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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 April
8 25, 2017 at 9:00 a.m. by Board of Agriculture Chairperson Scott Enright, at the Plant
9 Quarantine Conference Room, 1849 Auiki Street, Honolulu, Hawaii 96819.

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11 **Members Present:**

12 Scott Enright, Chairperson, Board of Agriculture
13 Mary Alice Evans, Deputy, Department of Business Economic Development, Ex
14 Officio Member
15 Suzanne Case, Chairperson, Board of Land and Natural Resources
16 Richard Ha, Hawaii Member
17 Clark Hashimoto, Member-At-Large
18 Jerry Ornellas, Kauai Member
19 Glenn Hong, Member-At-Large
20 Vincent Mina, Maui Member
21

22 **Members Absent:**

23 Dr. Rachel Novotny, Interim Dean of the College of Tropical Agriculture & Human
24 Resources University of Hawaii, Ex Officio Member
25 Michelle Galimba, Member-At-Large
26

27 **Others Present:**

28 Randy Teruya, HDOA/Agricultural Resource Management (ARM)
29 Linda Murai, HDOA/ARM
30 Roy Hasegawa, HDOA/ARM
31 Janice Fujimoto, HDOA/ARM
32 Michele Ramos, Kilauea Pest Control
33 Sean O'Keefe, Hawaii Farm Bureau
34 Janet Ashman, Hawaii Farm Bureau
35 Robert Ikeno, HDOA/State Agricultural Loan Division (SALD)
36 John McHugh, HDOA/Plant Industry Division Administrator
37 Gareth Mendonsa, HDOA/SALD
38 Tim Lyons, Hawaii Pest Control Association
39 Steve Russo, HDOA/Pesticides Branch
40 Victoria Matsumura, HDOA/Pesticides Branch
41 Kevin Yokoyama, HDOA/SALD
42 Delanie Prescott-Tate, Deputy Attorney General
43 Bryan Yee, Deputy Attorney General
44 Janelle Saneishi, HDOA/Office of the Chair (CHR)
45 Micah Munekata, HDOA/CHR

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II. APPROVAL OF MINUTES FROM 3/14/16 MEETING

Chairperson Enright deferred this until the next meeting.

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

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

IV. INTRODUCTIONS

There were no introductions or comments.

V. COMMUNICATIONS FROM DIVISIONS AND ADMINISTRATION

A. AGRICULTURAL LOAN DIVISION

1. Request for Approval of One (1) Direct Farm Ownership Loan to Viktoria Antova and David Suppi.

Presentation by Gareth Mendonsa, HDOA/SALD, as submitted. Staff recommends approval.

Motion to accept: Hashimoto/Ha.

Vote: Approved, 8/0.

2. Request for Approval of One (1) Farm Capital Improvement Loan and One (1) Farm Operating Loan to Maui Dragon Fruit Farm, LLC.

Presentation by Robert Ikeno, HDOA/SALD, as submitted. Staff recommends approval.

Motion to accept: Hong/Hashimoto.

Vote: Approved, 8/0.

3. Request that Two (2) Loans to Ky Chareune be Referred to the Attorney General for Disposition and/or Collection.

Presentation by Kevin Yokoyama, HDOA/SALD, as submitted. Staff recommends approval.

1 Motion to accept: Hashimoto/Hong.

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3 Vote: Approved, 8/0.

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5 4. Request that Two (2) Loans to Khammouane Chandara be
6 Referred to the Attorney General for Disposition and/or Collection.

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8 Presentation by Kevin Yokoyama, HDOA/SALD, as submitted. Staff recommends
9 approval.

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11 Motion to accept: Ha/Hashimoto.

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13 Vote: Approved, 8/0.

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15 B. AGRICULTURAL RESOURCE MANAGEMENT DIVISION

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17 1. Request for Consent to Assignment of General Lease No. S-6014; Dana
18 Daody Kiat-A-Nan and Wilton S. Clifford, Assignor, to Dana Daody Kiat-
19 A-Nan, Assignee; TMK (1) 1st Div/5-6-006:042, Lot No. 14, Kahuku
20 Agricultural Park, Koolauloa, Kahuku, Island of Oahu

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22 Presentation by Roy Hasegawa, HDOA/ARM, as submitted. Staff recommends
23 approval.

24

25 Motion to accept: Evans/Hashimoto.

26

27 Board member Hong asked if the assignee has any position on this. Mr. Hasegawa
28 said that he has agreed to this.

29

30 Vote: Approved, 8/0.

31

32 2. Request for Approval to Install Photovoltaic (PV) System; General
33 Lease No. S-3107; Michael G. Buck; TMK (1) 4-1-027:002;
34 Lot No. 44, Koolaupoko, Waimanalo, Island of Oahu, Hawaii

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

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38 Motion to accept: Evans/Case.

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40 Board member Evans asked why this must come to the Board. Randy Teruya,
41 HDOA/ARM, stated that in both the lease document and the rules, the lessee must get
42 Board approval on any improvements. For future matters, authority to approve these
43 leases may be delegated to the Chair. Bryan Yee, Deputy Attorney General, said that
44 this is possible and that this general authority could be placed on a future Board
45 agenda.

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2 Board member Ha said that this is a significant step for renewable energy loans.

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4 Vote: Approved, 8/0.

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6 3. Request for Approval for the Transfer of Public Lands by Tax Map
7 Keys from the Department of Land and Natural Resources to the Department
8 of Agriculture Pursuant to Act 90, SLH 2003, Codified as Chapter 166E,
9 Hawaii Revised Statutes

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11 Presentation by Randy Teruya, HDOA/ARM, as submitted. Staff recommends
12 approval.

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14 Motion to accept: Ornellas/Hashimoto.

15
16 Board member Evans asked if the motion is to transfer the eight identified parcels and if
17 the letter is a separate action. Chairperson Enright said yes. Board member Case
18 thanked the staff at HDOA for their progress on this.

19
20 Vote: Approved, 8/0.

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22 Chairperson Enright called for a brief recess at 9:20am.

23
24 Chairperson Enright called the meeting back to order at 9:25am.

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26 C. PLANT INDUSTRY DIVISION
27 Pesticides Branch

- 28
29 1. Request for: (1) Preliminary Approval of Proposed Amendments to
30 Chapter 4-66, *Hawai'i Administrative Rules*, entitled "Pesticides"
31 and (2) Authorization for the Chairperson to Schedule Public
32 Hearing(s) and Appoint a Hearings Officer in Connection with the
33 Proposed Amendments to Chapter 4-66, *Hawai'i Administrative*
34 *Rules*. Reference: A request for approval of proposed partial
35 amendments to Chapter 4-66, *Hawai'i Administrative Rules* and to
36 schedule public hearing(s) received board approval on November
37 24, 2015. (See attached summary of proposed rule amendments.)

38
39 Presentation by John McHugh, HDOA/Plant Industry Division Administrator, Steve
40 Russo, HDOA/Pesticides Branch, and Victoria Matsumura, HDOA/Pesticides Branch,
41 as submitted. Staff provided overview of updates to the rules process. This includes
42 comments received by members of the Pesticides Advisory Committee. HDOA did get
43 responses back and put together a revised document. They will continue taking
44 comments.

45

1 Board member Case confirmed with the Board that public comment would be received
2 on these rules. Deputy Attorney General Delanie Prescott-Tate said that if it is
3 determined that contaminants are found in surface water, this is just one factor to be
4 considered. That would be reviewed by the Pesticide Committee prior to being placed
5 on the list. Surface water is a consideration. There are many other factors to consider.
6 Deputy Attorney General Bryan Yee mentioned that placing these items on the rules
7 allows the public to comment on the issue. It is difficult to add things to rules after
8 public comment, and deletions to proposed rules is more acceptable as public has had
9 time to comment on the issue.

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11 Motion to accept: Ornellas/Hashimoto.

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13 Board member Evans asked if surface water were included in an empirical model if that
14 means that certified pest applicators would be restricted as agriculturalists but that other
15 residential uses would not be bound by these rules. Mr. McHugh said that there are a
16 few products that are restricted use pesticides with regards to commercial use that can
17 be used by homeowners and are found on the garden shop shelves. Board member
18 Evans asked if having a pesticide as an RUP only restricts its use by farmers. Mr.
19 Russo said that if added to the state RUP list, then it is restricted for all users. He said
20 that there are some federal restricted use products that are only restricted use because
21 of the way they are formulated. If pesticide products are State restricted use, then they
22 are restricted use to all pesticide applicators. There are no restricted use certifications
23 for home owners. Board member Evans asked what if a homeowner has little fire
24 ants? Mr. Russo said that there are no restricted use categories for that situation. A
25 Turf and Ornamental category would still require a business address as it is a
26 commercial category. As a private restricted use applicator, you would have to start a
27 business to get that certification (Private applicator of Restricted Use Pesticides). Mr.
28 McHugh said that there is at least one product available to homeowners for little fire ant
29 control.

30
31 Board member Mina asked if there was any wording about cocktails on RUP. Mr.
32 McHugh said that there was not. Board member Mina asked if that is something that
33 could be added. Mr. McHugh said that you would need to discuss how that language
34 would look. It could be something to work with but very challenging to define. Mr.
35 Russo said that cocktail is not defined and that they would need to come up with
36 definition. The labeling states how many mixes you can do depending on the chemicals
37 you would like to mix. Board member Mina said that addressing that would take angst
38 of it not being addressed. Even though difficult, the public would have a better idea
39 what the cocktails represent. Mr. McHugh said that he would work with the Board.

40
41 Board member Ha said that from the Big Island point of view on the East side, in south
42 Wailuku River, there are hardly any perennial streams. Up the coast there are thirty-five
43 streams. He asked how the areas are treated equally. Mr. McHugh said that there is a
44 mathematical model to use for surface water. That is the main reason for the ground
45 water rule.

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Board member Case said that she had some reservation about this section but public hearing can address this.

Board member Hong asked if surface water is included in the recommendation. Mr. McHugh said yes. Ms. Prescott-Tate said that there are two proposals before the Board. There are changes agreed upon. They are asking the Board's permission to add to the rules to go out for public comment on those agreements. The second set is suggested changes that are in response to some individual complaints. They would delete surface water from the first proposal. It would also delete all conditions under general standards of certification of applicators except for one.

Board member Case said that she would like more time for review. Chairperson Enright said that the intention is to defer this action as this is a work in progress. This is more of an update.

Ms. Prescott-Tate asked if developing a criterion for surface water is something you would like to see addressed in the rules. Contamination factor has been in the rules as per ground water. It has not been questioned what constitutes contamination. One comment was to define contamination for surface water. We could explore that and try to define or provide methodology. Ms. Matsumura said that models do exist as the EPA and California do have some. Ms. Prescott-Tate said that we would always fall to EPA regulations.

Chairperson Enright opened the floor to public testimony.

Tim Lyons, Hawaii Pest Control Association, provided testimony as submitted. He mentioned the objections of use. He believes this is addressed. They had concern around applicator having a practical knowledge of industrial institutional and structural pests. They also had concern with issues around pesticide conferences in the State.

Board member Evans asked what a non-chemical pesticide would be. Mr. Lyons said that would be like rodent control zappers.

Mr. Mina said that the comment about the HPCA seems that what is being said is that the applicator sees what he is applying a pesticide to when spraying. Mr. Lyons said that if that's the case then we do not have an issue with that and asked for clarification.

Board member Evans asked what a non-certified applicator is. Mr. Lyons said that most companies send their employees through the certification process. They may hire other individuals to help such as a fumigation crew the sets up and takes down a tent. May be general use job such as rodent control, may send an individual who isn't certified does not need RUP.

1 Sean O'Keefe, Hawaii Farm Bureau Environmental Stewardship Committee Chair,
2 presented testimony as submitted. Mr. O'Keefe made a clarification on surface water
3 issue. One of the reasons why contamination is not applied to surface water is because
4 there are no pesticides that are applied intentionally to ground water. The term
5 contamination is very simple to evaluate with regards to groundwater. If a pesticide is
6 present in groundwater, then it is contaminated. Most of pesticides that are registered
7 as RUP for groundwater contamination are what's known as "leachers." Before a
8 pesticide is registered it undergoes testing to see if it will be a "leacher." That
9 evaluation is part of the process. A single detection, even if minimal, has in the past
10 caused the HDOA to evaluate a chemical for RUP classification. There are chemicals
11 that are labeled for application to and around surface water. It is known that they will be
12 present for some period and concentration. For example, this can be used for weeds in
13 an irrigation system or mosquito control. Chemicals such as this have been reviewed
14 and approved for that use. Mr. O'Keefe mentioned his concerns with pesticide drift,
15 regarding reasonable methods for pesticide application.

16
17 Board member Ha said that he has a concern with surface water. As time goes on and
18 as science gets better and better he asked how do we prevent ourselves from getting
19 scared with more science. Mr. McHugh said that the empirical model helps with
20 decisions being based on data. There are other models that are out there in such as
21 California. He said that this will be a challenge.

22
23 Janet Ashman, Hawaii Farm Bureau, provided testimony. Adding surface water is not
24 necessary because HDOA has that ability to restrict that. The Pesticide Advisory
25 Committee members had problems with the addition of surface water in that section.

26
27 Board member Ornelles said that in a perfect world, we wouldn't need pesticides, but
28 unfortunately it is not perfect. He said that the duty as members of this Board is to
29 protect the public. He said that he thinks that with Rat Lungworm Disease, we need to
30 proceed carefully. He said that we have a problem with mosquitos and Zika. We need
31 to avoid cutting use to some of these pesticides that are of public health purpose.

32
33 Board member Mina said that when plants are inhibited to produce protein, it makes a
34 way for pests to take them out. Nutrients and amino acids are inhibiting this protein. He
35 said that certain companies to expand bottom line are not promoting research and
36 looking to make a profit. These companies can do more in the public interest.

37
38 Chairperson Enright stated that he would like to defer this matter to the next meeting as
39 it is still a work in progress.

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41 VI. OLD BUSINESS

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43 None.

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1 VII. NEW BUSINESS

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3 None.

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5 VIII. ADJOURNMENT OF REGULAR MEETING

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7 Motion to adjourn meeting: Hong/Ha.

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9 Vote: 8-0, Approved.

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11 Meeting adjourned at 10:45 AM.

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13 Respectfully submitted,

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16 Micah Munekata

17 Board Secretary