

DAVID Y. IGE
GOVERNOR OF HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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LAND
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**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
WATER AND LAND**

**Wednesday, March 8, 2017
2:45 P.M.
State Capitol, Conference Room 224**

**In consideration of
SENATE CONCURRENT RESOLUTION 30
SUBMITTING TO THE LEGISLATURE OF THE STATE OF HAWAII FOR REVIEW
AND APPROVAL OF ACTION TAKEN BY THE BOARD OF LAND AND NATURAL
RESOURCES ON A LAND EXCHANGE**

Senate Concurrent Resolution 30 requests the approval of a land exchange between the State of Hawaii and Parker Land Trust for lands located at Waimea, Hawaii Island. **The Department of Land and Natural Resources (Department) supports this Administration concurrent resolution.**

The Board of Land and Natural Resources (Board) at its meeting of August 8, 2003, under agenda item D-5, approved a land exchange between the State of Hawaii and Parker Ranch Land Trust, currently known as the Parker Land Trust, for state-owned land at Waimea, Hawaii, Tax Map Key: (3) 6-7-002:portion 015 with an area of 0.780 acre (State Parcel), and privately-owned land at Waimea, Hawaii, Tax Map Key: (3) 6-7-002:portion 017 with an area of 5.445 acres (Parker Land Trust Parcel). The public purpose for the land exchange was to provide additional lands for Waimea Elementary and Intermediate School.

Pursuant to the requirements of Section 171-50, Hawaii Revised Statutes (HRS), which at the time, provided that land exchanges of public land for private land are subject to disapproval by the Legislature by two-thirds vote of either the Senate or the House of Representatives or by a majority vote of both in any regular or special session, Senate Concurrent Resolution No. 5 was adopted by the Twenty-second Legislature of the State of Hawaii during the Regular Session of 2004.

Parker Land Trust desires to consummate said proposed land exchange previously approved by the Board in 2003 and adopted by the Twenty-second Legislature during the Regular Session of 2004.

Subsequent to the adoption of Senate Concurrent Resolution No. 5 in 2004, however, Section 171-50(c), HRS, was amended on three separate occasions (Act 176, Session Laws of Hawaii (SLH) 2009, Act 169, SLH 2011, and Act 146, SLH 2014). As such, the Department of the Attorney General has determined that Senate Concurrent Resolution No. 5 from 2004, no longer fulfills the requirements of Section 171-50, HRS.

Consequently, in order to satisfy the new requirements of Section 171-50, HRS, and consummate the proposed land exchange, the Department has prepared a new resolution for review of action taken by the Board for a proposed land exchange between the State of Hawaii and the Parker Land Trust. Prior to its introduction in the Regular Session of 2017, however, the Department, in compliance with Section 171-50, HRS, transmitted a copy of the new resolution to the Office of Hawaiian Affairs (OHA) on September 23, 2016 to allow OHA to determine whether the state-owned land was classified as government or crown lands previous to August 15, 1895, or was acquired by the State in exchange for such lands.

The proposed land exchange will allow Parker Land Trust to realign the Lindsey Road extension as indicated in the Waimea Town Center Project originally approved by the County of Hawaii in 1992 by Ordinance 92-65.

The conveyance of the 0.780-acre State Parcel (currently set aside to the Department of Education (DOE) under Executive Order 3454) will not negatively impact existing DOE services or the existing Waimea Elementary and Intermediate School campus. Moreover, the 5.445-acre Parker Land Trust Parcel being conveyed to the State is intended for set aside to DOE for future expansion of existing facilities.

With respect to value, Section 171-50(b), HRS provides in relevant part as follows:

The public land exchanged shall be of substantially equal value to that of the private land. In any exchange, the fair market value of the private land and the public land shall be separately determined by a disinterested qualified appraiser or appraisers and the cost shall be borne equally between the owner and the board. No payment by the State shall be required should the private land exceed the value of the public land, but any difference in value of the public land over the private land shall be paid to the State at the time of the exchange; provided no exchange shall be made should public land exceed one hundred twenty per cent of the value of the private land.

Emphasis added.

As of August 10, 2001, the State Parcel had an appraised value of \$71,700, and the Parker Land Trust Parcel had an appraised value of \$366,400. The Department has ordered updated appraisals for both parcels and the results are expected soon. Although the values of both parcels

have likely increased over time, the Department anticipates there will still be a significant disparity in values in favor of the State.¹ Because the exchange statute requires a determination of fair market value, the appraiser does not consider the investment value of the State Parcel to Parker Land Trust, or for that matter, the investment value of the Parker Land Trust Parcel to DOE. Investment value is the specific value of a property to a particular investor or class of investors based on individual investment requirements, while market value is impersonal and detached.²

Thank you for the opportunity to comment on this measure.

1 The Department notes that Parker Land Trust ordered an updated appraisal on its own initiative that shows the value of the State Parcel as \$155,000 and the value of the Parker Land Trust Parcel as \$1,078,000 as of November 18, 2016.

2 Appraisal of Real Estate 14th Edition. Further, “market value is the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would have sold on the effective date of value, after reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither compelled to buy or sell, giving due consideration to all available economic uses of the property.” Uniform Appraisal Standards for Federal Land Acquisitions, section 4.2.1.



SCR 30
SUBMITTING TO THE LEGISLATURE OF THE STATE OF HAWAI'I FOR REVIEW AND
APPROVAL OF ACTION TAKEN BY THE BOARD OF LAND AND NATURAL RESOURCES
ON A LAND EXCHANGE
Committee on Water and Land

March 8, 2017

2:45 p.m.

Room 224

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on SCR30, which approves a land exchange of approximately 0.78 acres of state land for approximately 5.445 acres of private land owned by Parker Ranch in Waimea, Hawai'i. Although the identified state parcel is "ceded" lands, the state land set to be exchanged is currently undeveloped and has a lower appraised value than the private parcels that would be received by the State as a result of the exchange. The land exchange was also previously approved by the Board of Land and Natural Resources (BLNR) in 2003 and reviewed by the legislature in 2004. Accordingly, **OHA does not oppose this exchange.**

SCR30 has been offered for consideration by the Legislature in accordance with HRS §171-50. Among other things, HRS §171-50 only allows for an exchange of public land for private land for valid "public purposes" and requires a two-thirds approval by both houses of the Legislature before any specific lands controlled by the State can be exchanged (including, but not limited to, "ceded" lands). In general, exchanges of "ceded" lands raise concerns for OHA and its beneficiaries, because the Native Hawaiian people's unrelinquished claims to "ceded" lands have yet to be resolved. HRS §171-50 also requires that a copy of the draft resolution of approval be submitted to OHA at least three months prior to start of the legislative session. OHA was provided a copy of the draft resolution, as required. We appreciate the efforts of Land Division staff to address concerns previously raised by our agency.

In this case, the proposed exchange appears to meet the statutory requirements of HRS § 171-50. The exchange would consolidate holdings of public lands and allow for the expansion of Waimea Elementary and Intermediate School. The State would receive land with a substantially greater appraised value and would receive more acres of land in the exchange. The 5.445 acres of land that will be acquired by the State will take on the status of ceded, public land trust land by virtue of the exchange.

Accordingly, **OHA does not oppose the proposed exchange in SCR30.** Mahalo for the opportunity to testify on this measure.



March 7, 2017

The Honorable Karl Rhoads, Chair
Hawaii State Senate
Committee on Water and Land
State Capital, Conference Room 224
415 South Beretania Street
Honolulu, Hawaii 96813

Subject: Testimony on SCR 30 Related to an Exchange of Land
State of Hawaii and Parker Ranch Land Trust
Waimea, South Kohala, Hawaii Island

Dear Chair Rhoads and Committee Members:

Thank you for this opportunity to provide you with our comments on Senate Concurrent Resolution 30 related to the Exchange of Land between the State of Hawaii and Parker Ranch Land Trust. Parker Ranch strongly supports this land exchange which would convey title to 5.445 acres of its land for 0.780 acres of State land in Waimea, South Kohala, Hawaii Island.

Although the Ranch is giving up approximately 4.66 acres of land under this exchange, there is benefit both to the Ranch and to the Waimea Community. The exchange will result in an improved design for the proposed extension of Lindsey Road by removing a curve present in the existing design as well as allow improved access and sewer services to the Ranch's Waimea Town Center project through the creation of a utility easement through the DOE lands.

More importantly, the exchange will benefit the overall Waimea Community by providing additional land that may allow for the future expansion of the Waimea School site, either through the development of separate campuses for the Waimea Elementary and Waimea Intermediate Schools within this area, or through the exchange and/or sale of this area by the State in the event they decide that an alternative site for a new school facility is more appropriate.

While this land exchange process has been ongoing for a number of years, Parker Ranch is fully committed to finalizing this exchange as soon as possible. This will allow the Ranch to continue implementation of its Waimea Town Center (WTC) development plan. Improvements already undertaken as part of this WTC project include construction of Ala Ohia Road between Mamalahoa Highway and Pukalani Road, development of the Waimea wastewater treatment plan, construction of a major drainage diversion which allowed the construction of the North Hawaii Community Hospital's main building and development of two residential projects in Waimea.

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As you may be aware, the Parker Ranch Foundation Trust was created by Richard Smart following his death in 1992. The Trust includes four main beneficiaries, North Hawaii Community Hospital (an affiliate of The Queens Health Systems), Parker School Trust Corporation, Hawaii Preparatory Academy and the Hawaii Community Foundation. Accordingly, the overall benefits derived from this land exchange and the continued implementation of the WTC development plan will create value for the Waimea Community today and into the future.

Accordingly, we are seeking your support for this exchange which we believe is in the best interests of the State of Hawaii, the Waimea Community, and Parker Ranch.

Sincerely,

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

Neil ("Dutch") Kuyper
President and CEO
Parker Ranch, Inc.

cc: DLNR, Land Management
DOE, Facilities Branch