

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

November 8, 2024

Ref. No. GL S-5619

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

Hawaii

After-the-Fact Consent to Assign Sublease K-7 under General Lease No. S-5619, Natural Energy Laboratory of Hawaii Authority, Lessee, on behalf of Kona Cold Lobsters Ltd., Assignor, to Keahole Point Provisions LLC Assignee, Ooma 1st, North Kona, Hawaii, Tax Map Key: (3) 7-3-043:067.

APPLICANT:

Natural Energy Laboratory of Hawaii Authority, a governmental entity, on behalf of Kona Cold Lobsters Ltd., a Hawaii corporation, as Assignor, to Keahole Point Provisions LLC, a Hawaii limited liability company, 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 1st, North Kona, Hawaii, identified by Tax Map Key: (3) 7-3-043:067, as shown on the attached map labeled Exhibit A.

AREA:

1.00 acre, 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:

Lobster farm.

TERM OF LEASE:

45 years, commencing on July 3, 2001 and expiring on July 2, 2046. Last rental reopening occurred on July 3, 2011.

TERM OF SUBLEASE:

30 years, commencing on January 1, 2000 and expiring on December 31, 2029.

ANNUAL LEASE RENTAL:

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

ANNUAL SUBLEASE RENTAL:

Fixed Rental Fee: \$500.00 per acre, per month based on 1.2 acres = \$600 per month (\$7,200.00 per annum).

Percentage Rent: 2% of Sublessee's gross receipts.

CONSIDERATION:

\$750,000.00.

RECOMMENDED PREMIUM:

NELHA staff evaluated the transaction pursuant to the Board of Land and Natural Resources Assignment Premium Policy and determined no premium is due.

DCCA VERIFICATION:

ASSIGNOR: KONA COLD LOBSTERS LTD.

Place of business registration confirmed: YES

Registered business name confirmed: YES

Good standing confirmed: NO, Last annual filing 2022

Kona Cold Lobsters LTD. stopped conducting business in Hawaii upon the sale of assets to Keahole Point Provisions, LLC in 2022.

ASSIGNEE: KEAHOLE POINT PROVISIONS LLC

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-5619.¹ The leased land encompasses approximately 870 acres of fast lands, together with an easement over approximately 3,000 acres of submerged lands. Roughly 240 acres of fast lands 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 June 22, 2001, under agenda item D-18, the Board of Land and Natural Resources (Board) consented to Sublease K-7 issued to Kona Cold Lobsters Ltd.

At its meeting of June 23, 2006, under agenda Item D-1, 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 approved amendment waived the requirement for NELHA to obtain the Board's prior written consent to issue subleases; however, the sublease itself requires Board and NELHA approval for an assignment of the sublease. Accordingly, staff brings the present request for consent to assignment of sublease to the Board.

¹ 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.

DISCUSSION:

The Hawaii District Land Office has received a request from the Natural Energy Laboratory of Hawaii Authority, for consent to assignment of Sublease K-7 from Kona Cold Lobsters Ltd. (KCL), to Keahole Point Provisions LLC (KPP), a long-standing sublessee at NELH.

KCL has occupied the site covered by Sublease K-7 since 1987 as an R&D project. In 2000, a 30-year sublease was executed to build out a successful business to provide lobsters to the local high-end restaurant and retail markets. KCL also built a certified kitchen to process lobsters, crab and other seafood products including Kona Kanpachi grown off Keahole Point.

KPP is a wholly owned subsidiary of Blue Ocean Mariculture LLC (BOM) which operates the only open water mariculture farm in the USA off Keahole Point. BOM's other subsidiary, Keahole Point Hatcheries LLC, produces the fingerlings for its Kanpachi fish product and is also a NELHA sublessee. KPP also leases office space in the research office campus at NELH.

After 35 years at NELH, the owners of KCL decided to retire from the business. Part of the KCL operations has included processing of Kanpachi harvested from the BOM offshore cages into fresh and frozen filets. KCL and KPP reached an agreement to sell/purchase the business in 2022.

KPP plans to continue the original KCL business plan with only minimal changes. KPP is also planning to invest approximately \$200,000 in new upgrades to the facility and to retain all 13 employees, increasing hours and providing full package benefits.

KCL and KPP 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. NELHA Staff determined there is no assignment premium due. At its meeting of July 19, 2022, agenda item 4a, the NELHA Board of Directors reviewed the request and gave its unanimous consent to the assignment of Sublease K-7 from Kona Cold Lobster Ltd. to Keahole Point Provisions LLC.

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-7 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 After-the-Fact Consent to Assign Sublease K-7 under General Lease No. S-5619, Natural Energy Laboratory of Hawaii Authority, Lessee, on behalf of Kona Cold Lobsters Ltd., Assignor, to Keahole Point Provisions LLC, 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

Candace Martin
Land Agent

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APPROVED FOR SUBMITTAL:



Dawn N.S. Chang, Chairperson

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EXHIBIT A

- 1: Kona Cold Lobsters Ltd. Location
- 2: Keahole Point Provisions LLC fish processing facility – in construction
- 3: Keahole Point Hatcheries LLC – kanpachi fish hatchery
- 4: Offshore Blue Ocean mariculture cages approximate location

