

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



JAMES J. NAKATANI
Executive Director

STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION

HUI HO'OULU AINA MAHIAI
235 S. Beretania Street, Room 205
Honolulu, HI 96813

Meeting of the ADC Board of Directors

Held via Teleconference

April 20, 2023
9:00 a.m.

Pursuant to section 92-3.7, Hawaii Revised Statutes, this meeting will be held using interactive conference technology (ICT). Board members, staff, persons with business before the Board, and the public may participate remotely online using ICT, or may participate via the in-person meeting site which provides ICT.

Interested persons may submit written testimony in advance of the meeting, which will be distributed to Board members prior to the meeting. We request that testimony be received by our office not less than seventy-two hours prior to the meeting to ensure that staff has time to disseminate it and that Board members have time to review it. Written testimony may be submitted electronically to dbedt.adc@hawaii.gov or sent via U.S. Postal Service to: Agribusiness Development Corporation, 235 South Beretania Street, Suite 205, Honolulu, Hawaii 96813.

When testifying via ICT, via telephone, or in-person, you will be asked to identify yourself and the organization you represent, if any. Each testifier will be limited to two minutes of testimony per agenda item.

The public may participate in the meeting via:

ICT: <https://us06web.zoom.us/j/81958182119>

Telephone: (669) 900-6833, Webinar ID: 819 5818 2119

In-Person: at the meeting location indicated below

ICT ACCESS

To view the meeting and provide live oral testimony, please use the link at the top of the agenda. You will be asked to enter your name. The Board requests that you enter your full name, but you may use a pseudonym or other identifier if you wish to remain anonymous. You will also be asked for an email address. You may fill in this field with any entry in an email format, e.g., ****@****.com.

Your microphone will be automatically muted. When the Chairperson asks for public testimony, you may click the Raise Hand button found on your Zoom screen to indicate that you wish to testify about that agenda item. The Chairperson or staff will individually enable each testifier to unmute their microphone. When recognized by the Chairperson, please unmute your microphone before speaking and mute your microphone after you have finished speaking.

For ICT, telephone, and in-person access, when testifying, you will be asked to identify yourself and the organization, if any, that you represent. Each testifier will be limited to two minutes of testimony per agenda item.

TELEPHONE ACCESS

If you do not have ICT access, you may get audio-only access by calling the Telephone Number listed at the top on the agenda.

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Upon dialing the number, you will be prompted to enter the Meeting ID listed next to the Telephone Number at the top of the agenda. After entering the Meeting ID, you will be asked to either enter your panelist number or wait to be admitted into the meeting. Please wait until you are admitted into the meeting.

When the Chairperson asks for public testimony, you may indicate you want to testify by entering “#” and then “9” on your telephone’s keypad. After entering “#” and then “9”, a voice prompt will let you know that the host of the meeting has been notified. When recognized by the Chairperson, you may unmute yourself by pressing “#” and then “6” on your telephone. A voice prompt will let you know that you are unmuted. Once you are finished speaking, please enter “#” and then “6” again to mute yourself.

For ICT, telephone, and in-person access, when testifying, you will be asked to identify yourself and the organization, if any, that you represent. Each testifier will be limited to two minutes of testimony per agenda item.

Instructions to attend State of Hawaii virtual board meetings may be found online at <https://cca.hawaii.gov/pvl/files/2020/08/State-of-Hawaii-Virtual-Board-Attendee-Instructions.pdf>.

IN-PERSON ACCESS

There will also be one meeting location, open to the public, which will have an audio-visual connection. That meeting will be held at:

State of Hawaii, Leiopapa A Kamehameha
State Office Tower Building
235 S. Beretania St, Room 204
Honolulu, HI 96813

For ICT, telephone, and in-person access, when testifying, you will be asked to identify yourself and the organization, if any, that you represent. Each testifier will be limited to two minutes of testimony per agenda item.

LOSS OF CONNECTIVITY

In the event of a loss of ICT connectivity, the meeting will be recessed for a period not to exceed thirty minutes to restore connectivity with all board members and the public in-person access location noted above. In the event that audio connectivity is re-established within thirty minutes without video connectivity, interested participants can access the meeting via the telephone number and Meeting ID number noted above.

In the further event that connectivity is unable to be restored within thirty minutes, the meeting will be automatically continued to a date and time to be posted on the ADC website at <https://dbedt.hawaii.gov/adc/> no later than close of business the next business day. New ICT, telephone, and in-person access information will be posted on the website no less than twenty-four hours prior to the continued meeting date. Alternatively, if a decision is made to terminate the meeting, the termination will be posted on the ADC website.

SPECIAL ASSISTANCE

If you require special assistance, accommodations, modifications, auxiliary aids, or services to participate in the public hearing process please contact staff at (808) 586-0186 preferably at least three business days prior to the meeting so arrangements can be made. To request translation or interpretation services please contact staff at (808) 586-0186 or email: dbedt.adc@hawaii.gov. Please allow sufficient time for the ADC to meet translation or interpretation services requests.

NOTE: MATERIALS FOR THIS AGENDA WILL BE AVAILABLE FOR REVIEW IN THE ADC OFFICE, 235 SOUTH BERETANIA STREET, SUITE 205, HONOLULU, HAWAII 96813 ON AND AFTER APRIL 14, 2023.

Agribusiness Development Corporation Non-Discrimination Statement

The Agribusiness Development Corporation does not discriminate on the basis of race, color, sex, national origin, age, or disability, or any other class as protected under applicable federal or state law, in administration of its programs, or activities, and the Agribusiness Development Corporation does not intimidate or retaliate against any individual or group because they have exercised their rights to participate in actions protected by, or oppose action prohibited by, 40 C.F.R. Parts 5 and 7, or for the purpose of interfering with such rights.

If you have any questions about this notice or any of the Agribusiness Development Corporation’s non-discrimination programs, policies, or procedures, you may contact:

Mark Takemoto
Acting Title VI Non-Discrimination Coordinator
235 S. Beretania St., Ste 205
Honolulu, HI 96813
(808) 586-0186
dbedt.adc.titlevi@hawaii.gov

AGENDA

A. Call to Order

B. Roll Call

C. Approval of Minutes

1. Board Meeting Minutes, March 16, 2023
2. Executive Session Meeting Minutes, March 16, 2023

D. New Business

1. Request for Approval to Amend Site Location for License Agreement LI-KA-22-03 issued to Mahipapa, LLC, and Approval to Amend Exhibit "B" for License Agreement LI-KA-22-01 issued to Hanahanapuni Farm, to Reflect Changed Site Location of Unit GE(L), in Kalepa, Kauai, Hawaii, Tax Map Key No. (4) 3-9-002:001 (por.)
2. Presentation by Josh Uyehara and Mike Faye Regarding Kekaha Agriculture Association's Activities and Projects in Kekaha, Kauai, Hawaii
3. Request for Approval of Re-Opened Lease Rents for General Lease No. S-3940 Assigned to Kauai Island Utility Cooperative, Kalepa, Kauai, Hawaii, Tax Map Key No. (various)
4. Request for Approval to Issue a 35-year non-Exclusive License to the County of Kauai for Two Monitoring Wells in Field 311 in Kekaha, Kauai, Hawaii, Tax Map Key No. (4) 1-2-002:001 (por.)
5. Discussion of Pilot Grazing Project on ADC Mauka Lands in Kekaha, Kauai, Hawaii, Tax Map Key No. (4) 1-2-002:001 (por.)

E. Old Business

1. Update Regarding Discussion of License Agreement Nos. LI-K1702 (Kokee Ditch) and LI-K1703 (Mana Reservoir) Issued to Kauai Island Utility Cooperative for the West Kauai Energy Project in Kekaha, Kauai, Hawaii, Tax Map Key (4) 1-2-002:001 (por.), Various (continued from March 16, 2023, Item D-2)

The Board may go into executive session pursuant to §92-5(a)(4), Hawaii Revised Statutes, to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities.

2. Request for Approval of the Draft Annual Performance Review of the Executive Director (continued from March 16, 2023, Item E-1)

The Board may go into executive session pursuant to §92-5(a)(2), Hawaii Revised Statutes, to consider the evaluation of an employee where consideration of matters affecting privacy will be involved.

F. Executive Director's Report

G. Adjourn

The Board may go into executive session on any agenda item pursuant to the exceptions provided under §92-5, Hawaii Revised Statutes.

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Minutes of the Board of Directors Meeting held Virtually on March 16, 2023

Via Zoom Teleconference and/or In-Person at 235 S. Beretania St., Rm. 204, Honolulu, HI 96813

Pursuant to section 92-3.7, Hawaii Revised Statutes (HRS), this meeting was held remotely with Board members, Staff, Applicants, and the Public participating via Zoom meeting venue, and an In-Person meeting location available for public participation at the State of Hawaii, Leiopapa A Kamehameha, State Office Tower Building, 235 S. Beretania St., Room 204, Honolulu, HI 96813.

Members Present, virtually:

Frederick Lau, City & County of Honolulu, Chairperson (Chair)
Glenn Hong, Member-At-Large (Mr. Hong)
Sharon Hurd, Chair HBOA, Ex-Officio Member (Ms. Hurd)
Karen Seddon, Member-At-Large (Ms. Seddon)
Lyle Tabata, Kauai County Member (Mr. Tabata)
Warren Watanabe, Member-At-Large (Mr. Watanabe)
Dane Wicker, Designated Representative, DBEDT, Ex-Officio Member (Mr. Wicker) joined at 9:10 a.m.
Vacant – Member-At-Large
Vacant – Hawaii County Member

Members Excused:

Kaleo Manuel, Designated Representative, DLNR, Ex-Officio Member (Mr. Manuel)
Jayson Watts, Maui County Member (Mr. Watts)

Counsel Present, virtually:

Delanie Prescott-Tate, Deputy Attorney General (Ms. Prescott-Tate)

Staff Present, virtually:

James Nakatani, Executive Director (Mr. Nakatani)
Mark Takemoto, Executive Assistant (Mr. Takemoto)
Ken Nakamoto, Project Manager (Mr. Nakamoto)
Lyle Roe, Property Manager (Mr. Roe)
Lynette Marushige, Executive Secretary

Guests Present, virtually:

ADC Guest
Beth Amaro, KIUC
David Bissell, KIUC (Mr. Bissell)
Dawn Huff, KIUC
Ford Fuchigami
Jason Okuhama (Mr. Okuhama)
Joshua Uyehara
Thomas Heaton
Linda Rosehill
Kathy Sokugawa

Guests Present, physical location: None.

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A. Call to Order

Chair called the virtual meeting to order at 9:02 a.m.

Chair apologized for his camera not working, so he would not be visible.

B. Roll Call

Chair conducted a roll call of the Board. Chair called the name of each Board member and asked them to identify their presence with a “here” or “present” and to state who if anyone over the age of eighteen was present in the room with them. Chair stated that the roll call served as the roll call vote, and for each subsequent vote, the Chair would ask if there were any objections. If there were no objections the motion will be approved on the same basis as the roll call.

Roll call: Mr. Hong, Ms. Hurd, Ms. Seddon, Mr. Tabata, and Mr. Watanabe acknowledged attendance with no guests present. Mr. Watts and Mr. Manuel were excused. Mr. Wicker joined the meeting at 9:10 a.m.

C. Approval of Minutes

1. Board of Director’s Meeting, February 16, 2023

Chair called for a Motion to Approve: Ms. Hong; Seconded: Mr. Tabata.

Chair asked if there was anything from the staff. There was none.

Chair asked if there was any comment from the public. There was none.

Chair asked for Board discussion. There was none.

Chair called for the vote. Hearing no objection, the motion was approved: 6-0.

D. New Business

1. Request for Approval to Issue a Lease to Hartung Brothers Hawaii, LLC for 42.019 Acres of Existing Office and Processing Operations in Kekaha, Kauai, Hawaii, Tax Map Key No. (4) 1-2-002:035

Chair called for a Motion to Approve: Mr. Tabata; Seconded: Mr. Watanabe.

Chair asked if there was any background from staff.

Mr. Roe noted that DLNR Lease No. S4654 was issued to Pride Company, Inc., in 1980 for 42.019 acres. Over the years the lease has been intermittently assigned, extended, transferred, set-aside and re-set aside. The property is now managed by ADC and held by Hartung Brothers Hawaii for office space and agricultural processing purposes. The lease is set to expire May 15th of this year and Hartung requested the lease be extended for a term of 35 years. Consistent with past practices, staff recommends that a new ADC lease agreement be issued.

Chair asked if there was anyone from the public who wished to give testimony. There was none.

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Chair asked if there were any questions from the Board. There were none.

Chair asked if an updated assessment of the property was necessary.

Mr. Roe said that regular BMP [Best Management Practices] inspections were conducted. He is going to Kauai on the 22nd and this is one of the properties he'll be inspecting.

Chair asked what the 42 acres were being used for.

Mr. Roe responded office space, processing, employee parking, and storage.

Chair asked if it was for fuel storage.

Mr. Roe responded no.

Chair asked if there was any other discussion. There was none.

Chair called for the vote. Hearing no objection, the motion was approved: 6-0.

2. Discussion of License Agreement Nos. LI-K1702 (Kokee Ditch) and LI-K1703 (Mānā Reservoir) Issued to Kauai Island Utility Cooperative for the West Kauai Energy Project in Kekaha, Kauai, Hawaii, Tax Map Key (4) 1-2-002:001 (por.), Various

Chair called for a motion to approve: Mr. Watanabe; Seconded: Mr. Tabata.

Chair asked for staff presentation.

Mr. Roe stated that in 2017 ADC issued two license agreements to Kauai Island Utility Cooperative (KIUC) for the Kokee Ditch, and the Mānā Reservoir, for the West Kauai Energy Project (WKEP). The Board has been briefed on the WKEP several times. The terms of those license agreements allowed the licenses to be converted to long-term lease agreements with very generous terms. ADC negotiated those terms with KIUC on the basis of KIUC's status as a not-for-profit utility cooperative. ADC remains supportive of the WKEP. However, in January 2021, KIUC announced that they were partnering with AES Corporation, a global for-profit energy company who would provide development and operational expertise for the project. Participation of a for-profit project partner is reason for pause and concern as it represents a for-profit entity potentially benefitting from generous lease terms that were negotiated for a not-for-profit entity and project at the expense of ADC, the State, and taxpayers. Staff recommends that the Board authorize the executive director to open discussions with KIUC on updated lease terms that reflect the change and the development in operational realities of the project.

Chair asked if there was anyone from the public who wished to give testimony.

Mr. Nakamoto said that Mr. Bissell wished to testify.

Chair thanked Mr. Bissell for attending.

Mr. Bissell said he appreciated the opportunity to testify and wanted to emphasize that even though AES was brought into the project the terms of the agreement have not changed, the core agreement

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has not changed, and the benefits to the Kauai rate payers and the people of Kauai has not changed with AES coming on board on this project. It's not like there's a windfall certainly for KIUC and the AES terms are the standard development side so it's a risk management strategy from KIUC to minimize the risk of their membership. AES bears all the development risks and in return for that, they have fixed costs that have not changed, ever since they first brought AES into this, the people of Kauai benefit significantly from the project.

Chair asked if the Board had any questions.

Mr. Tabata said he doesn't have any questions, but from his standpoint this project has many benefits for the people on the island of Kauai, but particularly the West-side. Teaming with AES on this project was the only way to pull it off so they need to keep moving forward.

Chair asked if there was anyone else.

Mr. Hong said in reading the submittal, he wondered if the term "partnership" was the right term. Is this more of a management consulting agreement? The only thing he's concerned with is the term "development". Are they developing a project for a fee or are they developing lands for a development, typical construction development purpose. If it's really a contract for services to utilize the AES management expertise and they're paid for their consulting services that's different than a partnership where they actually have equity ownership in the entire development. He needs clarification on that.

Chair asked if Mr. Bissell was still available.

Mr. Bissell said the term partnership comes when a joint development between KIUC and AES. AES actually owns the project; they would build the project; they would operate the project, at least in the initial years. The terms of the agreement they have with AES, KIUC has opportunities to buy the project back at certain points as it goes forward. But, the partnership comes in we're jointly developing it, we're working together. KIUC leads how the project would be operated, how the water would be handled. AES builds it, they operate it, they have to meet certain performance standards of it and in return they get paid for the availability of the equipment, but KIUC directs the operation of it, they just have a payment stream that goes to them. AES from the KIUC side it's nice, they bear all the risks with constructing the project, negative things that happen in construction and all that goes to AES rather than KIUC.

Chair asked if Mr. Bissell answered Mr. Hong's question.

Mr. Hong said yes. He guesses it's a situation where AES really takes an equity position in the project. We have to balance that against the purpose of what ADC is trying to do. He understands Mr. Tabata's position that it's probably the only way they're going to get this project done. They will have to see what the net benefit is in fact going to the community and Kauai, as well as the goals of ADC.

Mr. Nakatani said he thinks that Mr. Hong hits it right on the spot. It came from a non-profit to a for-profit and he thinks that we have to justify our position for ADC. He understands where Mr. Tabata is coming from that KIUC needs to be successful on this but at the same time, ADC needs to do its due diligence as far as the responsibility for ADC.

Chair asked if Mr. Bissell had any further comment.

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Mr. Bissell said he just wanted to clarify one thing to try and put the Board into a negotiation frame of when they brought AES in. Back in 2017 the project was failing. The price setting the capitol costs were going higher and higher and KIUC was in a position where they were likely going to have to recommend cancelling the project. When they brought AES into this, they had a rate that they needed to get for their membership to be able to ensure the members that the benefits were there. The whole negotiation with AES was centered around trying to deliver this project at a cost that was beneficial to their membership and would work for KIUC. So, there's really in effect a ceiling brought in of what they could pay, of what made sense for KIUC to go forward with this and that was the whole negotiation with AES was working with them, trying to drive the rate down to what we needed to make it beneficial for the people of Kauai. And they succeeded in that so that's where it's at, they do have an equity interest in this, they are a for-profit business, they have to make an acceptable return, but that return was all factored in those initial negotiations, based on their assumptions. AES at some point is going to say if the costs escalate past that, they will walk away from the project, or have to renegotiate, and all that will pass back onto the people of Kauai.

Mr. Hong asked if this agreement had to go through the PUC [Public Utilities Commission] approval process or has it gone through the approval process.

Mr. Bissell responded that it has been approved by the PUC.

Mr. Hong asked, at the stipulated rate?

Mr. Bissell responded yes.

Mr. Hong asked, what if AES comes back and says they want to renegotiate. That kind of botches the whole deal, correct?

Mr. Bissell responded they likely would have to go back for PUC approval for any material changes in the terms.

Mr. Hong said this was for the Board. They have been through a PUC review process and those processes are fairly expensive. The Board should give some heavy weight toward that other regulatory process in terms of the benefit to the community. The question then is can ADC approve this, is it within their power to say yes, this is the type of agreement that they can move forward with. So, the question is what would happen if AES miscalculated the amount of capital that they would have to put in for the amount of revenue they would receive from it. Would they walk away from it? We're left with a partially developed project and does KIUC or ADC have any residual liability in this situation if they walk away from it?

Mr. Bissell said he doesn't know the answer to that. It would all depend on what stage the project was at. If they had land agreements in place, KIUC would have certain obligations regarding the condition of the land but in terms of what happens with AES, it would all depend on the stage they walk away and the facts and circumstances.

Mr. Hong asked if ADC staff sees any liability or recourse that AES would have against ADC if they were to decide to walk away.

Mr. Roe said that's a question better directed to Ms. Prescott-Tate. He wanted to remind the Board that all this request does is authorize ADC to engage in discussions on negotiated terms. What the actual terms would be is dependent on some of these conditions.

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Mr. Hong said that part of this Board's question is that hopefully they'll be providing some guidance to that next process, the next step, in terms of things to consider. Clearly they don't want to get into a situation where ADC is left holding the bag. Mr. Bissell has to look after the interests of their shareholders, their owners. In the larger scheme of things, having this project move forward makes sense, Hawaii needs to diversify its energy reliability somehow. He just wanted to raise these questions.

Ms. Prescott-Tate said another question to be considered is has the HRS Chapter 343 requirement been met given that EarthJustice filed a lawsuit challenging the result of a finding of no significant impact (FONSI).

Mr. Bissell said that's purely a legal question. They do have a FONSI in place that has not been revoked; it's currently in place so that's something that would need to have legal advice from legal counsel.

Chair asked if there was any further discussion. So, should the Board permit the Executive Director to negotiate with KIUC on the license versus lease terms and conditions and bring the matter back to the Board for further discussion? If the answer to those questions are no, then do things remain status quo? The current license expires in September 2023 and the matter would be set for issuance and approval of KIUC's 65-year lease upon terms and conditions previously approved by the Board in 2016. Ms. Prescott-Tate could you give us some guidance?

Ms. Prescott-Tate said there should be some kind of consensus on what the Board would like to see going forward. Do you want to let the Executive Director take the lead? Or do we not even need to go there and just go with the 2016 decision of the Board, or we could refer the matter to the newly formed administration committee.

Chair said they have an administration committee now that could work with KIUC. Chair asked so how do they do this? A motion? An amendment to the motion?

Ms. Prescott-Tate said it's a discussion right now. Where would the Board like it to go? If they come up with one solution then the Board can vote on that.

Chair said so the three options are, allowing the Executive Director to negotiate with KIUC; remain status quo with the agreement that was approved in 2016; or refer it to the administration committee to work with KIUC.

Mr. Nakatani asked why doesn't staff do more fact gathering and put some options on the table for the Board to consider at a subsequent meeting. As Ms. Prescott-Tate mentioned there's a [HRS Chapter] 343 contested case at this point so there's time. He thinks it can be done fairly quickly to look at what was agreed to prior and what they want today. What they're missing is, as Mr. Hong pointed out, they don't know what really, what the numbers are, the facts are, as far as AES they're doing their thing. They want to give a fair deal to all parties but that is what they are not sure of, what is the deal. So, they just have to find some facts to justify each position. We know what KIUC's position is but it's a matter of ADC and AES and for our obligation for our organization to get a fair deal for this whole project.

Chair said in that case we will defer the matter to get more information.

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3. Request for Approval to Issue a New and Amended Revocable Permit to The Davey Tree Expert Company and Davey Tree Surgery Company for 21,510.5 Square Feet of Space, More or Less, in Whitmore Village, Oahu, Hawaii, Tax Map Key Nos. (1) 7-1-002:004 (por.), :009 (por.)

Chair called for a motion to approve: Mr. Tabata; Seconded: Mr. Watanabe

Chair asked for staff presentation.

Mr. Roe said Davey Tree Expert Company has been a tenant with ADC since 2016. Except for a brief period of contraction during the pandemic they've enjoyed pretty consistent growth. In mid-2021, an allied company, Davey Tree Surgery Company, joined their workspace at Whitmore and due to their expansions, the Davey Tree Company collectively requests an additional 117.5 square feet of office space at Whitmore. Staff recommends a new and amended revocable permit that includes that new office space.

Chair asked if there was anyone from the public who wished to testify. There was none.

Chair asked if there were any questions or discussion by the Board. There were none.

Chair called for the vote. Hearing no objection, the motion was approved: 7-0.

4. Request for Approval to Issue a Right-of-Entry to the State of Hawaii, Department of Education, Helemano Elementary School for 1.0 Acre, More or Less, for Parking Access for May Day Activities on May 12, 2023 in Whitmore Village, Oahu, Hawaii, Tax Map Key Nos. (1) 7-1-002:004 (por.), :009 (por.)

Chair called for a motion to approve: Ms. Hurd; Seconded: Mr. Hong.

Chair asked for staff presentation.

Mr. Roe said Helemano Elementary School located in Whitmore Village is requesting to use a portion of the open space in Whitmore for overflow parking for their May Day celebration on May 12th this year. Staff recommends that the Board authorize the issuance of a Right of Entry for that purpose. It's the same location that we approved last month for the 46th Annual Wahiawa Pineapple Run and it's the day before.

Chair asked if there was anyone from the public who wished to testify. There was none.

Chair asked if there were any questions from the Board. There were none.

Chair asked if this has to come before the Board or is this something that staff can approve.

Ms. Prescott-Tate responded there was some liability involved if something should happen on ADC property so it's something the Board should know about and approve.

Chair asked if ADC is requiring insurance from the school.

Mr. Roe responded yes.

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Chair asked if there were any other questions. There was none.

Chair called for the vote. Hearing no objection, the motion was approved: 7-0.

E. Old Business

1. Presentation of the Draft Annual Performance Review of the Executive Director (continued from January 25, 2023, Item D-8)

Chair stated that HRS section 92-4, allows the Board to hold an executive meeting closed to the public. The Board will be discussing Old Business Item 1, which is the presentation by the committee established to conduct an evaluation of the Executive Director's performance for fiscal year July 2021 to June 2022. This presentation may be closed to the public pursuant to HRS section 92-5(a)(2) to allow discussion of an employee evaluation where consideration of matters affecting privacy will be involved.

Before entering executive session, Chair asked if there was anyone from the public who wished to testify on the decision to go into executive session. There was none.

Chair called for a Motion to go into Executive Session: Ms. Seddon; Seconded: Mr. Hong.

Chair asked if there was any presentation by Staff. There was none.

Chair asked if there was any Board discussion. There was none.

Chair called for the vote. Hearing no objection, the motion was approved: 7-0.

The Board went into Executive Session at 9:35 a.m.

Chair called the meeting back to order at 10:10 a.m.

Chair stated that this was just a presentation by the Executive Director's Evaluation Committee and the motion to adopt the evaluation committee's report and recommendation will be heard at the next Board meeting.

F. Executive Director's Report

Chair called upon Mr. Nakatani to provide his monthly update.

Mr. Nakatani told the Board they had the legislative update in front of them. The most significant bill was SB 833, SD 2, which was just passed out and it has a couple of more committees to go through but it's still alive. All the bills that they see before them are alive. SB 836, which was ADC's condemnation powers, was never heard. However, SB 837, SD 1, is a similar bill but gives the Department of Business, Economic Development and Tourism (DBEDT) the authority to condemn. The rest are related to value-added products. Those have already passed and so that's good.

Mr. Nakatani pointed out that Mr. Takemoto has been in charge of having staff meetings, weekly or every two weeks.

The budget has crossed-over so we'll see how everybody's budget goes.

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Minutes of the Board of Directors Meeting held Virtually on March 16, 2023

Via Zoom Teleconference and/or In-Person at 235 S. Beretania St., Rm. 204, Honolulu, HI 96813

Ms. Seddon and Mr. Watts' senate confirmation hearing is coming up soon. Mr. Nakatani thinks the committee on agriculture, Senator Gabbard will send a questionnaire to them prior to the hearing. There is a new applicant, Mr. Okuhama, for the at-large Oahu seat. He comes from USDA services. Mr. Okuhama's recommendation came from the Governor's office. We may also have one other applicant from the Big Island, Jacob Tavares from Parker Ranch, although we have not seen the GM [Governor's Message] yet.

Mr. Nakatani noted that the Dole well purchase is in escrow, and regarding Ohana Hui Ventures, the proceedings will probably be in the next two weeks, they're waiting for paperwork from Ohana Hui Ventures.

Chair asked if anyone had any questions. There were none.

G. Adjourn

Chair called for a Motion to Adjourn: Mr. Hong; Seconded: Mr. Tabata.

Chair asked if there was any discussion. There was none.

Chair called for the vote. Hearing no objection, the motion was approved: 7-0.

The meeting was adjourned at 10:14 a.m.

Respectfully submitted:

Lynette Marushige
Secretary



STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION

235 S. Beretania Street, Room 205
Honolulu, HI 96813
Phone: (808) 586-0186 Fax: (808) 586-0189

April 20, 2023

Subject: Request for Approval to Amend Site Location for License Agreement LI-KA-22-03 issued to Mahipapa, LLC, and Approval to Amend Exhibit "B" for License Agreement LI-KA-22-01 issued to Hanahanapuni Farm, to Reflect Changed Site Location of Unit GE(L), in Kalepa, Kauai, Hawaii, Tax Map Key No. (4) 3-9-002:001 (por.)

Requestors: Mahipapa, LLC; Hanahanapuni Farm

Authority: 163D-4(a)(5), Hawaii Revised Statutes

Area: 955 acres, more or less (Unit GE(L): 28 acres, more or less)

Field No(s): Units GE(A) – GE(M)

Tax Map Key: (4) 3-9-002:001

Land Status: Set aside by the Governor's Executive Order No. 4238 to the Agribusiness Development Corporation for Agricultural and Related Purposes, as modified by Governor's Executive Order Nos. 4587 and 4594.

Trust Land Status: Section 5(b) lands of the Hawaii Admission Act
Yes ☒ No ☐

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution? Yes ☒ No ☐

Character of Use: Biomass production, Equipment Hangar

Land Doc. Type: License

Term: 22 years (currently in year 11)

Rental Rate: Current Annual Rent: \$42,840.63

BACKGROUND:

License Agreement No. LI-K1102 was issued to GET in May 2011 for a term of 22 years. Since that time, LI-K1102 has been amended, with approval by ADC's Board of Directors (Board), by 1) recharacterizing 1.5 acres from biomass to building use for storage of equipment; and 2) adding a separate 35-year license agreement (LI-KA1501)

Request for Approval to Amend Site Location for License Agreement LI-KA-22-03 issued to Mahipapa, LLC, and Approval to Amend Exhibit "B" for License Agreement LI-KA-22-01 issued to Hanahanapuni Farm, to Reflect Changed Site Location of Unit GE(L), in Kalepa, Kauai, Hawaii, Tax Map Key No. (4) 3-9-002:001 (por.)

April 20, 2023

Page 2 of 2

for 168.38 acres of land for biomass production in Kalepa. In April 2022, the Board approved the assignment of LI-K1102 and LI-KA1501 to Mahipapa, LLC (Mahipapa)

In 2018, GET and Hanahanapuni Farm (Hanahanapuni) came to an apparent agreement to relocate GET's 28-acre Unit GE(L) from one location within Unit L to another location within Unit L. In 2022, as ADC prepared to execute a 3-year license (LI-KA-22-01) with Hanahanapuni, Hanahanapuni made ADC aware that the map exhibit indicated an incorrect location for Unit GE(L). Hanahanapuni noted that they advised ADC of the move in 2018, however no documentation of the request or any subsequent approval could be found.

LAND REQUEST:

Mahipapa and Hanahanapuni request after-the-fact approval for the relocation of Unit GE(L) within Unit L (see "Exhibit A") (Request).

WATER NEEDS AND SOURCE OF WATER:

N/A

OPERATIONAL PLAN:

N/A

CONSERVATION PLAN:

Mahipapa has an approved conservation plan which may need to be updated for the new site location.

DISCUSSION:

Because of the lack of notification to ADC of the change in Unit GE(L) location, or approval of the change in location, when the Board approved assignment of License Agreements LI-K1102 and LI-KA1501 from Green Energy to Mahipapa in 2022, the original location of Unit GE(L) was included in the assignment, which was subsequently memorialized in License Agreement No. LI-KA-22-03. Similarly, when ADC approved 3-year License Agreement LI-KA-22-01 with Hanahanapuni in 2022, the original location of Unit GE(L) was included in the License Agreement.

To correct License Agreement LI-KA-22-03 (Mahipapa) and License Agreement LI-KA-22-01 (Hanahanapuni), staff recommends that the Board, after-the-fact, approve relocation of Unit GE(L) and that the aforementioned license agreements be amended to accurately reflect the new location of Unit GE(L).

RECOMMENDATION:

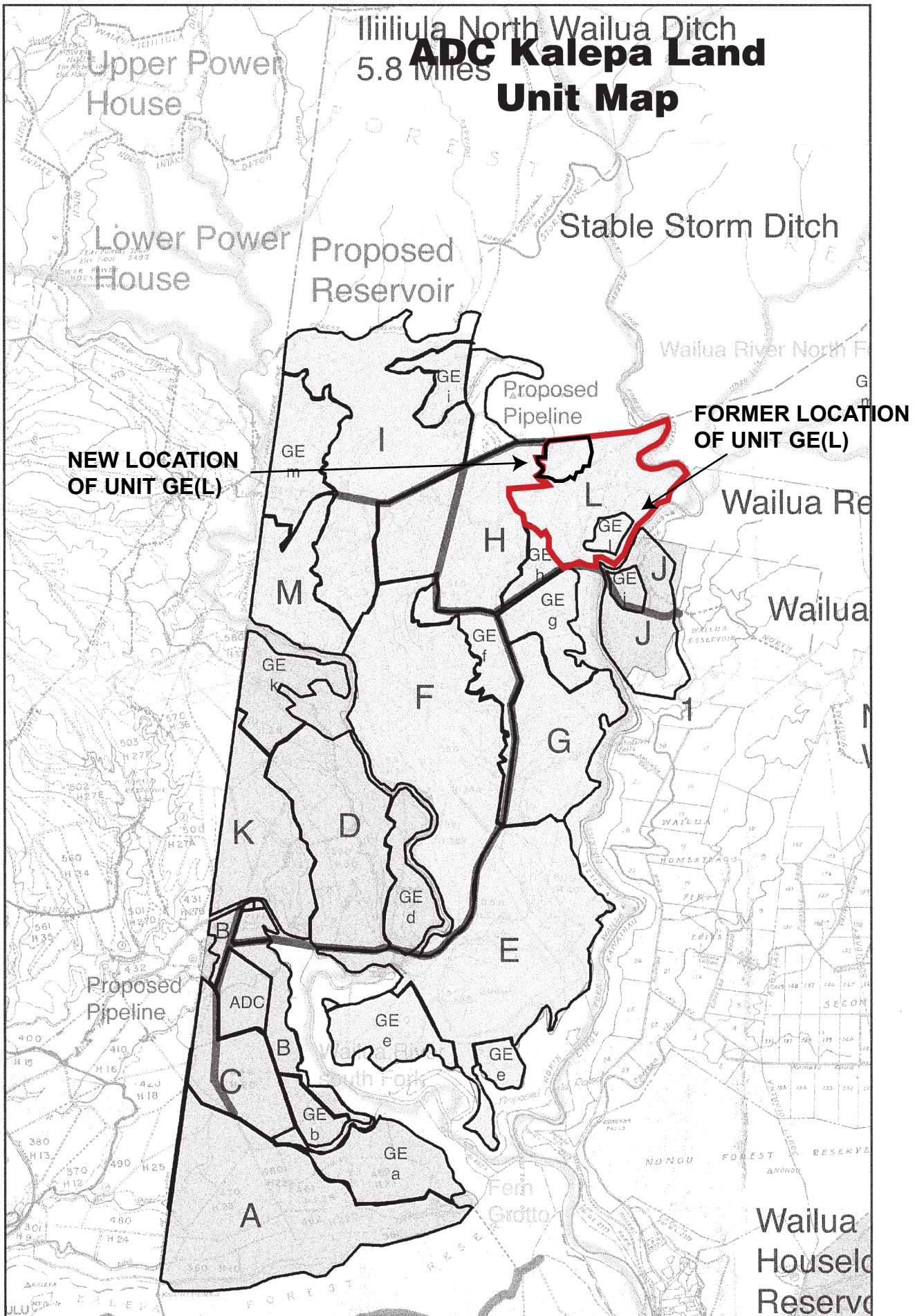
Based on the foregoing, staff recommends that the Board approve the Request noted above.

Respectfully Submitted,

.. 

James J. Nakatani
Executive Director

ADC Kalepa Land Unit Map





STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION

235 S. Beretania Street, Room 205
Honolulu, HI 96813
Phone: (808) 586-0186 Fax: (808) 586-0189

April 20, 2023

Subject: Request for Approval of Re-Opened Lease Rents for General Lease No. S-3940 Assigned to Kauai Island Utility Cooperative, Kalepa, Kauai, Hawaii, Tax Map Key No. (various)

Lessee: Kauai Island Utility Cooperative

Authority: 163D-4(a)(5), Hawaii Revised Statutes

Area: 74.38 acres

Field No(s).: Non-designated

Tax Map Key: Portions of (4) 2-3-001, 2-3-002, 2-3-003, 2-3-004, 2-3-012, 2-4-001, 5-3-001, 5-4-001

Land Status: Set aside by the Governor's Executive Order No. 4328 to the Agribusiness Development Corporation for Agricultural and Related Purposes, as modified by Governor's Executive Order Nos. 4587 and 4594.

Trust Land Status: Section 5(b) lands of the Hawaii Admission Act
Yes ☒ No ☐

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution? Yes ☒ No ☐

Character of Use: Electric utility transmission

Land Doc. Type: Lease

Term: 65 years (currently in year 57)

Rental Rate: Current Annual Rent: \$45,400

BACKGROUND:

General Lease No. S-3940 (Lease) was issued by the Department of Land and Natural Resources (DLNR) to McBryde Sugar Company, Ltd (McBryde) for a term of sixty-five years on November 16, 1965 for a non-exclusive easement over various state lands in Kauai, Hawaii for the purpose of electrical utility transmission. Initial base annual rent was set at \$925.00 for the first fifteen years of the lease term with rent reopening to be

determined by a fair market rent value (FMRV) appraisal process at the end of the 15th, 25th, 35th, 45th, and 55th years.

On February 20, 1990, McBryde assigned the Lease (with consent from DLNR on June 6, 1990) to Citizens Utilities Company.

On August 1, 2002, Citizens Communications Company (formerly Citizens Utilities Company) assigned the Lease (with consent from DLNR on October 29, 2002) to Kauai Island Utility Co-Op (Lessee).

On August 24, 2010, Governor's Executive Order 4328 set aside the control and management of the Kalepa, Kauai property to the Agribusiness Development Corporation (ADC), which included the subject Lease.

As noted previously, the initial base annual rent was set at \$925. ADC does not have rent data for the FMRV reopening that occurred at the end of the 15th, 25th, and 35th years. However, in 2010, following the process laid out in the Lease, annual rent for the 45th year Lease reopening was set at \$45,400.

For the 55th year reopening in 2020, ADC secured the services of Hastings, Conboy & Associates, Ltd for a FMRV appraisal which determined the annual FMRV to be \$71,730. Subsequently, Lessee commissioned Medusky & Co., Inc. to conduct a review of the ADC appraisal which review determined the annual FMRV to be approximately \$53,300.

REQUEST:

Staff and Lessee request that the Board approve annual lease rents for the 55th year reopening to be set at \$64,000/year, effective November 16, 2020 (Request).

WATER NEEDS AND SOURCE OF WATER:

N/A

OPERATIONAL PLAN:

N/A

CONSERVATION PLAN:

N/A

DISCUSSION:

It is typical, in such situations, where there is a difference of appraisal opinion regarding the FMRV of a property, for the lessee and lessor to split the difference. That is what this recommendation attempts to do while slightly favoring¹ ADC's FMRV position. This request represents an increase of \$18,600/year.

RECOMMENDATION:

Based on the foregoing, staff recommends that the Board approve the Request noted above.

¹ Precisely splitting the difference between ADC and Lessee's respective annual FMRV positions would result in an annual rent of \$62,515.

Respectfully Submitted,

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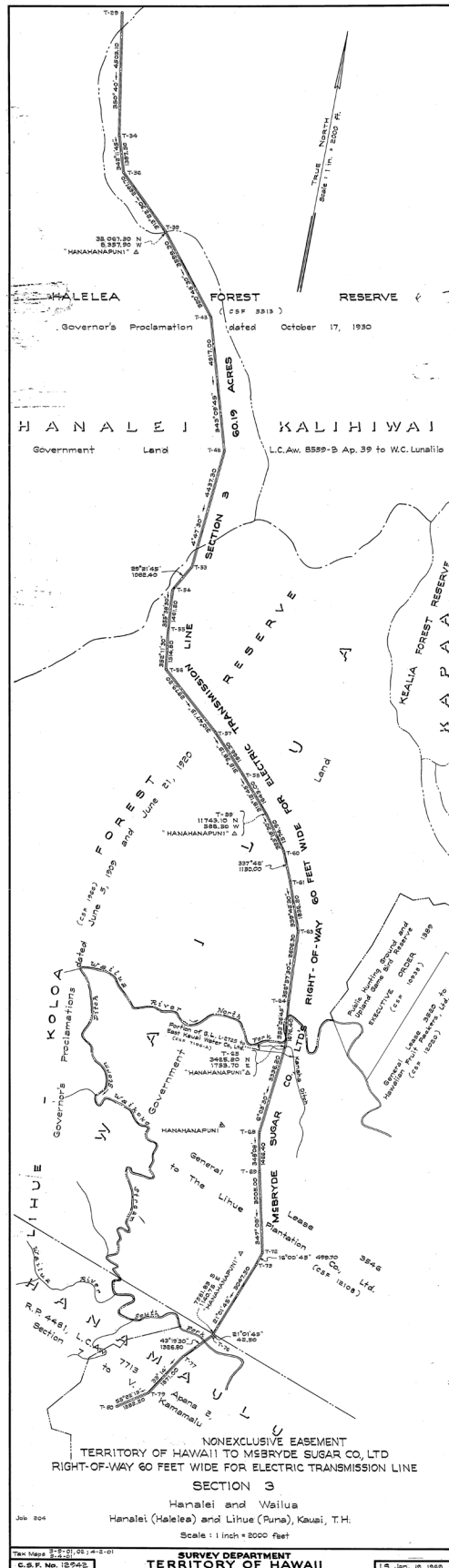
James J. Nakatani
Executive Director



Request for Approval of Re-Opened Lease Rents for General Lease No. S-3940 Assigned to Kauai Island Utility Cooperative, Kalepa, Kauai, Hawaii, Tax Map Key No. (various)

April 20, 2023

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JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



JAMES J. NAKATANI
Executive Director

ITEM D-4

STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION

HUI HO'OULU AINA MAHIAI
235 S. Beretania Street, Room 205
Honolulu, HI 96813

April 20, 2023

Subject: Request for Approval to Issue a 35-year Non-Exclusive Land License to the County of Kauai for Two Monitoring Wells in Field 311 in Kekaha, Kauai, Hawaii, Tax Map Key No. (1) 1-2-002:001 (por.)

Applicant: County of Kauai

Authority: Section 163D-4(a)(5), Hawaii Revised Statutes

Area: Not to exceed 1.0 gross acres, more or less

Field No(s): Field 311

Tax Map Key: (4) 1-2-002:001

Land Status: Set aside by the Governor's Executive Order No. 4007 to the Agribusiness Development Corporation for Agricultural and Related Purposes, as modified by the Governor's Executive Order Nos. 4034 and 4165

Trust Land Status: Section 5(b) lands of the Hawaii Admission Act
Yes ☒ No ☐

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution? Yes ☒ No ☐

Character of Use: Water quality monitoring

Land Doc. Type: License

Term: 35 years (option to extend for an additional 35 years)

Rental Rate: N/A

BACKGROUND:

The Kekaha Landfill (KLF) is a permitted municipal solid waste landfill, owned by the County of Kauai, for the disposal of non-hazardous solid waste. The KLF property covers a total area of approximately 98 acres. The disposal area is comprised of two distinct refuse fill areas identified as Phase I and Phase II. Phase I is an unlined landfill which began operations in 1953 and continued until operations ceased on October 8,

1993. Phase II is an active, lined landfill which began operations on October 9, 1993. The KLF is owned and operated by the County of Kauai Department of Public Works (County).

The KLF is located near the southwest coast of the island of Kauai, approximately 1.5 miles northwest of the town of Kekaha, and approximately 2,000 ft from the Pacific Ocean shoreline. The Phase II Landfill is bounded to the northeast by Kaumuali'i Highway (an unpaved access road) and agricultural land to the southeast, aquaculture facilities to the northwest, and the Phase I area to the southwest. No established natural streams or lakes exist within or near the facility. The KLF office, scale house, maintenance building, leachate evaporation pond, and infiltration basin are located along the northeast property line.

Groundwater monitoring is currently conducted quarterly in accordance with the Solid Waste Operating Permit Number LF-0042-16 (issued September 13, 2019) (State of Hawaii Department of Health, 2019). Monitoring wells MWII-2, MWII-5, and MWII-7 comprise the Phase II groundwater monitoring network, MWI-1A, MWI-2A, and MWI-3A serve as point of compliance monitoring wells for both the Phase II and Phase I landfill (Figure 2). Phase I groundwater monitoring wells MWI-1, MWI-2, and MWI-3, and Phase II monitoring wells MWII-4 and MWII-6 were decommissioned in May 2019. To better understand the background groundwater quality, two upgradient wells are planned to be constructed along the Kaumuali'i Highway (MWII-8 and MWII-9) in Field 311 which is currently licensed to Hartung Brothers Hawaii, LLC (Hartung).

LAND REQUEST:

The County of Kauai requests a land license in Field 311 to construct two water quality monitoring wells (MWII-8 and MWII-9) on ADC property, not to exceed a combined footprint of more than 1.0 acres, for the purpose of up-gradient water quality monitoring as required by the Hawaii Department of Health (Land Request).

WATER NEEDS AND SOURCE OF WATER:

N/A

OPERATIONAL PLAN:

Approval of this request will allow KLF to sample upgradient groundwater to better understand background water quality. The wells will be approximately 15-20' deep, roughly 8" in diameter, covered, and will be completed with robust locking steel monuments and bollards for added protection.

CONSERVATION PLAN:

N/A

DISCUSSION:

The Land Request above is for two water quality monitoring wells in Field 311 which is currently licensed to Hartung. Hartung has agreed in principle to the withdrawal of the footprint of the wells from their license agreement, provided that 1) the precise location of the wells is located makai of the field road from their planted area, and 2) that access

April 20, 2023

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to the wells be coordinated with Hartung to ensure there are no issues with Hartung field activities which may be occurring in the vicinity of the wells when the wells are accessed.

The water quality monitoring wells are required by the Hawaii Department of Health to establish upgradient water quality monitoring to better understand background groundwater quality. KLF and the County of Kauai will be required to conduct an environmental review, subject to the requirements of chapter 343, Hawaii Revised Statutes, and their approved exemption list.

RECOMMENDATION:

Based on the foregoing, staff recommends that the Board approve the Land Request noted above, subject to the following condition(s).

1. Staff will first execute a license amendment with Hartung to withdraw the well locations from License Agreement No. LI-08202; and
2. There shall be no rent assessed by ADC, provided that Applicant shall share all testing data with ADC; and
3. Applicant shall coordinate any access to the wells with Hartung; and
4. Applicant shall be required to comply with all aspects of Chapter 343, Hawaii Revised Statutes, and their exemption list; and
5. Applicant shall submit evidence/certificates of commercial general liability insurance, and other insurance as may be deemed appropriate by ADC, prior to the start of construction, and shall maintain coverage throughout the term of the license.

Respectfully Submitted,



James J. Nakatani
Executive Director



Legend

MWI-1A

Groundwater Monitoring Well

Wet Well (Leachate Sump)

Sump Location

Phase Boundary

Cell Boundary

Property Boundary

Roads

Notes:
ft msl = feet above mean sea level

N

0

350

Feet

Site Layout

Kekaha Municipal Solid Waste Landfill
Kaua'i, Hawai'i

Geosyntec

consultants

WG3074

January 2023

Figure

2

P:\GIS\WMM\KekahaLF\Project2022Q4_GWMM\2022Q4.aprx\Fig02_SiteLayout_w_ApproxLocs 1/25/2023 12:16 PM (BJanke)

026

COUNTY COUNCIL

Mel Rapozo, Chair
KipuKai Kualī'i, Vice Chair
Addison Bulosan
Bernard P. Carvalho, Jr.
Felicia Cowden
Bill DeCosta
Ross Kagawa



Council Services Division
4396 Rice Street, Suite 209
Līhu'e, Kaua'i, Hawai'i 96766

OFFICE OF THE COUNTY CLERK

ITEM D-5

Jade K. Fountain-Tanigawa, County Clerk
Lyndon M. Yoshioka, Deputy County Clerk

Telephone: (808) 241-4188
Facsimile: (808) 241-6349
Email: cokcouncil@kauai.gov

April 11, 2023

James Nakatani, Executive Director
State of Hawai'i Agribusiness Development Corporation
(Via Email Only: james.nakatani@hawaii.gov)

Lyle Roe, Property Manager
State of Hawai'i Agribusiness Development Corporation
(Via Email Only: lyle.t.roe@hawaii.gov)

Dear Mr. Nakatani and Mr. Roe,

**RE: FOLLOW-UP TO GRAZING PILOT PROJECT RELATING TO
FIRE MITIGATION**

This is to follow-up on the letter that I sent to you dated March 9, 2023 (See Attached), requesting consideration to establish a grazing pilot project for fire mitigation, which will help the County manage wildfires on Kaua'i.

I wholeheartedly support a grazing pilot project relating to fire mitigation on the *mauka* Agribusiness Development Corporation (ADC) lands along Wai'aka Ridge, as well as the lands adjacent to Kōke'e Road, between the Kekaha Road junction and the Waimea Canyon Drive junction, as these lands have burned in the past, which has proved to be costly for the County. I would like to see whether grazing could be utilized in these areas to keep the grass at a manageable height.

Please advise if this is feasible, as I have met with various key partners, including representatives from the Kaua'i Fire Department; representatives from the Hawai'i Wildlife Management Organization; representatives from the Division of Forestry and Wildlife; Dr. Mark Thorne, State Range and Livestock Extension Specialist; representatives from Kaua'i Island Utility Cooperative; Nalani Brun, County of Kaua'i Director of Economic Development; as well as Lyle Tabata and Mike Faye, representatives from ADC, to see whether this pilot project can be established by the next fire season.

In addition, I would like to request a meeting to discuss this issue. Please advise on your availability to discuss this matter.

James Nakatani, Executive Director
Lyle Roe, Property Manager
RE: Follow-Up to Grazing Pilot Project Relating to Fire Mitigation
April 11, 2023
Page 2

Thank you for your time and consideration of this request. Should you have any questions, please feel free to contact me at the Office of the County Clerk, Council Services Division, at (808) 241-4188.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Decosta", with a long horizontal flourish extending to the right.

BILL DECOSTA
Councilmember, Kaua'i County Council

AAO:dmc
Attachment

cc: Dana Hazelton, Governor's Liaison
(Via Email Only: dana.m.hazelton@hawaii.gov)

COUNTY COUNCIL

Mel Rapozo, Chair
KipuKai Kualii, Vice Chair
Addison Bulosan
Bernard P. Carvalho, Jr.
Felicia Cowden
Bill DeCosta
Ross Kagawa



Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk
Lyndon M. Yoshioka, Deputy County Clerk

Telephone: (808) 241-4188
Facsimile: (808) 241-6349
Email: cokcouncil@kauai.gov

March 9, 2023

James Nakatani, Executive Director
Lyle Roe, Property Manager
Agribusiness Development Corporation
235 South Beretania Street #205
Honolulu, Hawai'i 96813

Dear Mr. Nakatani and Mr. Roe,

RE: GRAZING PILOT PROJECT RELATING TO FIRE MITIGATION

I am writing to express my support of a grazing pilot project relating to fire mitigation on the *mauka* Agribusiness Development Corporation (ADC) lands along Wai'aka Ridge, as well as the lands adjacent to Kōke'e Road, between the Kekaha Road junction and the Waimea Canyon Drive junction.

These lands have burned in the past, which has proved to be costly for the County. I would like to see whether grazing could be utilized in these areas to keep the grass at a manageable height. Currently, there is a cooperative in place that would like to put forth their efforts.

Further, I have met with various key partners, including representatives from the Kaua'i Fire Department; representatives from the Hawai'i Wildlife Management Organization; representatives from the Division of Forestry and Wildlife; Dr. Mark Thorne, State Range and Livestock Extension Specialist; representatives from Kaua'i Island Utility Cooperative; Nalani Brun, County of Kaua'i Director of Economic Development; as well as Lyle Tabata and Mike Faye, representatives from ADC, to see whether this pilot project could be established by the next fire season.

I urge you to consider establishing a grazing pilot project for fire mitigation, which will help the County manage wildfires on Kaua'i.

Thank you for your time and consideration of this request. Should you have any questions, please feel free to contact me at the Office of the County Clerk, Council Services Division, at (808) 241-4188.

Sincerely,

BILL DECOSTA
Councilmember, Kaua'i County Council

AAO:mn

cc: Dana Hazelton, Governor's Liaison
(Via Email Only: dana.m.hazelton@hawaii.gov)

AN EQUAL OPPORTUNITY EMPLOYER

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



JAMES J. NAKATANI
Executive Director

ITEM E-1

STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION

HUI HO'OU LU AINA MAHIAI
235 S. Beretania Street, Room 205
Honolulu, HI 96813

April 20, 2023

Subject: Update Regarding Discussion of License Agreement Nos. LI-K1702 (Kokee Ditch) and LI-K1703 (Mana Reservoir) Issued to Kauai Island Utility Cooperative for the West Kauai Energy Project in Kekaha, Kauai, Hawaii, Tax Map Key (4) 1-2-002:001 (por.), Various

Licensee: Kauai Island Utility Cooperative

Authority: Section 163D-4(a)(5), Hawaii Revised Statutes

Area: Mana Reservoir 30 acres, more or less
Kokee Ditch Undetermined

Field No(s): Non-designated

Tax Map Key: Mana Reservoir (4) 1-2-002:001
Kokee Ditch (4) 1-2-001 (various)
(4) 1-4-001 (various)

Land Status: Portions of various parcels of Tax Map Key (4) 1-2-002:001 (por.) under Governor's Executive Order No. 4007 to the Agribusiness Development Corporation for Agricultural and Related Purposes, as modified by Governor's Executive Order Nos. 4034 and 4165, and

Portions of various parcels of Tax Map Key (4) 1-2-001 and (4) 1-4-001 under Governor's Executive Order No. 4287

Trust Land Status: Section 5(b) lands of the Hawaii Admission Act
Yes ☒ No ☐

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution? Yes ☒ No ☐

Character of Use: Access for due diligence purposes; construction and operation of the West Kauai Energy Project; agricultural

Land Doc. Type: License (option to convert to lease)

Term: 6 years (extended to and including August 27, 2023), includes option to convert to 65-year lease

Rental Rate: N/A

DOCUMENTS FOR DISCUSSION PURPOSES (click links to access – some files are large and may take longer to load):

[Kauai Island Utility Cooperative Application to Public Utilities Commission for Approval of Power Purchase Agreement with AES West Kauai Energy Project, LLC](#)

[Public Utilities Commission Decision and Order No. 38095 in the Matter of the Application of Kauai Island Utilities Cooperative for Approval of Power Purchase Agreement with AES West Kauai Energy Project, LLC](#)

[Mediation Agreement for the Waimea Watershed Area](#)



STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION

235 S. Beretania Street, Room 205
Honolulu, HI 96813
Phone: (808) 586-0186 Fax: (808) 586-0189

EXECUTIVE DIRECTOR'S UPDATE

April 20, 2023

Legislative Update

Senate Bill No. 833, S.D. 2 - Relating to the Wahiawa Irrigation System

S.B. 833, S.D. 2 was received by the State House of Representatives on April 13, 2023. The bill is heading to conference for further discussion between the House and Senate leaders. This bill 1) requires the Office of the Governor to negotiate the State's fee simple acquisition of the Wahiawa irrigation system on the island of Oahu, 2) Authorizes and appropriates funds for the Department of Agriculture, Agribusiness Development Corporation, and Department of Land and Natural Resources to purchase, repair, and maintain the Wahiawa irrigation system and the associated spillway, and 3) Appropriates funds four full-time equivalent positions for the Department of Land and Natural Resources.

There are other stakeholders besides agriculture that have a vested interest in the Wahiawa Irrigation System also known as Lake Wilson. Though the intent of this measure is to preserve the Wahiawa Irrigation System, the lake currently serves as a state freshwater recreational resource and there is the substantial matter of health and safety to the community as the dam has functioned as flood mitigation for residents and businesses downstream. The dam and spillway are facing ongoing regulatory and legal challenges, which has been confirmed in discussions with the State Attorney General's Office. We strongly believe the acquisition of Lake Wilson and the irrigation system should be a policy decision made and coordinated by the Office of the Governor to address and resolve any long-standing issues collectively. This bill would appropriate the necessary funds to repair and expand the spillway associated with the Wahiawa irrigation system and to bring the spillway into compliance with all relevant dam safety requirements. These are critical safety issues that need to be addressed immediately.

Advise and Consent

On April 5, 2023, the Hawaii State Senate Committee on Agriculture and Environment recommended to advise and consent to the following Gubernatorial Nominees to serve on ADC Board of Directors:

Jayson Watts, for a term to expire June 30, 2025
Karen Seddon, for a term to expire June 30, 2027
Jason Okuhama, for a term to expire June 30, 2027

Status Update on Recent Land Awards

1. Ohana Hui Ventures has sent their partially executed lease agreement to ADC – it is currently in process for signatures.
2. Law Tieng's Farm and TM Farm license agreements have been fully executed.
3. Cedar Grove notes that they're on the waiting list for USDA engineering work for their conservation planning and have not been given a timeframe.
4. Hawaii Sustainable Products has completed their approved conservation plan and are working with ADC on a water agreement with Dole Food Company.
5. Malama Aina Collective notes that they have not been on the property in roughly four months and will be having a discussion amongst the partners about whether the project and location are feasible. Will schedule a follow-up meeting with ADC to discuss.