

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

June 13, 2014

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

OAHU

Request for Mutual Termination, Grove Farm Fish & Poi, LLC, Lessee, General  
Lease No. 5654, off Ewa coast, Ewa, Oahu, TMK (1) 9-1-005:000 seaward.

APPLICANT:

Grove Farm Fish & Poi, LLC.

LEGAL REFERENCE:

Section 171-6, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated off Ewa coast, Ewa, Oahu, identified by Tax Map  
Key: (1) 9-1-005:000 seaward.

AREA:

28.077 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:

Aquaculture purposes.

TERM OF LEASE:

20 years, commencing on March 9, 2001 and expiring on March 8, 2021.

ANNUAL RENTAL:

\$1,708 or 1% of the gross revenue, whichever is the greater, due annually.

BACKGROUND:

The subject lease (“GL 5654”) was issued to Cates International, Inc. in 2001, which was subsequently sold to Grove Farm Fish and Poi, LLC (“GFFP”) around 2007. In 2010, GFFP filed for Chapter 11 reorganization due to financial hardship. Since the bankruptcy, GFFP has liquidated all its assets, except the subject lease, and paid off all secured creditors. GFFP requests the Board approve the mutual termination of the subject lease, and a copy of its request is attached as **Exhibit A**.

GFFP has removed all fish cages and other equipment from the premises, except for four (4) concrete ballast weights. The weights sit on the ocean floor at approximately 100-110 feet below sea level and each weigh about 20,000 pounds. GFFP is seeking the Board’s agreement of leaving these weights at the present depth and location, since they weights are not in way of any vessels or becoming a navigational problem for other uses.

Pursuant to lease condition 31, Surrender, in the event of sooner termination of the lease, the lessee shall deliver the leased premises in a clean and orderly condition together with all improvements or the lessor shall remove such improvements at the option of the lessor.

Office and Conservation and Coastal Lands has no objection to the proposal of leaving the weights as requested by GFFP. Division of Aquatic Resources (“DAR”) recommends that all weights be removed. Other than these two agencies, staff did not solicit comments from other agencies or offices.

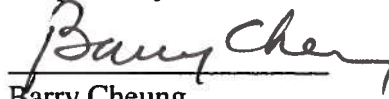
Staff understands that over the years, the placing of the cages and weights were done by stages, with the earliest dated back to 2002. Meanwhile, pursuant to Governor’s Executive Order (“EO”) No. 4265 issued in 2009, DAR is utilizing about 112 acres of submerged land at a depth of 60-120 feet for artificial reef purposes. A map showing the relative locations of the EO and the subject lease is attached as **Exhibit B**. From reviewing the attached photograph, it appears the ballasts are situated on sand, or at least not on any live rock or coral. Considering the tenant's statement that coral seems to be growing on or around the ballasts, the Land Division staff managing this lease does not have any objection in allowing the ballasts to remain in place.

Land Division staff is recommending that the Board authorize the mutual cancellation of GL5654 and allow the four (4) ballast weights to remain in place.

RECOMMENDATION: That the Board authorize the mutual cancellation of General Lease No. 5654 issued to Grove Farm Fish & Poi, LLC under the term and conditions cited above, which are by this reference incorporated herein and further subject to the following:

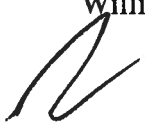
- A. The standard terms and conditions of the most current mutual cancellation lease document form, as may be amended from time to time;
- B. Review and approval by the Department of the Attorney General; and
- C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the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

Respectfully Submitted,



Barry Cheung  
District Land Agent

APPROVED FOR SUBMITTAL:

  
\_\_\_\_\_  
William J. Aila, Jr., Chairperson



**HUKILAU FOODS**  
A GROVE FARM COMPANY

RECEIVED  
LAND DIVISION

2014 FEB 27 AM 9:49

DEPT. OF LAND &  
NATURAL RESOURCES  
STATE OF HAWAII

*AL 5654*

February 26, 2014

The Honorable William Aila, Jr.  
Chairman -- Department of Land and Natural Resources  
State of Hawaii  
P.O. Box 621  
Honolulu, Hawaii 96809-0621

Dear Chairman William Aila, Jr.:

**RE: DLNR LEASE NO S-5654**

On behalf of Grove Farm Fish and Poi, LLC dba Hukilau Foods ("Fish and Poi" or "Company"), this letter serves as our formal request to cancel off-shore lease number S-5654, effective immediately. Fish and Poi no longer operates as a business and we no longer use the lease site. The site has been cleaned of all aquaculture cages and other farming equipment, except for four concrete ballast weights. As part of the cancellation, we request your approval to leave the concrete ballast weights in place to prevent any detrimental impact to the surrounding environment.

In 2007, Fish and Poi purchased the majority interest in Cates International and operated an open ocean moi farm. Due to financial hardship, Fish and Poi filed for Chapter 11 Reorganization in 2010. We have since liquidated all its remaining assets and paid off all secured creditors. As of mid-year 2012, the Company did not have any employees and had ceased operations entirely. The only expenditures remaining are related to the off-shore lease that the Company has that is the subject of this request.

As mentioned earlier, the site has been cleaned of all aquaculture cages and other farming equipment except for four concrete ballast weights. The weights sit on the sandy ocean floor at approximately 100-110 feet below sea level and each weigh about 20,000 pounds (see Exhibit 1 below).

The weights have been submerged underwater for over 10 years, thus creating their own reef ecosystem around each of them. Corals have also found favorable habitat upon the structures. Fish and Poi is concerned that moving these new coral reef systems would negatively impact the underwater environment. The weights would have to be floated and dragged to shore prior to proper disposal. This process in itself would disrupt the coral and the ocean floor that has been untouched for years.

**EXHIBIT "A"**

3-1850 Kaunualii Highway P.O. Box 662069 Lihue, HI 96766-7069

☎ 808.841.4956

[www.hukilaufoods.com](http://www.hukilaufoods.com)

*2.27.14 cc: KDLO*

The Honorable William Aila, Jr.  
February 26, 2014  
Page 2

Due to the depth and location of the weights, they are not in the way of any vessels, nor would they cause any navigational problems for the military or other off-shore use. We further feel that attempting to remove these weights would cause an undue safety issue for any party involved in the removal. Fish and Poi received a bid to remove the weights two years ago at a cost of over \$80,000 excluding labor charges. We feel that the potential benefits of removing them will not outweigh the costs and liability that are explained above.

We hope that your aquatic division will agree with our request to leave the ballast weights where they lay. In summary, removing them will have an adverse impact to the surrounding environment and in their present location, the weights do not interfere with any other off-shore operation. Upon approval by the aquatic division, our desire would be to proceed with mutual termination of the lease upon Board approval.

If you or your staff have any questions, please do not hesitate to contact me directly at [rmatsuyama@grovefarm.com](mailto:rmatsuyama@grovefarm.com) or (808)632-2533. I look forward to hearing from you.

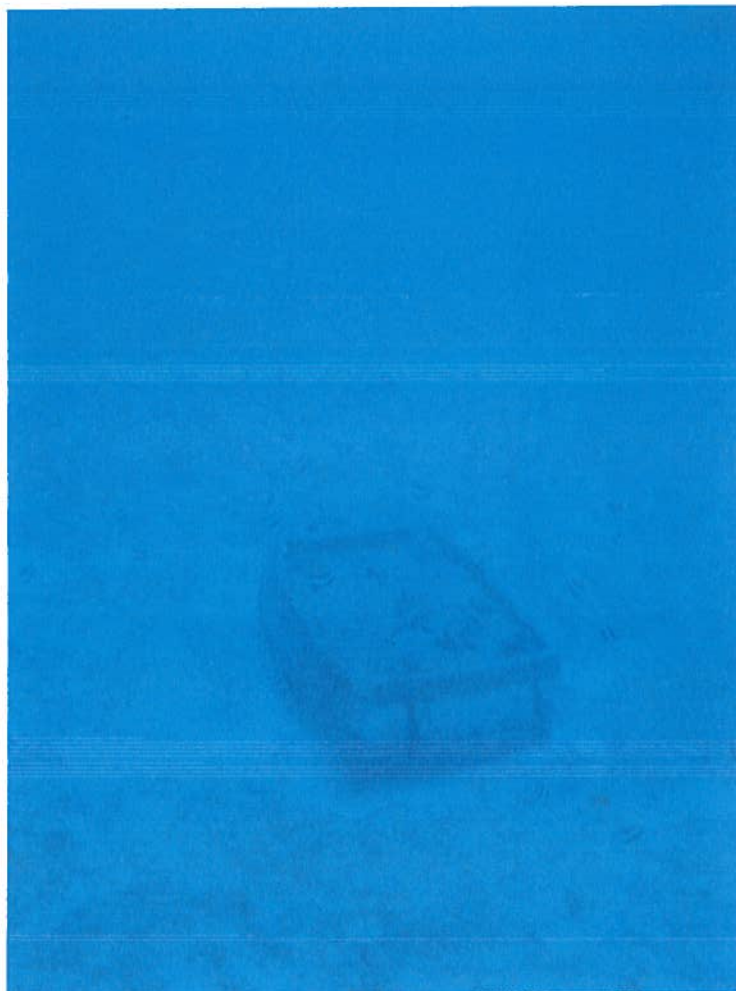
Sincerely,

A handwritten signature in black ink, appearing to read "Blanche Reiko Matsuyama", with a long horizontal line extending to the right from the end of the signature.

Blanche Reiko Matsuyama  
Board of Managers

Attachment – Exhibit 1

Exhibit 1: Picture taken in 2012 of one concrete ballast weight after removal of all surrounding aquaculture farming equipment.



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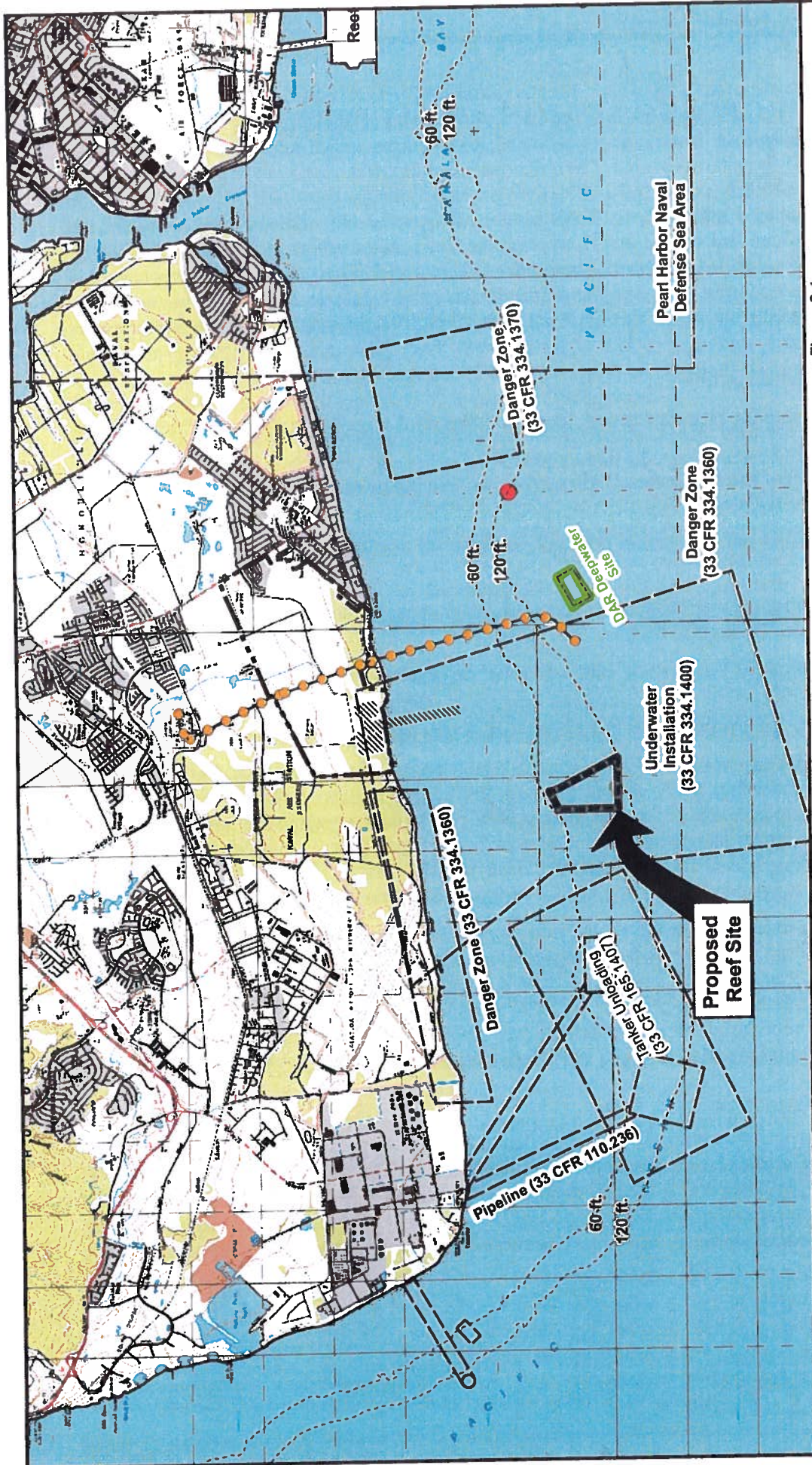


Figure 2-1:

# Proposed Artificial Reef Site

Kalaeloa Artificial Reef Project

### Legend:

- 60 & 120 ft. Depth Contours
- Cates Aquaculture Facility
- Hono'uli'uli Waste Water Treatment Plant Outfall
- Proposed Marina & Entrance Channel
- Underwater Installation (33 CFR 334.1400)
- Danger Zone (33 CFR 334.1360)
- Pipeline (33 CFR 110.236) / Tanker Unloading (33 CFR 165.1407)
- Restricted Areas

**Prepared For:**  
 Division of Aquatic Resources  
 Dept. of Land & Natural Resources

**Prepared By:**  
  
 P L A N N I N G  
 S O L U T I O N S

**Sources:**  
 -HASEKO (Ewa), Inc.  
 -USGS 7.5' Quad Maps

## EXHIBIT "B"

