transmit or inoculate the plants, but there is that risk.
41 There is still a lot they need to learn.

42
43 Chairperson Enright: When I was with Lisa Keith in December, that is what she said. I
44 wasn't sure if anything had changed.

45

1 Board member Evans: In regard to shipping soil from Hawaii Island to the other islands,
2 presumably that would only happen with commercial operations and commercial
3 nurseries? Unless we are talking about people getting on a plane with mud on their
4 shoes and then landing on another island. Is it accurate that the nurseries working
5 under the PQB compliance agreement are less likely to be a source of contamination for
6 other islands or other parts of the Big Island, or is it equally likely?
7

8 Mr. Leon-Guerrero: The nursery that Lance Sakaino is referring to is the only nursery
9 using soil for shipment to other islands. That nursery is in a PQB compliance agreement
10 and will continue to be tested.

11
12 Chairperson Enright: That is Plant It Hawaii. They are part of a compliance program.
13

14 Board member Evans: It doesn't sound like there is enough evidence at this point to
15 quarantine soil. But there is still concern with accidental transport could affect spread to
16 other islands. This, meaning people or tires.
17

18 Amy Takahashi, HDOA/PQB Acting Branch Manager: That is correct. PQB's position is
19 based on the Advisory Committee's discussion on this matter. They recommended that
20 the interim rule regulate Ohia flowers and tips that would normally not have the fungus,
21 but would be regulated for the purpose of reaching people going into forest and picking
22 those parts and tracking the soil out of the forest. That is why the Advisory Committee
23 recommended to regulate those plant parts. It was for the potential to move the fungus
24 via the soil.
25

26 Board member Case: You said 45% of nurseries did not participate in survey?
27

28 Mr. Sakaino: There was no response from 45%. It was a yes or no answer to the
29 question, was the nursery using soil.
30

31 Board member Case: If you regulate soil movement interisland, anyone who is
32 transporting soil would go into your compliance program?
33

34 Mr. Sakaino: Yes.
35

36 Board member Case: Without that, you would not have the ability to do that.
37

38 Chairperson Enright: We can cross check this information. Most nurseries are
39 certified. We can check on those that did not respond. We know that there are only a
40 few nurseries that use soil as their plant media.
41

42 Board member Case: What was the recommendation?
43

44 Mr. Leon-Guerrero: The Advisory Committee wanted soil under the quarantine because
45 of the risk of tracking infected soil out of the forest.

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Board member Case: The approach is regulating from a nursery perspective versus other ways or vectors, is that right? The HDOA would have more ability to regulate the nursery part?

Chairperson Enright: I was responding to lack of responses from nurseries to the survey on who uses soil as media. It wouldn't be hard to cross check. If they are certified, then they are not in contention to be a part of our compliance program. We are looking to see what the extent of the problem might be when it comes to nursery operations.

Board member Case: I would just like to add sense of urgency to this. I agree that the vector on the Big Island is not the nurseries, as opposed to other people. I do think we should elevate the soil risk. I am not convinced this is the best way to do this. I think it would be good to know who has soil.

Chairperson Enright: To date, we will continue to be preemptive. What is the Advisory Committee asking for and what is the intent?

Dr. Reimer: This went out to the Advisory Committee a while ago before it went to the Board. This is not current. This is back to the original concern from the Advisory Committee. There was discussion whether the Board should be proactive as to soil but that there was not enough science to include soil in the quarantine when it was implemented. So, soil was set aside temporarily.

Board member Russell: Regarding aerial surveys, I took a course in native Hawaiian rights issues to meet with DLNR aerial mapping gentleman. He said that most of the fungi from ROD is along the roads, so it seems like the soil is being transported by cars. This is a time to get Department of Transportation involved if ROD is on state highways. If cars are the major vector, then this is a big deal. The laws for Native Hawaiian gathering allow for them to go into Ohia forest, but what if is spreading the fungi. My concern is moving vehicles off the Big Island. We should steam clean the bottom of those cars.

Chairperson Enright: We would need to demonstrate the science.

Board member Galimba: Has there been any other work on vectors? Insect or bird?

Mr. Leon-Guerrero: USDA-ARS did bring in the entomologist to see if the insect can cause inoculation.

Board member Russell: Indigenous microbes are worth a try to affect the fungus. Try to create a healthy environment to see if fungus can't get in to it. Are we open to microbial level experiment?

1 Chairperson Enright: The microbial action in the soil would be good. That said, we are
2 open to all suggestions. Dr. Reimer, can we take up the science as to the latest findings
3 on soil at the next Plant and Animal Advisory meeting and see if we can get something
4 from Dr. Keith. We will put the soil issue on the Board agenda next time for action.

5
6 Board member Case: I think we should have a meeting and briefing with the Land
7 Board.

8
9 Hearing no further comments, Chairperson Enright moved to the next order of business

10
11 **VII. NEW BUSINESS**

12
13 **VIII. ADJOURNMENT OF REGULAR MEETING**

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15 Having no further business before the Board, Chairperson Enright called for a motion to
16 adjourn the meeting: Galimba/Ornellas.

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18 Meeting adjourned at 12:30 p.m.

19
20 Respectfully submitted,

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22 

23
24 for Micah K. Munekata
25 Board Secretary