

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

June 14, 2013

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Hawai'i

Consent to Approval of Self-financed Improvements and Extension of Lease Term, General Lease No. S-5373 Harold F. Rice, Jr. dba FR Cattle Co., Lessee, Lalamilo, Lihue, Koaliula and Waiaka 1, South Kohala, Hawaii Tax Map Key: (3) 6-6-01:02, 77.

APPLICANT AND REQUEST:

Lessee, Harold F. Rice, Jr. dba FR Cattle Co., for extension of General Lease No. S-5373 as to approximately 8,573.733 acres to amortize self-financed improvements in the amount of \$683,000. In order for Lessee to amortize this expenditure, the Lessee is requesting an extension of General Lease No. S-5373 for a term of 20 years, commencing on 11/01/2029 (current expiration date) and expiring on February 10/31/2049 for an aggregate term (initial term plus all extensions) of 55 years.

LEGAL REFERENCE:

Sections 171-22 and 36(b), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Lalamilo, Lihue, Koaliula and Waiaka 1, South Kohala, Hawaii, identified by Tax Map Key: (3) 6-6-01:02, 77, as shown on the attached map labeled Exhibit A.

AREA:

8,573.733 acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CHARACTER OF USE:

Pasture purposes.

TERM OF LEASE:

Original lease term, thirty-five (35) years, commencing on November 1, 1994 and expiring on October 31, 2029.

Requested extension of twenty (20) years commencing on November 1, 2029 and expiring on October 31, 2049.

ANNUAL RENTAL:

Current rent is \$7,300.00, due in semi-annual installments of \$3,650.00 on November 1 and May 1, of each year.

RENTAL REOPENINGS:

Reopenings of the original lease term are at the end of the 10th, 20th, and 30th years of the term. The last reopening occurred on November 1, 2004.

Reopenings for the extended term shall be on June 14, 2013 (immediate reopening), November 1, 2023 (approximately 10th year of additional term), November 1, 2033 (approximately 20th year of additional term) and November 1, 2043 (approximately 30th year of additional term).

USE OF PROCEEDS:

The Lessee's self-financed funds will be used to construct employee housing and relocate the main corral and holding pens used to round-up the cattle. An approximate breakdown of the proceeds is as follows:

• Employee housing:	\$640,000
• Corral:	33,000
• Holding pen	<u>10,000</u>
Total	\$683,000

DCCA VERIFICATION:

Applicant is a sole proprietorship and, as such, is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to pay for an appraisal for the immediate rental reopening.

REMARKS:

The subject State lands were previously encumbered by Revocable Permit No. S-6442 to Palekoki Ranch, Inc. On May 19, 1995, General Lease No. S-5373 was issued as a result of Act 237, SLH 88 that authorized the Department of Land and Natural Resources to negotiate long-term leases under specific terms, conditions and restrictions with certain qualified permittees of agricultural or residential/home gardening permits.

As part of a statewide transfer of 16,518 acre of land between the Department of Land and Natural Resources and the Department of Hawaiian Homes Lands (DHHL), Land Patent Grant No. 15,926 was issued on October 15, 1999 conveying 232 acres of GL S-5323 to the DHHL.

At its meeting of January 9, 2004 under agenda item D-9, the Board consented to the assignment of lease from Palekoki Ranch, Inc. to Mr. Harold "F. Rice Jr. dba FR Cattle Co. Mr. Rice is a fifth generation rancher from Maui with a history of success in the ranching field. He is also an influential community leader and has been very active in preserving the "Paniolo" lifestyle and history. In 1992, Mr. Rice formed FR Cattle Co., which presently owns 1,100 beef-breeding cows.

The Lessee has submitted plans for employee housing and relocation of the corral and holding pen. The Lessee is requesting an extension of the lease in order to amortize the expenses incurred as a result of these self-financed improvements to the lease land.

The portion of the lease land conveyed to the DHHL is directly across the road from the Lessee's current residence and obstructs his existing access to the lease land. This requires the Lessee to drive into Kamuela and enter the property from the Lalamilo Farm Lots. The main corral is currently located on the DHHL land and will be relocated to a site within the lease boundary. The employee house will be constructed on the far side of the property at the end of Pu'u Huluhulu Road in the Lalamilo Farm Lots (Exhibit B). The Lessee feels it is essential to the safety of the livestock and property that he be allowed to maintain a presence on the property.

The lease allows for one (1) employee dwelling as referenced in par. 47;

47. Restriction on residential use. The premises, or any portion, shall not be utilized for residential purposes; except for one (1) employee dwelling as provided herein. The construction or placement of any other structure(s) on the premises for residential purposes is strictly prohibited.

The lessee is compliant with the terms and conditions of the lease with regards to rent, insurance performance bond and conservation plan.

The lease property has been utilized for cattle grazing for most of the past 100 years. The current Lessee has revised the existing conservation plan to better manage the distribution of cattle during the prolonged drought conditions presently being experienced in the area.

The last rental reopening was on November 1, 2004. The next rental reopening is scheduled for November 1, 2014. There are no outstanding rental reopening issues at this time.

RECOMMENDATION:

That the Board, subject to the Applicant fulfilling the Applicant requirement listed above:

Authorize the extension of General Lease No. S-5373 under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

- A. The standard terms and conditions of the most current lease extension form, as may be amended from time to time;
- B. Review and approval by the Department of the Attorney General; and
- C. Such other conditions as may be prescribed by the Chairperson which are in the best interests of the State.

Respectfully Submitted,



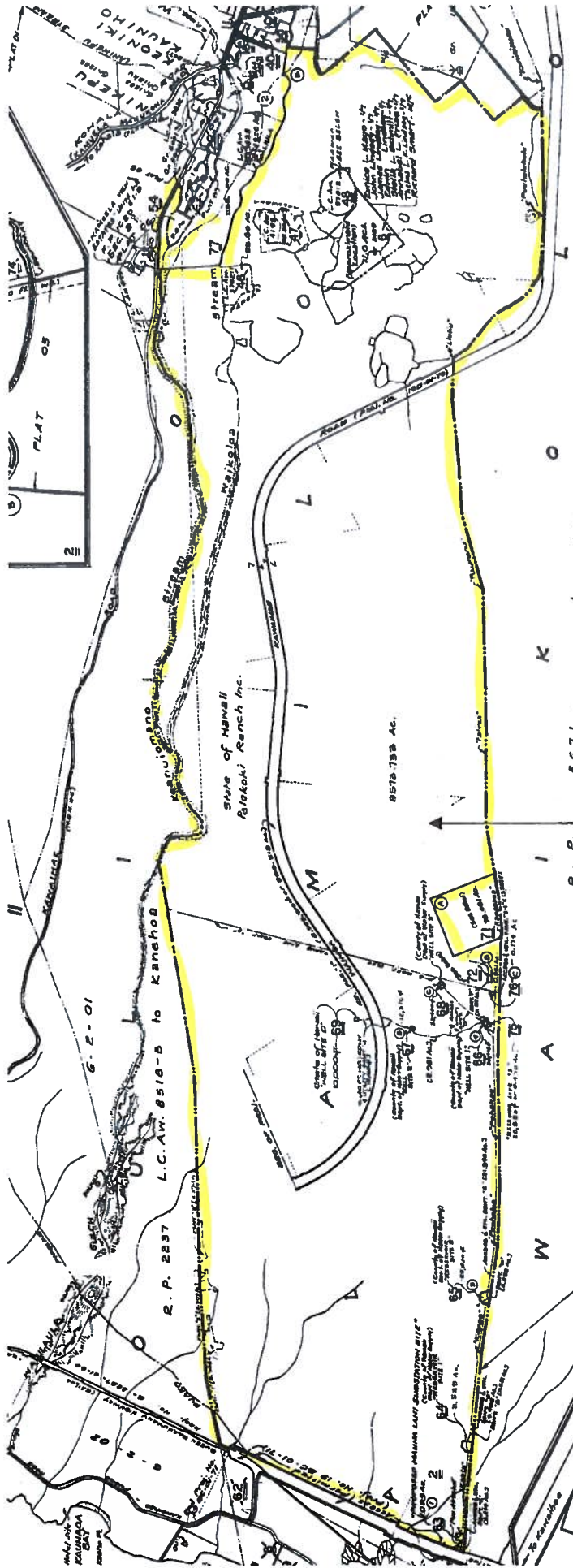
Gordon C. Heit
District Land Agent

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson

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FR Cattle Co. GL S-5373

EXHIBIT A

