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5 **Minutes of the Board of Agriculture**  
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7 CALL TO ORDER – The meeting of the Board of Agriculture was called to order on  
8 June 30, 2015 at 9:00 a.m. by Board of Agriculture Chairperson Scott Enright, at the  
9 Plant Quarantine Conference Room, 1849 Auiki Street, Honolulu, Hawaii 96819.

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11 **Members Present:**

12 Scott Enright, Chairperson, Board of Agriculture  
13 Clark Hashimoto, Member-At-Large  
14 Simon Russell, Maui Member  
15 Michelle Galimba, Member-At-Large  
16 Dr. Maria Gallo, Dean of the College of Tropical Agriculture & Human Resources  
17 University of Hawaii (CTAHR-UH), Ex Officio Member  
18 Scott Derrickson, Department of Business, Economic Development and Tourism  
19 (DBEDT), Ex Officio Member Designated Representative  
20 Richard Ha, Hawaii Member  
21

22 **Members Absent:**

23 Glenn Hong, Member-At-Large  
24 Jerry Ornellas, Kauai Member  
25 Suzanne Case, Chairperson, Board of Land and Natural Resources  
26

27 **Others Present:**

28 Randy Teruya, Hawaii Department of Agriculture (HDOA)/Agricultural Resource  
29 Management Division (ARM)  
30 Brian Kau, HDOA/ARM  
31 Glenn Okamoto, HDOA/ARM  
32 Randall Chang, HDOA/ARM  
33 Linda Murai, HDOA/ARM  
34 Joyce Wong, HDOA/ARM  
35 Wilma Joy  
36 Lehua Joy  
37 Ed Teixeira  
38 Grant Tomita, HDOA/Quality Assurance Division (QAD)  
39 Jeri Kahana, HDOA/QAD  
40 Steven Wong, HDOA/Agricultural Development Division  
41 Edward Boteilho, Cloverleaf Dairy  
42 Cathy Goeggel, Animal Rights Hawaii  
43 Inga Gibson, Humane Society US  
44 Mary Steiner, Hawaii Humane Society  
45 Tyler Ralston

- 1 Donna Smith, E.K. Fernandez Shows
- 2 Michael Wood, Outdoor Amusement Business Association
- 3 Blake Oshiro, Alston Hunt Floyd Ing
- 4 Raquel Wong, HDOA/AI
- 5 Dr. Neil Reimer, HDOA/Plant Industry
- 6 Chris Kishimoto, HDOA/Plant Quarantine (PQ)
- 7 Trenton Yasui, HDOA/PQ
- 8 Linda Santos, Honolulu Zoo
- 9 Noelani Kalipi, Kohala Institute/KI Fish Company
- 10 Bob Endreson, KI Fish Company
- 11 Dr. Kai Fox, Mari's Gardens
- 12 Ron Lau, Kona Coast Shellfish
- 13 Todd Low, HDOA/Animal Industry (AI), Aquaculture and Livestock Support
- 14 Services (ALSS)
- 15 Liz Xu, HDOA/AI ALSS
- 16 Andrew Porter, Coordinating Group on Alien Pest Species
- 17 Janelle Saneishi, HDOA
- 18 Keevin Minami, HDOA/PQ
- 19 Darcy Oishi, HDOA/Plant Pest Control
- 20 Jonathan Ho, HDOA/PQ
- 21 David Niide, HDOA/PQ
- 22 Leonard Obaldo, HDOA/PQ
- 23 Margaret Ahn, Deputy Attorney General
- 24 Haunani Burns, Deputy Attorney General
- 25 Andrew Goff, Deputy Attorney General
- 26 Delanie Prescott-Tate, Deputy Attorney General

27

28 II. APPROVAL OF MINUTES FROM 4/28/15 MEETING:

29

30 Chairperson Enright requested a motion to approve the April 28, 2015 meeting minutes.

31

32 Motion for approval: Evans/Ha

33 Vote: Approved, 7/0.

34

35 III. COMMENTS FROM THE GENERAL PUBLIC ON AGENDA ITEMS (ORAL OR  
36 WRITTEN)

37

38 Chairperson Enright said that the Board will be taking public comments on agenda  
39 items as they come up during the meeting.

40

41 IV. INTRODUCTION AND COMMENTS

42

43 There were no introductions or comments.

44

45

1 V. COMMUNICATIONS FROM DIVISIONS AND ADMINISTRATION

2  
3 A. QUALITY ASSURANCE DIVISION

4  
5 1. Request for Approval for a Waiver Allowing Cloverleaf Dairy to Sell  
6 Milk at Less than the Minimum Price in the Hawaii Milk Shed

7  
8 Presentation by Ms. Jeri Kahana, Division Administrator, QAD, and Mr. Grant Tomita,  
9 Milk Control Program Specialist, QAD, as submitted. Staff recommends approval.

10 Chairperson Enright called up Mr. Edward Boteilho, owner of Cloverleaf Dairy to testify.

11  
12  
13 Mr. Boteilho said that if he doesn't sign this waiver, he will not be able to sell milk to  
14 Meadow Gold after 50 years of doing so. In the past 10 years, prices have not gone  
15 down, and today he is being asked to go back to \$27.40. What is happening here is the  
16 sacrificing of dairy production that has been happening for so long. He's asking the  
17 Board to look at the waiver and allow him to have the waiver for a time period.

18  
19 Ms. Kahana said that Big Island Dairy entered into a contract with Meadow Gold, and  
20 the Board was asked to make the amendment in the administrative rules so the contract  
21 for the purchase of milk at less than the minimum price could be enforced and Big  
22 Island Dairy could be competitive with imported mainland milk prices.

23  
24 Chairperson Enright said we can't force Meadow Gold or any processor to buy local  
25 milk, and this rule allowing for the purchase of milk at less than the minimum price does  
26 not necessarily put Mr. Boteilho out of business. It's unfortunate that Mr. Boteilho finds  
27 himself in a marketplace that is extremely competitive, but that is where we are at.

28  
29 Mr. Boteilho asked why he can't take his milk and market it to the local community, as  
30 the local egg industry is able to do this.

31  
32 Ms. Kahana said that egg prices are driven by market forces. For milk, we are bound  
33 by the Milk Control Act.

34  
35 Chairperson Enright said that the milk market has changed radically in the past several  
36 years. There are now individual enterprises bringing in bottled milk from the mainland in  
37 quantity. Chairperson Enright said that this Board would like to do everything it can to  
38 support Mr. Boteilho, but we find ourselves constrained by the marketplace.

39 Chairperson Enright asked Mr. Boteilho if he would like to ask the Board to allow him a  
40 waiver to the minimum price of milk.

41  
42 Mr. Boteilho asked whether this Department is supposed to be encouraging local  
43 farmers.

44  
45 Chairperson Enright said that the Department helps farmers as much as it is possible.

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Mr. Boteilho said that the reality of the cost of producing things in Hawaii is very high and yet the Board is asking him to go back to prices from 1996.

Chairperson Enright said that Mr. Boteilho is putting the onus of marketplace factors on the Department. As a businessperson, it is up to the owner to meet marketplace challenges. Chairperson Enright said that he currently serves as president of the National Association of State Departments of Agriculture, and there are many farmers and dairymen that are going out of business, and that capitalism is brutal. The Department looked at every way to support Mr. Boteilho.

Mr. Boteilho said these decisions are leading to his destruction. Mr. Boteilho said that all this waiver is giving him is more time to get out.

Ms. Kahana said if Mr. Boteilho refuses to request the waiver, then he would be obligated to be paid at the Class 1 price, which Meadow Gold is currently choosing not to purchase Mr. Boteilho's milk at. Ms. Kahana said that if Mr. Boteilho so requests, the Board can issue a temporary waiver for Mr. Boteilho to temporarily sell his milk to Meadow Gold at current market prices.

Chairperson Enright said that if Mr. Boteilho does not get a temporary waiver, Meadow Gold can't buy your milk at the current market price of approximately \$27.

Ms. Kahana said that Meadow Gold can legally buy the milk at \$35.53, but they are choosing not to.

Mr. Boteilho said he just wants everyone to know this will mean downsizing, and if that's what the Board wants, this is what the Board wants.

Chairperson Enright said to Mr. Boteilho that this is his business, not the Department's business, and he has continually tried to put the onus on this Board, and that's not the reality of the situation. Chairperson Enright asked Mr. Boteilho if he would like to ask the Board for a temporary waiver of 6 months.

Ms. Kahana clarified that the request to the Board would be for a temporary waiver from the minimum Milk Control Act price of \$35.53.

Chairperson Enright asked Mr. Boteilho if he is making this request.

Mr. Boteilho said "yes."

Motion to accept: Ha/Hashimoto

1 Board Member Ha said that he is a farmer and he understands Mr. Boteilho's situation  
2 and that the Board does sympathize with Mr. Boteilho's situation and that the Board  
3 cares.

4  
5 Board Member Russell said that he is from a farming background and that he is also  
6 sympathetic to Mr. Boteilho's situation.

7  
8 Board Member Galimba said that she is sad that the situation has come to this, and  
9 what she has to do. Board Member Galimba said that the fact that Mr. Boteilho is being  
10 forced to take a price that doesn't cover his operating costs is not good. Board Member  
11 Galimba said she isn't sure what to say, except that she is sorry.

12  
13 Vote: Approved, 7/0.

14 .

#### 15 B. AGRICULTURAL RESOURCE MANAGEMENT DIVISION

16

17 1. Request for Consent to Sublease Between the Hamakua Agricultural  
18 Cooperative and Richard Miller; Lot No. W08, TMK (3) 4-3-005:018  
19 (por.), Pohakuhaku and Kemau 1st, Hamakua, Island of Hawaii

20

21 Presentation by Ms. Joyce Wong, District Property Manager, ARM, as submitted. Staff  
22 recommends approval.

23

24 Motion to accept: Russell/Gallo

25

26 Vote: Approved, 7/0.

27

28 2. Request for Consent to Sublease Between the Hamakua Agricultural  
29 Cooperative and Agee, Inc., Lot No. 19, TMK (3) 4-3-005:017 (por.),  
30 Pohakuhaku and Kemau 1st, Hamakua, Island of Hawaii

31

32 Presentation by Ms. Joyce Wong, as submitted. Staff recommends approval.

33

34 Motion to accept: Derrickson/Ha

35

36 Chairperson Enright asked how the Hamakua co-op is doing. Chairperson Enright said  
37 that he knows the Board is approving leases so the land is being leased out, but he is  
38 wondering about production.

39

40 Ms. Wong said that from what she hears, the Co-op is doing well.

41

42 Chairperson Enright asked whether or not this particular lessee is in good financial  
43 condition.

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45 Ms. Wong said "So far, yes."

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Vote: Approved, 7/0.

3. Request for Extension of Sublease Between the Hamakua Agricultural Cooperative and Jianguo Wang; Lot No. 16, TMK (3) 4-3-003:004 (por.), Opihilaha & Hauola, Hamakua, Island of Hawaii.

Presentation by Ms. Joyce Wong, as submitted. Staff recommends approval.

Motion to accept: Hashimoto/Gallo

Chairperson Enright asked how Mr. Wang's production level is.

Ms. Wong said Mr. Wang's lot is doing well, and he is doing sweet potato.

Vote: Approved, 7/0.

4. Request for Consent to Sublease between the Hamakua Agricultural Cooperative and Susan Osborne; Lot No. 4 TMK (3) 4-6-003:003 (por.), Honokaia Makai Tract, Hamakua, Island of Hawaii.

Presentation by Ms. Joyce Wong, as submitted. Staff recommends approval.

Motion to accept: Hashimoto/Ha

Board Member Hashimoto asked whether the lot will be used for a school garden.

Ms. Wong said the lessee already runs a school, and the income generated from the lot will be used to supplement the school.

Vote: Approved, 7/0.

5. Request for Extension of General Lease No. S4636; Ronald Okazaki, Lot No. 8, TMK (3) 2-4-049:022, Panaewa Farm Lots, 2<sup>nd</sup> Series, Waiakea, Island of Hawaii.

Presentation by Ms. Joyce Wong, as submitted. Staff recommends approval.

Motion to accept: Ha/Hashimoto.

Vote: Approved, 7/0.

6. Re-Submittal - Request for Approval of 1) Renovations of Existing Improvements and 2) Waiver of Rental; General Lease No. S-3107;

1 Michael G. Buck, TMK (1) 4-1-027:002; Lot No. 44, Koolaupoko,  
2 Waimanalo, Island of Oahu  
3

4 Presentation by Ms. Linda Murai, Property Manager, ARM, and Mr. Randy Teruya,  
5 Agricultural Asset Manager, ARM, as submitted. Staff recommends approval.  
6

7 Motion to accept: Russell/Galimba  
8

9 DBEDT's Designated Representative to the Board, Scott Derrickson, said he would like  
10 to disclose that the requestor for this agenda item and he have worked together before  
11 and Mike Buck is a friend, but Mr. Derrickson believes he can still be impartial. It was  
12 noted that the questions that were raised about this request earlier are addressed by  
13 the statute.  
14

15 Vote: Approved, 7/0.  
16

17 7. Request for Consent to Assignment of General Lease Nos.  
18 S-4923 and S-5516; Frank F. Sekiya; TMK (1) 4-1-035:011,  
19 Waimanalo Agricultural Park, Lot No. 14; and (1) 4-1-027:030,  
20 Lot No. 25, Waimanalo Farm Lot Subdivision, Koolaupoko,  
21 Waimanalo, Island of Oahu  
22

23 Presentation by Ms. Linda Murai, as submitted. Staff recommends approval.  
24

25 Motion to accept: Hashimoto/Ha  
26

27 Vote: approved, 7/0  
28

29 9. Request for Extension of General Lease Nos. S-4741 and  
30 S-4913-A, Lot Nos. 42 and 6; Pioneer Hi-Bred International, Inc.,  
31 Kekaha, Waimea, Island of Kauai  
32

33 Presentation by Mr. Randall Chang, District Property Manager, ARM, and Mr. Randy  
34 Teruya, as submitted. Staff recommends approval. Pioneer Hi-Bred will be  
35 discontinuing seed production and focusing on seed research. They are in compliance  
36 with lease terms.  
37

38 Motion to accept: Galimba/Hashimoto  
39

40 Board Member Russell said that on May 10, 2015, the Maui News reported that over  
41 \$500,000 was awarded to residents of Waimea, Kauai because Dow Pioneer failed to  
42 follow best management practices, known as Generally Accepted Practices (GAP).  
43 Board Member Russell asked how the lawsuit result comports with the Board's leasing  
44 policy.  
45

1 ARM's Mr. Chang said that he did not have the chance to read the articles on the  
2 lawsuit, so he can't answer Board Member Russell's question at this time. ARM's  
3 Mr. Teruya said that the lawsuits have not been reviewed by the Department, and at this  
4 time we do not have any comments.

5  
6 Board Member Russell asked if he could get a copy of the lease, and whether the lease  
7 was a standard lease.

8  
9 Mr. Teruya said he could get Board Member Russell a copy of the lease, and that he is  
10 pretty sure the terms of the lease are standard, as these were leases transferred from  
11 the Department of Land and Natural Resources (DLNR).

12  
13 Chairperson Enright said that the fields in question in the recent lawsuit were high in  
14 elevation and the soil extremely light and hard to control. As for the lease in this  
15 submittal, Kekaha soils are different. Reading the judge's ruling in the recent case  
16 against Dow Pioneer, it was stipulated that the timeframe from 2009-2011 was when  
17 they were not following GAP for pesticides, but after that, they were. The question is  
18 whether the lessee is complying with lease requirements. Chairperson Enright said  
19 that, currently, to his and DOA staff's knowledge, Dupont Pioneer is in compliance with  
20 GAP.

21  
22 Chairperson Enright said that dust control is always an issue where agriculture abuts  
23 residences, whether it's biotech agriculture or even large scale organic agriculture.  
24 Hawaii is windy and that makes it tough to control dust. The real question is whether  
25 there is lease compliance.

26  
27 Board Member Russell said that Dupont Pioneer, however, is still involved in an  
28 ongoing lawsuit.

29  
30 Chairperson Enright said that they are, and they may appeal to the appellate courts.

31  
32 Board Member Russell said that he would feel more comfortable voting on this agenda  
33 item if he could see the lease, especially if this lessee is involved in large scale class  
34 action lawsuits.

35  
36 DBEDT Designated Representative Derrickson asked whether these parcels were  
37 transferred from the DLNR, and whether the original contracts for the land management  
38 were DLNR terms, and if so, whether there will be any changes in the provisions of the  
39 lease.

40  
41 Mr. Teruya said that this is a request for an extension of an existing lease that was  
42 transferred from DLNR with DLNR contract language. Mr. Teruya said that the request  
43 would extend the lease to 2030, and there will be no changes to the provisions of the  
44 original lease. DLNR's lease form is very similar to the Department's lease form.

45



1 Board Member Galimba said that because we have two concerns about this lease,  
2 would it be possible for Mr. Teruya to give the Board a copy of the lease before voting?

3  
4 Chairperson Enright said that he will defer this agenda item until the next meeting so  
5 that Board Members can get a copy of the lease terms.

6  
7 10. Certification of Acreage Assessments for the Honokaa-Paauilo,  
8 Kahuku, Molokai, Waimanalo, and Waimea Irrigation Systems,  
9 2016

10  
11 Presentation by Mr. Glenn Okamoto, Agricultural Infrastructure Manager, ARM, and Mr.  
12 Brian Kau, Division Administrator, ARM, as submitted. Staff recommends approval.

13  
14 Motion to accept: Hashimoto/Ha.

15  
16 Chairperson Enright called up Ms. Wilma Joy to testify.

17  
18 Ms. Joy said that she is a user of the Molokai Irrigation System (MIS), and she has not  
19 been able to gain access to staff recommendations regarding the acreage assessment,  
20 so she can't support ARM's acreage assessment. Ms. Joy said she would support  
21 keeping the acreage assessment as is, or lowering it.

22  
23 Chairperson Enright asked Mr. Okamoto and Mr. Kau to explain how they determined  
24 the acreage assessment.

25  
26 Mr. Kau said that the Legislature sets a ceiling every year, and ARM looks at its annual  
27 revenues and expected expenditures for the upcoming year to determine an acreage  
28 assessment that will cover expenditures.

29  
30 Ms. Joy asked whether the past year had a surplus for Molokai, as they had a wet year  
31 and there should be less use of the system.

32  
33 Mr. Kau said that the MIS is a part of the irrigation revolving fund which is wholly used to  
34 operate and maintain State irrigation systems throughout Hawaii. Mr. Kau said that  
35 usually when accounting figures come out for the MIS, it shows the MIS breaking even  
36 or having a slight surplus or slight deficit. Mr. Kau said that for the past year, the MIS  
37 will probably have a surplus because of the wet weather, and they did not have to turn  
38 on some pumps in the valley for parts of the year.

39  
40 Ms. Joy said that with a surplus, it seems ARM should reduce the acreage assessment  
41 or maintain the acreage assessment at \$1.94. Ms. Joy said that the funds collected for  
42 the MIS go into the irrigation revolving fund, but section 167-19, Hawaii Revised  
43 Statutes, states that the Board shall determine and certify on or before June 30 of each  
44 year the amount of acreage assessments necessary in that fiscal year for the  
45 acquisition, construction, operation, and maintenance of irrigation facilities for each

1 project, and the acreage of agricultural and pasture land of each land occupier within  
2 the project. Ms. Joy said that the law doesn't state that every irrigation project should  
3 be assessed together.

4  
5 Mr. Kau said that from what he was told of the interpretation of the law, because the  
6 irrigation fund is one fund and all of the system's funding goes into the fund, that the  
7 acreage assessment must be assessed on a statewide basis.

8  
9 Ms. Joy said that the funds can be put in one pot, but it doesn't mean that the State  
10 needs to do a statewide assessment. The MIS reservoir is currently at the 35 foot  
11 waterline mark, and she hasn't seen the watermark that high in over 20 years, and the  
12 MIS will not be pumping for a while, and the assessments should be done separately for  
13 each project. Ms. Joy said that in 2010, the Board approved the ability to refund users  
14 of the MIS if there was a surplus, and it seems that there is a precedent for refunds.  
15 Ms. Joy asked if MIS users could be credited for the past year if it is found that there  
16 was a surplus.

17  
18 Chairperson Enright said that he will have the Deputy Attorney General review how the  
19 HDOA is conducting acreage assessments, and will follow up for the next Board  
20 meeting. Chairperson Enright said that he will call Ms. Joy before the next Board  
21 meeting to give her an overview of the Deputy Attorney General's findings.

22  
23 Ms. Joy also asked to see a copy of the staff recommendation for the acreage  
24 assessment ahead of Board meetings.

25  
26 Chairperson Enright said that Ms. Joy will get a copy.

27  
28 DBEDT Designated Representative Derrickson asked if the HDOA has an internal  
29 breakdown for each irrigation system.

30  
31 Mr. Kau said that, generally, that is not how they have done the calculations. What  
32 ARM is trying to do is project forward. The other issue is that he does not know what  
33 the weather is going to be like in the future, or if there will be future failures of the  
34 systems, ARM can't know all expenses in advance. Prices are set based on future  
35 estimates and expenses. The acreage assessment is set for the billing cycle for the  
36 next fiscal year. The acreage assessment is done so that the irrigation system fund can  
37 assure an adequate cash flow for the next year.

38  
39 Vote: Approved, 7/0.

40  
41 Chairperson calls for a five minute recess.

42  
43 Meeting called to order at 10:38 a.m.

44

1 Chairperson Enright switched the order of agenda item VI., Old Business, with agenda  
2 item V. C. Plant Industry Division.

3  
4 VI. OLD BUSINESS

- 5  
6 1. Follow-up Status Report on Public Health and Safety Issues Raised in  
7 Humane Society of the U.S. Petition to Prohibit Import of Dangerous Wild  
8 Animals for Entertainment Purposes (No Action); (Reference: January 27,  
9 2015 Board of Agriculture Meeting)

10  
11 Dr. Neil Reimer, Division Administrator, Plant Industry, presented the status report,  
12 reviewing PQB's initial inquiry to the relevant Advisory Subcommittees and their  
13 feedback on the public health and safety issues raised in the Humane Society of the  
14 U.S. (HSUS) Petition, as well as PQB's subsequent effort to seek Advisory  
15 Subcommittee clarification on the narrower issue of the adequacy of current permit  
16 conditions as to certain animals. Dr. Reimer informed the Board that, as Governor Ige  
17 had recently announced a state ban on import of wild animals for performance and  
18 exhibition, as in circus acts or State Farm Fair exhibitions, HDOA PQB will be pursuing  
19 rule amendment to implement this policy change.

20  
21 As to the Board's request for feedback as to how other states may have handled the  
22 issue of wild animals for performance and exhibition, Dr. Reimer said that PQB was not  
23 aware of any other state that has banned wild animals for circus type performance or  
24 exhibition, but that some U.S. mainland cities and counties have done so.

25  
26 Dr. Reimer also referred to an e-mail from the United States Department of Agriculture –  
27 Animal Plant Health and Inspection Service (USDA APHIS), attached to PQB's  
28 submittal, in which Carolyn McKinnie, DVM, APHIS's supervisory veterinary officer for  
29 the region including Hawaii, said that APHIS conducts unannounced inspections of  
30 USDA-licensed and registered facilities, including traveling exhibitors of wild animals for  
31 performance or exhibition, and that APHIS makes public on its website inspection  
32 reports that document non-compliance with license requirements.

33  
34 Chairperson Enright invited the public to testify on this agenda item.

35  
36 1. Ms. Inga Gibson, Director for the HSUS in Hawaii testified that 40 cities currently  
37 prohibit the use of dangerous animals for performance acts. Ms. Gibson said that their  
38 Petition is only for dangerous animals such as lions, tigers, and bears and is not  
39 applicable to non-dangerous animals. The Petition is only related to animals that have  
40 spread disease and cause public health and safety issues. Ms. Gibson says the  
41 Petition is not targeting any companies, and that the petition is about protecting the  
42 environment.

43

1 2. Ms. Mary Steiner, Policy Advocate, Hawaiian Humane Society, testified that they  
2 have supported the HSUS Petition from the beginning to move forward with the rule  
3 change to ban dangerous animals.  
4

5 3. Mr. Blake Oshiro, attorney, representing Feld Entertainment, submitted written  
6 testimony and orally addressed the Board. He said that, although Feld Entertainment  
7 has no current plans to bring animal acts to Hawaii, Feld Entertainment is concerned  
8 that the Governor's ban would preclude this activity although the scientific data doesn't  
9 support such a broad prohibition. He referred to attachments to his written testimony  
10 that include summaries of data from different sources indicating there is not much  
11 impact to traveling circus animals during transportation. Mr. Oshiro said that Feld  
12 Entertainment prefers that the State look to alternative regulations to address public  
13 health and safety concerns. He said that a complete ban on import of wild animals for  
14 entertainment or a ban for one purpose but not for another purpose presents legal  
15 problems under the U.S. Constitution.  
16

17 4. Ms. Cathy Goeggel, President, Animal Rights Hawaii, said that Animal Rights Hawaii  
18 supports the HSUS Petition, and that the State cannot rely on USDA-APHIS all the time  
19 to enforce the Animal Rights Act. Ms. Goeggel said that APHIS doesn't have an animal  
20 inspector stationed in Hawaii and that Sea Life Park hasn't been inspected in over 2  
21 years.  
22

23 5. Ms. Donna Smith, representing E.K. Fernandez Shows, read aloud a letter from its  
24 president, Scott Fernandez. She said that E.K. Fernandez believes that current  
25 procedures and permit conditions for import of wild animals for entertainment are  
26 sufficient to protect the public, ensure the animals' well-being, and prevent any impact  
27 on the environment. E. K. Fernandez objects to the Governor's ban. Ms. Smith said  
28 that E.K. Fernandez had no involvement with the circus that brought Tyke the elephant  
29 to Hawaii in 1994. In their more than 100 year history of featuring wild animal acts in  
30 circuses and fairs in Hawaii, E.K. Fernandez never had an incident. By contrast,  
31 Honolulu Zoo, which would be exempt from the proposed wild animal ban, has had  
32 three wild animal escapes since 1994.  
33

34 6. Mr. Michael Wood, Chairman of the Outdoor Amusement Business Association  
35 (OABA), submitted (1) a letter objecting to the proposed ban on wild animal acts in  
36 Hawaii; and (2), a petition against the proposed ban that he said contained nearly  
37 10,000 signatures of Hawaii citizens. He noted that the industry OABA represents  
38 provides family entertainment at state and county fairs and community and non-profit  
39 charitable events and that revenue raised at these events helps support community  
40 causes. He said that the issue of ethical treatment of animals is a common goal the  
41 industry shares with those who support the proposed ban and that the Animal Welfare  
42 Act provides rigorous standards to protect animals for many purposes. He said that it is  
43 not just non-profit organizations that protect animals, and that the circus industry is  
44 connected to breeding Asian elephants, an endangered species, and that they lend  
45 these elephants to accredited zoos. He said that it is unfair to ban wild animal import for

1 circuses while allowing their import for zoos. He said that if there's a recognition that  
2 more stringent regulation is needed than the Animal Welfare Act provides, then the  
3 focus should be on that, not on an import ban.  
4

5 7. Mr. Tyler Ralston, private citizen, said that he previously spoke before the Board on  
6 this issue and was in Kakaako when Tyke went on a rampage and it was horrific. Mr.  
7 Ralston said that, according to the Honolulu Zoo veterinarian at the time, there is no  
8 way to guarantee a similar incident will not happen again. Mr. Ralston said it is clear  
9 that people in Hawaii don't want dangerous animals and that the signatures on the  
10 petition opposing a ban may have been collected at a fair and people may have been  
11 coerced into signing it.  
12

13 Chairperson Enright said that the Department is currently reviewing this and will be  
14 moving forward with a potential rule change to prohibit wild animal import for  
15 entertainment. The proposed rule change will come before the Board and will need to  
16 go out to public hearings throughout the State.  
17

18 Chairperson Enright called a 2 minute break at 11:10 a.m.  
19

20 Call to order at 11:12 a.m.  
21

## 22 C. PLANT INDUSTRY DIVISION

### 23 Plant and Non-Domestic Animal Quarantine

#### 24 Entomology

- 25 1. Request for Preliminary Review of House Cricket, *Acheta domesticus*, for  
26 Future Amendment to Change its List Placement from the List of  
27 Restricted Animals (Part A) to the List of Restricted Animals (Part B), to  
28 Allow Import, by Permit, for Feed to Insectivorous Amphibians, Reptiles,  
29 and Birds.  
30  
31  
32

33 Mr. Chris Kishimoto, Plant Quarantine Branch (PQB) Entomologist, presented the  
34 request as submitted. Staff recommends approval.  
35

36 Motion to accept: Gallo/Ha  
37

38 Board Member Galimba asks what the difference is between Part A and Part B of the  
39 List of Restricted Animals allowed to import by permit.  
40

41 Mr. Kishimoto said that Part A is more restrictive, while Part B is less restrictive and  
42 those animals are able to be used commercially.  
43

44 Board Member Russell asked Mr. Kishimoto why the Honolulu Zoo is not breeding the  
45 crickets now.

1  
2 Mr. Kishimoto said that the Zoo chooses not to breed the crickets due to space and  
3 manpower issues, as breeding crickets takes a lot of space and time.

4  
5 Board Member Russell asked whether an accidental release of a cricket population  
6 would be bad for the local environment.

7  
8 Mr. Kishimoto said that he doesn't think so, because the crickets would be escaping to  
9 an area where they are already found in the wild.

10  
11 Vote: Approved, 7/0.

12  
13 Invertebrate and Aquatic Biota

- 14 2. Request to: (1) Allow the Importation of Blue Tilapia, *Oreochromis aureus*,  
15 an Animal on the List of Restricted Animals (Part B), by Permit, for  
16 Aquaculture in Aquaponics Systems and Recirculation Aquaculture  
17 Systems in At Ground and Above Ground Tanks, by Mari's Gardens, LLC;  
18 and (2) Establish Permit Conditions for the Importation of Blue Tilapia,  
19 *Oreochromis aureus*, an Animal on the List of Restricted Animals (Part B),  
20 by Permit, for Aquaculture in Aquaponics Systems and Recirculation  
21 Aquaculture Systems in At Ground and Above Ground Tanks, by Mari's  
22 Gardens, LLC.

23  
24 Mr. Trenton Yasui, Acting PQB Invertebrate and Aquatic Biota Specialist, presented as  
25 submitted. The applicant's goal is to develop a better line and their goal is to produce  
26 fresh and frozen fillets for the local market. The farm is located several miles from the  
27 nearest body of water. Staff recommends approval.

28  
29 Motion to accept: Ha/Hashimoto

30  
31 Chairperson Enright called Dr. Kai Fox, aquaculture specialist, Mari's Garden, before  
32 the Board.

33  
34 Board Member Russell asked whether Mari's Garden plans to sell the fish as fillets.

35  
36 Dr. Fox said they don't do processing right now and plan to sell the fish whole for about  
37 \$5 a pound.

38  
39 Vote: Approved, 7/0.

- 40  
41 3. Request to: (1) Allow the Importation of Hawaiian Gold Tilapia,  
42 *Oreochromis mossambicus*, and Blue Tilapia, *Oreochromis aureus*,  
43 Animals on the List of Restricted Animals (Part B), by Permit, for  
44 Aquaculture in Above Ground Tank Systems, by KI Fish Company, LLC.;

1 and (2) Establish Permit Conditions for the Importation of Hawaiian Gold  
2 Tilapia, *Oreochromis mossambicus*, and Blue Tilapia, *Oreochromis*  
3 *aureus*, Animals on the List of Restricted Animals (Part B), by Permit, for  
4 Aquaculture in Above Ground Tank Systems, by KI Fish Company, LLC.  
5

6 Mr. Yasui presents as submitted. Staff recommends approval.  
7

8 Chairperson Enright called Ms. Noelani Kalipi, Executive Director, Kohala Institute, to  
9 address the Board.  
10

11 Motion to accept: Ha/Hashimoto  
12

13 Board Member Ha asked what KI Fish Company's general plan is to produce fish.  
14

15 Ms. Kalipi said that the company plans to produce fish through all stages: a nursery  
16 phase, grow phase, and a processing facility. Ms. Kalipi said the company plans to ship  
17 the fish out and export it to the mainland, as Tilapia is the second most imported fish in  
18 the U.S.  
19

20 Board Member Russell asked what the fish will be fed.  
21

22 Chairperson Enright called up Mr. Bob Endreson, KI Fish Company project manager.  
23

24 Mr. Endreson said that they buy specialized food for the juvenile fish from a plant in  
25 Canada. For the mature fish, they plan to incorporate biofeeds such as sprouts and  
26 fodder systems. Mr. Endreson said that in Africa, companies use dried guava leaves,  
27 and the Kohala Institute will be incorporating several biofeed ideas. Mr. Endreson said  
28 that they are hoping to reduce feed costs and have around 60% of their feed come from  
29 local sources, and KI Fish Company wants to partner with other farmers to provide feed  
30 and juvenile fish.  
31

32 DBEDT Designated Representative Derrickson asked whether other farmers who are  
33 interested in growing the tilapia would need permits as well.  
34

35 Mr. Endreson said that other farmers would need a permit, and that the Kohala Institute  
36 would help them obtain a permit and also help setting up a growing system, and to  
37 market and sell their fish.  
38

39 Board Member Russell asked whether Mr. Endreson is concerned about the Food  
40 Safety Modernization Act.  
41

42 Mr. Endreson said "no" they are not concerned because they are already under Food  
43 and Drug Administration HACCP regulations for their fish.  
44

45 Chairperson Enright asked Ms. Kalipi to give an overview of the Kohala Institute.

1  
2 Ms. Kalipi said that the Kohala Institute is a nonprofit operation that manages 2,400  
3 acres of land on Hawaii. The Kohala institute has developed a 5 year strategic plan  
4 based on a systems approach on agriculture, aquaculture, education, and community  
5 development. The Kohala Institute is also building an agricultural park doing diverse  
6 types of agriculture including lo'i kalo, greenhouse restoration, and a veteran to farm  
7 program. Ms. Kalipi said the Kohala Institute also has a fish farm that is landlocked.  
8 The effluent from the fish farm will go to a 7 acre lo'i kalo, and the rest of the water will  
9 be going into its agricultural park. Ms. Kalipi said the Kohala Institute is focused on  
10 education, workforce development, and serving as a catalyst to increase agriculture  
11 capacity and community development to provide education and jobs.

12  
13 Board Member Galimba said that if you want to do “grass fed” beef, don’t feed cattle  
14 pellets made from fishmeal.

15  
16 Mr. Endreson said that he agrees with Board Member Galimba, and said that if the  
17 cattle are eating fishmeal, it wouldn’t be considered “grass fed” beef.

18  
19 Vote: Approved, 7/0.

20  
21 4. Request to: (1) Allow the Importation of Asian Sea Bass, *Lates calcarifer*,  
22 an Animal on the List of Restricted Animals (Part B), by Permit, for  
23 Aquaculture in Above Ground Tanks, by KI Fish Company, LLC.; and (2)  
24 Establish Permit Conditions for the Importation of Asian Sea Bass, *Lates*  
25 *calcarifer*, an Animal on the List of Restricted Animals (Part B), by Permit,  
26 for Aquaculture in Above Ground Tanks, by KI Fish Company, LLC.

27  
28 Acting PQB Aquatic Biota Specialist Mr. Trenton Yasui provided an addendum  
29 submitted by the Applicant. Mr. Yasui presented the request as submitted. He noted  
30 that at the Advisory Committee on Plants and Animals’ (Advisory Committee) review of  
31 this request, 7 members had recommended disapproval and 1 abstained. Mr. Yasui  
32 said that at the time of the Advisory Committee review, he hadn’t been able to inspect  
33 the Applicant’s facility. After the Advisory Committee’s recommendation, Mr. Yasui said  
34 he was able to view the facility and he thinks it is biosecure. However, based on the  
35 Advisory Committee’s recommendation, PQB is recommending the Board disapprove  
36 this request.

37  
38 Motion to approve: Gallo/Hashimoto.

39  
40 Chairperson Enright called Mr. Endreson and Ms. Kalipi up to the Board.

41  
42 Chairperson Enright asked Mr. Endreson to discuss biosecurity issues at the Kohala  
43 Institute fish farm.



1  
2 Mr. Endreson said that there is no chance of escapement. The fish farm is located two  
3 miles from the ocean with no streams nearby. Mr. Endreson said that he has always  
4 erred on the side of conservation, even if it jeopardized his own businesses. Mr.  
5 Endreson said that he is going to build a facility that will be in the top 1% of secured  
6 facilities. There is only one state in United States that can grow fish year round, and  
7 that is Hawaii, but the reason Hawaii doesn't have a large aquaculture industry is  
8 because we do not have a product that is consistent. Mr. Endreson said the Kohala  
9 Institute is trying to achieve consistency with standardizing feed, grow conditions, and  
10 processing practices. Mr. Endreson also said that there is an inconsistency with  
11 advisory panels concerns and recommendations. For example, the Natural Energy  
12 Laboratory of Hawaii (NELHA) is located in an area that is subject to storms and  
13 tsunamis, but the advisory committees have not brought up concerns with the possibility  
14 of the animals at NELHA escaping into the ocean. Mr. Endreson said that he has been  
15 growing hundreds of millions of fish on the mainland without an escapement incident.  
16 He said that he wants a level playing field.

17  
18 Chairperson Enright said that the one topic that is being discussed right now that is  
19 germane is biosecurity. The concerns that were raised by the Advisory Committee is  
20 environmental. Chairperson Enright asked Mr. Endreson if he could expand on the  
21 biosecurity measures at his facility.

22  
23 Mr. Endreson said that the fish farm will have 40 grow tanks that are wire meshed,  
24 elevated, and in a closed circuit system with parabolic filters. The broodstock will be  
25 locked in a facility that has 24/7 surveillance and security.

26  
27 Mr. Endreson said that the discharge will be into a dry field. He said that even if there is  
28 a catastrophic earthquake that makes our tanks spill, no fish would make it into a  
29 waterway.

30  
31 Acting PQB Specialist Mr. Yasui said that when he did the site visit, there wasn't a  
32 whole lot to see because it was still being constructed, and a lot of the biosecurity  
33 measures discussed today are hypothetical and not put in place yet. However, based on  
34 his limited knowledge, their system does seem to be in the top facilities in terms of  
35 biosecurity. Mr. Yasui said that he relies on the advisory technical subcommittees to  
36 make the recommendations, but what the Kohala Institute has stated in their submittal  
37 and from what he has seen, their facility seems to be secure.

38  
39 Chairperson Enright called up Mr. Todd Low, Aquaculture Program Manager, Animal  
40 Industry Division.

41  
42 Mr. Low said that biosecurity is paramount to what we want to do in the aquaculture  
43 industry. He said that the Advisory Committee's concern is similar when introducing  
44 almost any animal for commercial production. Mr. Low said when they brought *Niloticus*  
45 forward, they chose Mari's Garden and Kualoa Ranch; however, for *Barramundi* (Asian

1 sea bass), he doesn't think the Department would give a permit to Kualoa Ranch  
2 because of its proximity to the ocean. For Kohala Institute's fish farm, in terms of  
3 flooding/natural disasters, there is no threat of fish getting into a waterway from that  
4 location.

5  
6 Mr. Endreson said that the subcommittees made their recommendations prior to Mr.  
7 Yasui's site visit.

8  
9 Board Member Russell asked how big the sea bass can grow to.

10  
11 Mr. Endreson said that the fish grow up to 100 pounds but they are planning to grow  
12 them to only 2 pounds because the market demand is for smaller fillets.

13  
14 PQB Acting Specialist Mr. Yasui said that the Advisory Committee did take into account  
15 that any future site inspection would not change their recommendation to not approve.

16  
17 Chairperson Enright asked if Mr. Endreson could discuss the status of the construction  
18 of the facility.

19  
20 Mr. Endreson said that they need to complete installing the grow tanks, and the grow  
21 tanks were just delivered today. They will be done in two months.

22  
23 Board member Russell asked whether there was a history of the Board voting against  
24 the recommendation of the Advisory Committee.

25  
26 Chairperson Enright said that he isn't sure, but there has probably been a past instance  
27 where the Board voted against the Advisory Committee's recommendation.

28  
29 Chairperson Enright said that he is going to defer this agenda item until he can do a site  
30 visit to see what's going on and to take this application up at the next Board meeting.

- 31  
32 5. Request to: (1) Allow the Possession of White Shrimp, *Penaeus*  
33 *vannamei*, an Animal on the List of Restricted Animals (Part B), by Permit,  
34 for Aquatic Polyculture in Above Ground Tank Systems, by Kona Coast  
35 Shellfish, LLC.; and (2) Establish Permit Conditions for the Possession of  
36 White Shrimp, *Penaeus vannamei*, an Animal on the List of Restricted  
37 Animals (Part B), by Permit, for Aquatic Polyculture in Above Ground Tank  
38 Systems, by Kona Coast Shellfish, LLC.

39  
40 PQB Acting Aquatic Biota Specialist Mr. Yasui presented the request as submitted. Mr.  
41 Yasui said that Dr. Lei Yamasaki, an Advisory Subcommittee member, did not submit  
42 her recommendation before the Advisory Committee's recommendation was submitted  
43 to the Board, and he would like to orally present her recommendation to the Board. Mr.  
44 Yasui said that, Dr. Yamasaki recommended approval for both parts of this request.  
45

1 Motion to accept: Galimba/Hashimoto.

2  
3 Chairperson Enright called on Mr. Ronald Lau, Operations Manager for Kona Coast  
4 Shellfish.

5  
6 Chairperson Enright asked Mr. Lau to describe his operation.

7  
8 Mr. Lau said that they are currently raising clam seed as a nursery which goes out to  
9 their sister companies on the mainland. The purpose of this polyculture system is to  
10 reduce costs by about 60% to provide the same amount of algae.

11  
12 Vote: Approved, 7/0.

- 13  
14 6. Request to: (1) Allow the Possession of White Shrimp, *Penaeus*  
15 *vannamei*, an Animal on the List of Restricted Animals (Part B), by Permit,  
16 for Aquatic Polyculture in Above Ground Tank Systems, by Troutlodge  
17 Jamestown Shellfish Venture, LLC.; and (2) Establish Permit Conditions  
18 for the Possession of White Shrimp, *Penaeus vannamei*, an Animal on the  
19 List of Restricted Animals (Part B), by Permit, for Aquatic Polyculture in  
20 Above Ground Tank Systems, by Troutlodge Jamestown Shellfish  
21 Venture, LLC.

22  
23 PQB Acting Aquatic Biota Specialist Mr. Yasui presented the request as submitted.  
24 Staff recommends approval. Mr. Yasui said Dr. Yamasaki wasn't able to provide her  
25 recommendations prior to preparation of the Board submittal, and he would like to orally  
26 present her recommendations to the Board. Mr. Yasui said that Dr. Yamasaki  
27 recommended approval of both parts of this request.

28  
29 Motion to accept: Hashimoto/Ha.

30  
31 Vote: Approved, 7/0.

- 32  
33 7. Status Report on Petition to Initiate Expedited Rule Amendment by Board  
34 Order to Change Nile Tilapia, *Oreochromis niloticus*, List Placement from  
35 the List of Restricted Animals (Part A) to the List of Restricted Animals  
36 (Part B) to Allow Import for Aquaculture Production. (No action)  
37 (Reference: April 28, 2015 Board of Agriculture Meeting)

38  
39 Dr. Neil Reimer, Division Administrator, Plant Industry Division, presented the report as  
40 submitted. The Petition for expedited amendment has been withdrawn as the  
41 Department is proceeding through regular rule amendment to change the list placement  
42 of Nile tilapia to allow import for aquaculture, consistent with the Board's April 28, 2015  
43 preliminary review for future list placement.

44

1 Chairperson Enright asked Dr. Reimer when PQB plans to enact these restricted animal  
2 amendments.

3  
4 Dr. Reimer said they will try to do them as quickly as they can, but they do not want to do  
5 these amendments piecemeal. They would do them all at the same time around this fall.

6  
7 VII. NEW BUSINESS

8  
9 Board Member Galimba said that for next year when the Department does the irrigation  
10 acreage assessments, she would appreciate a little more historical detail.

11  
12 Chairperson Enright said that as was discussed earlier in this Board meeting, the  
13 Attorney General's office will be reviewing the rules and will address your concerns  
14 then.

15  
16 Board Member Galimba requested Plant Industry's Dr. Reimer to present a status report  
17 on the Ohia Wilt.

18  
19 Chairperson Enright said that the Plant Industry Division can present to the Board  
20 background information on the Ohia Wilt at the next meeting.

21  
22 Board Member Russell said that the Maui County Farm Bureau said that the  
23 Department might entertain a meeting with the Department of Labor and Industrial  
24 Relations to discuss a best management practices for farmers who hire laborers. Board  
25 Member Russell said that maybe the College of Tropical Agriculture and Human  
26 Resources may be interested in helping farmers with best management practices as  
27 well.

28  
29 Chairperson Enright said he will discuss with Board Member Russell the Maui County  
30 Farm Bureau's request.

31  
32 VIII. ADJOURNMENT OF REGULAR MEETING

33  
34 Motion to adjourn meeting: Galimba/Derrickson.

35  
36 Meeting adjourned at 12:21 PM.

37  
38 Respectfully submitted,

39  
40   
41  
42 Noa K.Ching  
43 Board Secretary