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Minutes of the Board of Agriculture

I. CALL TO ORDER – The meeting of the Board of Agriculture was called to order on October 28, 2014 at 9:05 a.m. by Board of Agriculture Chairperson Scott Enright, at the Plant Quarantine Conference Room, 1849 Auiki Street, Honolulu, Hawaii 96819.

Members Present:

- Scott Enright, Chairperson, Board of Agriculture (Board)
- Clark Hashimoto, Member-At-Large
- Jerry Ornellas, Kauai Member
- Michelle Galimba, Member-At-Large
- Dr. Maria Gallo, Dean of the College of Tropical Agriculture & Human Resources
University of Hawaii (CTAHR-UH), Ex Officio Member
- Lynn DeCoite, Maui Member
- Richard Ha, Hawaii Member

Members Absent:

- Mary Alice Evans, Deputy Director, Department of Business, Economic
Development and Tourism
- William Aila, Chairperson, Board of Land and Natural Resources
- Glenn Hong, Member-At-Large

Others Present:

- Chris Kishimoto, Hawaii Department of Agriculture (HDOA)/ Plant Quarantine
Branch (PQB)
- Robert Ikeno, HDOA/ Agriculture Loan Division (SALD)
- Dean Matsukawa, HDOA/SALD
- Daryl Arai, HDOA/SALD
- Linda Murai, HDOA/Agricultural Resource Management Division (ARMD)
- Randall Chang, HDOA/ARMD
- Randy Teruya, HDOA/ARMD
- Stan Ceria, HDOA/ SALD
- Kevin Yokoyama, HDOA/SALD Agloan
- Grant Tomita, HDOA/ Milk Control Section Quality Assurance Division (QAD)
- Neil Reimer, HDOA/Plant Industry Division
- Haunani Burns, Deputy Attorney General
- Margaret Ahn, Attorney General's Office Deputy Attorney General
- Janelle Saneishi, HDOA/Chairperson's Office
- Michael Opgenorth, HDOA/Chairperson's Office

1 Jeri Kahana, HDOA/ Quality Assurance Division QAD
2 Keevin Minami, HDOA/Plant Quarantine Branch (PQB)
3 Lance Sakano, HDOA/PQB
4 Trenton Yesui, HDOA/PQB
5 Chris Kishimoto, HDOA/PQB
6 Lori Buchanan, Community
7 Inga Gibson, Humane Society of the U.S. (HSUS)
8 Ann Grady, Three Ring Ranch
9 Jolene Head, Three Ring Ranch/ Keauhou Vet Hospital
10 Pamela Mizuno, County of Hawaii, Panaewa Zoo
11 Scott Fernandez, E.K. Fernandez Shows
12 Rankin/ Susan Pang, Kapaa Poi Factory
13 Victoria Anderson, University of Hawaii (UH), Manoa
14 Priscilla Ginnauei, (HSUS)
15 Matt Jisa, Vegetarian Society of Hawaii
16 Paul Tibbets, Civilian
17 Linda Leveen, Community
18 Douglas Nolan, Civilian
19 Cathy Goeggel, Animal Rights Hawaii
20 Tyler Ralston, Civilian
21 Mary Steiner, Hawaiian Humane Society
22 Anna Belew, UH Manoa
23 Baird Fleming, Honolulu Zoo
24 Laura Debner, Honolulu Zoo
25 Cy Lee, UH CTAHR

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29 II. APPROVAL OF MINUTES FROM 9/30/14 MEETING:

30

31 Motion to approve: Ornellas/ Hashimoto

32

33 There was no discussion on the minutes.

34

35 Vote: Approved, 7/0

36

37 III. COMMENTS FROM THE GENERAL PUBLIC ON AGENDA ITEMS (ORAL OR
38 WRITTEN)

39

40 Chairperson Enright said that the Board will be taking public comments on agenda
41 items as they come up in the agenda.

42

43 IV. INTRODUCTION AND COMMENTS

44

45

1 Chairperson Enright stated that the meeting items relating to the Plant Industry Division
2 will be presented last in the agenda

3
4 There were no additional comments.

5
6 V. COMMUNICATIONS FROM DIVISIONS AND ADMINISTRATION

7
8 A. AGRICULTURAL LOAN DIVISION

- 9
10 1. Request for Approval of One (1) Direct Real Estate Loan to Alan Barry
11 Levine, Jr., Krista M. Olson, and Kealaola Farm, LLC, co-borrowers.

12
13 Presentation by Robert Ikeno, as submitted. Staff recommends approval of the loan.

14
15 Motion to accept staff's recommendation: Galimba/Ha

16
17 No questions were raised by the Board on this loan request.

18
19 Vote: approved 7/0

- 20
21
22 2. Request for Approval of One (1) Direct Emergency Loan to Gerry
23 Rodriguez Barao, Sr. and Melaine T. Barao.

24
25
26 Stanley Ceria of HDOA Agriculture Loan Division presented the Barao's request, as
27 submitted.

28
29 Motion to accept staff's recommendation: Decoite/Hashimoto

30
31 Board Member Hong asked Mr. Ceria if the requestor had legal grounds to continue to
32 grow genetically modified (GM) papaya, given that the Hawaii County bill 113 to restrict
33 growing GM crops was passed.

34
35 Mr. Ceria responded that the existing growers are allowed to continue to grow GM
36 papaya even if they are changing location.

37
38 Chairperson Enright asked Mr. Ceria if the incoming lava flow toward Puna and the
39 Kapoho farm lots will require the requestor to change locations.

40
41 Mr. Ceria explained the recovery situation in Pahoia and the situation in Kapoho. The
42 requestor has explained that if the road was covered by lava, the papaya road itself is
43 gravel, so it will be better off than the bypass road.

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Vote: approved, 7/0.

3. Request for Approval of One (1) Direct Emergency Loan to Andres Farms, LLC, Panfilo C. Andres, and Janice Y. Andres, co-borrowers.

Kevin Yokoyama, of HDOA Agriculture Loan Division presented the Andre's request, as submitted. Staff recommends approval of this emergency loan.

Motion to accept staff's recommendation: Ha/Galimba

There was no further discussion by the Board or attendees.

Vote: approved 7/0

4. Request for Approval of One (1) Direct Emergency Loan to Floral Resource/ Hawaii, Inc.

Daryl Arai, Honolulu Business Loan Officer of HDOA SALD presented the emergency loan request as submitted. This loan is due to Tropical Storm Iselle. Mr. Arai said that the nursery had experienced significant damage to its shadehouses and irrigation systems and flower production has suffered from the effect of the storm. Staff recommends approval of this emergency loan

Motion to accept staff's recommendation: Hashimoto/Gallo

Discussion:

Board Member Galimba asked Daryl Arai about the life insurance policy as collateral and where the funds would go if there were delinquent payments.

Mr. Arai stated would the funds would return to the State if this loan was delinquent.

Mr. Arai also stated that there is enough equity in the assets from the property to cover the loans. In the case of using life insurance, SALD would rather take the life insurance to clear the loan debt and allow the requestor of the loan to keep the property. It does not require the family to liquidate their assets.

Board member Decoite asked if there is any entity that is already seeking this.

Mr. Arai stated the State holds the second or third position behind an existing loan.

Chairperson Enright stated the lava flow is headed straight for the agricultural subdivision. He then asked if there is latitude to use the loan funds if the requestor moves and builds elsewhere.

1
2 Mr. Dean Matsukawa, Division Administrator of HDOA SALD, explained to the Board
3 that this is allowed by the loan even though it is originally designated for Pahoā.

4
5 Vote: approved 7/0

6
7 Chairperson Enright confirmed that the Agriculture Loan portfolio is well managed and
8 the staff is doing excellent work in managing the portfolio.

9
10 B. AGRICULTURAL RESOURCE MANAGEMENT DIVISION

- 11
12 1. Re-submittal: Request Approval for Conversion of Revocable Permit
13 No. S-7636 to a New General Lease for Kapaa Poi Factory, Inc.; TMK
14 (4) 4-4-004:043; Kapaa Homesteads, 2nd Series, Kapaa & Waipouli,
15 Island of Kauai

16
17 Presentation by Randy Teruya, HDOA Agricultural Resource Management Division
18 (ARMD) on the request for conversion. This item was deferred in May, 2014. He
19 pointed out a correction, that the sublease was for 6.3 acres, instead of 5 acres as
20 documented in the submittal. This did not change any circumstances of the request.
21 The applicants for the conversion were present to hear the presentation and answer
22 questions as needed.

23
24 Motion to accept staff's recommendation: Ornellas/Decoite

25
26 Discussion:

27
28 Rankin and Susan Pang of the Kapaa Poi Factory explained to the Board that their
29 family is very excited about entering a new phase for their business and producing all
30 the products they used to. They were damaged by Hurricane Iniki a few years ago and
31 there have been some troubles with the economy and other factors but the family is
32 eager to continue and increase operations.

33
34 Board member Hashimoto asked if they raise taro or just process it.

35
36 Mr. Pang responded the Kapaa Poi Factory processes taro only.

37
38 Vote: approved 7/0

- 39
40 2. Request for Consent to Sublease Between the Hamakua Agricultural
41 Cooperative and Benjamin Rafol, Lot 15; Aurora Rafol, Lot 16;
42 Stephen Oldfeather, Lot 17 ; Eunice Polomaristis, Lot 18 and John
43 Farrell, Lot 3; TMK: (3)4-6-003:002 & 018 (por) and TMK: (3) 4-3-
44 005:020 (por), Hamakua, Island of Hawaii

45

1 Presentation by Linda Murai, property manager for ARMD on the request for consent as
2 submitted.

3
4 Board member Galimba asked about the new sublessees. Ms. Murai responded that
5 some were original lessees of the agricultural park.

6
7 Motion to accept staff's recommendation: Ha/Decoite

8
9 Discussion:

10
11 Board member Galimba asked if the parcels are currently working farmland

12
13 Mr. Teruya confirmed the lands are currently under cultivation. The Coop has a process
14 to qualify their subtenants. Over time, the Board has approved a group of subleases in
15 bunches like this previously.

16
17 Vote: approved 7/0

- 18
19 3. Request for Consent to Assignment of General Lease No. S-4751 from
20 Panaewa Farms, Inc., Lot No. 4 to Tadashi's Nursery, Inc.; TMK: (3) 2-
21 2-056:030; Panaewa Agricultural Park, Island of Hawaii.

22
23
24 Presentation by Linda Murai, property manager for the Agricultural Resource
25 Management Division on the request for consent as submitted.

26
27
28
29 Motion to accept staff's recommendation: Hashimoto/ Decoite

30
31 Discussion:

32
33 Galimba asked whether Tadashi's Nursery been paying the lease rent this whole time.

34
35 Mr. Teruya confirmed that rent was paid the whole time

36
37 Vote: approved 7/0

38
39 Chairperson Enright called for a recess at 9:42am

40
41 Chairperson Enright called the meeting back to order at 9:47 am

42
43
44 C. QUALITY ASSURANCE DIVISION

45

- 1 1. Report of the Board of Agriculture's (Board) Investigative Committee
- 2 on Proposed Amendments to the Milk Rules, Sections 4-60-9 and 4-
- 3 60-10, Hawaii Administrative Rules, Regarding Waiver of Minimum
- 4 Milk Price Paid by Processors to Producers.

5
6
7 Board member Ornellas summarized the background for the Investigative Committee
8 which was appointed by the Board to look at the proposed rule amendments relating to
9 minimum price for milk and to suggest possible changes to the Milk Control Act. The
10 Investigative Committee members were Board members Jerry Ornellas, Richard Ha,
11 and Michelle Galimba. The Investigative Committee met with the dairy farmers in the
12 State, including Ed Boteilho of Clover Leaf Dairy on September 20th. Also, the
13 Committee had a phone conference with Mr. Steve Whitesides of Big Island Dairy on
14 September 20th. That same day, an in-person meeting took place with Brad Duff of Big
15 Island Dairy. On September 30th the Committee met with Jeri Kahana, Grant Tomita,
16 and Scott Enright at the Department of Agriculture in Honolulu. Also on September 30th,
17 the Committee met with Dr. Chin Lee, Dairy Specialist at the University of Hawaii at
18 Manoa College of Tropical Agriculture and Human Resources.

19
20 (Board member Glenn Hong arrived at 9:50am)

21
22 Board member Galimba gave the report from the Investigative Committee.

23
24 The scope of the investigation was to investigate the issues involved regarding the
25 proposed rule amendment and to look into the long range for the Milk Control Act and
26 the milk industry in Hawaii. The proposed rule amendment regarding minimum price
27 would allow Big Island Dairy to fulfill its contract with the processor. That was
28 somewhat problematic in that there was a contract first and the amendment was coming
29 afterwards. The Investigative Committee felt that the two dairies (Clover leaf and Big
30 Island Dairy) should come together and discuss the issues because the Investigative
31 Committee thought that if the amendment would affect one, it would affect the other.
32 The Committee felt there is enough good will for the two dairies to come to some
33 common ground.

34
35 Board member Galimba said that the Investigative Committee found some very good
36 resources and reports on-line that they want to make available to the Board and should
37 be looked into by the Board. In the long term, there are a number of things to consider
38 with reference to the Milk Control Act. The Board members would like to encourage
39 diversity and increase production within the milk industry and have as many producers
40 and kinds of producers as possible.

41
42 With reference to pricing, the process for pricing is very cumbersome and it would be
43 worthwhile to look at adjustments in the Milk Control act to provide for more flexibility.
44 The cost moving up and down is very fluid. Over time, the quota in the Milk Control Act
45 has almost become an asset for the dairies and this has become a function that is

1 different than the original intent. Two important things the Board would like to see
2 happen is discussion between the producers and a win/win type of amendment. The
3 Board would also like to see further information provided to the Board. Board member
4 Ha agreed with Board member Galimba's statement, and mentioned much more work
5 needed to be done.

6
7 Chairperson Enright stated that there is no decision making at this time but a decision
8 will be made at the November meeting. The Chairperson stated that, if there are
9 questions from the Board, they can be sent to Hawaii Department of Agriculture staff
10 and be communicated before the next meeting. He also suggested to Board member
11 Galimba that the on-line resource information she mentioned be sent to his office which
12 could communicate it to Board members.

13
14
15 D. PLANT INDUSTRY DIVISION

- 16
17 1. Request to: (1) Allow the Importation of *Fopius ceratitivorus* (Wharton),
18 an Insect On the List of Restricted Animals (Part A) and A Parasitoid of
19 Certain Fruit Flies, For Field Release Research by the University of
20 Hawaii and Hawaii Department of Agriculture, Subject To Acceptance
21 of the Final Environmental Assessment and Finding of No Significant
22 Impact; and (2) Establish Permit Conditions For the Importation of
23 *Fopius ceratitivorus* (Wharton) , An Insect On the List of Restricted
24 Animals (Part A) and A Parasitoid of Certain Fruit Flies, For Field
25 Release Research By the University of Hawaii and Hawaii Department
26 of Agriculture, Subject to Acceptance of the Final Environmental
27 Assessment and Finding of no Significant Impact.

28
29 Presentation by Chris Kishimoto, Hawaii Department of Agriculture Plant Quarantine
30 Branch as submitted.

31
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33 C. PLANT INDUSTRY DIVISION

- 34
35 2. Request to: (1) Allow the Importation of *Fopius ceratitivorus* (Wharton),
36 an Insect On the List of Restricted Animals (Part A) and A Parasitoid of
37 Certain Fruit Flies, For Field Release Research by the University of
38 Hawaii and Hawaii Department of Agriculture, Subject To Acceptance
39 of the Final Environmental Assessment and Finding of No Significant
40 Impact; and (2) Establish Permit Conditions For the Importation of
41 *Fopius ceratitivorus* (Wharton) , An Insect On the List of Restricted
42 Animals (Part A) and A Parasitoid of Certain Fruit Flies, For Field
43 Release Research By the University of Hawaii and Hawaii Department
44 of Agriculture, Subject to Acceptance of the Final Environmental
45 Assessment and Finding of no Significant Impact.

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Presentation by Chris Kishimoto, Entomologist, Hawaii Department of Agriculture Plant Quarantine Branch (PQB), as submitted.

PQB Entomologist Chris Kishimoto clarified that the “subject to acceptance of an Environmental Assessment” condition that was part of the Advisory Committee on Plants and Animals’ recommendation for approval has been satisfied, as the anticipated Finding of No Significant Impact is official. Mr. Kishimoto said that Dr. Messing plans on having various shipments of this parasitoid sent from the United States Department of Agriculture in Guatemala and from another researcher in Israel. This submittal is an application to release this parasitoid (*Fopius ceratitivorus*) for biocontrol for the Mediterranean Fruit Fly. The target is the Mediterranean fruit fly as a quarantine pest and a plant pest.

Kauai Agricultural Research Center will be the first location for intentional release. This insect is currently on the List of Restricted Animals (Part A). Based on the recommendation by the Advisory Subcommittee on and the Advisory Committee on Plants and Animals’ unanimous approval, PQB recommends approval.

Chris Kishimoto telephoned Dr. Messing to answer any questions the Board might have on his request.

The Board had no questions for Dr. Messing.

Motion to accept: Ornellas/Ha

Discussion:

Vote: approved, 8/0

2. Request to: (1) Allow the Importation of Various Species of Reptiles (including, but not limited to, Alligators, Caiman, Crocodiles, Gavials, Lizards, Chameleons, Iguanas, Skinks, Geckos, Monitors, Turtles, and Tortoises) and Amphibians (including, but not limited to, Salamanders, Newts, Frogs, and Toads) on the List of Restricted Animals (Parts A and B), by Permit, for Exhibition by the Honolulu Zoo; and (2) Update Permit Conditions for Various Species of Reptiles (including, but not limited to, Alligators, Caiman, Crocodiles, Gavials, Lizards, Chameleons, Iguanas, Skinks, Geckos, Monitors, Turtles, and Tortoises) and Amphibians (including, but not limited to, Salamanders, Newts, Frogs, and Toads) on the List of Restricted Animals (Parts A and B), by Permit, for Exhibition by the Honolulu Zoo.

1 Keevin Minami, Land Vertebræ Specialist of the HDOA Plant Quarantine Branch (PQB)
2 presented the request.

3
4 PQB Specialist Minami apologized to Board for the submittal having an incorrect
5 appendix, and he passed out an updated appendix. The importer is the Honolulu Zoo
6 and the request's purpose is to update permit conditions for various species of reptiles
7 and amphibians the Honolulu Zoo wants to import. The last page of the submittal lists
8 what the conditions used to be and it was by policy in the past. Animals on the
9 Restricted A and Restricted B list are allowed for zoo research, exhibition, and for
10 certain other purposes. According to the Advisory Subcommittee review, there were
11 three recommendations for approval and two non-responses to update the permit
12 conditions. The Advisory Committee on Plants and Animals recommended approval
13 five (5) to zero (0). PQB recommends approval.

14
15
16 Motion to accept staff's recommendation: Galimba/ Hashimoto

17
18 Discussion:

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21 Decoite: Asked, in reference to import of certain species, does the Zoo have measures
22 in place if any of these animals walked out on their own.

23
24 PQB's Mr. Minami says there was an instance where a chimpanzee escaped, but it was
25 recaptured through the Zoo protocol, as they have measures in place to control this
26 problem. Mr. Minami then suggested Zoo staff come up before the Board and discuss
27 their protocols.

28
29 Dr. Barry Fleming, Assistant director of the Honolulu Zoo and Laura Debner, the Reptile
30 and Amphibian Curator for the Honolulu Zoo and Keiki Zoo Curator, addressed the
31 Board.

32
33 Dr. Fleming introduced Linda Santos and stated that Linda Santos has been working at
34 the Zoo for 30 years and has been in charge of capturing animals that escape. There
35 are twice a year live action practice drills on capturing escaped animals and two
36 tabletop drill exercises per year. The Zoo has an extensive manual that addresses this
37 subject. Luckily, in the chimpanzee situation, although the animal breached the
38 enclosure, the animal sat on top of the enclosure and stayed within the border of the
39 Zoo.

40
41 It has been a very long time since any animal has left the Zoo property, though there
42 have been more common instances of animals escaping their enclosure but they have
43 been recaptured efficiently within the perimeter of the Zoo.

44

1 Board member Hong asked whether there weren't some turtles that were taken from the
2 Zoo at one time that were not confiscated.

3
4 Linda Santos stated a red-footed tortoise did escape but was since returned. As a
5 reaction, the Zoo removed those small tortoises from within reach of the public.

6
7 Board member Hong stated there is some concern for lizards and small animals that
8 can move quickly and are somewhat small, especially breeding pairs.

9
10 Laura Debner stated that the Zoo staff is highly skilled and there have not been any
11 instances that have taken place in a situation that Board member Hong has referenced.
12 Often times, double door enclosures are used for animals with higher risk of escape.
13 The staff is highly skilled to handle animals to further prevent escape.

14
15 Board member Hong asked whether Zoo staff actively monitors the count of these
16 animals. Ms. Debnar answered "Yes".

17
18 Board member Galimba asked if this is for only for the Honolulu Zoo, or whether
19 another zoo could be allowed to request importation of these animals.

20
21 PQB Specialist Minami stated that he would like that this can be applied to other
22 locations.

23
24 Deputy Attorney General Haunani Burns stated that if another zoo requested the same
25 species and had virtually the same safeguards as in this instance and could meet the
26 same conditions, PQB could issue an import permit at the branch level. But otherwise,
27 being that not all facilities possess the same safeguards and certification, the matter
28 would have to come back to the Board to establish permit conditions.

29
30 Board member Decoite asked if there is a number limit to the amount of animals that
31 can be imported under this request.

32
33 Dr. Fleming responded that the animal well-being is taken into consideration when
34 determining the number. They do not want to overstress an exhibit and there is a
35 carrying capacity for each exhibit. The Honolulu Zoo tends to bring in small number of
36 species. He also stated each animal is identified, a requirement for American Zoo and
37 Aquarium Association accreditation, and most are tagged with microchip to allow for
38 tracking.

39
40 Chairperson Enright asked if there is any testimony from the public on this item.

41
42 Lori Buchannan addressed the Board and said that she currently helps to coordinate
43 response to invasive species on the island of Molokai. She asked the Board to take into
44 consideration the precautionary principle. In 1972 there was a zoo on Molokai until
45 1997. The Board permitted animals on the restricted list to that zoo. As a result, there

1 is a population of black buck that is out of control competing with Axis deer and it went
2 below sea level on the west end of Molokai up to 3000 foot elevation native rainforest.
3 As an example of what happens, Brown Anole are very aggressive and were identified
4 on the island of Molokai, vouchered by Bishop Museum. Ms. Buchanan said that the
5 Honolulu Zoo lost birds and animals that were never found. The protocol and oversight
6 needs to be there as these decisions will have lasting effects for years to come. As an
7 invasive species control advocate, Ms. Buchanan stated that she does not want to be
8 the bad guy to kill these animals, but it is her hope that the Board defers on the items
9 today.

10
11 Further Discussion:

12
13 Board member Decoite stated when the zoo on Molokai closed down, the black buck
14 was not regulated and is eating crops along with axis deer. There needs to be some
15 precautionary measure to prevent these animals from escaping and going uncontrolled.
16

17 PQB Specialist Mr. Minami said it actually was not a zoo but a trophy park on Molokai.
18 According to Bishop Museum's book, the axis deer was a gift to the king, and due to
19 overhunting, those animals no longer exist on Oahu.

20
21 Board member Decoite said that, whether it was a trophy park or not, that place was
22 advertised as a zoo. What Lori Buchanan was trying to say is that there needs to be
23 something in place to monitor these animals. So when these animals get released, the
24 damages that farmers, ranchers, and people in general suffer are something the Board
25 needs to keep in consideration. If there was a mistake that was made in the past, the
26 Board should make sure a similar situation does not happen again.

27
28 Board member Galimba asked the Honolulu Zoo what their plans are relating to the
29 import of these animals. The list on this submittal is very long.

30
31 Dr. Fleming, said that the list is a current list to simply update existing permit conditions
32 and nothing new has been added to the list. The request by the Honolulu Zoo is to
33 update the status quo.

34
35 The Zoo is in the process of building a new amphibian complex to ensure that nothing in
36 their inventory escapes outside for any reason. The Zoo has the same concerns as the
37 Board is voicing.

38
39
40 Ms. Denbar from the Honolulu Zoo said that the one bird that was not captured, the
41 particular Zoo exhibit was vandalized and the bird is suspected dead because it was
42 under medical care and required special feeding and was being hand-fed. Ms. Denbar
43 said the Zoo is not going to import lots of the species and is not stockpiling here. She
44 also stated their organization is putting together a conservation exhibition to educate the
45 public about invasive species.

1
2 Chairperson Enright asked PQB Specialist Mr. Minami to address the permit conditions
3 in general.

4
5 Mr. Minami responded with a statement in support of the proposed permit conditions,
6 as updated by PQB. The primary changes are in permit conditions number 9, 10, and
7 15. In condition no. 15, the permittee shall have available a procedural manual at the
8 time of the inspection that identifies the main hazards that may be encountered and
9 identify practices that will eliminate the risk of theft, accident, or release.

10
11 Board Member Hong asked the Zoo staff if they do drill for conditions for breach of
12 protocol.

13
14 Dr. Fleming responded that the staff do new scenarios every time there is a drill to
15 stump the staff to push them to think critically. There are live action drills twice a year.
16 Situations have been enacted such as tsunamis, multiple animal releases, and animal
17 keepers down.

18
19
20 Vote: approved, 8/0.

21
22 Chairperson Enright called for a recess at 10:45am for 10-15 minutes to allow Board
23 members to complete their review of written testimony (over 350 pages) recently
24 submitted on the next agenda item (Humane Society U.S. Petition).

25
26
27 After Board members reviewed the testimony, the Board meeting reconvened at
28 11:00am.

- 29
30
31 3. The Humane Society of the U.S. Petition for Expedited Rule
32 Amendment to Add Dangerous Wild Animals (such as Lions, Tigers,
33 Bears, Chimpanzees, Elephants, and Crocodiles) to the List of
34 Prohibited Animals (Section 4-71-6, Hawaii Administrative Rules) to
35 Prohibit Import of Such Animals for Entertainment Purposes, such as
36 Circus Performance or Exhibition.

37
38 Presentation by Neil Reimer, Hawaii Department of Agriculture Plant Industry Division
39 Administrator, as submitted. At the Chairperson's request, Dr Reimer read the text of
40 PQB's submittal aloud.

41
42 The Petition specifically requests that the Board amend the List of Prohibited Animals in
43 PQB's Hawaii Administrative Rules to include, "dangerous wild animals (such as exotic
44 cats, bears, primates, elephants, and crocodiles)" that the Petition states are "routinely
45 exploited by unaccredited and substandard breeders and exhibitors around the world

1 and frequently brought to Hawaii for entertainment purposes." Plant Quarantine Branch
2 takes no position on the substance of the proposed amendment.

3
4 The PQB recommends that the Board deny the Petition on the procedural grounds
5 stated in the submittal, with the understanding that the Board may decide to direct PQB
6 to seek review of the issues raised in the Petition through the Board's advisory review
7 process under chapter 150A, HRS.

8
9 Neil Reimer stated this position stands not only for PQB but for the Plant Industry
10 Division.

11
12 Motion to accept staff's recommendation: Galimba/Hashimoto

13
14 Discussion:

15
16 Board member Galimba asked about the expedited rule amendment process and if
17 there are public hearings.

18
19 Deputy Attorney General Haunani Burns stated there are two public meetings required
20 in the expedited rule amendment process: a meeting of the Advisory Committee on
21 Plants and Animals and a meeting of the Board.

22
23 Under the regular rule amendment process under chapter 91, Hawaii Revised Statutes,
24 there would have to be a minimum of one meeting at the Advisory Committee on Plants
25 and Animals; a Board meeting to preliminarily approve the amendments in order to get
26 the Governor's approval to go to public hearing; after a published hearing notice, an
27 actual public hearing from which the recommendations would go back to the Board; and
28 a Board meeting for the Board to adopt the amendments.

29
30 Board member Galimba asked if this moves forward today, what the effect is.

31
32 Ms. Burns stated this Petition is asking the Board to make a decision today. Under the
33 request, Board action has to be taken within thirty days of the Petition's filing. There
34 would not be time to have the two meetings, and a normal advisory review process.

35
36 Chairperson Enright then opened the floor to testimony.

37
38 Inga Gibson of the Humane Society of the United States (HSUS) testified. She began
39 by confirming that Hawaii has a very strict regulation on import of plants and animals.
40 The HSUS Petition asks the Board to exclude entities that are not accredited by the
41 Association of Zoos and Aquariums from importing the animals of concern identified in
42 the Petition. HSUS is looking to prohibit import by these temporary traveling exhibits, as
43 untrained entities that lack credibility. Ms. Gibson mentioned a bear that was lost for
44 three days earlier this year. She said that it is not just the animal welfare issue, but also
45 the known health and public safety issue. The risks and the concerns and threats are

1 too great in order to allow for validation of these permits. She said that HSUS has no
2 objection to providing more time for public input and asked that this matter be sent to
3 the Advisory Committee to keep the issue alive and going.

4
5 The next testifier, Ann Goody of Three Ring Ranch, said she heard the Board ask
6 wonderful questions of Honolulu Zoo on its import request. She stated that importation
7 of wild animals is still allowed for circuses but they cannot keep children safe from
8 escaped animals. Animal sanctuaries are necessary because people want animals that
9 are not appropriate as pets. She said that these animals are still allowed to enter the
10 State. Hurricane Iniki came through and these animals then escaped and brought
11 damage to those looking after the animals. She wants the Board to think about a
12 temporary stay on granting permits to film companies.

13
14 Mary Steiner, a policy advocate for Hawaii Humane Society, testified as submitted. She
15 said that she strongly supports this Petition and hopes that the Board will act today.
16 She referred to the Grizzly Bears crossing the ocean for four to five days in an enclosed
17 environment and the stress that was caused to the animals. She said that safeguards
18 can't insure public safety and referred to Tyke (the escaped elephant 20 years ago) and
19 the havoc that brought among the community. She said there are jurisdictions on the
20 mainland and in Europe, and Asia that prohibit these animal exhibitions.

21
22 Cathy Goeggel of Animal Rights Hawaii testified. She said she had strong reservations
23 about the Hawaii Department of Agriculture's ability to protect the public and the
24 environment. She referred to animals transferred when Molokai Ranch, Safari Park
25 closed down. She said that listed animals were imported by serious violators of the
26 Animal Welfare Act, and mentioned diving donkeys. She said that, even with so many
27 negative events, the HDOA continued to issue permits. She said that in 2012, an
28 alligator that was shown at the 50th State Fair was featured in a video that attacked a
29 trainer in front of children. She also said that these animals raise human health issues,
30 such as viruses.

31
32 Matt Jisa testified as submitted, focusing on the August 1994 incident when Tyke the
33 elephant escaped and was gunned down outside his apartment. He said that he
34 recommended no wild animals be brought to Hawaii for performances in the future. He
35 said that circus animals are in an environment of physical punishment, brutalized and
36 not rewarded, and are denied everything that is normal and natural to them. He said
37 that the world is looking to Hawaii and hoping the Board will set the standard.

38
39 Victoria Anderson of the University of Hawaii at Manoa testified. She said that she
40 teaches linguistics and animal communication and that she worked at an elephant
41 sanctuary in Thailand. She said that in the last decade, they have found many species
42 of animals can communicate and are sensitive in ways we did not previously realize.
43 Elephants prefer to live their own lives and do their own things. The only way to get
44 elephants to do your bidding is to torture them from a young age. The power is in the
45 Board's hands to save these animals

1
2 Jolene Head from Keauhou Veterinary Hospital, who is also on the Board of Three Ring
3 Ranch, testified. She stated that there are only a handful of veterinarians in the State
4 that can sufficiently care for these animals that enter on a transient basis and there is no
5 treatment available for them. The animals are stressed out by the travel and unnatural
6 environment. Hawaii does not have some of the ticks and parasites that these
7 entertainment animals carry. She said that, for these entertainment animals,
8 unfortunately, these inspections are not happening to search for ticks and other
9 parasites. All of these diseases that can be transmitted by parasites are very easily
10 transmittable. In addition, there are not enough places that have certified holding
11 facilities. The film industry is able to do filming without bringing in these animals to
12 Hawaii by using a "green screen" on the mainland .
13

14 Linda Leveen, said she worked in animal shelters all over the world, and testified as
15 submitted . She said that she is concerned with the dignity of the animal, that animals
16 should be allowed to live its life in a natural way, for what it really is instead of being
17 made to do tricks which is not in their nature. She said that it is not okay to do this to
18 another creature with emotions and family ties. Voting to say that we do not want to
19 bring in animals for entertainment is a statement saying the type of behavior of bringing
20 in animals for entertainment is not acceptable as a society.
21

22 Pamela Mizuno from County of Hawaii County Department of Parks and Recreations
23 and Panaewa Rainforest Zoo and Gardens, testified. She stated her opposition to the
24 proposed rule amendment and asked that the Board reject this Petition. She said that
25 the Petition does not consider entities such as the Panaewa Zoo as qualified to import
26 the Restricted List animals of concern. The HSUS makes exceptions from the proposed
27 prohibition for certain accredited zoos and sanctuaries. Although the Panaewa Zoo is
28 not AZA accredited, they do participate in certain AZA programs. In addition, the
29 Petition is inconsistent with Chapter 4-71, Hawaii Administrative Rules language, which
30 allows import for exhibition of these animals by government zoos and for research by
31 government agencies.
32

33 Scott Fernandez of EK Fernandez Shows testified, as submitted. He distributed
34 informational material regarding E.K. Fernandez Shows to Board members. He said that
35 these shows have been taking place since before Statehood and that EK Fernandez
36 Shows will be celebrating its 112th year in 2015. Mr. Fernandez said that in 2001, he
37 took over EK Fernandez Shows. The US Humane Society (HSUS) Petition references
38 appear to be far reaching and disingenuous. The intent of the Petition for rule change
39 has to do with stopping the import of these animals. Mr. Fernandez said that EK
40 Fernandez Shows should be judged on its own history and not the history of others who
41 may be bad actors. The HSUS Petition referred to Tyke, the most serious and tragic
42 event of an import of restricted animals into the same State of Hawaii. EK Fernandez
43 confirmed this is a tragic event and is not the responsibility of EK Fernandez Shows, as
44 it was not their show and was a mainland company's. EK Fernandez has never had an
45 incident remotely close to the scenario the Petition describes regarding restricted animal

1 importers. As to the lost bear one of the testifiers mentioned, Mr. Fernandez said it was
2 a six-month old bear cub that escaped on the exhibitor's 10 acre property and was
3 recaptured without incident. Mr. Fernandez referred to his written testimony as
4 addressing the HSUS' claim of danger of invasive species to human health as an
5 unnecessary fear. He said that, in reference to the HSUS claim, there was not one
6 incident in 111 years as to EK Fernandez Shows. The HDOA requires an import be
7 submitted with very detailed information about the act. Each animal must have a
8 current health certificate, licensed by a certified veterinarian and a license by the USDA.

9
10 Mr. Fernandez referred to the HSUS as participating in targeted discrimination. Mr.
11 Fernandez stated that he has no issue with the Honolulu Zoo, but the Zoo has lost
12 control of certain animals. EK Fernandez said that EK Fernandez Shows is a part of
13 Hawaii history and has three generations of responsible operations to back up their
14 operation. Their organization sees 700,000 people a year, and said that those who see
15 their shows would support their cause if given the opportunity.

16
17 Tyler Ralston, who said he was from a multi-generational family in Hawaii, testified as
18 submitted. He said that because of Hawaii laws allow for these restricted animals to be
19 imported, it puts the public at risk. Mr. Ralston feels it is unnecessary for these animals
20 to come to Hawaii. Mr. Ralston said that tranquilizers would not work if used on an
21 elephant, making it possible for the firearm situation to reoccur. He said that, according
22 to Honolulu Zoo Veterinarian Dr. Ben Okamoto, tranquilizers would not have stopped
23 Tyke, only slowed her down. Many international cities and states have developed rules
24 to restrict the import of wild and exotic animals into circuses. Mr. Ralston closed with a
25 statement that he knows the facts about the importation of restricted wild animals, and
26 does not approve of this practice.

27
28 Dr. Fleming of Honolulu Zoo (no written testimony) stated that the Petition is well
29 intended, since we are all concerned about animal welfare. However, the Petition has
30 some far reaching consequences, such as the effects on organizations such as
31 Panaewa Zoo. Visitors to Honolulu Zoo and the Panaewa Zoo put together can account
32 for 7% of the state population. Dr. Fleming cautions about some of the wording of the
33 Petition's proposed amendment..

34
35 Laura Debner of Honolulu Zoo, said that she understands the position of the HSUS but
36 stands by the Panaewa Zoo and their concern over the amendment's wording. The
37 Panaewa Zoo works with Honolulu Zoo and the SSP.

38
39 Wilson Koike, a citizen from Waianae who came to support EK Fernandez and the
40 proper importation of restricted animals. He stated that EK Fernandez show was the
41 first time he saw farm animals as a kid. He said that one side on this issue is very
42 concerned with animal safety and welfare. Mr. Koike said that he has a concern for the
43 EK Fernandez business not being able to conduct business since they care about and
44 properly care about the animals. Mr. Koike stated that even with the controversy

1 happening, the hope is that there can be a common ground here to allow these shows
2 to continue.

3
4 Inga Gibson of the Hawaii Humane Society offered additional comments. There would
5 be no impact on farm animals, but only the list of animals identified in the submitted
6 Petition.

7
8
9 Chairperson Enright stated that a Board member requested an Executive Session to
10 consult with the Board's attorney regarding the Board's legal authority regarding a
11 decision in this matter. It was moved and seconded to go into Executive Session to
12 consult with the Board's attorney on the Board's legal authority in this matter.

13
14 Motion: Galimba/Hong

15
16 Approved: 8/0

17
18 After a five-minute break, the Board moved into Executive Session at 12:20 p.m.

19
20 Executive Session adjourned at 12:37p.m

21
22 Chairperson Enright called the public meeting back into session at 12:38 p.m.

23
24 Chairperson Enright asked the public for additional comments from those who testified
25 or if Board members had questions for the testifiers. Hearing no additional comments
26 or questions, Chairperson Enright asked HDOA Plant Industry Administrator, Dr. Neil
27 Reimer, to approach the Board for further discussion.

28
29 Chairperson Enright said that he would entertain a motion at this time to deny this
30 Petition. He said that, based on the staff presentation, the Board needs to rule on this
31 petition within 30 days, but by statute, the Board needs to do a much more detailed
32 review with input from the Advisory Committee on Plants and Animals, which the Board
33 is unable to do in the time frame required under this Petition. Board member Galimba
34 made a motion to deny the HSUS Petition and Board Member Ornellas seconded the
35 motion. Chairperson Enright then called for a vote on the motion to deny.

36
37 Approved: 8/0.

38
39 Chairperson Enright asked for further Board discussion on the Petition and asked
40 whether the Board would like to move forward on the issues raised in the Petition and
41 refer this to PQB for a more thorough review and further dialogue and options to
42 address the issues.

43
44 Board member Hong stated that there needs to be further review to allow for
45 safeguarding of animals and providing protection from unwanted pests. He said that

1 everyone understands the need to review the issues that were raised here and do a
2 more thorough review and further engage in discussion to see what options are
3 available.

4
5 Board member Galimba said that she would not want petition supporters to think that
6 the Petition was denied because the Board is insensitive to the issues raised, but the
7 staff and legal counsel have explained that in order to approve the Petition as
8 requested, the Board would be acting contrary to the statute's requirement to have
9 advice and input from professionals with scientific expertise on making such rule
10 changes. The Board feels it is important to have that kind of advice before making any
11 major decision such as this one.

12
13 Chairperson Enright directed Acting Plant Industry Administrator Neil Reimer to begin a
14 discussion of the issues with the PQB and to report back to the Board in early January
15 on the issues.

16
17 Dr. Reimer asked for clarification that the report would be a status report, a white paper,
18 and not necessarily a proposal regarding rule change.

19
20 Chairperson Enright confirmed that the report would be in the nature of a status report.

21
22 VI. NEW BUSINESS

23
24 There was no new business.

25
26 VII. ADJOURNMENT OF REGULAR MEETING

27
28 12:43 Call for Adjournment by Chairperson Enright.

29
30 Motion: Ha/Hashimoto

31
32 Approved: 8/0.

33
34 The meeting adjourned at 12:43 p.m.

35
36 Respectfully submitted,

37
38 

39
40 Michael L. Opgenorth
41 Board Secretary

42
43
44