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THE SENATE
HOUSE OF REPRESENTATIVES
THE THIRTY-FIRST LEGISLATURE
INTERIM of 2021

MINUTES
for the
ACT 90 WORKING GROUP
LESSEE AND PUBLIC TESTIMONY: Thursday, October 14, 2021 (10:00 a.m.)
Via Videoconference

CALL TO ORDER: The meeting was called to order on Thursday, October 14, 2021 at 10:00 a.m. by Act 90 Working Group Co-Chair Representative David A. Tarnas. The meeting was conducted virtually via Zoom due to the current health risk of exposure to COVID-19.

VIRTUALLY PRESENT:

Act 90 Working Group Members:

House Committee on Water and Land:

Representative David A. Tarnas, District 7, Co-Chair
Representative Patrick Pihana Branco, District 50, Vice Chair

Senate Committee on Water and Land:

Senator Lorraine R. Inouye, District 4, Co-Chair
Senator Gilbert S.C. Keith-Agaran, District 5, Vice Chair

Department of Agriculture:

Morris Atta, Deputy to the Chairperson
Linda Murai, Senior Property Manager, Agriculture Resource Management Division



Department of Land and Natural Resources:

Suzanne Case, Chairperson
Robert Masuda, First Deputy Director
Russell Tsuji, Land Division Administrator
Kevin Moore, Land Division Assistant Administrator
Ian Hirokawa, Land Division Special Projects Coordinator
Gordon Heit, Land Division Hawaii Island District Land Agent
David Smith, Forestry and Wildlife Division Administrator
Steven Bergfeld, Forestry and Wildlife Division Hawaii Branch Manager
Jay Hakayama, Forestry and Wildlife Division, Forester
Ian Ko

OTHERS VIRTUALLY PRESENT: (As acknowledged by Chair Tarnas)

Robin, House of Representatives staff
Technical staff

BACKGROUND

This working group is set up by Act 139, House Bill 469 to ascertain the process and status of the transfer of non-agricultural park lands from the Department of Land and Natural Resources (DLNR) to the Department of Agriculture (DOA) pursuant to Act 90, Session Laws of Hawaii 2003 (Act 90) and Chapter 166E.

The second task of the working group is to determine the challenges and potential remedies necessary to facilitate the process of fulfilling the purposes of Act 90.

The Working Group seeks to get a better understanding of DLNR's land management of agriculture lands and how it is characterized in terms of food production, ecosystems services, reforestation, habitat conservation, cultural use, public access, recreational use, and other considerations.

The purpose of today's hearing meeting is to review and obtain feedback to draft a Report to the Legislature conveying findings and recommendations.

Co-Chairs Tarnas and Inouye welcome everyone and introduced Vice Chairs Keith-Agaran and Branco from the Legislature. DLNR Chair Case introduced her team and DOA Deputy Atta introduced his team member.

The next meeting will be held November 17, 2021 to review a draft Report to the Legislature conveying findings and recommendations.

Approved the August 16, 2021 meeting minutes.

Approval of August 23, 2021 meeting minutes deferred as Chair Case did not have a chance to review the meeting minutes.

TESTIMONY – ORAL AND WRITTEN, Q&A

Hawaii Cattleman’s Council presentation and written testimony, by Nicole Galase,

entitled “Act 90, 2003 Support for transferring agriculture and pasture leases to the Department of Agriculture.” See full written testimony – Attachment #1

We support the transfer (of agriculture and pasture leases) because it will benefit the leaseholder, as well as our community’s efforts to reach our state’s goals. This stability is best for the whole state, not just that rancher’s operation. It means that land is being actively managed.

Questions and/or Comments:

Chair Tarnas asked for any questions from Co-chair Inouye, Branco, DLNR.

Chair Case: For clarification, Nicole referenced the 2003 law stated that these lands should go over to DOA. I just wanted to remind everyone that the law required consent of both Boards so it did anticipate working out issues. On food stability, I would remind everyone that the majority of these ranchers export beef so we are not in a situation where we are actually meeting the food stability goals and we have other state goals. The DLNR does prioritize agriculture. As you know we have lots of land in leases. We work in various ways to support agriculture through ag leases, permits, invasive species, fire mitigation. We very much take part in pursuing this goal. These leases are stable. You can’t change a lease, at least not in DLNR. The lands that are in leases are not going to go anywhere. We respect our legal obligations. I just wanted to highlight these things. Thank you.

Co-Chair Inouye: Chair Case, you just mentioned that you can’t do anything with those existing leases so the issue that is before us with some of the lessees, but this is absolutely not true with what you’re saying because that’s why we’re here today because DLNR is looking at retracting away some of the lands from the current leases. As an example, can you explain the Kapapala issue?

Chair Case: For Kapapala, we do have flexibility theoretically with revocable permits but not with leases. Leases have a term, so at the end of the term under DLNR the leases go out to public auction again. There are situations that cause anxiety in the future and those are the ones where we want to be able to work on with ranchers, the same as DOA. If people have more questions, I can address them. Brendan Balthazar’s lease is not an Act 90 lease. That lease was a 2006 lease that he entered into that provided the right to withdraw portions of the lease to anyone because the seller was looking at potential subdivision. The Jason Moniz lease is not an Act 90 lease. That is a Department of Transportation mitigation requirement, so it’s not like we are trying to actively rip the lands out from under ranchers. We don’t do that.

Co-Chair Inouye: Please refresh our memories on the revocable permits. How long can a revocable permit be in place before action is taken.

Chair Case: A revocable permit is for 30 days at a time and given out a year at a time. They are revocable on 30 day’s notice, and they are renewed annually and indefinitely.

Each year the Land Board reviews all the revocable permits. Sometimes the permittees want to get out of them, some of them are converted to long-term leases.

Co-Chair Inouye: If there is a successful grazing operation by a lessee why wouldn't a recommendation be made as to the performance of a rancher or lessee to enter into a long-term lease?

Chair Case: Under current laws, if the rancher wants a long-term lease it has to go out to public auction. In some cases, neither the lessor or the permittee want flexibility and things will continue. If a change is wanted, then we will look at what's the best use of that land. If you want to leave things as they are or try to make a change. Sometimes revocable permits cannot be converted to long-term leases, for example, if there is a subdivision issue and have to be surveyed. It's expensive to do a survey. There are impediments to an easy conversion. What we are looking for is the ability to incorporate multiple uses in a disposition so that it's a cooperative agreement.

Co-Chair Inouye: I've received comments from not only ranchers but people in the community who have been following this issue. If the state is looking to increase its forestry reserve – Big Island has so much land, so why are we looking at an area where the lessee/permittee has a revocable permit as well as leases on existing properties. There is so much land here so why are we penalizing someone who has done such a great job so DLNR can continue to add to its forestry inventory. These are comments I've heard.

Chair Case: The answer is that we aren't doing that. There are rumors and fears. We as the state need the flexibility. We are looking for opportunities that don't interfere with ranching, where we can make advances for reforestation. It's a big issue for climate change. We don't have examples where we are taking land away from ranchers that are Act 90 lands to do this work.

Co-Chair Inouye: So you are saying that revocable permits, using the example of Kapapala Ranch, is not part of Act 90.

Chair Case: It is a parcel that is under review under Act 90. We want it to stay under DLNR so that we can manage its multiple uses. Those lands are good for grazing and they have good remnant trees with lots of Koa trees. We are afraid that if we don't manage the lands, those Koa trees could be cut down. We would like to preserve it as is. That's our long-term plan. We're in it for the long haul.

Co-Chair Inouye: You're saying it would impact the Koa trees. If there is a law or regulation that prohibits the landowner from doing that, it would solve the problem, right?

Chair Case: Yes, it could. But let me say that our leases do prohibit cutting down trees and sometimes that happens anyway. There may be other endangered or sensitive plants that we may want to install an enclosure around or a cluster of trees for birds to hopscotch around... Those are the kinds of things that we want to take care of – those are the multiple uses that are not the job of the Department of Agriculture.

Co-Chair Inouye: Thank you for that clarification. The agency has to do their job making sure the lessee is in compliance. Thanks for the explanation.

Co-Chair Tarnas: Morris, do you have any questions or comments?

Deputy Atta: Just a clarification. I got from the presentation that Nicole gave that there is a desire on the ranchers' part to feel assured that they can continue their operations on a longer-term basis. Nothing is permanent and nothing is forever, and I wanted to bring home that point that either under DOA or DLNR, portions or all of the premises could be withdrawn and taken back by the state for whatever purposes it deems as a public interest priority just with a statement made by the Board declaring that there is a significant public interest involved. I want to make it clear that what we are talking about here are not permanent solutions. There will always be that option by the state to do what they believe is the right thing to do for our environment or our public interests. That option is always available under any management and DLNR ultimately holds the cards to that decision making as the repository of fee title to state lands. It seems there is confusion about permanency, and I want to make it clear that at any time that land may be taken for public interest purposes. Therefore, the discussion now should focus around how do we deal with the shorter-term management issues which is what I think we are facing.

Co-Chair Inouye: I agree, Morris. I think the issue that faces us now, which I personally feel that coming from a neighbor island and the island with the most state lands, the Big Island. I think we forget we are historically the neighbor islands and there are a lot of things that can be preserved. There are issues -- you're looking at Oahu there is little ag land, and geographically you need to consider culture, etc. Big Island is unique. Less population and lots of land. Where are we headed in the future with food sustainability? I totally agree with you that state lands and the lease arrangements or change of activity if it's best for community is a topic of consideration for change.

Deputy Atta: I totally agree with what you just said. The point I was hoping to make is that considering the multiple important priorities as well as the character and personality of the places that we're talking about, all of which are important, should be considered. How we, in government, ordinarily handle that is to have collaborate working arrangements whatever form that collaborative working arrangement takes. I want to emphasize that DOA and DLNR have been working on many things in a collaborative manner and that relationship has taken many different forms on how we achieve very important public goals. I think it's possible in this setting as well. It's my perception that this group is trying to find collaborative solutions that will work for land management in this situation which happens to be a significant focus. Land management is the focus of Act 90.

Co-Chair Tarnas: Ms. Galase do you want to respond before we go on to the other testifiers?

Nicole Galase: Chair Case, thank you for bringing up some of those points and I want to address a couple of them. First, I might not have been clear enough in the beginning of my presentation when I brought up Brendan. I was bringing it up to say that he does understand that the lease in Kula is a different situation, but he also has a lease in Kaupo

that he is advocating for its transfer to DOA. Brendan is someone who would advocate for the transfer of ag lands to the Department of Agriculture. I am glad you brought up the issue of ranchers sending calves to the mainland. Respectfully, I say that I think it's false to say that ranchers who send calves to the mainland are not contributing to local food production. They are contributing to local food production because we can't meet the full demand of Hawaii's beef demand with the local cattle. There is always going to be the need to import beef from the mainland both to meet the demand and for people who have preferences for grain fed beef. Regarding the cow calf operation here in Hawaii – our ability to do that year around is actually really important to the mainland operations. On top of that, to be more direct, if the ranchers do not have the ability to diversify their portfolio and have the ability to send some of the calves to the mainland, they are not able to work towards having more grass-fed beef in Hawaii. We've done a survey – most of the ranchers want to increase the amount of grass-fed beef they produce. There are many factors affecting that – the market for which there is the demand, which is great. Others are processing, for which there was a downward turn we are hoping that will increase. And, there is the availability of land. Without having the ability to do cow calf as they work towards 100% or a larger percent of local grass fed beef, they would be out of business. For example, one of the ranchers that sent in testimony is SC Ranch. They noted that 85% of their operation is in grass fed beef and the rest is sent to the mainland. They stated in their testimony that they want to be 100% grass fed beef. But they are not going to do that if the business environment is not right, if they don't have the confidence in their lease, if they are not able to plan out. That's just an example there and I'm glad you brought that up because I think a lot of people don't understand it. I hope I explained that well enough. Thank you.

Co-Chair Tarnas: Thank you, Nicole. I'd like to move ahead and listen to other testifiers. I'll take them in alphabetical order. Brendan Balthazar is unable to be here today, he's out working his cattle, so I refer working group members to his written testimony. Next, is Neil Hanna's.

Neil Hannahs, Kamehameha Schools (retired), See full written testimony – Attachment #2
Thanked Chair Case for asking him to testify as these are very important lands and play an important role in all of our goals. I'm on the board of the Hawaii Conservation Alliance Foundation. Looking at the assets the state has and the goals stated, there is such an opportunity. If you can collectively work on this which is what the working group is doing. Your resources are stretched so thin, but I think there are ways to have those assets contribute to Hawaii's wellbeing...these lands have multiple values and require integrated management strategies that can foster gains across the value spectrum, rather than maximize a single dimension of return at the expense of all others...Therefore, I can support leaving these assets in DLNR.

Co-Chair Tarnas: Thanked Dr. Hannahs and called on the next testifier, Lani Petrie from Kapapala Ranch

Lani Petrie, Kapapala Ranch, Hawaii Island: Oral and written testimony. See full written testimony – Attachment #3
It is evident in the last 18 years since the passage of Act 90 that emotions and elections have rendered no change in the status quo of how the State's lands are managed. I am

submitting the Holistic Resource Management Decision Model (HRM) to the Act 90 working group. By using the decision-making model to hone in on a process – starts with LANDSCAPE GOALS, a quality of life. In that quality of live we have ECOSYSTEM FOUNDATION BLOCKS that support whether a Koa forest can be managed or not. I am a student of HRM, not a teacher. We start by talking about how there is so much land on the Big Island; there is so much land in conservation; there is so much land in Ka'u. I actually have the lava flow maps, and we're talking about very small areas that can be managed for certain things. I want to take the Koa area, now known as the canoe area and will run it through the decision-making tool. Two to three hundred years ago, the Quality of Life were when the alii needed feathers for capes for decorative adornment. The word, Kapapala, itself is the papala plant, the sticky plant to catch the birds. Two to 300 years ago, this 1,250 acres was used for gathering feathers and logs for canoes. On the chart is the ECOSYSTEM FOUNDATION BLOCKS of 1) succession, 2) water cycle, 3) mineral cycle and 3) energy flow. Those supports were all there to support harvesting koa logs and collecting birds. These areas were 8,000 to 9,000 years old based on USGS maps. The next row – what TOOLS did the Hawaiians have? They had technology to harvest these canoe logs and lots of labor. The animal impact wasn't 4-legged animals, it was human impact. Moving a koa log and getting it to water underscored and removed a lot of the understory but it also enhanced the energy flow by allowing more sunlight and more of the koa seedlings to regenerate. The next row – GUIDELINES. The guidelines the Konohiki probably used for testing is the koa forest regenerating itself. The guideline of wealth, do we have enough fishing canoes – the population is growing and the need food is growing. So that was 200 to 300 years ago. Let's fast forward. Same 1,250 acres, post European contact. What's the quality of life? The kingdom needs goods for trade. We are not a sustenance society anymore. We need to be able to trade goods. There is a growing population – this is the first block – QUALITY OF LIFE, PRODUCTION AND LANDSCAPE DESCRIPTION, which has shifted now that we have a demand for food and a demand for the Kingdom to be able to trade. The King issues leases for ranching. Next row -The ECOSYSTEM blocks are very good for supporting livestock – there is plant succession, water cycle, mineral cycle, energy flow. Remember now, that 200 years ago we did not have pipes and redwood tanks. I can see that this would be very very important because of the water cycle that the ranchers would have moved animals towards more of the rain forests, which today we don't want. But in those days, going back to the QUALITY OF LIFE, was necessary. Next row – TOOLS – grazing, cross fencing, animal impact increases the energy flow because the sun is getting to the ground. Again, this is supporting the quality of life of one to two-hundred years ago. Technology is changing. Water tunnels that sugar companies built are starting to provide water. Livestock's natural habitat is in a savannah, not in a rain forest. So as technology improved, ranchers were able to pipe water further out to more natural habitat, and areas like this 1,250 acres which is now the koa canoe area were less and less important although lessees and expired lessees tended to not allow ranchers to continue to do much to keep cattle out of those areas which is still the case. In 1990, we are still looking at the same area. What is our quality of life? We are now an affluent society. People have excess money. They are not worried about starving like they were in pre-european times. They're not worried about trading. We have a fairly stable economy. So the demand for this area is not so important to the ranch. It made sense when DOFAW approached my father to turn it into a regenerative koa forest. It was all thumbs up. Everybody was happy. What needed to happen when you look at your

ecosystem foundation blocks? Well, that area wasn't chain dragged to the best of my knowledge, but plant succession needed help to regenerate that forest. Go to the next line TOOLS. What are the tools? Grazing-we remove the grazing. Take them out. We know that if you want a forest that has legume like ___trees to thrive you must remove grazing animals. That happened, and here we are today, 30 years later and there's really no active productive management of the area. But what's happening to the ECOSYSTEM FOUNDATION BLOCKS? Well, the water cycle, mineral cycle, energy flow – they're kind of staying the same but the plant succession is not. I was very disturbed when I heard the findings of Forest Solutions who has just done a forest inventory survey of that 1,250 acres that there is now banana polka in the area. Where I'm going with this is I'm proposing this decision-making models that are out there be used. To finalize what I am saying: we had shown DOFAW alternative sites for planting koa. We are willing to take 7,000 acres at the top of the ranch that has the last two remaining 8,000 to 9,000 year old soils for reforestation and we would be happy to see that removed for their purposes and while that area below, the 7000 acres that as Peter calls it "not top tier conservation lands, can be used for agriculture and transferred to the Department of Agriculture. I see it as a WIN-WIN. I can be reached by phone or email to discuss the Model and how it has been used to improve and quality of life.

Co-Chair Tarnas: Thank you to Lani for her testimony and if there are any questions regarding the models we will follow up with you. Next, we have Peter Simmons.

Peter D. Simmons, Kamehameha Schools (Retired), See full written testimony – Attachment #4

We should put the emphasis on what is best for the land. As Neil touched on, it is the short-term agreement on a long-term project is not the wisest way to manage, and I would imagine DLNR recognizes that and would prefer to have longer term agreements too. The environmental services that were provided by the ranchers when cattle were wild was to tame the cattle. That's what it was about. So in the early days we had wild cattle, which is not a good thing for the rancher today or for any forest. So, it's the management issue; how well do we manage the cattle, how well do we manage the tree farm, how well do we manage the orchard, etc. The one thing that has been missing in this conversation of which I wasn't aware of this until I read about the strawberry guava and the release of the Brazilian scale; and it was then that I looked at the lands more carefully. 48 percent is conservation. Well, 1.1 million acres of that conservation is designated resource conservation; 1.1 million acres of that low elevation, ohia koa forest is designated as resource conservation, not "P" protected conservation. There are two activities identified as what should be done with those lands: one is recreation and the other is commercial forestry. I never accounted for that; I wish I had. The idea of growing forestry as a commercial enterprise in Hawaii, back in pre-1974 or so, had to do with those conservation R lands. What does have to do with the leases? The conservation R lands were a blended use and anticipated as multiple use. But, these lands have fallen into extremely tough times. And that's my point. I always testified in favor of whatever DLNR and DOFAW thought was best and I didn't want to interfere with the wisdom of the management. I've always respected the people that I've known. It wasn't easy to come in and testify after I retired and actually have to re-educate myself about topics that I was less than familiar. Looking at our lower forests that goes up into the pristine forest, the lower parts are being eaten. I am so

disappointed and upset that I was so ignorant and couldn't help but can at least call attention to the underfunding of DOFAW, and this isn't new. There is a tremendous amount of work that needs to be done and they don't have the money to do it. It's all about management. So, the idea of going into new enterprises to do good deeds, to do what is needed, but we're losing a lot. We just can't afford it. 1.1 million acres was being inundated by strawberry guava and other invasive weeds – that's the size of two Oahu's – about one-third of it is smothering and killing the old forest, another third is climbing up the hill and infecting the area, and the last third is in the more pristine areas, in the areas where the rare plants and birds are. When I read the EA I feel like my hair was lit on fire. I wish I had been aware of it earlier but I wasn't. When you look at all of the problems that we've got to take care of, our natural resources, and all the reasons that we can't pay for it, all the reasons why we can't afford to do the work. As I wrote in my testimony and as I dug into this, I'm really impressed with DLNR and DOFAW over the years being able to do some magic and doing as well, we have collectively failed ourselves in the lower elevation areas. I'll close by mentioning that in 1909 there was a conservation tax in Hawaii. Thanks.

Co-Chair Tarnas: Thanks to Peter Simmons for his testimony (oral and written testimony). Other people have submitted written testimony and if they are present they are welcome to testify. Vanessa Stephens with SC Ranch. I don't see her. Michelle Galimba from Kuahiwi Ranch. Theresa Thompson from Thompson Ranch. Ulupono Initiative; David Smith from DOFAW; I see you here David. Did you want to describe anything about your written testimony at this time? The floor is yours at this time.

David Smith, DOFAW, DLNR. See full written testimony – Attachment #5
I just wanted to get somethings on the record regarding the Kamehame Nui land acquisition and the Balthazar lease. There's some supporting documents regarding the funds used to purchase the land. I see now that Mr. Balthazar is acknowledging that the lease is not a relevant parcel to be discussing under Act 90. It was just purchased a year ago by the state for forest reserve purposes using funds for forestry and endangered species restoration. So the documents submitted were relevant to that lease and I wanted to make that information available.

Others submitting written testimony only – See Attachments #6 – #10.

Brendan Balthazar, Diamond B Ranch, Maui – Attachment #6
Summary: *...I am asking you to put part of this land under DOA...if it says under DLNR it will be lost forever...The cost to put what was beautiful open land back into ag is too costly...we have a department that understands ag and should be the managing it...giving DLNR more power is wrong...as you can see it is my life and my passion...I would like to see the next generation of ranchers be able to farm that land that I put so much into...*

Michelle Galimba, Kuahiwi Ranch, Hawaii Island – See Attachment #7
Summary: *...My ranch has benefitted greatly from the transfer of a key lease from the DLNR, where it was under a short-term revocable permit to a long-term lease under HDOA. Although we pay slightly more for the lease, we are able to make long term investment in water and fencing infrastructure with peace of mind. We also can make long term plans for local beef production and thus contribute to the sustainability of Hawai'i's food system....the*

public good is served by transferring these lands to be leased by HDOA to bona-fide farmers for agricultural production...it is important that these natural resources be protected. Whether this is best done under DLNR or HDOA is probably a question that must be taken up case by case and lease by lease....

Theresa Thompson, Thompson Ranch, Maui – See Attachment #8

Summary: ...The Thompson Ranch on Maui has been raising cattle for many generations, and understands the importance of raising food for our community. We ask that you lease consider the transfer of all Agriculture State Land Leases from DLNR to HDOA. We support lands in active cattle production....

Charles and Vanessa Stevens, SC Ranch Co. Hawaii Island – See Attachment #9

Summary: We are SC Ranch which has been in business for over 45 years...we have owned SC Ranch since 2011... and grown it to a first-class cattle operation... 85% of our cattle remain in Hawaii's local consumer market. We strive to be 100% local but current instability requires that we diversity with a portion of our business as cow/calf. We are Hawaii agriculture and should be represented by the Department of Agriculture.... Since our lease is under the Department of Land and Natural Resources, we live with the threat of possibly losing our lease or having to buy it back plus improvements at the end of our lease. We make these improvements because it is the right thing to do and we are confident that our lease should stay agriculture and be under the DOA.

Ulupono Initiative, Micah Munekata – See Attachment #10

Summary: Ulupono Initiative supports the local livestock industry and its efforts to provide fresh healthy products for Hawaii's consumers...Ulupono believes however that all active agricultural pasture leases should be transferred to the DOA per the intent of Act 90, SLH 2003 as DOA's mission and expertise to manage agricultural activities and related natural resources, including pastureland production, through a favorable lease structure promotes local food production and directly supports State sustainability goals....

Co-Chair Tarnas: Thanked David Smith for his comments and directed working group members attention to the written testimony from David Smith for that information. Called for anyone from the public to provide testimony who is online with the group today. If so, unmute yourself and introduce yourself. I don't see anyone.

Working Group Questions and Comments

Co-Chair Tarnas: So let's turn back to the working group members for any questions to our testifiers or discussion. Vice-chair Bronco, Co-chair Inouye, I'll defer to your first with any questions. No? Morris Atta, any questions of our testifiers? Chair Case, questions for our testifiers? No.

I'd like to commend all the testifiers who came today, taking the time to do this. Many of you have testified on this measure for many years, and it's exhausting and I appreciate you. With this working group procedure we have been trying to allow people to provide their input and give the mana'o, their resource documents, their suggestions so that we can come to a collaborative solution. I want to highlight what Deputy Morris Atta said about collaborative

working arrangements and how we actually make that happen. I think it would be important to any legislation that we move forward. What can the legislature do to facilitate the active collaboration between DOA and DLNR, whether it's DLNR leases that stay with DLNR because of the multiple objectives that they need to achieve and how can the Department of Agriculture assist DLNR in making sure the agricultural operations on those DLNR leases actually have what the lease terms and conditions needed. I'd like to understand better what the legislature can do to help facilitate that collaborative working arrangement. I've also learned that it's important for DLNR and DOA to work with the ranchers to increase other funding support through NRCS or other sources so that we can leverage our state lands, our lessees, our permittees to get those NRCS grants, etc. I've also learned it is important for DLNR to have additional flexibility in their ways of leasing public lands much like DOA has. As Michelle Galimba brought up, there is clearly a lack of trust of DLNR that there is a commitment for agricultural production as a priority. We've heard from Chair Case numerous times that, in fact, agricultural production is important to DLNR. But, how do we built that kind of trust relationship is what our challenge is moving forward. We need to make sure that those lands that should be transferred because they're primarily ag producers should go to DOA, but if there are multiple purposes how do we actually manage those lands properly. How do we do perhaps what Lani Petrie has suggested using a decision-making tool to make those decision in the best way. So those are thoughts that I've learned through this process. I open this up to other working group members. This is not definitive. We are not suggesting specific legislation but if there are any comments.

Co-Chair Inouye: Thanks, Neil for the history. Kamehameha Schools has been good to its constituents and they've had an excellent land management portfolio. History tells us that it's totally different from how the state manages its lands. There's been no controversy since I've been here in government and being a local girl, that has been heard of KS exiting any lessee from its lands. They work well together. It's totally different from state operations. I agree with Peter Simmons' comments that DLNR is an example of good stewardship to forestry and they need funding – I agree. DLNR does best doing forestry if they have the tools to manage those lands and their programs. Act 90 was created during my term in those years of working with all of those in agriculture as well. It gives a clear example of what we are faced today: carbon sequestration, global warming. I believe we should continue our forestry program and we need to separate that. I totally agree with what Peter says. We've come a long way educating ourselves. It's sometimes heartbreaking to hear about the impacts back in early 2000 when I managed Agriculture as chair. I really appreciate all the work and there's more to do. As the new chair for Water and Land and my staff, we are visiting all the agencies and seeing all the hard work that DLNR does. We have to make decisions about where we are heading in the future of Hawaii. I appreciate all the information and what we've learned throughout these past months. Appreciate and thanks to all for the testimonies from Neil and Peter coming out of retirement. We lost Monty Richards who had a lot of history and support for the industry. There are many who support the industry and concerned about how Hawaii is to survive in the coming year.

Comments from the Working Group

Co-Chair Tarnas: Call for final comments from Chair Case and Deputy Atta.

Chair Case: Co-chairs Tarnas and Inouye have given a really good summary of the importance and complexities of all these issues. You have our commitment to work in good faith with everyone on solutions here. We believe that very strongly. Thank you very much.

Deputy Atta: I can't agree more with Chair Case about what's been said. I'm grateful for all the information and the viewpoints. I sense that everyone wants to come to the same or very similar conclusion which are collaborative solutions to all of these very important goals. So I thank all of you for your contributions to this process. I really do appreciate that and the Department stands by ready to do what it needs to do to make sure it works for everyone. Thank you.

Co-Chair Tarnas: Thank you to all who are here today. Please submit testimony in writing so that they can be a part of the record.

ANNOUNCEMENT OF NEXT MEETING

The next meeting will be held November 17, 2021 at 1:00 pm to review a draft Report to the Legislature conveying findings and recommendations.

ADJOURNMENT

Co-Chair Tarnas adjourned the Working Group meeting at approximately 11:35 a.m. and thanked all for participating.

ATTACHMENT #1

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We agree with the legislators who put this into law in 2003 – ag should be managed by the department of ag. But there still over 100K acres of ag land that is not under the Dept of Agriculture.

We support the transfer because it will benefit the leaseholder, as well as our community's efforts to reach our state's goals. This stability is best for the whole state, not just that rancher's operation. It means that land is being actively managed.

Brendan Balthazar was not able to make it today to testify, he's working cattle, but wants to echo these same sentiments. He specifically wanted to relay that while his Kula lease was discussed for reforestation by DLNR in previous meetings, he does have a DLNR lease in Kaupo with the same message – transfer this lease to DOA under Act 90.

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Intent of Act 90: ensure the long-term productive use of public lands leased or available to be leased by the DLNR for agricultural purposes by allowing these lands to be transferred to and managed by the department of agriculture.

There are multiple goals for the state - leaseholders are not here to claim entitlement to a lease, but to make sure they have the means to utilize the land in a way that meets our state's goals. They are putting work into the land every day.

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These goals overlap, and we should capture those synergies to move us most efficiently towards these goals.

We can't choose one goal and march towards it while ignoring the others. I don't think it could be defined as success if we reforest the land, but lose our food security.

The reason Act 90 said there would be benefit for the community if ag land is transferred to DOA is because they are the appropriate agency to manage for agriculture.

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APPROPRIATE MANAGEMENT

History of DLNR taking land from agricultural production to put into forestry, with no successful reforestation



DLNR Mission

Enhance, protect, conserve and manage Hawaii's unique and limited natural, cultural and historic resources held in public trust for current and future generations of the people of Hawaii nei, and its visitors, in partnership with others from the public and private sectors



HDOA Mission

To further expand the role of Hawaii's agricultural industry to benefit the well-being of our island society by diversifying the economy, protecting resources important for agricultural production, and gaining greater self-sufficiency in food and renewable energy production.

Both missions are important to Hawaii, and both should be pursued. However, in the case of lands with active agricultural production, we advocate for agriculture to be prioritized. In this way, we can make progress toward multiple goals, while not harming food production.

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According to the DOA Baseline studies, the number of acres in pasture in the state is declining. This takes us in the opposite direction of food sustainability and increasing local food production.

ATTACHMENT #1
(page 6 of 11)



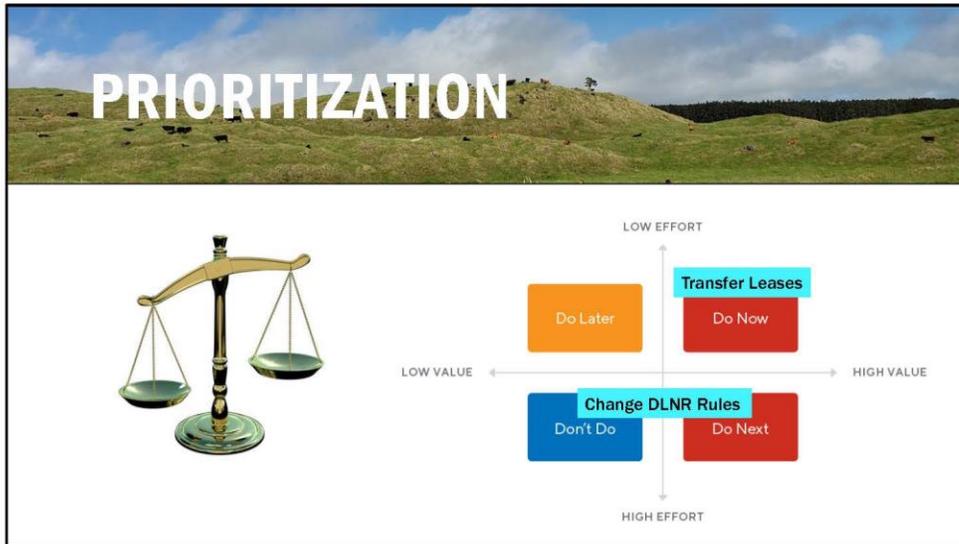
48% of Hawaii’s land in conservation according to the Hawaii Data Book.

Conservation is important, but it’s a huge task. Almost half of Hawaii’s land is in conservation, and those lands need management.

Why are we considering converting lands in active agriculture for reforestation, when there is still so much work to do on the land that is already zoned as conservation? Why not let the pasture lands continue to produce? Bremer, et al published an article in the Land Journal earlier this year on Maintaining the Many Societal Benefits of Rangelands, specifically in Hawaii. In order to get those benefits of carbon sequestration, soil health, open landscapes, we need to preserve ranchers ability to produce.

ATTACHMENT #1

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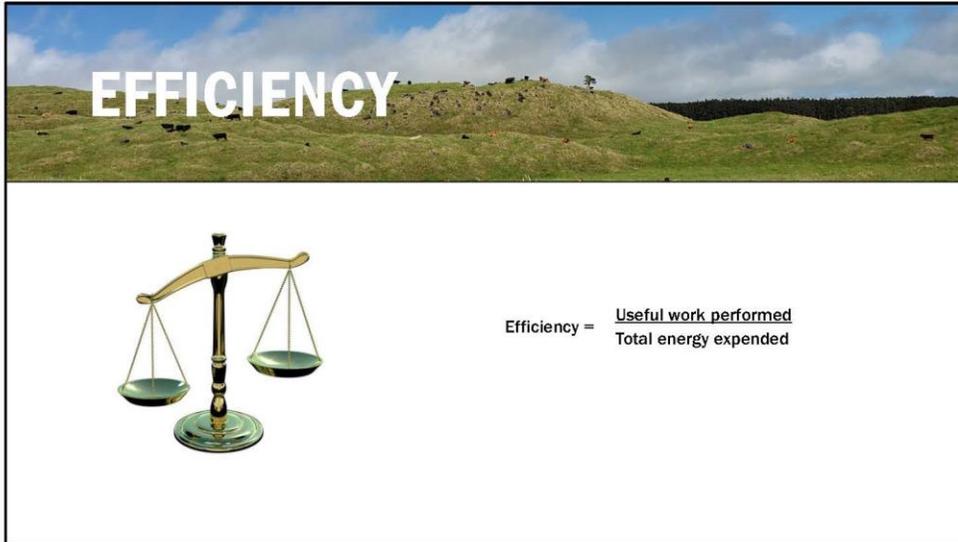
There are limited resources, we want to get as much done as possible.

Transferring the land now gives high value to the lessee and to Hawaii's food security, and it requires low effort. That falls under Do Now.

Changing the rules to give DLNR the ability to give the same lease terms as DOA – that's high effort, and it'll also take time, making leaseholders continue to wait. Perhaps there's some value for some leases if DLNR gets this, but there's no value in it for pasture leases, because if not transferred, they are still under a dept that does not prioritize agriculture. That puts this scenario somewhere between "Do Next" or "Don't Do" In either case, Transferring leases is what we should Do Now.

ATTACHMENT #1

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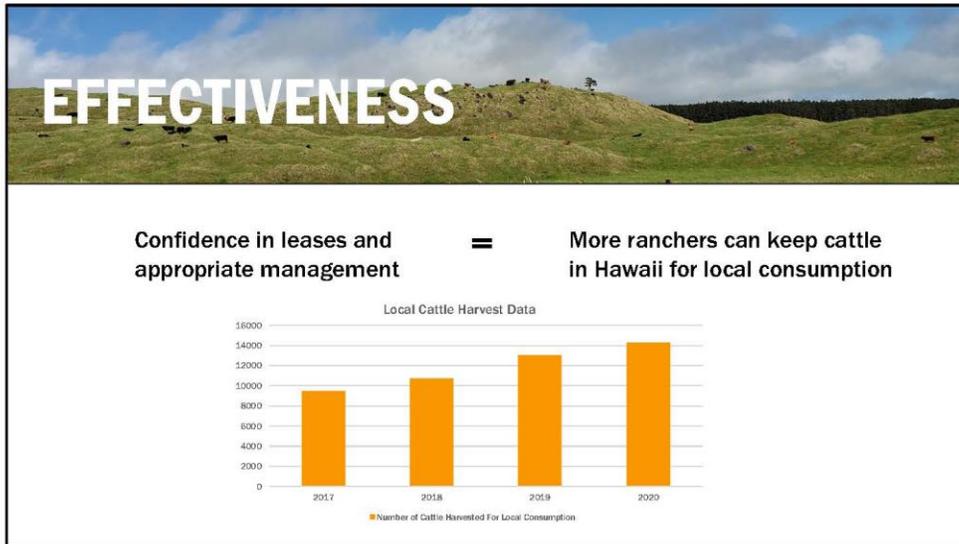
EFFICIENCY

Efficiency = $\frac{\text{Useful work performed}}{\text{Total energy expended}}$

What we're looking for is efficiency.

I just want to compare the efficiency of the different systems. The efficiency of the different systems is what we are looking for. The efficiency of the different systems is what we are looking for. The efficiency of the different systems is what we are looking for.

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Jssh\$Tshygr

Over the years, ranchers have been aiming to keep more cattle here for local consumption. With the increase in capacity planned for both the Oahu and Paauilo processing facilities, we can expect ranchers to be able to fill more of the demand for local beef in the coming years. But they need to be confident in their leases to convert their operations to more grass finished beef. While the ranchers produce, they are also removing invasive species, improving roads, creating water systems, maintaining fences, improving soil health.

This is both efficient and effective in reaching our state’s goals.

We are not against what DLNR is doing, we are just asking that they allow leases with agriculture to be transferred to the DOA where the lessee can be assured that ag production will be prioritized. Keeping these lands producing beef gives us a better chance at having access to food, esp high quality protein, if our supply chains are disrupted. We want to see this continued upward trend of local cattle harvest, but this move requires long term planning, and that’s difficult if the lessee is under DLNR instead of DOA.

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STABILITY

Under DOA

Confidence that agriculture is a priority.

Under DLNR

A rancher needs to weigh whether it's prudent to invest in land improvements or not.



Need to know that ag on the land can continue, regardless of the personalities that come and go in leadership positions. There should be an order of operations when prioritizing, a clear map to follow that is objective, not subjective. Yes, Act 90 states that both boards need to agree. But we can't allow there to be stagnation just to keep status quo – there needs to be a reason for the disagreement, one based on objective reasons, not politics.

We are proponents for adaptation, but lessees shouldn't fear that they won't be able to produce because of a certain administration or make up of a board.

We heard in previous working group meetings that DLNR and HDOA work well together. I would hope they can work well together to organize conservation efforts on agricultural lands that are under the Dept of Agriculture. When it comes to the proposal of giving DLNR the same lease making abilities as DOA – that still doesn't change the fact that DLNR does not prioritize agriculture. They may get the ability to provide appropriate leases, but they're not compelled to. So why leave an agricultural lease under a dept that does not want to support ranching? Why spend more time trying to make a workaround and making these leaseholders wait, when they can be transferred now and be confident they'll be able to continue producing beef? Maintaining these lands in pasture does not diminish the forest that is already there, in fact, it could enhance it with a leaseholder on the ground for the long haul. We understand that DLNR wants to hold the line on the decline of forests – but

ATTACHMENT #1

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these rangelands are already in active production. If we take them out of production, it's difficult to get it back, again moving us in the opposed direction of food security.

We've seen the instability of the supply chain. If these ranches continue what they are doing, they have the ability to feed our community even if ships stop coming. We will still have forests, the 48% of land in conservation. But let's not chip away at our active ag lands in order to add to that percentage on paper. Take care of that 48%, and allow these ag leases to transfer to DOA as was intended under Act 90.

ATTACHMENT #2

(page 1 of 2)

To: State Pasture Land Working Group
From: Neil J. Kaho'okele Hannahs, Founder & CEO Ho'okele Strategies LLC
Date: October 14, 2021

I. Open

- a. Mahalo for the opportunity to join this discussion concerning State agricultural lands and encumbrances held by DLNR.
- b. I don't possess a working knowledge of these assets & agreements, but did come to know lands like these & felt the pressures of the competing demands for them during my tenure as Director of the Land Division of Kamehameha Schools (KS) where I had kuleana for 358,000 acres of land in roughly equal portions of AG & CON designation.
- c. What I learned from that experience is that **these lands have multiple values and require integrated management strategies that can foster gains across the value spectrum, rather than maximize a single dimension of return at the expense of all others.**
- d. It is my understanding that your management team in DLNR shares this perspective and is endeavoring to strategically deploy these lands to contribute to the achievement of State goals for:
 - i. Increasing local food production
 - ii. Strengthening biosecurity
 - iii. Increasing watershed protection
 - iv. Enhancing marine resources
 - v. Increasing generation of renewable energy
- e. **Therefore, I support leaving these assets in DLNR.**

II. Case Study

- a. I do not speak for KS, but I do feel at liberty to share some insights into our management approach as an analog that might catalyze ideas for your situation.
- b. Like you, we had to adapt our management strategies as circumstances changed over time, values evolved & different outcomes were expected.
- c. Highlights of Power Point
 - i. KS adopted a strategic goal to generate an optimal balance of cultural, economic, educational, environmental and community returns (aka 5 values) from all of our lands, regardless of land use designation.
 - ii. The Land Assets Division was formed and given responsibility for the Agriculture and Conservation land portfolio comprising ~358,000 acres that were equally divided between AG and CON.
 - iii. We evaluated the entire portfolio from the standpoint of our 5 values and developed the following plans that set forth values, outcomes, measures of success, financial projections, priorities and action plans for:
 1. Culture Resources
 2. Natural Resources
 3. Water Resources

ATTACHMENT #2

(page 2 of 2)

- 4. Educational Engagement
 - 5. Agriculture & Renewable Energy
 - a. Including a Pasture Plan that identified total acres under agreement, usable acres, high quality acres.
 - b. Metrics
 - i. Increase in local food production (market share of locally grown food)
 - ii. Food security:
 - 1. how many people in HI fed
 - 2. Number of jobs created
 - iii. MW of energy generated
 - iv. Homes powered
 - v. Forest acres planted / replanted
 - vi. Acres of certified organic farms
 - vii. Acres of traditional crops
 - viii. Acres of newly irrigated fields.
 - iv. We managed our assets and leases in accordance with these plans; focused on outcomes and impacts, rather than activity; & produced unprecedented returns.
 - v. We tried to perform as a cohesive unit by creating ownership of all the goals by all of the team. We had our moments of total alignment, but there were also inevitable tensions and conflicts. That is to be expected and is in some ways a healthy sign of the kind of diverse, competent and passionate team you need to take on an assignment that requires holistic strategies.
- III. Closing**
- a. Credit for the shift of KS' land management strategies should go to stakeholders across the State who demanded the adoption of a balanced scorecard of impacts and returns.
 - b. If anything, the concerns that were expressed to us more than two decades ago have only grown more fervent in this era of heightened awareness of the implications of climate crisis, food security, watershed protection, cultural renaissance, biodiversity and regenerative economy.
 - c. The assets that are the focus of your study can play a powerful role in addressing these concerns and I believe that the staff of DLNR are so committed and are doing the best they can with their limited resources to deliver these outcomes.
 - d. Mahalo for considering my views.

ATTACHMENT #3

(page 1 of 4)

KAPAPALA RANCH
P. O. Box 537
Pahala, HI 96777
Kapapala.ranch@aol.com; lanipetrie@aol.com
808-936-2922

Act 90 Working Group Hearing
October 14, 2021
10:00 am by Video Conference

Members of the Committee, thank you for the opportunity to submit comment on the subject of Act 90 Session Laws 2003.

It is evident in the last 18 years since the passage of Act 90 that emotions and elections have rendered no change in the status quo of how the State's lands are managed. Internationally, though, many organizations have found the usefulness of Decision Making Models. Models that start with a Quality of Life and Landscape Goal.

I am submitting the attached Holistic Resource Management Decision Model as an example and would like to explain the model to the Act 90 Working group given the opportunity within the hearing. Otherwise, I can be reached by phone or email to discuss the Model and how it has been used to improve the quality of life and landscapes with achievable outcomes.

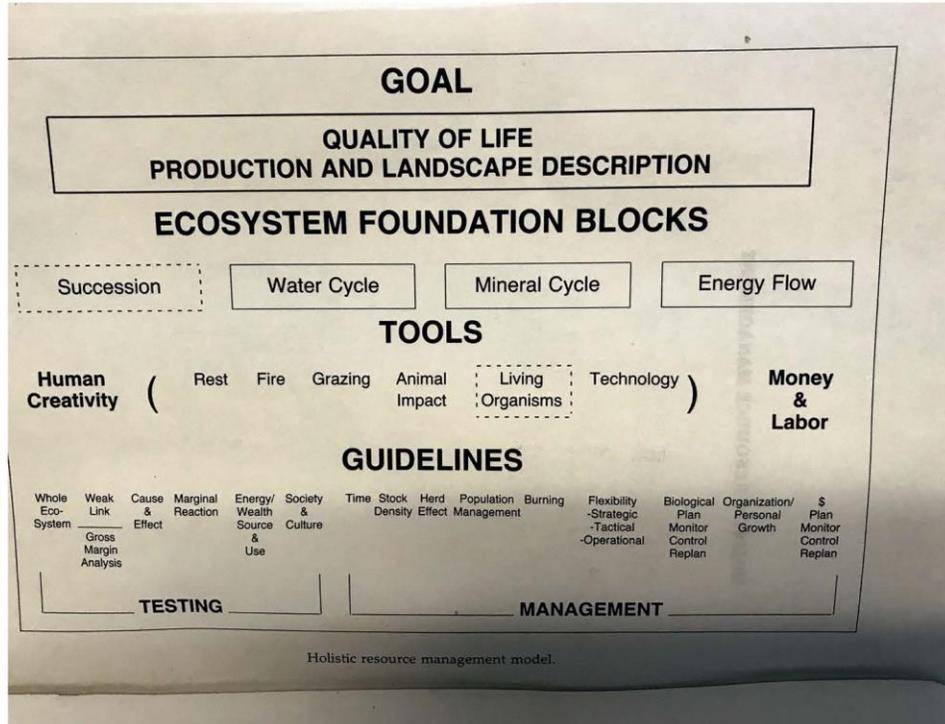
I will be on the zoom hearing to answer any questions.

Thank you,

Lani C. Petrie

ATTACHMENT #3

(page 2 of 4)



Created with *Photomyne*

ATTACHMENT #3

(page 3 of 4)

KAPĀPALA RANCH

**Act 90 Working Group Meeting
September 9, 2021
From A Tenant's Perspective**

Lease Rent

Deputy Masuda pointed out that the Kapāpala annual lease rent is \$44,000. Further commenting, "that's only \$2.00 per acre". GL 5374 is roughly 22,000 acres hence Masuda's calculation.

In actuality, \$44,000 is the net rent paid to the DLNR after the bird hunting credit of 20%, or \$11,000. Thus the fixed rent is \$55,000.

In the last rent reopenener the appraiser reconciled that 7,000 acres of kipukas had adequate soil to be productive grazing area whereas 14,000 acres were lava flows. Thus \$55,000 divided by 7,000 acres is \$7.86 per acre per year and a more accurate calculation of the grazing rent generated from these lands.

Another factor to consider is the land maintenance cost. Our annual budget for invasive weed control on GL 5374 is three times that of the lease rent or \$17.14 per acre per year. \$25 per acre per year (\$7.86 + \$17.14) more clearly depicts the tangible return on public trust lands.

The intangible returns of grazing and weed control are increased habitat for the endemic and threatened Nēnē. Groups of sometimes as many as 20 birds are seen congregating and grazing in open fields around the ranch. We also see a larger percentage of unbanded birds than we witnessed 20 years ago.

Also an intangible is the recreational component to the bird hunters with enhanced areas for sport hunting. More often today we find hunters in areas that we intensively manage brush. The ability to walk freely in short grass and easily work a bird dog make for desirable hunting conditions.

Water System

Chair Case questioned what authority Kapāpala Ranch had to build the new water system in a pristine Koa forest within GL 5374.

Our decision to upgrade the water resource was due to the fact that the Ranch's primary water source of Makakupu Tunnel was badly degrading. Built in 1925 its age as well as location made it questionable to the degree of repair the Ranch should make especially considering it's 30 day revocable permit status.

ATTACHMENT #3

(page 4 of 4)

The water system, Kaniwai, would be built in conjunction with USDA's Natural Resource Conservation Service's (NRCS) Environmental Quality Incentive Program (EQIP). The application required a Landowner's Consent which was signed by DLNR Administrator Russell Tsuji in 2005. With the passage of Act 90 only two years prior, we were highly motivated to build a water resource with capabilities that would service the land for generations.

The reservoir and catchment sites were carefully chosen for two major reasons. First, the elevation at 4,850' was 1,100' higher than the current Makakupu system thus eliminating expensive pumping. Secondly, the site was a sparsely vegetated pahoehoe flat. Satellite imagery prior to 2008 reveals the natural vegetation prior to construction. There were scrub ohia and less than a dozen small koa trees that were cleared from the site. Deputy Masuda and Michael Constantinides of DOFAW observed them on an inspection in 2008. There was some discussion of selling the stumpage but the Land Division opted away from a potentially controversial issue for such a small number of board feet of koa.

Headquarters

Chair Case cited the commercial building and residential component of the Kapāpala Ranch Headquarters which benefits the ranch operation without generating revenue to the State.

The Ranch Headquarters was built and has been maintained by the lessee since the 1860's. In our 44 year tenure this historic site has been destroyed more than several times from floodwaters and once from a massive earthquake. We have never received any financial assistance nor rent credit from the State for the losses suffered to the buildings, roads, and bridges at Headquarters. Also a naturally occurring devastation is the acid fallout from the Volcano which wreaks havoc on the roofs covering approximately 10,000 square feet of buildings. The Ranch continually bears the costs at Headquarters of replacing roofs, upgrading electrical wiring, termite tenting, painting, and landscaping in an effort to preserve the functionality as well as the historic and cultural significance in an ambiance which is Kapāpala Ranch past and present.

Respectfully submitted,

Lani C. Petrie
Kapāpala Ranch

ATTACHMENT #4

(page 1 of 4)

Peter D. Simmons, Retired, peterdsimmons@gmail.com
59-416 Ka Nani Dr.
Kamuela, Hawaii 96743

COMMITTEE ON WATER AND LAND
Senator Lorraine R. Inouye, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

COMMITTEE ON AGRICULTURE AND ENVIRONMENT
Senator Mike Gabbard, Chair
Senator Clarence K. Nishihara, Vice Chair

HB469 HD1

RELATING TO THE TRANSFER OF NON-AGRICULTURAL PARK LANDS.

DATE: Thursday, Oct. 14, 2021
TIME: 10:00 AM
PLACE: VIA VIDEOCONFERENCE

Aloha Chairs Inouye and Gabbard, Vice Chairs Keith-Agaran and Nishihara, and Members of the Committees,

My Name is Peter Simmons. I previously testified on this matter and I'm in favor of passing pastoral leases from our State's DLNR to our State's DOA.

The professionals at DLNR and DOFAW (based on the people I've known over the past 43 years) are really good at what they do. They have high ideals, work hard and are intelligent, knowledgeable and capable. They have written great plans, consolidated conservation minded land interests to focus more efficiently on common conservation issues. And over the decades they have been able to augment their budgets, sometimes as if by magic with government and private funds.

Given all that; how is it that good, smart people are headed and have been headed, not in the wrong direction but not in enough directions for decades. Unfortunately their responsibilities all need tending and that means funding appropriate to the needs of all our forests needs and not only the lucky ones with grants. In the late 1970s DLNR-DOFAW began their quest for Hawaii's share of Federal conservation funding and drifted from the States previous forestry plans. It was great timing as Senators Inouye and Akaka ascended in Washington and so did Hawaii's conservation funding.

The issue is mission creep. When the mission is getting the grants then land asset management follows the money. Over time (decades) we've become trapped in a cycle of State underfunding and federal well intentioned, needed and in many cases successfully grants. Which are not sufficient to malama all of our State's Forests. As an unintended consequence of the lack of funding and mostly funding projects with matching funds, some of forest lands and their resources are dying from neglect.

ATTACHMENT #4

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DLNR-DOFAW should be recognized for how much good their strategy has brought to some of Hawaii's forests. And when coupled with aligning landowner conservation interests with the public's watershed interests in watershed alliances it adds even more value to their budget strategy. And DLNR-DOFAW brought federal agencies together to share information and funding strategies. All of this should be recognized as true accomplishments that have benefited Hawaii. DOFAW-DLNR has performed magic in multiplying and stretching its budgets.

The critical issue is we lack funds to manage our forests as they should be managed. As David Smith writes in DOFAW's Forest Action Plan, "We hope this information will be used to influence our communities, our state and national governments, and other leaders to invest in Hawaii's forests for the future," (my emphasis). He's asking for help. Unfortunately we haven't funded DLNR-DOFAW adequately to manage all its land responsibilities for decades and decades and it shows. Incrementally, by underfunding DLNR we've forced them to be grant experts with little discretionary funding and no funding for our more degraded forests.

There are 780,000 acres that DOFAW is directly responsible for and the \$/acre allocated to DLNR is significantly less than other states which also have fewer intractable problems. For example, Oregon Division of Forestry, with close to the same acres to manage as DLNR-DOFAW has about twice the management budget.

DOFAW's success of uniting conservation interests in the Conservation Alliance has enlarge the lands that need management to 1.6 million acres with the unintended consequence of further lowering the \$/acre budgets.

We have stunning forest degradation issues such as:

- 1.1 million acres spreading strawberry guava according to USFS, DOFAW and DOA that is two land areas the size of Oahu and about ½ of the low elevation, ohia, ohia-koa forests belong to the State;
- ROD is present on all islands, 175,000 acres on Hawaii Island;
- Small mammalian predators killing our birds and changing native ecosystems;
- 50,000 acres of Albezia;
- Sheep in the mamane on Mauna Kea;
- We have not removed a single plant or animal from the endangered species list;
- We don't have proper introduction of alien pests;
- We're not managing our most critical watersheds and according to DOFAW only be able to manage 30% of them by 2030;
- According to recent reports in Civil Beat we lack the necessary funding to prevent and mitigate wild fires which released tremendous volume of CO2 into the atmosphere and which have been a primary cause of native ecosystem losses; and

ATTACHMENT #4

(page 3 of 4)

- We don't have the funds to inventory our timber assets, much less manage or use them.

How does it make sense that DLNR-DOFAW weighted down with the above and more responsibilities with meager budget wants to take on more land responsibilities, develop a new project of planting trees to transition from managed pasture lands to conservation ohia-koa forest? In the light of the above lands and resources in dire straits we need to ask is this the right time for a new albeit noble goal? We're losing our existing forests and their resources and DLNR-DOFAW wants to plant new ones. It just doesn't make sense. It's not good for Hawaii's existing forests or our land.

DLNR-DOFAW landscape level plans of sequestering carbon to help global climate change has difficulties in that while it is true planting trees sequesters carbon and, so do well managed pastures. And if DLNR-DOFAW replaces well managed pasture with a planted forest there is very little carbon or watershed gain except by fog drip and at the same time DLNR-DOFAW allows forests to die and decay which emit methane and more carbon di-oxide than the newly planted trees could sequester. The carbon balance is not working and overall without caring for the lower elevation forests the DLNR-DOFAW carbon banking accounting is a bust. Take care of the Carbon bank opportunities of all our forests before taking on more.

It's a great idea to plant trees and more can and should be done even on ranch land; it's a bad idea to add pasture management to DLNR-DOFAW's responsibilities especially when there is so much to be done to manage our demised forests; DLNR-DOFAW should focus on the forests we have.

It is ironic that DLNR-DOFAW is fighting so hard to add responsibilities (without adequate long-term funding for management) to their portfolio instead of giving the responsibility to their Sister organization, our DOA. And in this context it's doubly ironic to consider giving Hawaiian land and forests to the USFS as seems to be DLNR-DOFAW's desire.

What's best for land is that it is managed for the long term. While DLNR has enjoyed its position as landlord holding short-term agreements the lands and the lands' stewards have suffered. Denying long term leases (a real estate interest) to ranchers puts the State's lessee ranchers at an economic disadvantage when they want to finance capital improvements or fund their operation. Short term pasture agreements add unnecessary business risk. Bottom line: there is less money for keeping up with maintenance let alone improving the land.

The DLNR had decades to come to long-term arrangements for the State's pasture leases. Their lack of progress shows a lack of understanding or empathy that their action has had on both the land steward and the land. A well written long term lease complete with conservation requirements and withdrawals agreements is within the scope of both DLNR and DOA especially if they work together with the lessee. It should be what agreed to in the lease that matters not in who's portfolio it resides.

ATTACHMENT #4

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For all of the above reasons please move the remainder of pastoral leases from the DLNR to DOA.

I sincerely thank you for allowing me this opportunity to help.

Peter D. Simmons

ATTACHMENT #5

(page 1 of 3)

October 14, 2021

TO: Act 90 Working Group
FR: David G. Smith, Forestry and Wildlife Administrator
SU: Kamehamenui Acquisition and Lease Withdrawal

Mr. Balthazar stated in testimony to the Act 90 Working Group that the state is withdrawing 60% of a parcel of land from a grazing lease he holds with the state. He subsequently complained about the state's action in a *Star-Advertiser* article, and is quoted as saying "*What good is the lease? The lease wasn't as good as the paper it was written on*". Mr. Balthazar's statements are misleading and not relevant to the Act 90 discussion.

Mr. Balthazar is referring to a lease that he held with a private landowner for grazing on lands that are locally known as the former Von Tempsky property in the ahupuaa of Kamehamenui in Kula. Prior to purchase by the state in 2020, the Kamehamenui lands were for sale on the open market and threatened with development and loss of open space. With their sweeping vistas and unparalleled beauty, the lands were prime for development of country estates. The lease Mr. Balthazar is referring to is the one he signed with the private landowner while the land was on the market for sale. He was aware of the pending sale and the terms, which enable the landowner to cancel all or any portion of the lease land with one year notice. The lease enabled sale of the property without a long-term encumbrance.

With the Kamehamenui land for sale and under threat of development, the state took action and turned a potential loss of natural resources and open space into an opportunity for sustainable management of public trust resources.

With DLNR as the lead, a coalition of partners presented a proposal that enabled the Kamehamenui lands to be purchased and added to the state forest reserve system. Working with the Trust for Public Lands, that proposal generated support from the U.S. Forest Service, U.S. Fish and Wildlife Service, Maui County, state legislators, and private individuals and organizations. Together the partners generated more than \$12M to purchase and begin restoration and management of those lands for their wide-reaching public benefits, including watershed protection, biodiversity, endangered species protection, climate change mitigation, and significant opportunities for forest and outdoor recreation.

The land purchase had broad support from numerous stakeholders. That support included grants with certain terms and obligations. Among those are a \$4M grant from the U.S. Forest Service that requires reforestation of 75% of the lands within the first 10 years of purchase, and a \$2M U.S. Fish and Wildlife Service grant for the protection and management of endangered species habitat. That is an ambitious commitment given the threats that native ecosystems face, and we need to begin that work immediately.

Recognizing the vision of the conservation partners and the public benefits to be achieved, the Board of Land and Natural Resources approved a set aside of the lands to the state forest reserve system to

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(page 3 of 3)

**ACT 90 WORKING GROUP
OCTOBER 14, 2021 MEETING
TESTIMONY DOCUMENTS SUBMITTED
BY DAVID SMITH, DOFAW**

Total No. Pages: 220

ATTACHMENT #6

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September 25, 2021

Senators and house members

My name is Brendan Balthazar I live on Maui and own Diamond B Ranch which I started in 1968. 99% of my ranch is on lease land. I not only have to pay a lease but must do what ever possible to care for the property like it is my own, so it can be some what profitable. I find that is is more of a love for the lifestyle of raising animals then money. I retired from the fire department after almost 37 years. This and a few rentals funds my passion for ranching.

At the start of every lease I have, the property is very bad shape. I don't do anything half way . I am proud to show any one any of my properties and all the improvements I made. I have cleared brush, and a lot of invasive trees and plants , brought in lime to improve the ph, planted grass and spread fertilizer. Most didn't have any fencing nor a water system. I have made catchments , dug a well, put in pipes and tanks to store over 150,000 gallons of water on each property. We spend more money in herbicide, and labor to keep back all the invasive every year then we pay for the lease.

I would like to tell you a little about one particular lease. It is up in Kula on Maui TMK223 005 002 consisting of 3410 acres ,known as the Vontempsky ranch. It was in ranching for over 100 years and still is. About 17 years ago Charlie Ota who some of you know had the lease and was sick. He asked me to buy him out and assume the lease. A lease was then made with the owner John Pridjian . We started out with a 10 year lease. After a few years he came to visit the property and was really pleased with all the work and money I had invested. I was going to apply for a cross fence project with NRCS and they required a 10 year lease I asked if he would extend my lease for 2 more years, and he said why not 5. A few years ago he and his wife who was from Japan split ,and in the settlement he gave her the property. I met her and her daughter on the property and showed them around. I had some improvements that I had put on hold when I found out she had the property. She told me to go right ahead because she was not selling it and leaving it for her kids. She was also very happy how the place looked. After that assurance, I then built a new set of corals all out of pipe and metal rails, brought in electricity, made a gravel road to the corals, put in a \$20,000 squeeze chute, certified scales ,and made a roof over half of the pens and working area. Put in a new \$10,000 water pump and built a room to house it, added more pipeline , tanks, and troughs to the upper area to access more grazing area. The investment was over 250,000. Not quite 2 months after we got finished I got a call from her Realtor Roy Sakamoto informing me that he wanted to bring some potential buyers up to see the property. That was how I found out that it was for sale. However I knew in my lease John had put in that at the end of the lease I could ask for a 10 year extension. Not long after I found out that the state had bought it . I was told not to worry because I had a 10 year lease and it would take awhile before forestry would have the funds and be ready to do anything. Two months after the state acquired the property officially they sent me a certified letter giving me a year notice which they say was required in my lease that they would be taking 2100 acres next year. I had forgotten about that notice until I got the letter. John put that in when I first got the lease because he said he had plans to develop the 40 acres below the old coral and that was it ,he was not going to do anything with the rest of the property and I would be there until I died. He is still alive and I can have him attest to this. He also told me at one of his visits ,because of all the work I was doing on his property he was going to give me a few acres when he made the subdivision. This gave me a lot more incentive to work harder and take care of the place.

I know this was kind of long but I wanted all of you to know the background of that now state property. Now I want to plead with all of you to help me keep at least some of the property. Act 90 which is already in our Hawaii statues ,states clearly that DLNR will turn over all agg lands to the DOA. My understanding is that it is a law. So what gives DLNR the right to choose , and hold on to agg lands that

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they are already bound by law to turn over. If any of us in the state violated a law that you guys passed we would be held accountable, fined or jailed. Even the Honolulu police chief was not above the law. What makes Chair Case and DLNR special? Who is the person or agency that should be enforcing this law? Do they also work for DLNR?

I was told by DLNR and so was the committee, that this property should not even be discussed with act 90 because it was bought with certain terms. So outside money controls what happens with our state lands no matter if it is good for the land or people? I also heard that there was some recent outside money offered DLNR to expedite the taking of this land and planting of trees. This is a clear violation. Maybe if there was someone with a lot of money to put in their department not to plant trees would that change the terms? Again I say this land is owned by the state not DLNR. You folks in public office are the representatives of the state, and entrusted by the public to make the best decisions for the people. People like me. Our governor stated that he wanted to double food production by 2025. He also signed a bill requiring our schools to purchase at least 30% of the produce locally. If land that is in active ag like this parcel has been for over 100 years ago, it should be under DOA. It should not matter if Kamahamaha gave the land to the state 100 years ago, if the state purchased it 20 years ago or a year ago. It belongs to the state and it is in active ag. It doesn't belong to Chair Case nor her department.

DLNR stated that they produce food by allowing hunting. There are 10 times more game on my ranch that is managed, than in the whole kula forest. The grass is in the ranch, game needs food and there is very little under the trees. Just another one of their stories. Truth is the plan on paper is to fence off the whole 2100 acres. Allow public hunting for 3 to 4 months to avoid controversy, then close it off go in with the helicopters and shoot everything that is left. This was disclosed to me by DLNR. If this is a story made up by me ask them for their plans for that area. They have been telling the public that they plan to make hiking trails, camping areas, opening it up for hunting, what will there be to hunt when everything is fenced off and exterminated? Just smoke.

I ask all of you for your understanding, consideration of the positions I am in, and to please please help keep at least part of this land in ag. Just for a moment in your minds, try to walk in my shoes and go through what I did to end up where I am. I am not asking for the whole 3410 acres. I am ok with the state taking 2000 acres at the top of the property where it boundaries the Kula forest and can be put in forestry. The bottom part boundary all borders private property. We don't have a forestry industry but we do have ag. Loosing this part of my ranch will mean loosing almost half of my herd of cattle, and all of the 300 sheep, and their income. If I don't do a good job taking care of the land and the grass, I don't get paid, and my employees and their families depend on me. Forestry and DLNR all get paid every week no matter what kind of job they do and how they take care of the land. I depend on this land for my livelihood. Their pay check is not tied in to their performance or how they manage the land. Example of this is the estimated 4 million they lost in rental income through poor management. Did that effect the chair's or any of her staff's pay check? If it was money any of you lost would you still keep that person or persons working for you? Ah but the state does. And now DLNR wants all of the senators and representatives like you to believe they can manage ag land as well as DOA can.

I alone can't fight the tyrants in DLNR. As senator Inouye asked DLNR at the first meeting, why don't they plant trees in all of the millions of acres they have under conservation it is already fenced and free of undulant s? She didn't get an answer. Maybe some of you can.

These are a few facts. DLNR controls millions of acres which is under conservation and forestry. The amount of land under their control does not match their budget. They don't have the money nor the resources to manage what they have, so why take on more? At the second meeting David Smith a

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forester for DLNR took offense with my statement. He claims that the Kula forest is one of their best kept. Well I can only imagine what the others look like. This is not a he said she said. The proof is on the ground. Any one of you can come and see for yourself, I would be more than happy to take you to the ranch and their pristine forest. I had the pleasure of taking Kyle Yamashita and Gil Agaran and the current DLNR board member Pua Canto. I agree, the camping area, where the redwoods are has some kept trails that are maintained and there is little or no trees above the tree line, which makes that area open and accessible. But everything below is thick with invasive s. So thick you can't walk 20' off the road. Waddle trees, black berry, raspberry, fire weed, banana poka to name a few. I worked there when I was a kid for the forestry and where they were roads there is none or they have turned into trails. There are some other properties in the same Kula area which are several hundred acres that are solid waddle trees and invasive s, under the management of forestry. Again you don't have to take my word you can come and see for your self.

DLNR has tried to justify planting all the land with trees because they sequester carbon. Well many studies have concluded that grass lands sequester as much or more carbon as forest. One of these studies was done by UH. If there is a fire, like there was a few years ago, and burned a lot of acres in the Kula forest, all the carbon sequestering is gone for 15 to 20 years until the trees grow back. If grass burns the roots are still there and the grass comes up at the first rain. Just another fact the water the helicopters were using to stop the fire came from my 45,000 gallon water tanks up that mountain. As I stated earlier I worked for the fire department and was on duty when that fire broke. There is no ponds or water available up that mountain. So until the fire department can mobilize a portable tank and fill it with the tankers I had the only water available. Once we set up they had to fly from the fire at the top 10 to 12 miles down to the road to get water instead of a mile across to my tanks. Its ranchers who help forestry not the other way around.

Another excuse given, is the forest helps our water shed. Fact, the pine trees up in that area are one of the most thirsty trees. An important fact, large pine tree will absorb a lot of water from the ground. As a result, the grass or plants beneath it might not get enough water. There are several reasons for which it is so hard to grow grass under a pine tree. Usually, the soil beneath a pine tree is usually very acidic. Also, sunlight cannot reach the grass as the pine tree will block it. So under those trees there is just dirt which causes erosion during heavy rains. This area is very steep not flat where water can sit and be absorbed. Very little water will be drifting down to replenish our water table. Grass in the ranch can only absorb so much which is very little compare to a tree, the rest goes into the ground to our aquifer.

I found this interesting information below, to back up my statements and it addresses all trees not only pine. If DLNR tries to say there's not many pine trees in the Kula forest. I offer another fact: in 1966 and 1967 my summer job was working for the forestry, for 3 months. There were 40 boys divided in 4 crews. For a month straight each year 2 crews, we were given a shovel and a bag with 100 pine tree seedlings, every day, for us to plant 20 paces apart I was part of that crew. I probably planted more trees than David Smith or Suzann Case did in their lifetime. We also planted Eucalyptus trees on a lot of state land going to Hana during my 3 month summer job.

INFORMATION NOTE Water Use by Trees FCIN065 BY TOM NISBET OF FOREST RESEARCH

INTRODUCTION The amount of water used by trees has been the subject of worldwide research spanning the past 100 years (Boschand Hewlett, 1982; McCulloch and Robinson, 1993). This work has been driven by the needs of water resource managers and planners to understand how forests affect water supplies, as well as by related concerns over downstream flooding and erosion control. Studies in the UK began in the 1960s and initially focused on the impact of conifer afforestation in the

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uplands. In the 1980s and 1990s interest widened to include the effects of broadleaved woodland and short rotation coppice's on groundwater resources in the lowlands. Today, the need to know how forests and land-use in general affect run-offs even greater as water companies strive to deal with the dual threat of rising water demand and the possibility of reduced supplies due to climate change. The introduction of the European Water Framework Directive in 2000 presents another important challenge, as Member States are required to achieve good surface water and groundwater status by 2015. The purpose of this Information Note is to review our understanding of water use by trees in the light of findings from recent studies.

SUMMARY Trees and forests can use more water than shorter types of vegetation. This is mainly due to the interception of rainwater by their aerodynamically rougher canopies. The resulting impact on water supplies is becoming an increasingly important issue for water resource managers and planners as demands for water continue to rise. Climate change predictions of warmer, drier summers will put further pressure on supplies. This Information Note assesses the factors that influence the water use of trees and considers how conifers and broadleaved are likely to affect water resources in different parts of the UK.

Again I am asking all of you to put part of this land under DOA. It will still be owned by the state and can in the future be used by the state for something that may be more important than agg. But if it stays under DLNR it will be lost for ever. No one will want to spend the money to clear out all the trees be it invasive or planted. Like it happened on the big island with all the plantation land that was taken out of agg and planted with eucalyptus trees. The cost to put what was beautiful open land back into agg is too costly. Don't let this happen here.

Another thing discussed was giving DLNR more powers to manage agg land. That is so wrong. We have an agg department who understands agg and by law should be the ones managing it. DLNR was just on the hot seat for mismanaging the leases they control and the state estimating losses of over 4 million. This was not agg land. So with this pressure they will continue to increase the cost of leasing agg land to the point that no one can afford the lease. They have terms on agg leases that are a hindrance to an agg operation, why, because they don't understand agg. None of them in that department come from an agg background. This discussion to extend their powers is completely absurd and detrimental to all agg leases. We have an agg department and you in our legislature or those before you had the common sense to pass a law putting all active agg lands under DOA. I heard that DOA is reluctant to take all this land because they don't have the money and staffing. Well it is your folks job to give them the funding needed to implement the law that you passed. If DLNR's work load is lessened by so much land that will be transferred, take the appropriate amount of money from their budget and put it in the DOA. Funny how simple and common sense it sounds. Maybe to us but not DLNR. When DLNR is trying to ask for more power to manage DOA land, they are saying they also want to be DOA. My grandpa always told us fart with your own ass, DLNR wants to use everyone's else's but their own.

I am a catholic and try to go to mass every morning. I am 71 years old and in a fight for my livelihood. I invested a lot of money in that property in the last few years and now there may be a strong possibility of not recovering it. After retiring from the fire department I work on the ranch every day 7 days a week. Sometimes fixing pipes at 10 at night right along my workers. Which they will not have a job if I loose this land. As you can see it is my life and my passion but, I realize I can't go up against DLNR alone and need to reach out to all of you. Even if your don't farm or ranch you have a

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conscience and know the difference between right and wrong . And hopefully can see the wrong that is being done by DLNR. They control millions of acres and still want my little piece. I would like to see the next generation of ranchers be able to farm that land that I put so much into.

I pray for all of you especially during this trying times. I even pray for chair Case that she will see what she is doing and that greed is not a good thing, she needs to walk in my shoes. Everyone needs to remember, it is nice to be important ,but more important to be nice.

Got bless

Brendan Balthazar

ATTACHMENT #7

Act 90 Working Group Hearing
Oct. 14, 2021

Aloha Senator Inouye and Representative Tarnas, and members of the Working Group,

I would like to offer my experience as a rancher who has had a DLNR lease transferred from the DLNR to HDOA. Along with family, I own and operate Kuahiwi Ranch. We have been in business since 1993 and having been providing locally grown beef to our community since 2007.

The first thing I would like to say about this is that although the process took many years to complete, my experience of working with the DLNR and HDOA staff members was one of collaboration and helpfulness. Our civil servants must thread a complex web of stakeholder interests and often antiquated regulations in service of the public good and the highest and best use of the our natural resources.

I should add that what constitutes highest and best use has changed considerably in my lifetime from a strictly economic calculation of what use will bring the highest return to the state to a more holistic standard that takes into consideration environmental and social impacts. This standard will continue to change as we attempt to mitigate and adapt to increasingly extreme weather and a long-term drying trend for our islands.

All of this being said the food produced by agriculture is second only to having a stable natural environment in our hierarchy of needs. My ranch has benefitted greatly from the transfer of a key lease from the DLNR, where it was under a short-term revocable permit to a long-term lease under HDOA. Although we pay slightly more for the lease, we are able to make long term investments in water and fencing infrastructure with peace of mind. We also can make long term plans for local beef production, and thus contribute to the sustainability of Hawaii's food system.

Both HDOA and DLNR have long-term lease options however HDOA's lease application process is less onerous for those who qualify as bona-fide farmers and ranchers. Therefore for those lands whose highest and best use is for agriculture, whether farming or ranching, the public good is served by transferring these lands to be leased by HDOA to bona-fide farmers for agricultural production.

However I am aware that some public lands currently under the DLNR and leased for pasture include native forests or other natural resources which are of broad public interest and for which the highest and best use may not be ranching. It is important that these natural resources be protected. Whether this is best done under DLNR or HDOA is probably a question that must be taken up case by case, and lease by lease. Possibly writing provisions into the lease to incentivize ranchers to protect native forest is a possible solution whose time has come.

Thank you for the opportunity to testify and for your service in considering this complex issue.

Sincerely,

Michelle Galimba , VP

ATTACHMENT #8

October 10, 2021

Testimony
Act 90: Working Group

Re: Agricultural Leases on State Lands

Aloha Chair Inouye, Vice-Chair Tarnas and Members of the Working Committee,

The Thompson Ranch on Maui has been raising cattle for many generations, and understands the importance of raising food for our community. We ask that you please consider the transfer of all Agricultural State Land Leases from DLNR to HDOA. We support lands in active cattle production.

Our state cannot afford to cutback on food production. Our Governor has asked for us to increase food production by 30% by 2030. We can help reach this goal if you support ranching on State Lands by approving the transfer of all Agricultural State Land Leases from DLNR to HDOA.

We are good stewards of the land. We can work together.

Thank you for your kind attention in this matter.

Mahalo,

Theresa Thompson
Thompson Ranch
Ranchgirl808@aol.com

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We are SC Ranch Co which has been in business for over 45 years. We have owned SC Ranch Co since 2011 and in those ten years we have taken the original vision and grown it to a first-class cattle operation. We raise Hawaii beef and 85% of our cattle remain in Hawaii's local consumer market. We strive to be 100% local, but current instability requires that we diversify with a portion of our business as cow/calf. We are Hawaii agriculture and we should be represented under the Department of Agriculture.

If our lease continues to stay under DLNR we continue to live with the risk that and our investments to the land, to Hawaii Agriculture, and our livelihood will be taken away.

We work hand-in-hand with the NRCS (Natural Resource Conservation Services) to continually invest in making our ranch more and more sustainable, preserve our natural watershed and native resources, and grow Hawaiian agriculture.

Here are just some of the improvements we have invested in:

1. Replaced 80% of boundary fencing with hog wire which allows us to be more efficient in our grass management. We now have longer rotations which allows for longer rest periods and improve re-growth of native grasses and trees.
2. Fenced our gulches aka natural watershed in order to assist in preserving the native plants; fern, Ohia, and Koa to name a few.
3. Installed two thirty-two-thousand- gallon water holding tanks to allow us to be more water sustainable.
4. We are in the planning process of building a 1-million-gallon reservoir for water sustainability.

Since our lease is under the Department of Land and Natural Resources, we live with the threat of possibly losing our lease or having to buy it back plus improvements at the end of our lease. We make these improvements because it is the right thing to do and we are confident that our lease should **stay agriculture and be under the DOA.**

Thank you for your time,

Charles & Vanessa Stevens

SC Ranch Co.



Email: communications@ulupono.com

ACT 90 WORKING GROUP
Thursday, October 14, 2021 — 10:00 a.m.

Dear Chair Inouye, Chair Tarnas, and Members of the Working Group:

My name is Micah Munekata, and I am the Director of Government Affairs at Ulupono Initiative. We are a Hawai'i-focused impact investment firm that strives to improve the quality of life throughout the islands by helping our communities become more resilient and self-sufficient through locally produced food; renewable energy and clean transportation; and better management of freshwater and waste.

Ulupono Initiative supports the local livestock industry and its efforts to provide fresh, healthy products for Hawai'i's consumers. With the DOA's affordable, long-term lease structure in place, local ranchers will be able to make the necessary investments into their respective operations, improving economic viability and increasing local food production for the State.

We appreciate this working group's efforts during the last several months to find solutions to Act 90's implementation. Ulupono still believes however that all active agricultural pasture leases should be transferred to the DOA per the intent of Act 90, SLH 2003 as DOA's mission and expertise to manage agricultural activities and related natural resources, including pastureland production, through a favorable lease structure promotes local food production and directly supports State sustainability goals.

Thank you for this opportunity to provide comments.

Respectfully,

Micah Munekata
Director of Government Affairs

Investing in a Sustainable Hawai'i

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