

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

July 25, 2014

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

PSF No.: 07OD-001

OAHU

Withdrawal from Governor's Executive Order No. 4141; Set Aside to Agribusiness Development Corporation for Agriculture Purpose; Rescind Prior Approvals of August 26, 2011 , Item D-13 and July 8, 2010, Item D-16; Mokuleia, Waialua, Oahu, Tax Map Key: (1) 6-9-001:002, 003, and 036.

CONTROLLING AGENCY (of subject executive order):

Department of Land and Natural Resources, Division of State Parks

APPLICANT (requesting set aside):

Agribusiness Development Corporation

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Mokuleia, Waialua, Oahu, Tax Map Key: (1) 6-9-001:002, 003, and 036, as shown on the map attached as **Exhibit A-1**.

AREA:

147.646 acres, more or less.

ZONING:

State Land Use District: Conservation and Agricultural
City and County of Honolulu LUO: P-1 & P-2

TRUST LAND STATUS:

(1) 6-9-001:002 and 036

Acquired after Statehood, i.e. non-ceded.

(1) 6-9-001:003

Section 5(b) lands of the Hawaii Admission Act

All parcels

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

CURRENT USE STATUS:

(1) 6-9-001:002 and 036 (about 71.27 acres) are encumbered by Governor's Executive Order No.4141 to the Department of Land and Natural Resources, Division of State Parks for State park Reserve purposes.

(1) 6-9-001:003 is encumbered by Revocable Permit No. 6814 to Ronald P. Weidenbach dba Hawaii Fish Company for aquaculture purposes.

PURPOSE OF SET ASIDE:

Agriculture purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

This action before the Board is merely a transfer of management jurisdiction and does not constitute a use of State lands or funds, and therefore, this action is exempt from the provisions of Chapter 343, HRS, relating to environmental impact statements. Inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1)(4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation", as included in **Exhibit A-2**.

APPLICANT REQUIREMENTS:

None

REMARKS:

On July 8, 2010, under agenda item D-16, the Board authorized the issuance of a 35-year direct lease to Hawaii Fish Company, Inc. (“HFC”) for aquaculture purpose over the subject area. Upon the issuance of the requested lease, HFC would continue to use the 18-acre area under the current revocable permit, until its operation could be extended to the remaining portion of the entire requested area. HFC was aware that a conservation district use permit is required when it starts to use the additional area.

At its meeting of August 26, 2011 (D-13), the Board amended its prior approval to clarify some issues regarding the lease, for example, rent, lease map; and the lease term was changed to 65 years. Subsequently, HFI was notified of the rent for the requested lease, but it did not agree to the rent. A copy of the 2011 approval is attached as **Exhibit A-3**.

In the meantime, Agribusiness Development Corporation (“ADC”) inquired if the subject area can be transferred to them under an executive order. Subsequent to the issuance of the executive order, ADC plans to issue a lease to HFI for aquaculture purposes.

As noted in the 2010 submittal, Division of Forestry and Wildlife (“DOFAW”) plans to utilize portion of the requested area as a new game management area. While the exact configuration and size of the future game management area have not been finalized, staff believes a reservation in the proposed transfer over an area to be agreed by DOFAW and ADC in the future will be in order. The future set aside area will also include any public access to Kealia Trail in the vicinity. Upon the agreement to the location and size of the future game management area, staff will seek the Board’s approval for recommending to the Governor the withdrawal the agreed area from the appropriate executive order and reset aside of such area to DOFAW.

When the request for lease was considered by the Board on July 8, 2010, the paragraph pertaining to comment from the Division of State Parks was that “State Parks has indicated they have no objection to the request”. Since the subject request is regarding the transfer of management jurisdiction of the lease from the Land Division to ADC through the issuance of an executive order, staff believes the comments from State Parks are still applicable.

Since other agencies were solicited for comments during the processing of a direct lease stage, staff did not solicit comments from other agencies on the proposed transfer of management jurisdiction.

For housekeeping purposes, staff recommends the Board rescind its prior approval regarding the issuance of a direct lease.


Land Division does not have any objection to the proposed transfer as ADC is more appropriate in managing an aquaculture lease.

RECOMMENDATION: That the Board:

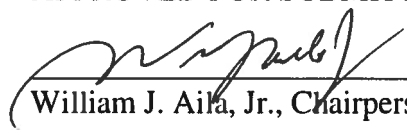

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Rescind Prior Approvals of August 26, 2011, Item D-13 and July 8, 2010, Item D-16.
3. Approve of and recommend to the Governor issuance of an executive order withdrawing TMK (1) 6-9-001:002 and 036, with a total area of 71.270 acres, more or less, from Governor's Executive Order No. 4141 and subject to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
4. Approve of and recommend to the Governor the issuance of an executive order setting aside TMK (1) 6-9-001:002, 003, and 036, with a total area of 147.646 acres, more or less, to Agribusiness Development Corporation under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Reservation of a game management area over the withdrawn parcels with its location and size to be agreed between the Agribusiness Development Corporation and the Department of Land and Natural Resources, Division of Forestry and Wildlife;
 - C. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;

- D. Review and approval by the Department of the Attorney General; and
- E. 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


EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR


Project Title: Setting Aside to Agribusiness Development Corporation for Agriculture Purposes
 Project / Reference No.: PSF 07OD-001
 Project Location: Mokuleia, Waialua, Oahu, Tax Map Key: (1) 6-9-001:002, 003, and 036
 Project Description: Setting Aside for Agriculture Purposes
 Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1)(4), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation."

The request pertains to the transfer of management jurisdiction of the subject State parcels. There are no plans to change to the existing use of the parcels by the current permittee. The permittee is aware in the event he needs to obtain a new lease, he needs to comply with the environmental assessment requirement. Staff believes that the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties: Agencies as noted in the submittal

Recommendation: It is recommended that the Board find that this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.




 William J. Aila, Jr., Chairperson
 Date: 7/16/14 

EXHIBIT A-2

AMENDED

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

August 26, 2011

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

PSF No.: 07od-001

OAHU

Issuance of Direct Lease over 18 acres, more or less to Hawaii Fish Company Inc. for Aquaculture Purposes, Kaena, Waialua, Oahu, Tax Map Key (1) 6-9-001:002 (por.) and 003 (por.);

Approval-in-Principle for the Issuance of Direct Lease over an additional 129 acres, more or less, to Hawaii Fish Company Inc. for Aquaculture Purposes, Kaena, Waialua, Oahu, Tax Map Key: (1) 6-9-001:002 (por.), 003 (por.), and 036; and

Amend Prior Board Action of July 8, 2010, Item D-16 Regarding Issuance of Direct Lease to Hawaii Fish Company Inc. for Aquaculture Purposes, Kaena, Waialua, Oahu, Tax Map Key (1) 6-9-001:002, 003 & 036.

A. BACKGROUND:

On July 8, 2010, under agenda item D-16, the Board authorized the issuance of a direct lease for a term of 35 years for aquaculture purposes to Hawaii Fish Company Inc. The parcels under the proposed lease cover tax map keys (1) 6-9-001:002, 003 and 036 for a total area of about 147.646 acres, more or less. The annual rent was based on \$50 per acre or 1% of the gross revenue receipt. A copy of the 2010 approved submittal is attached as **Exhibit 1**.

Later, Department of the Attorney General (AG) requested clarifications on some issues. After reviewing AG's request, staff separates the previously approved area into two parts and brings them to the Board under today agenda for consideration. First, staff asks the Board's authorization to issue a direct lease to Hawaii Fish Company Inc. over an area about 18 acres, which is subject to the Conservation District Use Permit, OA-2504 (CDUP) and the Revocable Permit No. 6814 (RP), both issued to Ronald P. Weidenbach dba Hawaii Fish Company. The second part is to ask the Board for approval-in-principle for the issuance of a direct lease over an additional 129 acres, more or less to the Applicant, subject to the Applicant meeting the compliance requirement of Chapter 343, Hawaii Revised Statutes within 24 months of the Board approval.

For clarification purposes the name of the applicant should be Hawaii Fish Company

as Amended
APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES *DL*
AT ITS MEETING HELD ON
August 26, 2011

EXHIBIT "A-3"

Inc., as confirmed by the information posted at the website of the Department of Commerce and Consumer Affairs. Hawaii Fish Company Inc., HFC or Mr. Weidenabch shall be the "Applicant", as appropriate, throughout this submittal.

B. Direct Lease over 18 Acres

Parcels Involved

Currently, Applicant operates a fish farm under RP for aquaculture purposes over tax map key (1) 6-9-001:002 (por.) and 003 (por.), consisting of an area of approximately 18 acres.

The 18-acre area is also the subject of CDUP, approved by the Board on January 24, 1992, with its current expiration date falling on July 31, 2012.

Applicant plans to expand its operation over the remaining portions (about 129 acres) of the subject parcels, with a total area of about 147 acres. With the expansion in mind, Applicant also notes that it needs to meet the environmental assessment compliance pursuant to Chapter 343, HRS, before a lease can be issued for the additional 129 acres. Applicant notes that the environmental assessment is a lengthy process. In the meantime, Applicant needs to obtain a long term lease as soon as possible for securing financing toward its operation, and is willing to proceed with a lease for the existing 18-acre area that is currently under the CDUP.

Applicant believes that issuance of a direct lease for aquaculture purposes over the existing permit area (i.e. 18 acres) would facilitate Applicant's ability to secure financing. With the financing available, APPLICANT plans to conduct its due diligence, including compliance with Chapter 343, HRS, targeting the future expansion over an additional 129 acres of State lands covering tax map keys (1) 6-9-001:002 (por.), 003 (por.) and 036. The proposed leasing of the 129-acre area will be discussed later in the submittal. For now, staff recommends the Board approve the issuance of a direct lease for the existing 18-acre site.

Map for the 18-acre Lease

In addition, staff recommends the Board authorize using the map attached as **Exhibit 2** for the direct lease of the 18-acre site, comprising the areas colored in blue and yellow. Exhibit 2 was the map that the Applicant used in his application for the CDUP in 1991. In view of the possible leasing of the additional area in the following 24 months when the map will be replaced eventually, staff believes using the map at Exhibit 2 during this interim period would be in order.

Term

Applicant requests the lease term be revised from 35 years to 65 years since the Governor has signed SB1511 as Act 232, which allows a 65-year lease for aquaculture purposes. Staff has discussed with the Division of State Parks (SP) since portions of the requested land were acquired originally for parks purpose. SP does not support the 65-year option.

Initially, SP agreed to the issuance of the 35-year lease because there were no resources to develop the parcels into a park facility. SP believes the current 35-year term provide flexibility for any future park program. Staff also notes that any lessee of an aquaculture lease can request for lease extension under the current provision of the statutes. Therefore, staff recommends the lease remains expiring in 35 years.

Character of Use

Staff recommends the Board revise the character of use by authorizing the Chairperson approve other uses or structures considered as accessory to aquaculture purposes. It will provide some flexibility in future management of the lease should the aquaculture industry develop any advanced technology.

CDUP Requirements

AG questions that the CDUP was issued to Ronald P. Weidenbach dba Hawaii Fish Company rather than APPLICANT, and the CDUP expires in 2012. AG suggests the new lease should not be issued unless a new CDUP is approved.

Response: Staff understands Hawaii Fish Company is a temporary name registered by Ronald P. Weidenbach in 1993. In 2001, Applicant registered Hawaii Fish Company as his trade name. At the same time, Applicant possesses a general excise license for the selling of his harvest from his fish farm. In June 2010, Mr. & Mrs. Weidenbach decided to form the corporation, Hawaii Fish Company Inc., and each of them owns 50% interest of the newly formed company. Based on the history of the legal entities formed by Applicant and his wife, staff believes it is not necessary to issue another CDUP for the new entity. Applicant was involved at the beginning of the fish farm operation dated back to 1993, and he is one of the majority share owners of the Hawaii Fish Company Inc., the current applicant. Office of Conservation and Coastal Lands (OCCL) is aware the applicant of the new lease is a new corporation recently formed by Applicant. OCCL indicates no objection to the lease being issued to Hawaii Fish Company Inc.

Residence

AG asks if there is any restriction regarding residence on the leased premises.

Response: Due to the remoteness of the farm from the urbanized area, Applicant needs the presence of employees and other family members residing on the premises providing security. Staff notes that CDUP allows two residences on the existing 18-acre area. Applicant requests that these two residences continue to be allowed. Staff has no objection to the two residences as it was approved by the CDUP.

During discussion with Applicant, he indicates that there may be a need for additional dwellings in view of the size of the expanded farm, as explained in later in this submittal. The issue will be brought to the Board for consideration when the final approval of the additional 129-acre area is considered by the Board.

Chapter 343, HRS Compliance

AG pointed out there is no analysis regarding Chapter 343, HRS compliance in the 2010 submittal.

Response: A Negative Declaration pertaining to the 18-acre area was published in the OEQC Bulletin on October 8, 1991. The publication meets the requirement under Chapter 343, HRS regarding environmental assessment.

Base Rent

AG questioned the appropriateness of \$50 per acre per year for the new lease.

Responses: In July 2010 action, the Board approved \$50/acre as the annual rent. Staff based on another aquaculture lease off Ewa as the basis recommending the \$50 per acre figure. Staff re-visited the same lease at Ewa, and notes that it is basically different from the proposed lease. The Ewa lease is the first lease of water column for the fish cage, while the subject request is a land-based fish farm. Further, when the Ewa lease was considered by the Board, there were no other existing ocean leases that could have provided comparable rental data. Now, staff notes that the Department of Agriculture has leased a parcel in Ewa for a land-based fish hatchery. Natural Energy Laboratory of Hawaii Authority has numerous aquaculture tenants on land. Staff believes that an appraisal to determine the fair market rent for the proposed fish farm would be fair and in order.

Applicant has some concerns on the actual usable acreages out of the 18-acre parcel, which he believes should be the only area subject to payment of rent. Staff will leave the issue of valuation to the expert appraiser.

In addition, Applicant is concerned about paying the appraisal fee twice; one for the 18-acre lease and another payment for the 129-acre additional area in about two years time.

Staff understands the position of the Applicant, but staff still believes the appraisals are necessary to determine the fair market rent of the lease.

DOT-Airports Concerns on Wildlife Situation

AG asked if a habitat conservation plan is required in view of DOT-Airports' (DOT-A) concern about the potential wildlife hazard mentioned in the 2010 submittal.

Response: DOT-A raised a few concerns, including developing a wildlife hazard management program, in 2010 and all the concerns were shown on the Exhibit C of the 2010 submittal. Applicant responded to the DOT-A's comments in his letter attached as Exhibit D of the 2010 submittal. The Board minutes reflected that DOT-A had changed its position since they provided the original comment on the request. The withdrawal notice of opposition from DOT-A is now attached as **Exhibits 3**.

Staff notes from DOT-A's memorandum at Exhibit 3 that it requests opportunity to monitor the wildlife situation on the premises and opportunity to review if there is any change in the nature of the fish farm operation relating to wildlife. Applicant argues that the appropriate agencies for monitoring the wildlife are the Division of Forestry and Wildlife of the Department (DOFAW), U.S. Department of Fish and Wildlife, and the U.S. Department of Agriculture APHIS Wildlife Services. DOFAW agrees with the Applicant that any monitoring activities on the wildlife issues should be conducted by relevant agencies as noted above by the Applicant.

Therefore, staff recommends the Board amend its 2010 action by allowing the above mentioned agencies access to the premises during reasonable hours to monitor the wildlife situation.

C. Approval-In-Principle for Direct Lease over an Additional 129 Acres

Parcels Involved

The additional 129-acre area is shown on **Exhibit 4**, for which Applicant plans to expand its fish farm operation into the said area, covering tax map keys (1) 6-9-001:002 (por.), 003 (por.) and 036.

The 129-acre site, together with the 18-acre area mentioned above, formed the total acreage covered by the 2010 submittal in Exhibit 1. Applicant plans to use the long term lease over the 18-acre area to secure financing for the operation and later expand the fish farm over the additional 129-acre area. He is aware that he needs to obtain a CDUP and comply with Chapter 343, HRS for the additional 129-acre area.

Staff recommends the Board approve-in-principle the issuance of a direct lease over the 129-acre area, which will allow Applicant to undertake due diligence that includes a CDUA and Chapter 343 compliance.

CDUP Requirement

A portion of the 129-acre area is conservation district land, which requires a conservation district use permit before the fish farm can be operated.

Staff recommends the Board require APPLICANT to apply for and obtain a CDUP for the additional 129-acre area within 24 months from the date of the approval of this submittal. Upon fulfilling all conditions herein, staff would then bring back to the Board to consider granting a long term lease for the additional 129 acres.

Chapter 343, HRS Compliance

The CDUP requirement as mentioned above will trigger an environmental assessment under Chapter 343, HRS. As noted above, APPLICANT will have 24 months to obtain the required CDUP.

Division of Forestry and Wildlife Future Game Management Area

The 2010 submittal mentioned a future game management area, which is a portion of the additional 129-acre area. Subject to agreement between DOFAW and the Applicant on the exact boundary, such portions of lands used as game management area will be withdrawn from the leased premises. The withdrawal and setting aside to DOFAW will be brought to the Board for consideration after the finalization of the CDUAP and Chapter 343 compliance.

Other Terms and Conditions

Other terms and conditions of the lease for the additional 129-acre area, including the rent will be brought to the Board's attention upon the approval and finalization of the CDUP and Chapter 343 compliance process as noted above.

D. New Recommendation

In view of the various changes mentioned above, staff recommends the Board amend its prior action by replacing the entire Recommendation 1 of the July 8, 2010, item D-16 with the revised version as noted in the Recommendation Section below incorporating all the necessary changes; and add a new Recommendation Section 3 for the approval-in-principle over the additional 129-acre area.

RECOMMENDATION: That the Board amend its prior action of July 8, 2010, item D-16 by:

A. Replacing Recommendation 1 with the following:

- "1. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the issuance of a direct lease to Hawaii Fish Company Inc. for 18 acres, more or less, under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:**
 - a. Replacing all references to the Applicant with "Hawaii Fish Company Inc.";**
 - b. Using the map attached as Exhibit 2 for the lease;**
 - c. Character of use shall be "Aquaculture Purposes. No accessory structures or uses shall be permitted except as authorized by the Chairperson";**
 - d. The annual rent (including the base rent and the percentage rent) shall be the fair market rent as determined by an independent appraisal over the 18-acre parcel;**
 - e. Applicant shall pay for the cost of the State's appraisal;**
 - f. Allowing two (2) employee residences for the Applicant;**
 - g. Terms and conditions of CDUP OA-2504, as amended;**

- h. The Lessee shall allow the Division of Forestry and Wildlife, U.S. Department of Fish and Wildlife, and the U.S. Department of Agriculture APHIS Wildlife Services to inspect the premises during reasonable hour to monitor the wildlife situation;
- i. Review and approval by the Department of Attorney General; and
- j. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State."

B. Adding Recommendation 3.


- "3. Approve in principle, the issuance of a new direct lease to Hawaii Fish Company Inc. over 129 acres, more ore lease, for aquaculture purposes further subject to the following:
- a. At its own cost, Hawaii Fish Company Inc. shall pursue satisfactory compliance with Chapter 343, Hawaii Revised Statutes, within twenty-four (24) months of this Board approval;
 - b. Upon obtaining a CDUP and complying Chapter 343 requirements by the Hawaii Fish Company Inc., staff shall bring the request for issuance of a direct lease for aquaculture purpose to the Board for final approval."

Respectfully Submitted,



Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:


William J. Aila, Jr., Chairperson

Land Board Meeting: August 26, 2011: D-12: Approved as Amended:
See additional page for results:

Land Board Meeting: August 26, 2011: D-13:

Approved as amended. Amended to provide the Board's granting of a 65-year term Lease for the smaller 18 acre parcel; and the approval-in-principal for the larger 129 acre parcel for only a 35-year term and subject to the conditions noted in the staffs' submittal. Therefore, the Recommendation section of staffs' August 26, 2011 submittal is amended to read:

The first sentence in Recommendation A.1. is amended to read:

- "1. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the issuance of a direct lease to Hawaii Fish Company Inc. for 18 acres, more or less, for a term of 65 years and under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:**

*****"**

The first sentence in Recommendation B.3 is amended to read:

- "3. Approve in principle, the issuance of a new direct lease to Hawaii Fish Company Inc. over 129 acres, more or less, for 35 years for aquaculture purposes further subject to the following:**

*****"**

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

July 8, 2010

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

PSF No.: 07od-001

OAHU

Issuance of Direct Lease to Hawaii Fish Company, Inc. for Aquaculture Purposes,
Mokuleia, Waialua, Oahu, Tax Map Key: (1) 6-9-001:002, 003, 033, and 036.

APPLICANT:

Hawaii Fish Company, Inc., a domestic corporation, whose mailing address is P.O. Box
740, Waialua, Hawaii 96791-0740.

LEGAL REFERENCE:

Section 171-59(b), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Mokuleia, Waialua, Oahu, identified by
Tax Map Key: (1) 6-9-001:002, 003, 033, and 036, as shown on the attached map
labeled Exhibit A.

AREA:

147.646 acres, more or less.

Note: At the commencement of the lease, the applicant is allowed to use the 18 acres as
approved by the previous CDUP. Applicant understands that another CDUP is needed
for any additional acreage to be used.

ZONING:

State Land Use District: Conservation and Agricultural
City and County of Honolulu LUO: P-1 & P-2

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

July 08, 2010

DK

D-16

EXHIBIT " I "

TRUST LAND STATUS:

(1) 6-9-001:002, 033, and 036

Acquired after Statehood, i.e. non ceded

(1) 6-9-001:003

Section 5(b) lands of the Hawaii Admission Act

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

CURRENT USE STATUS:

(1) 6-9-001:002, 033, and 036 encumbered by Governor's Executive Order No. 4141 to the Division of State Parks for State Park Reserve purposes.

Portion of (1) 6-9-001:003 is encumbered by Revocable Permit No. 6814 issued to the applicant.

CHARACTER OF USE:

Aquaculture purposes.

LEASE TERM:

Thirty-five (35) years

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

ANNUAL RENT:

\$900 or 1% of gross annual receipt, whichever is the greater.

METHOD OF PAYMENT:

Semi-annual payments, in advance.

RENTAL REOPENINGS:

At the 10th, 20th, and 30th years of the lease term, by staff or independent appraisal on both the base rent and percentage rent.

PERFORMANCE BOND:

Twice the annual base rental amount.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

CDUA (OA-2504) was approved by the Board on January 24, 1992 (item H-2) and said permit was extended three times by the Board. The latest expiration date of the CDUP is July 31, 2012. Staff notes that the CDUP is only covering an area of about 18 acres as shown on Exhibit B in yellow for land and blue for water. Applicant understands that any use of State land beyond the said 18 acres may require a new CDUP and compliance with Chapter 343.

DCCA VERIFICATION:

Staff understands the applicant is a newly formed company, and staff will make sure the proper confirmation from DCCA will be obtained prior to the issuance of the lease.

APPLICANT REQUIREMENTS:

DAGS Survey Division has map and description for the four parcels covered by this request. If the subdivision of parcel 3 as mentioned in Remarks Section proceeds, applicant shall be required to provide survey maps and descriptions for the subdivided area according to State DAGS standards and at Applicant's own cost.

REMARKS:

The requested area is located at the former Dillingham quarry site vacated by Hawaii Bitumuls and Paving Co., Ltd in mid-1970s. In January 1992, the Board approved the Conservation District Use Permit (OA-2504) for a commercial aquaculture facility over an area of about 18 acres, which is further identified as tax map key (1) 6-9-001:003 and 033. Over the past years, such CDUA has been extended three times with the current expiration date falls on July 31, 2012.

Since June 1992, the applicant has been utilizing about 18 acres for his fish farm under revocable permit No. 6814. Portions of the requested area [i.e. 002, 033, and 036] have been set aside to the Division of State Parks (SP) pursuant to Governor's Executive Order No. 4141 in 2005 for State park reserve.

Use for State Parks Purposes

Staff and the applicant have discussed the project with SP and understand that there is no imminent development of the requested area into a State park due to tight resources. SP has indicated they have no objection to the request. Actually, there were some discussions pertaining to the incorporation of the subject fish farm into the future park

program. In the past, the applicant has entertained guided tours to his fish farm for students.

Direct Issuance of Lease for Aquaculture

The requested use "aquaculture" is permissible to be granted a direct lease pursuant to 171-59(b), Hawaii Revised Statutes. The applicant has over 30 years of experience in the related field prior to becoming the permittee under the revocable permit in 1992. Staff is not aware of any other interest in the same area for any commercial operation. Therefore, disposing the lease by public auction over the subject area may not attract lot of interest. Staff is recommending the Board issue a direct lease to an existing State permittee, who has a proven record of operating a fish farm.

As mentioned above, staff is not aware of any other interested parties over the same area. By entertaining the subject request, the Board is promoting the development of aquaculture industry in the State. Staff believes this would help encouraging competition in the industry.

Current and Future CDUP

Office of Conservation and Coastal Lands has indicated that they have no objection to the request, provided that the applicant understand that he has to file new CDUA application for any new improvements on the subject property not already covered by existing CDUP OA-2504, or he starts operation beyond the original 18 acres as permitted by CDUP OA-2504. Exhibit B shows the extent of the current CDUP (colored). Relevant language will be inserted into the lease stipulating that any new improvement on the area outside the existing CDUP may require a CDUP. Applicant has no problem with this remark

Division of Forestry and Wildlife Future Gaming Management Area

Parcel 003 comprises the former quarry pit, which forms a substantial portion of the fish farm [fish cages being placed in the pit]. The same parcel also includes a portion of the slope and a trail, under the Na Ala Hele Program managed by the Division of Forestry and Wildlife (DOFAW). It is proposed to subdivide the parcel into two parcels, and the applicant and DOFAW will manage their respective portions under the lease and a Governor's executive orders (GEO). During the discussion with the staff, applicant indicates that the future DOFAW area can be included in the lease area until the Applicant files all the paperworks for the subdivision, including another CDUA. DOFAW requests participation in the process of determining the subdivision boundary between the new lease area and the DOFAW area. Upon such subdivision, staff will bring the request to withdraw from the lease area and a GEO to the Board for consideration at a later date.

Appraisal and Rent

Land Division manages another aquaculture lease offshore of Ewa with an area of 28 acres. The annual rent payable for that lease is \$1,400 or 1% of the annual gross receipts, whichever is the greater. The base rent equates to \$50/acre. Staff recommends using the

same rent structure for the proposed lease which will cover an area of 18 acres at the commencement of the lease. The base rent is: \$50/acre x 18 acres = \$900. However, it is anticipated that the applicant will expand its operation during the term of the lease and subject to approval of corresponding CDUP(s). Staff recommends inserting language in the lease allowing the State raise the base rent based on the permitted acreage under any future CDUP(s).

Agencies Comments

Comments from agencies and staff/applicant responses are consolidated as Exhibit C. Majority of them do not have major comment on the proposal.

In the meantime, staff understands the Applicant is discussing with DOT-A regarding the agency comments. According to the Applicant, the issue potential bird strike hazard was discussed with DOT-A, DOFAW, USFWS, USDA Wildlife Services, and FAA, and has been addressed to FAA's satisfaction. Applicant will obtain document confirming such resolution for our file. Further, the Applicant will have a meeting with DOT-A on June 28, 2010 regarding the utility payment comment and any other concerns. Staff does not believe that those issues should stop the process of issuing the lease because the Applicant will get separate utility connection upon the issuance of lease.

Applicant does not object to DOT-A having an access road over the proposed leased area for access to the water tank. Staff notes that such access easement in favor of DOT will be brought to the Board at a later date by DOT for consideration when the alignment is determined.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

RECOMMENDATION: That the Board

1. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the issuance of a direct lease to Hawaii Fish Company, Inc. covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. Applicant's obtaining document indicating the potential wildlife hazards issue is resolved with the Department of Transportation-Airports Division.
 - B. The standard terms and conditions of the most current aquaculture lease document form, as may be amended from time to time;
 - C. Upon obtaining relevant Conservation District Use Permit, withdraw portions of TMK (1) 6-9-001:003 from the leased premises for setting

aside to the Division of Forestry and Wildlife, further subject to no compensation payable to the lessee.

- D. Additional base rent at the same unit rate shall become payable upon obtaining relevant Conservation District Use Permit(s) covering additional acreage allowed for development/improvement.
 - E. Review and approval by the Department of the Attorney General; and
 - F. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Authorize the cancellation of Revocable Permit No. 6814 upon issuance of the lease.

Respectfully Submitted,



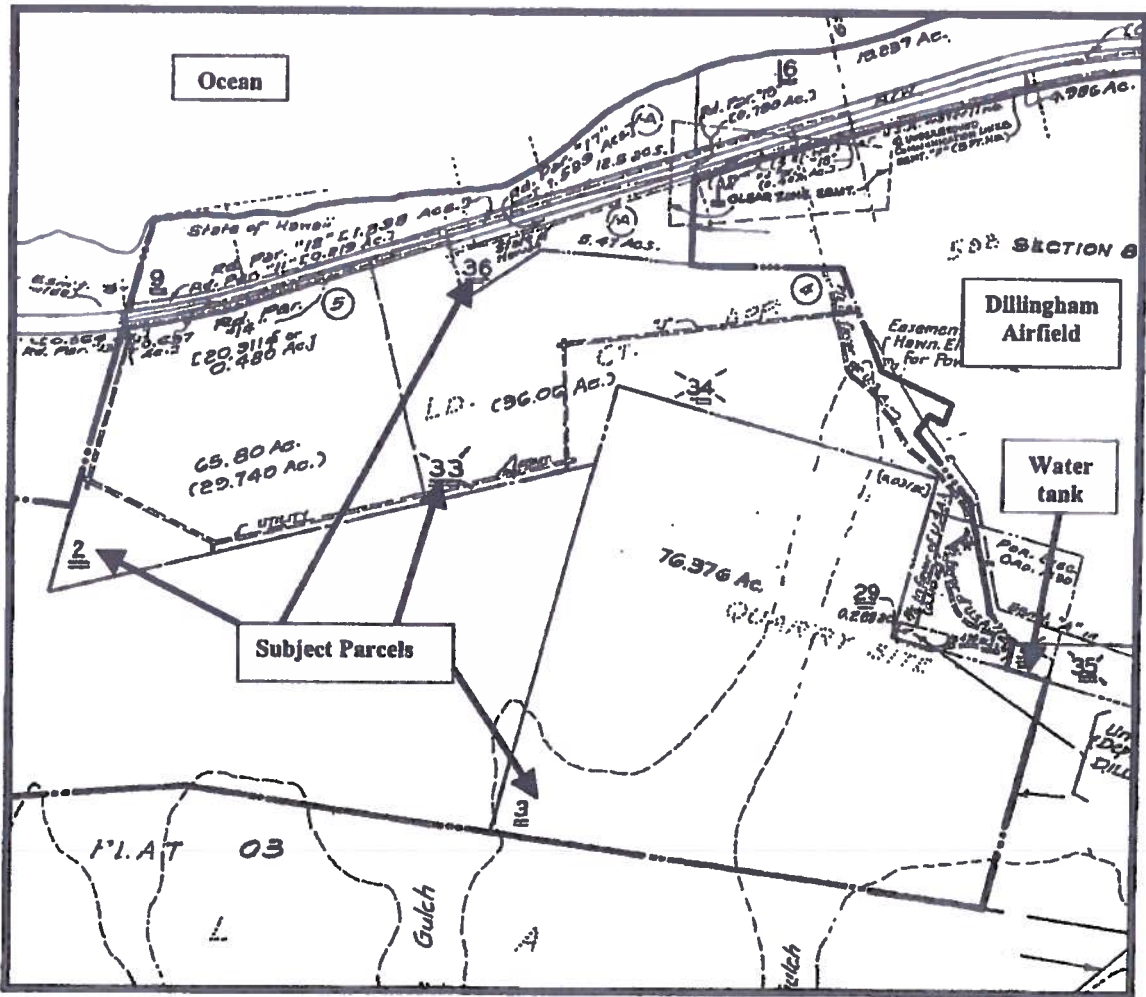
Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson





TMK (1) 6-9-001:002,003,033, and 036

EXHIBIT A



Figure 3 USGS map overlain by tax map key 6-9-1

Agency	Agency Comments	Response
OCCL	Current CDUA OA-2504 for Mr. Weidenbach aquaculture farm for TMK (1) 6-9-1:3 & 33. Land uses occurring outside these parcels will require Mr. Weidenbach submit a new CDUA.	Applicant is aware of the requirement of a new CDUA and is prepared to submit such application at a later date. Staff will note the condition in the lease.
DHHL	No comments	Noted
SHPD	This action does not affect historic properties	Noted
BWS	No comments/objections	Noted
DAR	No objections	Noted
DOA	<ol style="list-style-type: none"> 1. Require applicant to extend any CDUP as necessary. 2. Require applicant to conduct environmental assessment within a reasonable period. 3. Require applicant to rezone the current conservation land to agriculture under State land use classification; exclude the trail and forestry during the subdivision process. 	<ol style="list-style-type: none"> 1. See response for OCCL above. 2. EA will be conducted when the new CDUA is filed. <p>Applicant is required to process the subdivision at its own costs. Further, staff does not agree that the reclassification is necessary because setting aside State land to DOA can include land zoned non-agriculture.</p>
DPP	No objection	Noted
DPR	No comments	Noted
DFM	No objections	Noted
CWRM	Permits for construction of well and water use were issued. Still require permit for pump installation.	Noted
DOT-A	<ol style="list-style-type: none"> 1. Due to its close proximity to the Dillingham Airfield, DOT-A requires applicant to develop and maintain a wildlife hazard management program approved by DOT-A. 2. Applicant makes no reference to potential water usage nor where the applicant will acquire water service. 3. Applicant makes no reference about how to acquire electrical services. DOT-A requires applicant to pay for utility charges 	See responses by the Applicant at Exhibit D and Remarks Section.

EXHIBIT C

	<p>if the service is obtained through airport facilities, or applicant set up its own meter.</p> <p>4.Requests an easement over existing roads to water tank site for maintenance purpose.</p>	
DOFAW	<p>"The continued operation of the Hawaii Fish Company's aquaculture facility is not likely to create or contribute a wildlife hazard problem."</p>	Noted.

HAWAII FISH COMPANY

Post Office Box 1039
Waiialua, HI 96791, USA
Tel: 808 637 0494 or 808 429 3147
E-mail: hawaiiifish@gmail.com

City Bank 2000 TIGR Award
US SBA 2000 Tibbitts Award
US SBA 2001 Small Business Award
Special Congressional Recognition 2001

February 1, 2010

TO: Barry Cheung
Department of Land and Natural Resources
Land Division

FROM: Ronald P. Weidenbach
Co-Owner/Manager
Hawaii Fish Company



SUBJECT: Responses to the Department of Transportation, Airports Division's comments on request for issuance of direct lease to Hawaii Fish Company for aquaculture purposes

The Department of Transportation, Airports Division (DOT-A) offered four comments on Hawaii Fish Company (HFC)'s request for issuance of a direct lease for aquaculture purposes in their response of December 4, 2009. HFC has reviewed these comments, researched the issues in question, and will respond to each in sequence.

Response to Comment 1. The DOT-A states that it objects to a 35-year lease being issued to HFC because they contend its aquaculture purpose is considered a hazard to aviation safety due to its close proximity to Dillingham Airfield and the potential to attract wildlife hazardous to aircraft operations at the Airfield, or, would consider allowing the aquaculture activity if a condition is placed in the lease that the lessee develop and maintain a wildlife hazard management plan approved by DOT-A.

The DOT-A's stated contention that the aquafarm is considered a hazard to aviation safety is not supported by the documented wildlife facts in this case, as evidenced by the published bird strike data for Dillingham Airfield by the U.S. Federal Aviation Administration (FAA), the published water bird counts at the quarry site by the U.S. Fish and Wildlife Service (USFWS) and the DLNR Division of Forestry and Wildlife (DOFAW), and the observations of the U.S. Department of Agriculture, Animal and Plant Inspection Service, Wildlife Services (WS) staff that are responsible for controlling the wildlife hazards at the airfield, as detailed below. As you review this data, please be assured that HFC's

EXHIBIT "D"

Co-owners, Mr. and Mrs. Weidenbach, are personally very aware of the issue of potential wildlife hazards to aircraft as Mr. Weidenbach's grandfather was killed when his bi-plane struck a large flock of birds over the Florida Everglades, and, Mr. Weidenbach's father was the longtime Superintendent of Station Audits (airline maintenance and safety) for the former Eastern Airlines, based at Miami International Airport which is located near the eastern edge of the Everglades.

The FAA bird strike records for Dillingham Airfield from 2001 to 2008 are provided at <http://www.city-data.com/wildlife/Dillingham-Airfield-Airport-Mokuleia-Hawaii.html> and document that none of the 23 recorded bird strikes during the past nine years have involved any of the water bird species present at the quarry site aquafarm (Attachment 1.). Instead, the primary birds involved in these bird strikes have been Zebra doves and seasonally occurring Pacific golden plovers, both of which frequent the grassy fields that surround the airfield runways. Beyond these small birds, the primary birds of concern to WS at Dillingham Airfield have been large seabirds, i.e., Laysan albatross that return seasonally to the airfield, and Great frigate birds that periodically return to the area before approaching ocean storms.

The USFWS stated in a letter to Mr. Weidenbach dated May 24, 1991 (Attachment 2.), which was attached to HFC's 1991 Environmental Assessment (EA) for the proposed quarry site fish farm, that: "The quarry is deep and has extremely steep sides. As such, it does not have the gradually sloping wetland vegetation border that is found with many natural wetlands. This lack of vegetation greatly reduces its attractiveness as coot habitat."

The DOFAW Wetland/Taxon Summary Count data for the subject Mokuleia Quarry from August 22, 1990 to August 20, 2008 (Attachment 3.) indicates a low and declining presence of Hawaiian coots, Night herons, and Mallard ducks at the site. The highest recorded water bird count was in 1990, two years before HFC started its commercial aquaculture operations, with 14 Hawaiian coots. The counts from 1996 to 2008 have ranged from only two to six total water birds (coots, herons, and ducks) per inspection, and the count in January 2010 was "zero". This official data clearly indicates that HFC's aquaculture activities at the quarry site over the past 20 years have not resulted in any increase of water birds. It also supports the USFWS opinion above that the quarry pond is not an attractive water bird habitat, the DOFAW staff opinions conveyed to Mr. and Mrs. Weidenbach, in response to the subject DOT-A letter, that the aquafarm does not pose a wildlife hazard to the airfield, and the WS staff opinion conveyed to Mr. Weidenbach that the proposed wildlife hazard management program is both unwarranted and unnecessary.

Given these official records and personally conveyed expert opinions, HFC believes that the DOT-A's stated opposition to HFC's lease as a wildlife hazard is unfounded, and, that the DOT-A's request to place a condition in the lease that the lessee develop and maintain a wildlife hazard management program approved by

the DOT-A is clearly unwarranted and would constitute a costly and unreasonable burden for HFC and the DOT-A.

It should be noted that a succession of DOT-A administrators have long supported HFC's efforts to obtain a long-term lease of the quarry site for its aquaculture operations. The DOT-A has rented three land parcels at Dillingham Airfield to HFC since approximately 1990 to present, initially to support HFC's Environmental Assessment efforts of the proposed quarry site aquafarm, and subsequently for HFC's establishment of a temporary fish hatchery at the airfield, under three DLNR-approved Revocable Permits, until HFC could obtain a long-term lease of the quarry site and secure electrical service, construct a permanent fish hatchery, and initiate hatchery operations at the quarry site.

In addition, in recent years, HFC has periodically provided progress reports on HFC's efforts to obtain its long-term aquaculture lease of the quarry site to the late Oahu District Airports Manager, Mr. Benjamin R. Schlapak, who patiently supported HFC's efforts to obtain the subject lease. HFC has been and remains very grateful for his patience and long-term support.

Response to Comment 2. The DOT-A states that the lease makes no reference to the potential water usage necessary to maintain aquaculture operations nor where the lessee will acquire water service.

HFC's proposed quarry site aquafarm water usage was previously reviewed and approved by the DLNR Commission On Water Resources Management, and a 400 gpm well was subsequently drilled, cased and registered. The Commission's expert assessment determined that the Army well system and the HFC aquafarm well system were the only wells on the subject aquifer, and that the combined water usage by these two systems would be well below the aquifer capacity.

Response to Comment 3. The DOT-A states that the lease does not state how the lessee is or will be obtaining electrical service to the property.

HFC's request to Hawaiian Electric Company (HECO) for electrical service to the quarry site aquafarm was initially made approximately 20 years ago, with periodic follow-up requests and discussions, and is currently pending DLNR's approval of the subject lease and an additional easement for a HECO service power line. This extended quarry site electrical service delay has been the primary reason that the DOT-A has so generously rented airfield lands to HFC for the past 20 years for its temporary airfield fish hatchery. Once the subject DLNR lease is finalized, HFC and HECO will finalize arrangements for electrical service to the quarry site, with a separate meter for HFC as requested by DOT-A. HECO electrical service, with a separate meter, has already been provided to the DOFAW endangered plant nursery on the mauka quarry property.

Response to Comment 4. The DOT-A states that it requests a permanent easement over the existing roads to the water tank for maintenance purposes.

Land Court Application 588 previously designated Easement "D" (16 feet wide) for a roadway in favor of U.S.A., from the airfield to the water tank. However, the DOT-A re-routed the previously existing access road in 1987/88 under State Project No. D02018-23 titled "Water Tank Access Road Improvements." It is unclear whether or not the prior easement was terminated when the road was rerouted, and, whether a new easement was designated for the new access road route. This question should be clarified for the DOT-A and HFC, and addressed if necessary.

Thank you for giving HFC the opportunity to respond to the DOT-A comments on this proposed aquafarm lease. Should you have any questions or comments regarding the above, please contact Mr. Ron Weidenbach at (808) 429-3147 or hawaiifish@gmail.com.

#



United States Department of the Interior

FISH AND WILDLIFE SERVICE
PACIFIC ISLANDS OFFICE

P.O. BOX 50167
HONOLULU, HAWAII 96850

May 24, 1991

Mr. Ron Weidenbach

[REDACTED]
Hauula, Hawaii 96717

Dear Mr. Weidenbach:

This follows up on our telephone conversation of May 14 regarding your proposed development of an aquaculture facility at the Dillingham quarry site, Oahu, Hawaii. You are proposing to construct a series of floating cages for the production of catfish and talapia for commercial purposes. Specifically, you requested that we review the proposal and consider the possible impact of the construction and operation of the facility on the Hawaiian coot, an endangered waterbird. While you would lease the quarry from the State of Hawaii (the owner), no federal permit, funding, or authorization is required.

As you described, the cages to be constructed would be of two sizes: 4- by 8-foot and 8- by 12-foot. A series of these cages would float on the quarry pond surface. The cages and hatchery tanks would occupy a small fraction of the 7-acre pond.

Hawaiian coots have been observed on the pond. As many as 15 have been reported there at any one time (summer, 1990). It appears, however, that the birds become partially used to human activities and tolerate minor disturbances; they would be expected to continue to use the pond after initial construction disturbance. The quarry is deep and has extremely steep sides. As such, it does not have the gradually sloping wetland vegetation border that is found with many natural wetlands. This lack of vegetation greatly reduces its attractiveness as coot habitat. While the birds may land on the pond and feed, it is doubtful if they nest there.

The pond does not contribute to the coots' island-wide recovery to any significant degree. As such, and in consideration of the "low impact" types of activities you have described, we do not believe your project will have any appreciable impact on coots. We have reached this determination with the understanding that you will not be adversely affecting the water quality in the quarry through the addition of chemicals or other harmful compounds, and that you will not be harassing any birds which may land on the ponds in any overt way. To do so may be in violation of federal and state law.

Thank you for the opportunity to comment on your proposal.

Sincerely yours,

William R. Kramer
Fish and Wildlife Enhancement
Pacific Islands Office

Wetland/Taxon Summary Count August 22, 1990 to August 20, 2008

Island	WetlandName (Complex)	WetlandSurveyName	TaxonName	Date	CommonName	Adult	SubAdult	Unknown
Oahu	Mokuleia Quarry	Mokuleia Quarry	Anas platyrhynchos	8/20/2008	Mallard	0	0	3
			Fulica alai		Hawaiian Coot, 'Alae Ke'oke'o	1	0	0
			Nycticorax nycticorax		Night Heron, 'Auku'u	0	0	1
Oahu	Mokuleia Quarry	Mokuleia Quarry	Fulica alai	1/17/2007	Hawaiian Coot, 'Alae Ke'oke'o	1	0	0
			Nycticorax nycticorax		Night Heron, 'Auku'u	0	0	3
Oahu	Mokuleia Quarry	Mokuleia Quarry	Fulica alai	1/19/2006	Hawaiian Coot, 'Alae Ke'oke'o	2	0	0
			Other Domestic Waterfowl		Other Domestic Waterfowl	0	0	1
Oahu	Mokuleia Quarry	Mokuleia Quarry	Fulica alai	8/17/2005	Hawaiian Coot, 'Alae Ke'oke'o	4	0	0
Oahu	Mokuleia Quarry	Mokuleia Quarry	Fulica alai	1/19/2005	Hawaiian Coot, 'Alae Ke'oke'o	2	0	0
			Nycticorax nycticorax		Night Heron, 'Auku'u	0	0	2
Oahu	Mokuleia Quarry	Mokuleia Quarry	Fulica alai	8/18/2004	Hawaiian Coot, 'Alae Ke'oke'o	2	0	0
Oahu	Mokuleia Quarry	Mokuleia Quarry	Fulica alai	1/21/2004	Hawaiian Coot, 'Alae Ke'oke'o	2	0	0
Oahu	Mokuleia Quarry	Mokuleia Quarry	Nycticorax nycticorax	8/20/2003	Night Heron, 'Auku'u	0	0	2
Oahu	Mokuleia Quarry	Mokuleia Quarry	Fulica alai	1/16/2003	Hawaiian Coot, 'Alae Ke'oke'o	3	0	0

**Wetland/Taxon Summary Count
August 22, 1990 to August 20, 2008**

Island	WetlandName (Complex)	WetlandSurveyName	TaxonName	Date	CommonName	Adult	SubAdult	Unknown
Oahu	Mokuleia Quarry	Mokuleia Quarry	Fulica alai	8/21/2002	Hawaiian Coot, 'Alae Ke'oke'o	2	0	0
Oahu	Mokuleia Quarry	Mokuleia Quarry	Fulica alai	8/18/2001	Hawaiian Coot, 'Alae Ke'oke'o	2	0	0
Oahu	Mokuleia Quarry	Mokuleia Quarry	Fulica alai	1/17/2001	Hawaiian Coot, 'Alae Ke'oke'o	2	0	0
Oahu	Mokuleia Quarry	Mokuleia Quarry	Nycticorax nycticorax	9/4/1998	Night Heron, 'Auku'u	0	0	3
Oahu	Mokuleia Quarry	Mokuleia Quarry	Fulica alai	8/22/1990	Hawaiian Coot, 'Alae Ke'oke'o	6	0	0
Oahu	Mokuleia Quarry	Mokuleia Quarry	Fulica alai	8/22/1990	Hawaiian Coot, 'Alae Ke'oke'o	14	0	0
Mokuleia Quarry 8/22/1990 to 8/20/2008 Total:						43	0	15

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF FORESTRY AND WILDLIFE
1151 PUNCHBOWL STREET, ROOM 325
HONOLULU, HAWAII 96813
TEL (808) 587-0100 FAX (808) 587-0100

LAURA R. THIELER
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
RUSSELL Y. TSUJI
FIRST DEPUTY
KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
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CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

February 24, 2010

Mr. Ron Weidenbach
Hawaii Fish Company
P.O. Box 1039
Waialua, Hawaii 96791

Dear Mr. Weidenbach,

We understand that you are in the process of applying for a long-term lease through the Board of Land and Natural Resources for your aquaculture farm at the Dillingham quarry site. We further understand that upon agency review of the draft Board submittal, the Department of Land and Natural Resources' Land Division received comments from the Hawaii Department of Transportation, Airports Division (DOT-A) raising concern that your aquaculture facility may pose a wildlife hazard to the Dillingham airfield. This letter responds to your inquiry regarding this suggested risk.

The Hawaii Division of Forestry and Wildlife has conducted Statewide Bi-annual Waterbird Surveys at the Dillingham quarry site for over 20 years and believes, based upon our long-term data, that your aquaculture facility as currently managed does not actively attract waterbirds. This is evident in the exceptionally low numbers of waterbirds observed at the Dillingham quarry site during the State's Bi-annual Waterbird Surveys. Our official records indicate a small yet declining presence of Hawaiian Coots, Black-crowned Night Herons, and Mallard and hybrid ducks utilizing the quarry pond. Waterbird counts between 1996 and 2008 have ranged from a high of six to a low of two total waterbirds observed at the site. Our most recent survey, conducted this past January, 2010, showed zero waterbirds utilizing the quarry pond. It is thus apparent from our records that the Hawaii Fish Company's aquaculture activities

at the Dillingham quarry site have not resulted in an increase of waterbirds at that site and consequently, the continued operation of the Hawaii Fish Company's aquaculture facility is not likely to create or contribute to a wildlife hazard problem.

Regarding the DOT-A's concerns on the presence of game birds in the game bird hunting areas upland of the site, it should be noted that their diet primarily consists of seeds, nuts, insects, and grass. There are no game birds in Hawaii that are piscivorous (which feed on fish) therefore a fish hatching operation is not likely to have an effect on those species.

If you need any further assistance please contact Norma Bustos, Wildlife Biologist, at 808-587-0163, or myself.

Sincerely,

A handwritten signature in black ink that reads "Paul J. Conry". The signature is written in a cursive style with a long, sweeping tail on the letter "y".

Paul J. Conry
Administrator



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Pacific Islands Fish and Wildlife Office
300 Ala Moana Boulevard, Room 3-122, Box 50088
Honolulu, Hawaii 96850

In Reply Refer To:
2010-TA-0171

MAR 19 2010

Mr. Ronald Weidenbach
Hawaii Fish Company
P.O. Box 1039
Waialua, Hawaii 96791

Subject: Technical Assistance for a Long-Term Lease for an Aquaculture Farm at
Dillingham Quarry Pond, Oahu

Dear Mr. Weidenbach:

We are in receipt of your request of February 22, 2010, in which you requested our assistance regarding your application to the State of Hawaii Board of Land and Natural Resources for a long-term lease for an aquaculture farm at Dillingham Quarry Pond (pond). We received your request on February 22, 2010. You have operated an aquaculture farm at the pond since 1992.

You requested our assistance in evaluating potential bird-airstrike hazards (BASH) associated with the continued operation of the aquaculture farm. You also requested our assistance in evaluating whether the site may attract game birds that generally occur in upland areas. We can assist you with endangered species issues; however, we do not evaluate BASH risks, and we do not manage game birds.

Based upon information you provided, the pond is approximately 7 acres in size, and aquaculture activities would occur in a series of cages that float on the pond surface. Endangered Hawaiian waterbirds that might occur in the area include the endangered Hawaiian duck (*Anas wyvilliana*), Hawaiian moorhen (*Gallinula chloropus sandvicensis*), Hawaiian coot (*Fulicia alai*), and Hawaiian stilt (*Himantopus mexicanus knudseni*). Based upon the February 24, 2010, letter from Hawaii Division of Forestry and Wildlife (DOFAW) and information in our files, bi-annual surveys for waterbirds have been conducted statewide and at the pond for over 20 years. The species observed have been Hawaiian coots, black-crowned night-herons (*Nycticorax nycticorax*), mallards (*Anas platyrhynchos*), and mallard hybrids. Generally, low numbers (zero to four) individuals have been observed, although 14 Hawaiian coots were counted in 1990, prior to the operation of the aquaculture farm.

TAKE PRIDE
IN AMERICA 

Mr. Ronald Weidenbach

2

We hope this letter can assist you with your application. If you have questions, please contact Aaron Nadig, Fish and Wildlife Biologist, Consultation and Technical Assistance Program (phone: 808-792-9400, fax: 808-792-9581).

Sincerely,

Christa Russek

for Loyal Mehrhoff
Field Supervisor



United States
Department of
Agriculture

Animal and
Plant Health
Inspection
Service

Wildlife
Services

Hawaii State Office

3375 Koapaka Street,
Suite H-420
Honolulu, Hawaii
96819-1898

Tel. (808) 838-2840
Fax (808) 838-2860

April 28, 2010

Mr. Steve Wong
Program Manager
FAA, Honolulu Airports District Office

Dear Mr. Wong

This letter is in response to FAA request to provide a recommendation on the Dillingham Airfield quarry site. On April 9, 2010 Wildlife Services (WS) conducted a site visit at the Dillingham Airfield quarry to observe the Tilapia aquaculture farm Hawaii Fish Company (HCF) owned and operated by Mr. Ron Weidenbach. During the visit, Mr. Weidenbach informed us of the history of the site, how it came into existence, as well as, the current and future plans.

Prior to Mr. Weidenbach's operations beginning in 1991, Waterbird Surveys conducted by the Department of Fish and Wildlife (DOFAW) counted 14 Hawaiian Coots in 1990. All counts thereafter have resulted in no more than six Hawaiian Coots in 1996 and 5 or less total birds in the Waterbird Surveys from 2000-2008. The types of birds counted were mainly Mallards, Hawaiian Coots and Black-Crowned Night Heron. On the rare occasions Black-Crowned Night Herons and various species of ducks are encountered, they seem to be attracted to a canal on the north side at the departure end of Runway 8, and not the quarry area. In a letter from William Kramer of U.S. Fish and Wildlife Service dated May 24, 1991, it was stated that Hawaiian Stilts may occur in this pond but from WS observations of this area, there is no suitable habitat for stilts. There are no embankments and the sides are steep and covered with thick vegetation and trees.

Since 2002, the FAA records for Dillingham Airfield indicate 9 Zebra Doves, 7 Pacific Golden Plovers, 2 Spotted Doves, 2 Common Waxbills, 1 Frigatebird, 1 House Finch and 1 Red-Vented Bulbul were involved in strikes. There are no wetland or waterbird species such as Mallards, Hawaiian Coots, Black-Crowned Night Herons or Hawaiian Stilts in the strike records. We do see seabirds such as Laysan Albatross on the airfield on a frequent basis. Upon our site visit, we did count at least two Black-Crowned Night Heron, one Common Barn Owl a flock of pigeons passing through but along the cliffs and away from the aircraft take off and landing patterns and a dozen or so House Finch and a few Red-Vented Bubluls.

In regards to the holding cages for the tilapia, Mr. Weidenbach has taken steps to minimize predation on his fish, by implementing plastic pipes around the edges to prevent perching. The cages are also covered with wire to prevent fish from jumping out or birds predating. Mr. Weidenbach mentioned he was given 15mm "Bird Banger" pyrotechnics to use if he needed to haze birds from his cages. With these steps taken, along with Mr. Weidenbachs operations, WS believes this may actually be deterring birds from being attracted to this quarry. The site visit



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06-73-15-5591-IA
65873-15-008

gave us only a snap shot of what species, how many and how often the site is used by waterbirds, therefore we will continue monitoring of the area in case the situation does change.

Regarding Mr. Weidenbach's operation, we see no impact to aviation safety and his cooperation with wildlife issues is a positive step in ensuring any wildlife hazards to aviation could be mitigated if it ever arises.

Sincerely,

A handwritten signature in black ink that reads "Darrin Phelps". The signature is written in a cursive, slightly slanted style.

**Darrin Phelps
USDA/APHIS/Wildlife Services
Assistant District Supervisor**

JOHN WAIHEE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
AIRPORTS DIVISION
HONOLULU INTERNATIONAL AIRPORT • HONOLULU, HAWAII 96819-1898

REX D. JOHNSON
DIRECTOR

DEPUTY DIRECTORS
KANANI HOLT
JOYCE T. OMINE
AL PANG
CALVIN M. TSUDA

IN REPLY REFER TO:

AIR-O
93.0781

December 13, 1993

Mr. Ronald Weidenbach
HAWAII FISH COMPANY
68-059 B Waiialua Beach Road
Waiialua, HI 96791

Dear Mr. Weidenbach:

I was glad to have had the opportunity to meet with you to learn about your particular aquaculture activity at Dillingham Airfield.

Based on our discussion, it appears that those concerns which I had raised in my earlier correspondence regarding the possible negative impact to the water table is not a problem, contrary to our earlier impression. We are now satisfied that you have coordinated your affairs with the State Department of Health and the arrangement established will not pose any possible harm to our well source. Investigation by the SDOH has confirmed this situation.

In order to correctly document your use of the area to include the fish propagation tanks, a revocable permit to include the spaces between the cabins is needed. Application for these areas is enclosed for your completion.

Sincerely,


BARRY FUUNAGA
Manager
Honolulu International Airport

Enc.

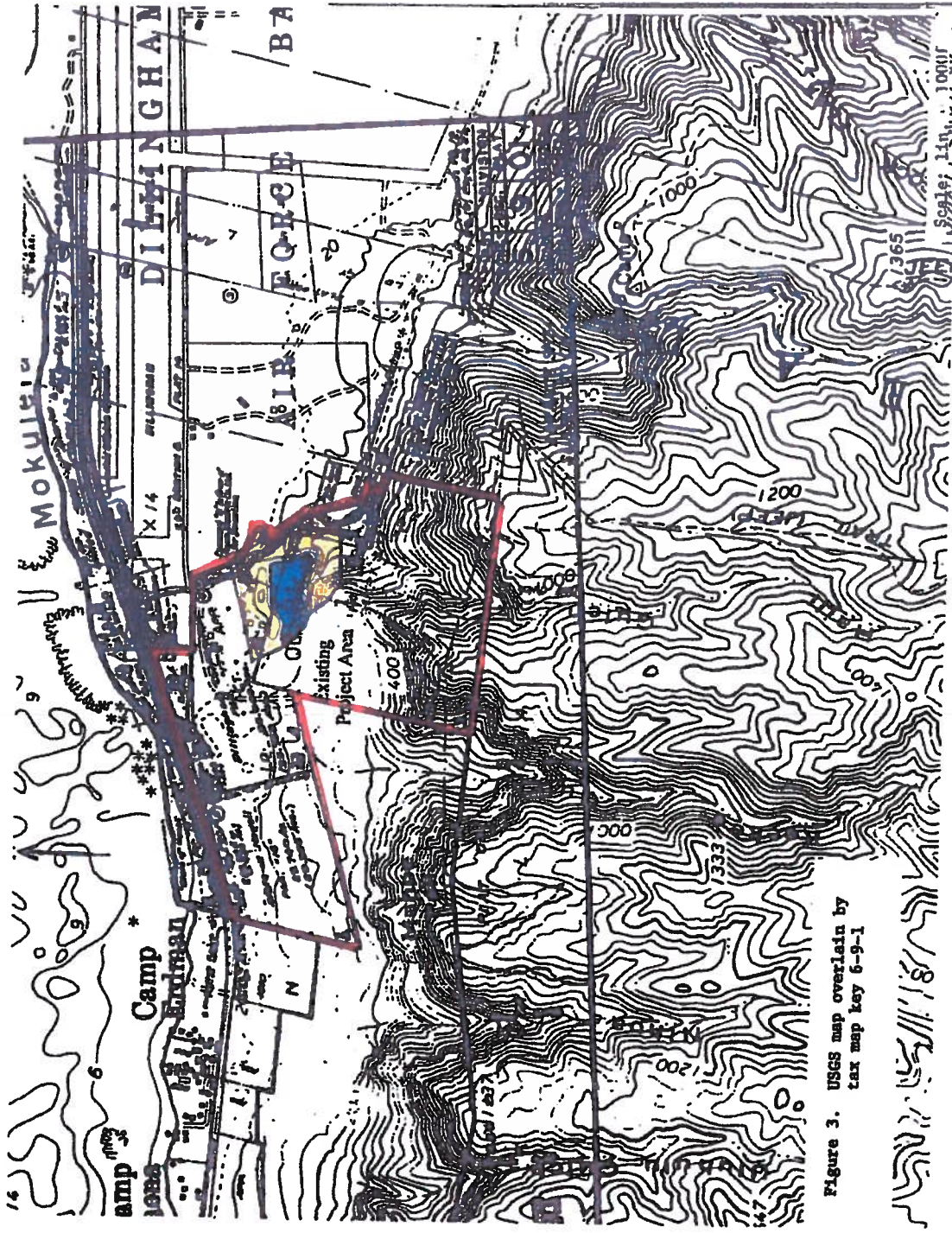


Figure 3. USGS map overlain by tax map key 6-9-1

- Approximate boundary of the entire 147-acre area
- Existing 18-acre area
- }

6705

LINDA LINGLE
GOVERNOR



BRENNON T. MORIOKA
DIRECTOR

Deputy Directors
MICHAEL D. FORMBY
FRANCIS PAUL KEENO
BRIAN H. SEKIGUCHI
JIRO A. SUMADA

RECEIVED

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

10 JUL -9 AM 58

IN REPLY REFER TO:

AIR-A
10.0163

DEPT OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

July 6, 2010

TO: THE HONORABLE LAURA H. THIELEN, CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES

FROM: BRENNON T. MORIOKA, PH.D., P.E.
DIRECTOR OF TRANSPORTATION

SUBJECT: ISSUANCE OF DIRECT LEASE TO HAWAII FISH COMPANY, INC.
FOR AQUACULTURE PURPOSES, MOKULEIA, WAIALU, OAHU

RECEIVED
LAND DIVISION
2010 JUL 12 A 9:30
DEPT. OF LAND & NATURAL RESOURCES
STATE OF HAWAII

Following discussions with Mr. Ronald Weidenbach, Hawaii Fish Company, Inc., the Department of Transportation, Airports Division (DOT-A) is revisiting its position on Mr. Weidenbach's request for a lease from the Department of Land and Natural Resources from oppose to does not oppose.

The USDA-APHIS-Wildlife Services assessment of Mr. Weidenbach's operation near Dillingham Airfield concluded that there was no impact to aviation safety, as the operation is currently conducted. We need to insure that his current practices to limit the attractiveness of the operation to wildlife are continued. Moreover, should any change in the nature of the operation occur, DOT-A should be afforded the opportunity to review the operation. Specifically:

1. Current measures and techniques to minimize predation on the fish, including means to discourage perching, wire mesh cage/tank covers, and periodic hazing must be continued. Any changes in wildlife management practices and techniques by the lessee should be reviewed by DOT-A.
2. Any expansion in the scope of the operation or change in use of the leased land must be reviewed by DOT-A to insure the change will not create an attraction to wildlife.
3. DOT-A will require regular access to the leased property to monitor the wildlife situation.
4. DOT-A will not provide utilities (electricity, water) to the Fish Company beyond 24 months after the lease becomes effective.

Should you have any questions, please contact Mr. Roy Sakata, Airports Division, at 838-8607.

EXHIBIT "3"

