



**Minutes of the Board of Agriculture
March 23, 2021**

CALL TO ORDER – The meeting of the Board of Agriculture was called to order on March 23, 2021 at 9:00 a.m. by Board of Agriculture Chairperson, Phyllis Shimabukuro-Geiser. The meeting was conducted virtually via Zoom due to the current risk of exposure to COVID-19.

Members Virtually Present:

Phyllis Shimabukuro-Geiser, Chairperson, Board of Agriculture
Suzanne Case, Chairperson, Board of Land and Natural Resources, Ex Officio Member
Dr. Nicholas Comerford, Dean of the College of Tropical Agriculture & Human Resources University of Hawaii, Ex Officio Member
Mary Alice Evans, Ex Officio Member
Diane Ley, Hawaii Member
Vincent Mina, Maui Member
Fred Cowell, Kauai Member
Randy Cabral, Member-at-Large
Joe Tanaka, Member-at-Large
En Young, Member-at-Large

Others Virtually Present:¹

18082248219
18087803263
Atu
Becky Azama, HDOA/PI
Brad and Amy Smith
Brian Kau, HDOA/ARMD
Bryan Yee, DAG
Jonathan Ho, HDOA/PI/PQ
Victoria Matsumura, HDOA/PI/Pest
Greg Takeshima, HDOA/PI/Pest
Brandi Ah Yo, HDOA/ARMD
Chris Kishimoto, HDOA/PI/PQ
Christine Asing, HDOA/ALD
Donald Garwood, HDOA/ARMD
Jacob Holcomb
James Nakatani, ADD
Janelle Saneishi, HDOA/CHR
Janet
Jenna Umiamaka
Jodi Kimura Yi, DAG
Joyce Wong, HDOA/ARMD

¹ The identification of the public members is based on their sign-in name, but are not verified.

- 1 Lance Sakaino
- 2 Linda Murai, HDOA/ARMD
- 3 Lio
- 4 Momi Akana
- 5 Noni Putnam, HDOA/PI/PQ
- 6 Riz Almagro
- 7 Robert Bence
- 8 Roy Hasegawa
- 9 Scott Nishimoto, HDOA/PI/Pest
- 10 Tevita Tongotea
- 11 Thomas
- 12 Thomas Aki
- 13 Tracie Matsumoto
- 14 Wil Leon Guerrero, HDOA/PI/PQ
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17 II. APPROVAL OF MINUTES FROM 1/26/21 MEETING

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19 Motion to Approve 1/26/21 Minutes: Tanaka/Cowell

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21 Public comments: None

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23 Vote: Approved, 10-0

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25 III. INTRODUCTIONS

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27 None.

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29 IV. COMMUNICATIONS FROM DIVISIONS AND ADMINISTRATION

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31 A. AGRICULTURAL LOAN DIVISION

- 32
- 33 1. Request for Approval of One (1) Emergency Loan to Bradley F. Smith and
- 34 Amy Arnett-Smith.
- 35

36 Christine Asing, HDOA/AGLN, presented testimony as submitted.

37 Staff Recommendation: Approval

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39 Motion to Approve: Cowell/Evans

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41 Public Testimony:

42 Applicants, Brad and Amy Smith testified that they have been farming for 15 years. Due to the
43 COVID pandemic, farmers markets closed. In addition, they were affected by the landslide on
44 Kauai. They are looking forward to the island opening and hoping to maintain profitability. The
45 loan will give them some cushion.

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1 Discussion:
2 Board Member Ley wanted to know the deadline for emergency loan applications. Ms. Asing
3 replied that the application was received before the December 31, 2020 deadline. Board
4 Member Ley would like the department to monitor additional loan requests because of COVID's
5 continuing impacts.

6
7 Board Member Evans asked if the definition of a qualified farmer was pursuant to statutes or
8 rules. Ms. Asing replied it was Chapter 155-1 and 155-10, Hawaii Revised Statutes.

9
10 Board Member Young asked about the flexibility of loan terms. He gave the example of interest
11 only to start and backloading the loan to provide more relief. Ms. Asing replied that it was an
12 option, but the Smiths were optimistic and fully amortized payments would get them back on
13 track quicker.

14
15 Board Member Young commented that the state was in first and second position on the
16 collateral and asked if it may have been possible to change the terms of the first loan rather
17 than coming to the board for action. Ms. Asing replied that the first loan was more than
18 adequately secured by real estate. She said rather than a second mortgage, this would be
19 processed in a more streamlined way since it is an emergency loan.

20
21 Board Member Mina asked if payments could be backed off until the markets were regained as
22 he wants to make sure the loan would give the Smiths a leg up and address their needs.

23
24 Board Member Cabral asked if there was a long-term lease for the 17-acres. Mr. Smith replied
25 that they have a 10-year lease with 9-years remaining.

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27 Vote: Approved, 10-0

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30 B. AGRICULTURAL RESOURCE MANAGEMENT DIVISION

31
32 1. Request for Consent to Assignment of General Lease No. S-6014; Dana Daody
33 Kiat-A Nan, Lessee/Assignor, to KLK Farm, LLC, Assignee, TMK: 1st Div/5-6-
34 006:042, Lot No. 14, Kahuku Agricultural Park, Koolauloa, Kahuku, Island of
35 Oahu

36
37 Roy Hasegawa, HDOA/ARMD, presented testimony as submitted.
38 Staff Recommendation: Approval

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40 Motion to Approve: Cabral/Ley

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42 Public Testimony: None

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44 Discussion: None

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46 Vote: Approved, 10-0

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2. Request for Consent to Assignment of General Lease No. S-4753; Philip J. Ito and Carole K. Ito, Lessee/Assignor; Keith K. Kuroiwa, Assignee; TMK: 3rd Div/2-2-056:032, Lot No. 06, Panaewa Agricultural Park, Waiakea, South Hilo, Island of Hawaii

Joyce Wong, HDOA/ARMD, presented testimony as submitted.
Staff Recommendation: Approval

Motion to Approve: Ley/Evans

Public Testimony: None

Discussion:

Board Member Young asked about the adjustment of the annual rental rate. Ms. Wong replied that the rental rate would not be adjusted until the rent reopening in January 2022.

Vote: Approved, 10-0

3. Request for Approval to Sublease Between the Hamakua Agricultural Cooperative, Lessee/Sublessor, and Joshua Yang, Sublessee; General Lease No. S-7011, TMK: 3rd Div/4-3-005:018(por) Lot W10, Hamakua Pohakuhaku and Kemau 1st, Hamakua, Island of Hawaii

Joyce Wong, HDOA/ARMD, presented testimony as submitted.
Staff Recommendation: Approval

Motion to Approve: Ley/Cabral

Public Testimony: None

Discussion:

Board Member Mina asked if the rain had affected access to the Ag Park. Ms. Wong said the road is mostly paved but it was rough towards the ocean. She said maintenance of the road is the Coop's responsibility.

Vote: Approved, 10-0

4. Request for Consent to Assignment of General Lease No. S-5643; Thomas Paul Callaghan, Lessee/Assignor, to Keiki O Ka 'Aina Farms, Inc., Assignee; TMK: 1st Div/4-1-018:051, Koolaupoko, Waimanalo, Island of Oahu

Linda Murai, HDOA/ARMD, presented testimony as submitted.
Staff Recommendation: Approval

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Public Testimony:

Momi Akana has been with Keiki O Ka 'Aina (KOKA) for 25 years. She spoke on the history of KOKA and their agricultural experience and desire to grow food.

Jacob Holcomb, Board Member of KOKA Farms and Go Farm Graduate, testified that he will be actively involved in working on the farm. He said Mr. Callaghan chose KOKA because they have the best chance for success.

Discussion:

Board Member Case asked about the \$395,000 consideration. Ms. Murai replied that it is the price of the assignment of lease and improvements which includes a 2-bedroom, 1-bath dwelling with a processing/storage area. Board Member Case asked if the improvements were added by the lessee. Ms. Murai replied that the lessee rebuilt the existing dwelling and planted the lemon trees.

Board Member Case questioned if KOKA was a non-profit. Ms. Murai replied that they are not. Ms. Akana clarified that KOKA family learning Centers is non-profit. KOKA Farms is a separate entity and is for profit.

Board Member Mina asked how much arable land could be used. He also questioned the numbers on the lease.

Board Member Case asked Ms. Murai to go over the figures. Ms. Murai explained that the formula is specified in "Exhibit C" of the lease and is the same as in "Exhibit B" of the presentation. The state would net \$19,633 from the assignment.

Board Member Comerford commented that 70% of Go Farm graduates are engaged in ag and HDOA is a critical support of the program.

Vote: Approved, 9; With reservations, 1 (Case)

5. Request for (1) Consent to Assignment of General Lease No. S-5380; Thomas Aki, Lessee/Assignor, to Hala Toa Mui Farms LLC, Assignee; and (2) Conversion of General Lease No. S-5380; TMK: 1st Div/4-1-009:266, Koolaupoko, Waimanalo, Island of Oahu

Linda Murai, HDOA/ARMD, presented testimony as submitted.

Staff Recommendation: To approve the Consent to Assignment and the Conversion of General Lease S-5380.

Motion to Approve: Comerford/Cowell

Public Testimony: None

1 Discussion:

2 Board Member Cabral asked if there was a policy regarding anonymous testimony. Chair
3 replied that anonymous testimony is not restricted.

4
5 Based on testimony received, Board Member Cabral questioned how it was determined that
6 Hala Toa Mui Farms LLC (HTM) was a bona fide farmer. Ms. Murai replied that in Mr.
7 Tongotea's case, staff met with him and saw his fully developed farm in Punalu'u and he grew
8 up on a farm in Tonga.

9
10 Board Member Cabral asked if the premium percentage paid to the lessor would go to the
11 Department of Agriculture or to the state's general fund. ARMD Division Administrator, Brian
12 Kau, answered that it would go into the ARMD fund.

13
14 Board Member Case asked, in terms of authorized purposes, if it would be a problem if the
15 lease was changed from pasture to diversified agriculture as she assumed that it was auctioned
16 for pasture purposes. Ms. Murai said it was her understanding that the use of the lease can be
17 changed when entering a new lease and they are asking to convert the lease for Mr. Tongotea
18 to grow food. There was no auction. Ms. Murai explained that in the non-ag park program,
19 lessees can convert to a new 35-year lease. They must be in compliance and pay a premium
20 for the first 7 years of the new term. The lease rent will be set at the appraised diversified
21 agriculture use rate. In addition to the new rate, the lessee will pay 25% of new rate for 7 years
22 for the opportunity to convert without going to auction, as stated in the rules.

23
24 Board Member Case commented that the division was trying to combine processes. There
25 would be a new lessee, new lease term, new lease purpose and a pittance of a rent compared
26 to the consideration. She referenced testimony that questioned intended use by the new lessee.
27 She asked if there were any improvements on the property. Ms. Murai replied that there was a
28 small dwelling, horse stables, and riding arena for pasture use. Board Member Case said that
29 some of the value is not related to farming and the closest thing would be someone wanting to
30 live on a horse pasture but can't pay \$1 million for a lease that is \$2,120 per year.

31
32 Ms. Murai clarified that if the assignment was not approved, Mr. Aki would continue to hold the
33 lease as pasture use at the pasture use lease rate, which is the lowest rate.

34
35 Board Member Case was concerned that from a policy standpoint, the Board is supposed to be
36 promoting agriculture. She felt it was a combination of agriculture, horse farm and pasture and
37 proposed crop; but there is a \$1 million dollar consideration.

38
39 Board Member Cowell said he saw photos in the testimony of repurposed asphalt and had
40 concerns that the proposed land would be used as a dumping ground. He asked if staff had
41 visited the farm recently. Ms. Murai answered that they had visited and did not see dumping on
42 the property.

43
44 Board Member Cowell also noted that testimony referred to tree trimming and other businesses
45 and was troubled that it may not be used for agriculture but there would be no way of verifying.
46

1 Board Member Young stated that the applicants must be taken at their word and he trusts that
2 the staff did their diligence. He had concerns on the new use and the new lease motion being
3 lumped together. A 7-year period would allow a good faith period to alleviate community
4 concerns. If there is another process, Mr. Tongotea and family would get 7 years in addition to
5 another 35 years extending the term of their lease. With Chair Case's comments and the
6 structure of the motion, he felt it was hurried.

7
8 Chair recognized Tevita Tongotea, Jr. He said the applicant is Tevita Tongotea, Sr., who is his
9 father. They were not prepared to speak but could answer any questions.

10
11 Board Member Evans asked about the location and slopes of the property. She commented
12 that the area has had horse ranches for a long time so converting to crops is a good option, but
13 a million dollars seemed high even for a large parcel.

14
15 Thomas Aki, current lessee of property, addressed some of the board's concerns. He said he
16 heard about the anonymous testimonies from the public and their concerns. He thought it may
17 be people who have had to move horses from property. The property was pastureland for over
18 35 years and is in a flood zone. Asphalt was brought in for the roadway because rains had
19 caused the mud to pit and it was hard to get into the driveway. He said the asking price is in
20 accordance with potential value of farming. He cited 12 horses @3,600/month is 1.5 million
21 over a 35-year period, based on pasture lease rent. He said he made about \$750,000 in
22 improvements to the property including clearing acreage, building solid metal pipe barn, and
23 remodeling the caretaker cottage.

24
25 Board Member Evans said that she can attest to the flooding and keeping the property in active
26 agriculture would be good for community. She added that dumping had improved dramatically
27 despite anonymous correspondence. She felt agriculture would benefit from converting to
28 diversified crops.

29
30 Board Member Ley questioned the department's process and asked if there was demand for
31 lots in the Waimanalo area and the waiting list for leases up for auction. Ms. Murai
32 acknowledged that there is a demand for state ag land in Waimanalo. She added that the
33 expression of interest form would not apply in this case, because there is a lessee on the lot and
34 an auction would occur only if a lease were terminated due to default. The Hawaii
35 Administrative Rules for the non-ag park program allows the lessee to ask for a conversion of
36 the lease. Board Member Ley said moving from a lease with a specified use to a new use was
37 bothersome, particularly when there was 9 years left on the existing term. She asked to hear
38 from the assignee on how they plan to expand.

39
40 Chair called Mr. Tongotea forward to answer Board Member Ley's question. Tevita and Atu
41 Tongotea, sons of Tevita Sr., said they would like to move all the crops to Waimanalo and shut
42 down their Punalu'u farm.

43
44 Board Member Ley asked about additional labor. Mr. Tongotea answered that there was a
45 large family who would volunteer and help on the farm. Board Member Ley asked because of
46 the sizeable consideration, if they intended to make use of the equestrian assets. Mr. Tongotea
47 said that the arena would be used for processing. He added that their goal is to teach everyone

1 that sustainability in Hawaii is important and not that simple. They were brought up working and
2 would like to teach and educate about farming.

3
4 Board Member Ley asked them how they would address the flooding. They replied that they
5 have water pumps as that their farm in Punalu'u also experienced heavy rains. They said they
6 were not 100% sure of the terrain but may also use a better drainage system or grow water taro.
7 In addition, they also raise sheep.

8
9 Board Member Ley questioned who Mr. Tongotea relied on to determine the compensation.
10 They replied that they projected that with bigger land, they could market better and do more
11 wholesaling to Polynesian markets. They felt that it was a once in a lifetime opportunity. They
12 tried to negotiate but they see value and would like to make money in the long run.

13
14 In reference to Board Member Ley's question regarding testimony received about the
15 Tongotea's other businesses, Mr. Tongotea replied that his Dad has multiple businesses,
16 including construction and tree businesses. He has a 75,000 square foot lease from OHA.
17 There is enough industrial land space in Kakaako for equipment and they will not use the lot for
18 storage. He stated they will have a tractor and will be farming.

19
20 Board Member Case asked if there was a residence on the property and if family intended to
21 live there. Mr. Aki said there is a caretaker's quarters which was built 14 years ago for security
22 purposes. Mr. Tongotea said family does not intend to live on the property.

23
24 Board Member Evans described the area as having dense clay soil which cracks when dry and
25 needed additional organic matter to grow crops. She asked if the Tongoteas had seen the area
26 and determined that it would be appropriate for crops to be grown. They answered that they
27 believed that they could do it.

28
29 Board Member Cabral asked Ms. Murai if concerns regarding dumping and storage of
30 equipment, raised by the testimonies, would be addressed in the lease. Ms. Murai
31 acknowledged that it would be in the lease and it had been discussed with Mr. Tongotea.

32
33 Board Member Cabral asked if staff could make unannounced visits to the lessee. Ms. Murai
34 answered that it was allowed and that they do make periodic unannounced visits.

35
36 Board Member Cabral asked the consequences of non-compliance. Ms. Murai said ultimately, it
37 would be termination of the lease.

38
39 Board Member Mina addressed the unusable acreage and said that the Tongoteas could make
40 it usable with compost. He asked how many ag lots were in Waimanalo. Ms. Murai said she
41 would get the information for Board Member Mina.

42
43 Chair noted that the motion was made by Board Member Comerford, who left the meeting at
44 10:30 am. She repeated the motion to accept staff's recommendation.

45
46 Board Member Case said she would vote "no" because when a series of things are stitched
47 together it may not be in the best public policy. She said there should be an opportunity for

1 others to bid and had a problem with someone making a million dollars. She added that
2 changing the purpose, allowing the assignment, and forgoing the option for anyone else to have
3 the opportunity for a new use and a cheap price felt contrary to goal of promoting agriculture
4 that is available to everyone who wants it.

5
6 Board Member Tanaka concurred with Board Member Case and stated that he would also vote
7 no.

8
9 The Board did not approve the motion.

10
11 Vote: No-5 (Case, Tanaka, Ley, Young, Evans); Approve-1 (Mina); With reservations-3 (Chair,
12 Cabral, Cowell); Excused-1 (Comerford)

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16 The meeting was in recess from 11:10 a.m. to 11:15 a.m.

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18
19 6. Request for Approval to Withdraw Six Encumbered Land Parcels from
20 Governor's Executive Order No. 4535 and Re-Set Aside to the Department of
21 Land and Natural Resources Pursuant to Act 90, SLH 2003, Codified as
22 Chapter 166E, Hawaii Revised Statutes, TMK Nos. 1st Div/4-1-008:046, 1st
23 Div/4-1-013:017, 1st Div/4-1-07:005

24
25 Board Member Case recused herself from agenda item B-6.

26
27 Linda Murai, HDOA/ARMD, presented testimony as submitted. She verbalized that the title
28 should read Four rather than Six Encumbered Land Parcels.

29
30 Staff Recommendation: Approval

31
32 Motion to Approve: Cowell/Ley

33
34 Public Testimony: None

35
36 Discussion:

37 Board Member Evans asked for the basis for the recommendation. Ms. Murai summarized as
38 follows:

39 1st – Waimanalo – located in a flood plain area; every time it rains, it floods.

40 2nd – Waimanalo – property floods; topography has steep drop-off; drains from Kalaniana'ole
41 onto the property and may endanger the lessee.

42 3rd – Waimanalo - small lot; lessee raising chickens. Upon inspection looks like fighting chicken
43 as well as for food. Livestock breeding is not allowed in Waimanalo

44 4th- RP on North Shore. The structures on the lot are unpermitted and dangerous. Lessees are
45 growing some of the things they sell but the lot is not fully developed and had a combination of
46 deficiencies.

47

1 Ms. Murai explained that DLNR set aside the leases to DOA but the leases are not compliant
2 with DOA rules so they will be returned to DLNR.

3
4 Board Member Ley asked if payments are being made while the leases are in limbo and if
5 payments are being made to DOA or DLNR. Ms. Murai replied that some of the lessees,
6 insisted on paying to remain compliant. A client trust account was set up to deposit the
7 payments. After a decision is made, the funds would be disbursed to DLNR or DOA.

8
9 Board Member Ley asked if lessees were informed that the lease would go back to DLNR and
10 wondered if any lessees, who were serious about agricultural production, would want to move to
11 DOA and get into compliance. Ms. Murai said that lessees are aware of the transfer and once
12 the board's decision was made the decision would be relayed to them in writing.

13
14 Vote: Approved, 8-0; Excused-Comerford; Recused-Case
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18 C. PLANT INDUSTRY DIVISION

19
20 Pesticides Branch
21

- 22 1. Request that the Final Order for In the Matter of SAFEWAY, INC., Docket No.
23 19-PE-029, be Referred to the Attorney General for Collection.
24

25 Gregg Takeshima, HDOA/PI/Pest, Acting Pest Program Manager and Scott Nishimoto, Case
26 Developer with Pesticides presented testimony as submitted.

27 Staff Recommendation: Approval
28

29 Motion to Approve: Mina/Ley
30

31 Public Testimony: None
32

33 Discussion:

34 Board Member Mina wondered why a corporation like Safeway wouldn't respond. Mr.
35 Nishimoto replied that they were pursued but did not know why they did not respond.
36

37 Board Member Evans asked for an explanation of the violation regarding Lysol. Mr. Nishimoto
38 replied that the product was misbranded. The EPA registration number and establishment
39 number were not located in a conspicuous place on the product. The label had to be peeled to
40 see the information. Mr. Nishimoto confirmed that the product is licensed for public use if
41 labeled correctly.
42

43 Board Member Young inquired if legal fees could be recovered. DAG Yee answered that in the
44 absence of a specific law, cost can be recovered but not fees and that the AG's office would
45 make one last effort to collect the money without filing and hoped that Safeway would respond.
46

1 Board Member Evans asked if Hawaii Revised Statutes section 149A-15 regarding labeling
2 requirements was consistent with model legislation throughout the country and theoretically,
3 could Safeway also be in violation in other states. Mr. Nishimoto did not know but said that they
4 notify the EPA of the potential nationwide issue.

5
6 Vote: Approved, 9-0 (Comerford-excused)
7

8
9 2. Request that the Consent Agreement for In the Matter of DENBY ERECE,
10 Docket No. 19-PE-004, be Referred to the Attorney General for Collection
11

12 Scott Nishimoto, HDOA/PI/Pest, presented testimony as submitted.
13 Staff Recommendation: Approval
14

15 Motion to Approve: Mina/Young
16

17 Public Testimony: None
18

19 Discussion:

20 Board Member Mina asked why Ms. Erece was allowed to have a license when there was no
21 responsibility to respond to calls for collection. Mr. Nishimoto answered that she no longer has
22 a license. The initial penalty was a 6-month suspension. During a negotiation meeting, she
23 indicated that she did not want to hold the certification.
24

25 Board Member Mina asked if inspections were done to see if violations were in conjunction with
26 one another. Ms. Victoria Matsumura explained that Ms. Erece had a commercial agricultural
27 certification which allowed her to supervise use at multiple farms. Use investigations were done
28 at the farms and any violations would be addressed under separate violations or a warning
29 notice to her or the company depending on the violation.
30

31 Board Member Mina asked if leaf analysis was done to see the concentration being used. Ms.
32 Matsumura replied that residue analysis would have been referred to the Department of Health
33 (DOH) for enforcement.
34

35 Board Member Young asked if there was a maximum number of applicators that can be
36 supervised under a license. Ms. Matsumura replied that there are minimum requirements for
37 direct supervision but there was no maximum number of certified applicators that could be
38 supervised.
39

40 In response to a question of whether Simplot had any responsibility, Ms. Matsumura replied that
41 Simplot had their own NOV which was settled.
42

43 Board Member Evans asked about the 5 Notice of Violations (NOVs) and Ms. Matsumura
44 replied that all had to do with Green Produce and any restricted use pesticide would be Ms.
45 Erece's responsibility and anything that they did with the general use product would have been
46 a separate enforcement action.
47

1 Board Member Cabral asked if anything would be done after the fact regarding the crop and
2 notification to the public. Ms. Matsumura replied that they would let DOH know to sample at the
3 store and if contaminated, they would go to the farm. This case was referred to inspectors to
4 stop ongoing happening. She was not sure of DOH action in this case but acknowledged that
5 they do act on notifications.

6
7 Board Member Evans noted the violation for no written instructions from applying Agrimac and
8 asked if the applicator's first language was not English, there was an alternative way to instruct
9 the applicator. Ms. Matsumura said that rules state instructions should be in a context that the
10 applicator can understand.

11
12 Board Member Mina asked about the fines and Ms. Matsumura replied that it is set in Rules.

13
14 Vote: Approved, 9-0; Excused-Comerford

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16
17 3. Request that the Final Order for In the Matter of PAU CUN CHI and HAWAII
18 MEDICINAL BOTANICAL GARDEN., Docket No. 19-PE-036, be Referred to the
19 Attorney General for Collection.

20
21 Scott, HDOA/PI/Pest, presented testimony as submitted.

22 Staff Recommendation:

23
24 Motion to Approve: Mina/Young

25
26 Public Testimony: No

27
28 Discussion:

29 Board Member Mina asked about the 10 violations. Mr. Nishimoto said they were broken down
30 by different types of pesticides used and were recordkeeping violations.

31
32 Board Member Mina commented that lack of documentation may also mean problems with
33 usage. Chair replied that staff does not have the ability to go beyond what is stated in statutes
34 and rules. Board Member Mina asked how rules could be changed. Ms. Matsumura answered
35 changing the authority would require a statute change. In the meantime, they can refer strong
36 violators to the EPA.

37
38 Board Member asked about the average number of violations per year. Ms. Matsumura said
39 the percentage varies depending on the type of facility or RUP dealer. The average number of
40 violations would be about 3 civil penalties before going to the EPA.

41
42 Vote: Approved, 9-0; Excused-Comerford

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1 Plant Quarantine Branch

- 2
3 4. Request to Review the Petition from Tracie Matsumoto, U.S. Department of
4 Agriculture, Agricultural Research Service, Daniel K. Inouye Pacific Basin
5 Agricultural Research Station, to Shorten or Exempt the Duration of Quarantine
6 for Tissue Cultured, Coffee Leaf Rust Resistant Coffee Plants, *Coffea* spp.
7 subject to alternative propagation or import procedures.

8
9 Jonathan Ho, HDOA/PI/PQ, presented testimony as submitted.

10 Staff Recommendation: Approval to shorten quarantine for petition to 6 months.

11
12 Motion to Approve: Cabral/Evans

13
14 Public Testimony: None

15
16 Discussion:

17 Board Member Cowell recused himself because the research would occur at Kauai Coffee. He
18 added that it is the largest single set of rust resistant varieties in the State and is extremely
19 important to the coffee industry.

20
21 Board Member Mina asked about Dr. Matsumoto's experience with similar projects. Mr. Ho
22 replied that they have inspected her facility, track record for this project has been good and
23 there were no issues in the past.

24
25 In response to Board Member Mina's question, Dr. Matsumoto acknowledged that plant
26 pathologists are looking into beneficial fungi being used to treat CLR.

27
28 Vote: Approved, 8-0; Excused-Comerford; Recused-Cowell

- 29
30
31 5. Request to Designate the Islands of Oahu and Lanai as Expanded Coffee
32 Leaf Rust Infested Areas, Pursuant to Plant Quarantine Interim Rule 20-1,
33 Subject to Quarantine Measures to Prevent the movement of Coffee Leaf Rust,
34 *Hemileia vastatrix*, on Coffee Plants (*Coffea arabica*, *C. canephora* and other
35 *Coffea* spp. Including Hybrids and Varietals) and Plant Parts Such as Roasted
36 and Unroasted Beans, Fruits, Leaves, Stems, Twigs, Cuttings, Wood, Logs,

37 and

38 Mulch or Greenwaste, Used Coffee Related Packing Materials Such as Coffee
39 Bags, and Any Equipment Used to Harvest, Transport or Process Coffee Plants
40 or Plant Parts, All of Which are Hosts or Harbor the Fungus, Except by Permit.

41
42 Wil Leon-Guerrero, Microorganism specialist, HDOA/PI/PQ, presented testimony as submitted.

43 Staff Recommendation: based upon recommendation and comments of the
44 Advisory Subcommittee on Plants, Advisory Subcommittee on Fungi, and the University of
45 Hawaii outside expertise, the PQB recommends approval of the expansion of the Plant
46 Quarantine Interim Rule 20-1 to include Oahu and Lanai as expanded quarantine areas.

47

1 Board Member Tanaka had computer problems and left the meeting at 12:41 p.m.

2
3 Motion to accept recommendation: Cowell/Cabral

4
5 Public Testimony: None

6
7 Discussion:

8 In reference to the subject line of the presentation, Board Member Evans asked if roasted beans
9 were a potential contaminant. After board discussion, Mr. Ho said that there was a
10 typographical error in the subject title. He referenced page C130 of the presentation (Appendix
11 B, Interim Rule 20-1) which clarified that the movement of unroasted beans are not affected.

12
13 Board Member Cowell commented that Hawaii is the last place to get Coffee Leaf Rust (CLR).
14 He added that there are 27 different races of CLR, and it is not known which one we have. He
15 said other races of CLR could have even more detrimental, unknown effects.

16
17 Vote: Approved, 8-0; Excused-Comerford, Tanaka

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19
20 V. OLD BUSINESS

21
22 1. Status of lands proposed to be transferred from DLNR to DOA pursuant to Act 90.

23
24 Linda Murai, DOA/ARMD explained Act 90, SLH2003 and went over the conditions and criteria
25 for the transfer of public lands for agricultural use from DLNR to DOA.

26
27 She said to date, DLNR has transferred a total of 19,067 acres of land to DOA.

28
29 Ms. Murai also provided an update for proposed lands to be transferred to DOA.

30
31 Board Member Mina left the meeting at 1:00 p.m.

32
33 Board Member Cabral asked, of the 19,000+ acres transferred, how much non-ag land acreage
34 including pasture are still with DLNR regardless of the intent to transfer. Board Member Case
35 answered that for Hawaii Island, the map of lands total 103,000 acres. She added that they are
36 a small number of parcels and large acreage of pastureland adjacent to forests and natural
37 areas and hunting areas that DLNR has reviewed and wants to keep within DLNR. Of the
38 acreage, most are on Hawaii Island, some on Maui, hardly any on Oahu and a few on Kauai.
39 DLNR also transferred 19,000 acres to ADC.

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VI. NEW BUSINESS

None.

VII. ADJOURNMENT OF MEETING

The meeting was adjourned at 1:15 p.m. (Cowell/Cabral)

Respectfully submitted,



Jah Ferrer
Board Secretary