

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

May 14, 2021

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

HAWAII

Consent to Extension of Lease Term, General Lease No. S-5721, Keahole Point Fish LLC, Lessee, Kalaoa 1st through 4th, North Kona, Hawaii, Tax Map Key: (3)7-3-043: seaward of Kalaoa.

APPLICANT AND REQUEST:

Consent to Extension of Lease Term, General Lease No. S-5721 (GLS-5721), Keahole Point Fish LLC, Lessee, a Delaware limited liability company.

Pursuant to Act 207, Sessions Law of Hawaii 2011, the Lessee has financed improvements to the leasehold property in the amount of approximately \$3,200,000. In order for the Lessee to amortize this expenditure, it is requesting a ten (10) year extension to GLS-5721, commencing on November 1, 2024 and expiring on October 31, 2034 for an aggregate term of 30 years (initial 20-year term plus the 10-year extension).

LEGAL REFERENCE:

Sections 171-36(b), 171-53, 190D-21 and 190D-22, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands seaward of Kalaoa 1st thru 4th, situated at North Kona, Hawaii, identified by Tax Map Key: (3)7-3-043: seaward of Kalaoa, as shown on the attached map labeled Exhibit A. Photos of operation are also attached, as Exhibit B.

AREA:

90 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: YES ___ NO X

CHARACTER OF USE:

Maricultural purposes.

TERM OF LEASE:

Original term of 20 years, commencing on November 1, 2004 and expiring on October 31, 2024.

Requested extension of 10 years commencing on November 1, 2024 and expiring on October 31, 2034.

ANNUAL RENTAL:

Current rent is \$40,000 per annum (\$3,333.33 per month), or 1% of gross revenue, whichever is higher.

RENTAL REOPENINGS:

Reopening in the original term was at the end of the 10th year of the term, or on November 1, 2014.

Reopening for the extended term shall be on its commencement date of November 1, 2024.

SELF FINANCED IMPROVEMENTS:

With an estimated total cost of \$3.2million, the Lessee will be self-financing improvements that include the following:

- Installation of three (3) new net pens with an economic life of 10 years.
- Ongoing installation of upgraded nets with an economic life of 5 years.
- Installation of upgraded mooring equipment with and economic life of 10-15 years.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-16(a)(1) and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to *Exemption Class No. 1 that states, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing," and Item 47 that states, "Leases of state land involving negligible or no expansion or change of use beyond that previously*

existing.” See Exhibit D, attached.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO <u> </u>
Registered business name confirmed:	YES <u>X</u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u> </u>

REMARKS:

General Lease No. S-5721 was issued to Kona Blue Water Farms, LLC (KBWF) by direct negotiation on October 9, 2005, pursuant to Sections 171-36, 171-53, 190D-21 and 190D-22. In the years since, KBWF and its successors-in-interest have operated an offshore aquaculture facility on the lease premises subject to the conditions set forth in Conservation District Use Permit (CDUP) No. HA-3118B and HA-3497. Under CDUP No. 3497, KBWF is permitted to operate up to five pens in production, none larger than 7,000 cubic meters and together totaling no greater than 24,000 cubic meters.

On September 1, 2009, KBWF converted from a Delaware limited liability company to a Delaware corporation called Kona Blue Water Farms, Inc.

On December 10, 2009, the BLNR consented to the assignment of GLS-5721 from Kona Blue Water Farms, Inc., as Assignor, to Keahole Point Fish LLC (KPF), as Assignee.

In 2014, Blue Ocean Mariculture, LLC (parent company of KPF) was issued CDUP No. 3720 for capacity increase of the maricultural operation upon the lease premises.

On May 27, 2016, the BLNR approved the consent to mortgage of GLS-5721, KPF, as Mortgagor, in favor of Ulupono Holdings LLC, as Mortgagee. The mortgage in the amount of \$3,000,000 was for working capital, to expand maricultural operations on the lease premises.

KPF is requesting a 10-year Extension to allow full amortization of “lessee-financed” improvements to its farm infrastructure. The improvements include the installation of three (3) new net pens with an economic life of ten (10) years, ongoing installation of upgraded nets with an economic life of five (5) years, and installation of upgraded mooring equipment with an economic life of ten (10) to fifteen (15) years. Together, all improvements are expected to represent a \$3.2M investment over the next few years. KPF has submitted the following supplemental documents for reference:

- improvement specifications (proprietary and confidential)
- receipts of expenditures (confidential)
- Federal & State tax returns (confidential)
- credit report (confidential)
- bank account balance (confidential)
- manufacturer’s letter w/ estimated economic life (attached as Exhibit C)

Upon staff review, the Lessee has only been in default once in the past five (5) years. A notice of default was sent on December 3, 2015 for delinquent rent. The delinquent rent was cured soon after, within the cure period. Liability insurance is current with expiration of 02/10/2022. The performance bond requirement is currently on file in the form of an Irrevocable Letter of Credit from Wells Fargo Bank, in the amount of \$30,000 with an automatic extension until October 31, 2024.

As a requirement for HRS Section 171-36, the Lessee has been using the leased premises substantially for the purpose for which they were leased.

The Lessee has not 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.

The following agencies have been solicited for comments or objections:

- Department of Hawaiian Home Lands (DHHL)
- DLNR Aquatics Resources (DAR)
- DLNR Conservation and Coastal Lands (OCCL)
- Corps of Engineers (USACE)
- Natural Resource Conservation Service (NRCS)
- Office of Hawaiian Affairs¹ (OHA)
- Department of Transportation (DOT)

No comments or objections have been submitted by the solicited agencies above at the time of the writing of this submittal.²

RECOMMENDATION:

That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment
2. Authorize the extension of General Lease No. S-5721, Keahole Point Fish LLC, Lessee, under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

¹ Office of Hawaiian Affairs (OHA) were not solicited for comments in the original request. DLNR staff has since requested comments from OHA via memorandum dated 4/23/2021 where comments or objections shall be due on 5/7/2021. If any comments or objections are received by OHA, they will be added to the submittal then.

² Department of Transportation ((DOT) was not solicited for comments in the original request. DLNR staff has since requested comments from DOT via memorandum dated 4/23/2021 with a requested response date of 5/7/2021. If any comments or objections are received by DOT, they will be provided to the Board members in advance of the meeting.

- A. The standard terms and conditions of the most current lease extension form, as may be amended from time to time;
- B. Review and approval by the Department of the Attorney General; and
- C. Such other conditions as may be prescribed by the Chairperson which are in the best interests of the State.

Respectfully Submitted,

Dan Gushiken

Dan K. Gushiken
Land Agent

gch

APPROVED FOR SUBMITTAL:

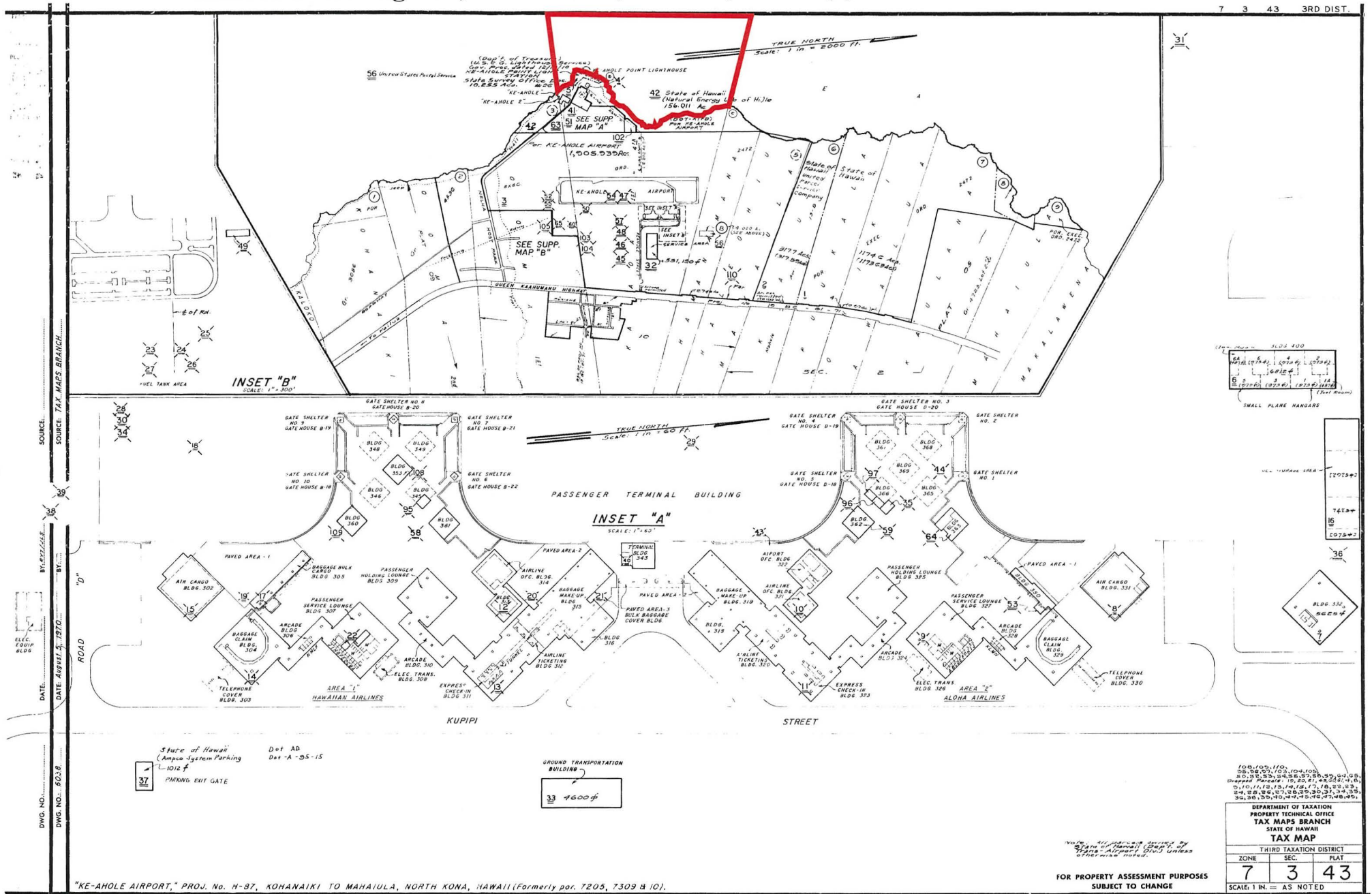
Suzanne D. Case

Suzanne D. Case, Chairperson

RT

GLS-5721: Keahole Point Fish LLC – 10 Year Extension

Kalaoa 1st through 4th, North Kona, Hawai'i, TMK: (3) 7-3-043: seaward of Kalaoa



GLS-5721: Keahole Point Fish LLC – 10 Year Extension
Kalaoa 1st through 4th, North Kona, Hawai'i, TMK: (3) 7-3-043: seaward of Kalaoa



Exhibit B

Photos

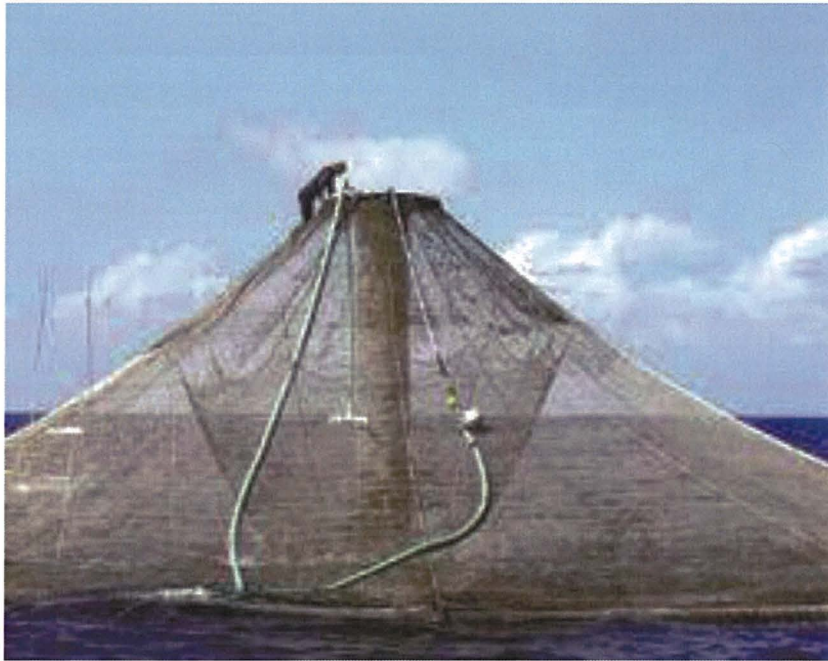




Exhibit C

BOM Grid Economic Live of Improvements

Innovasea
+1 617 863 2067
266 Summer Street, 2nd Floor
Boston, MA, USA, 02210

January 29, 2020

Blue Ocean Mariculture
74-429 Kealakehe Parkway
Kailua-Kona, HI 96740

To Whom It May Concern:

Blue Ocean Mariculture has requested Innovasea to provide their opinion on the economic life of Innovasea equipment being used at their ocean aquaculture site in Hawaii. Innovasea views the “economic life” to be equivalent to the accounting depreciation period. The Internal Revenue Service (IRS) utilizes the useful life of an asset to estimate the period of time over which depreciation of the asset may occur. The estimated economic lifespans as defined by the IRS for the InnovaSea offshore net pens and mooring system components are as follows:

- SeaStation Net Pens (galvanized steel components): 10 years
- SeaStation Net Pens (copper alloy mesh and Kikko netting): 5 years
- Mooring Systems (anchors, chain, plates): 15 years
- Mooring Systems (mooring and grid lines): 7 years

Innovasea is providing this data to Blue Ocean Mariculture for their use. Innovasea is not representing that the above categorizations are approved by the IRS or would be agreed to by the agency. In addition, Innovasea is making no warranty or implied warranty on the actual useful life of this equipment as installed in the Blue Ocean Mariculture site.

Sincerely,

Langley Gace
SVP – Business Development

DAVID Y. IGE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

April 19, 2021

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, Hawaii Revised Statutes (HRS), and Chapter 11-200.1, Hawaii Administrative Rules (HAR):

Project Title: Consent to Extension of Lease Term, General Lease No. S-5721, Keahole Point Fish LLC, Lessee, Kalaoa 1st through 4th, North Kona, Hawaii, Tax Map Key: (3)7-3-043: seaward of Kalaoa.

Project / Reference No.: GL No. S-5721 (GLS-5721).

Project Location: Kalaoa 1st through 4th, North Kona, Hawaii, Tax Map Key: (3)7-3-043: seaward of Kalaoa.

Project Description: Keahole Point Fish LLC, Lessee, is requesting consent from the BLNR a 10-year Extension for General Lease No. S-5721 (GLS-5721). The 10-year extension shall commence on November 1, 2024 and expire on October 31, 2034, for an aggregate term of 30 years.

Chap. 343 Trigger(s): Use of State Land

Exemption Class No. and Description: In accordance with HAR § 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to *Exemption Class No. 1 that states, "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing," and Item 47 that states, "Leases of state land involving negligible or no expansion or change of use beyond that previously existing."*

Cumulative Impact of Planned Successive No. 6: "Operation, repair and maintenance of existing fisheries facilities, involving capture, containment, sustaining, experimentation, and husbandry of various freshwater, estuarine, and marine fishes,

EXHIBIT D

invertebrates, and other aquatic organisms.

**Actions in Same Place
Significant?:**

No

**Action May Have
Significant Impact on**

No. There are no particularly sensitive environmental issues involved with the proposed use of the property.

**Particularly Sensitive
Environment?:
Analysis:**

No. The proposed use will involve negligible or no expansion or change of use beyond that previously existing.

Consulted Parties:

DHHL, DAR, OCCL, USACE, NRCS, OHA, DOT

Recommendation:

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