

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

December 8, 2017

Ref. No. GL S-5619

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

Hawaii

**Consent to Assign Sublease K-6 under General Lease No. S-5619, BIG ISLAND ABALONE CORPORATION, Assignor, to KOWA PREMIUM FOODS HAWAII CORPORATION, Assignee, Ooma 1<sup>st</sup>, North Kona, Hawaii, Tax Map Key: (3) 7-3-043:086.**

APPLICANT:

Big Island Abalone Corporation, a Washington State corporation, as Assignor, to Kowa Premium Foods Hawaii Corporation, a Hawaii corporation, as Assignee.

LEGAL REFERENCE:

Section 171-36(a)(5), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of the Natural Energy Laboratory of Hawaii Authority situated at Ooma 1<sup>st</sup>, North Kona, Hawaii, identified by Tax Map Key: (3) 7-3-043:086, as shown on the attached map labeled Exhibit A.

AREA:

10.037 acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

ENCUMBRANCE:

Subject parcel is a portion of State land encumbered under General Lease No. S-5619 to the Natural Energy Laboratory of Hawaii Authority (NELHA)

CHARACTER OF USE:

The Lessee shall use or allow the premises leased to be used solely to develop, maintain and operate an ocean-related high technology industrial park in accordance with Chapter 206M, Hawaii Revised Statutes, and to allow for ancillary and accessory uses that will assist the development to become self-sufficient, and for telecommunication purposes.

SUBLEASE CHARACTER OF USE:

To continue current abalone farming and hatchery operations.

TERM OF LEASE:

65 years, commencing on July 3, 2001 and expiring on July 2, 2066. Last rental reopening occurred on July 3, 2011. Next rental reopening is scheduled for July 3, 2021.

TERM OF SUBLEASE:

30 years, commencing on January 1, 1999 and expiring on December 31, 2029. Last rental reopening occurred on January 1, 2009. Next rental reopening is scheduled for January 1, 2019.

ANNUAL RENTAL:

\$480.00 per annum, plus fifty percent (50%) of the net operating income.

ANNUAL SUBLEASE RENTAL:

Fixed Rental Fee: \$342.75 per acre, per month based on 10 acres = \$41,130.00 per annum.

Percentage Rent: If 2% of Sublessee's gross sales for any calendar year exceeds the amount of fixed rental fees already paid by Sublessee for such period, then Sublessee shall pay percentage rent equal to 2% of Sublessee's gross sales less the amount of fixed rental fees already received by Sublessor for said calendar year.

CONSIDERATION:

\$3,000,000.00.

RECOMMENDED PREMIUM:

Not applicable as the lease does not allow for a premium.

DCCA VERIFICATION:

ASSIGNOR: BIG ISLAND ABALONE CORPORATION

Place of business registration confirmed: YES  
Registered business name confirmed: YES  
Good standing confirmed: YES

ASSIGNEE: KOWA PREMIUM FOODS HAWAII CORPORATION

Place of business registration confirmed: YES  
Registered business name confirmed: YES  
Good standing confirmed: YES

BACKGROUND:

NELHA manages the Natural Energy Laboratory of Hawaii (NELH) site in North Kona, Hawaii pursuant to General Lease No. S-5619<sup>1</sup>. The leased land encompasses approximately 870 acres of fastlands, together with an easement over approximately 3,000 acres of submerged lands. Roughly 240 acres of fastlands have been subleased for natural energy uses. Another 170 acres are used for roadways or reserved for setbacks and preserves. The balance of approximately 460 acres of leasable lands remains in an unimproved state.

NELH was originally intended to provide for the research and development and prototype incubation facilities utilizing the unique deep, cold-water technology at the facility. The ultimate goal of this effort was to develop commercially viable companies in the field of marine and ocean sciences.

At its meeting of October 30, 1998, under agenda item D-19, the Board of Land and Natural Resources (Board) consented to Sublease K-6 issued to Big Island Abalone Corporation.

At its meeting of June 23, 2006, under agenda Item D-18, the Board approved to amend the provision of General Lease No. S-5619 relating to consents to sublease (this approval being further amended at its meeting of October 27, 2006, under agenda Item D-3). The

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<sup>1</sup> Prior to the issuance of General Lease No. S-5619, NELHA operated on the premises pursuant to General Lease Nos. S-4717 and 5157, and Executive Order No. 3282.



approved amendment waived the requirement for NELHA to obtain the Board's prior written consent to issue subleases; however, there was no waiver of obtaining prior written consent to assignments of subleases. Accordingly, staff brings the present request for consent to assignment of sublease to the Board.

#### DISCUSSION:

By letter dated September 29, 2017, the Hawaii District Land Office received a request from the Natural Energy Laboratory of Hawaii Authority, for consent to assignment of Sublease K-6 from Big Island Abalone Corporation (BIAC), to KOWA Premium Foods Hawaii Corporation (KOWA), a newly formed Hawaii corporation.

In January 2017, the principal shareholder of BIAC, Trident Seafoods, decided to divest itself from BIAC to focus on its core business. BIAC began the search for a new investor and has since entered negotiations with KOWA to purchase BIAC assets and assume the BIAC Sublease K-6.

The parent company of KOWA, KOWA Company, Ltd., is a large Japanese corporation with worldwide activities in the food, liquor, consumer products, real estate, marketing and service industry sectors. Its annual sales for fiscal year ending March 2017 were \$1.4 billion dollars according to audited financial statements.

KOWA plans to retain current key personnel who have been instrumental in resolving the technical issues encountered during the pursuit of providing reliable production of abalone utilizing land-based systems. KOWA will use its parent company's Honolulu group and Japan Food Division to broaden sales in both markets.

KOWA also plans to enter into agreements with Koyo Corporation to obtain technical advice on water and energy savings through sea water recycling and Higashimaru Co. Ltd. for assistance in improving grow out methods and abalone feed production.

BIAC submitted a complete and thorough package to NELHA staff for review. The package included a purchase proposal, draft purchase agreement, business plan and audited financials for KOWA's parent company. At its meeting of September 19, 2017, agenda item 7b, the NELHA Board of Directors reviewed the request and gave its unanimous consent to the assignment of Sublease K-6 from Big Island Abalone Corporation to KOWA Company, Ltd. or its to-be-incorporated Hawaii subsidiary (name to be confirmed after company has been registered in Hawaii). That subsidiary was incorporated and registered as Kowa Premium Foods Hawaii Corporation on October 9, 2017.

Review of the lease file indicates that Lessee is in compliance with all terms and conditions of the lease. There are no outstanding rental reopening issues related to the K-6 Sublease by the assignor.

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

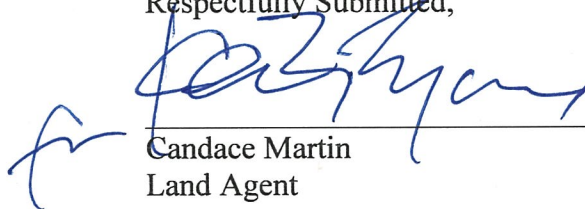
No agency or community comments were solicited as there will be no new disposition or change in land use in the assignment of the sublease.

RECOMMENDATION:

That the Board consent to the assignment of Sublease K-6 of General Lease No. S-5619 from BIG ISLAND ABALONE CORPORATION, as Assignor, to KOWA PREMIUM FOODS HAWAII CORPORATION, as Assignee, subject to the following:

1. The standard terms and conditions of the most current consent to assignment form, as may be amended from time to time;
2. Review and approval by the Department of the Attorney General; and
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

  
Candace Martin  
Land Agent

APPROVED FOR SUBMITTAL:

  
Suzanne D. Case, Chairperson

## EXHIBIT A

