

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

DIVISION OF FORESTRY AND WILDLIFE

December 20, 1985

Board of Land and  
Natural Resources  
Honolulu, Hawaii

Gentlemen:

SUBJECT: Master's Report on Public Hearing to Withdraw State-owned  
Land from the Puna Forest Reserve for Exchange with  
Campbell Estate for Campbell's Kahaulea Land

In accordance with the Notice of Public Hearing published in the Honolulu Star Bulletin and the Hawaii Tribune Herald on October 27, 1985, and as authorized by Governor George R. Ariyoshi, I have conducted a public hearing on November 12, 1985 relative to the withdrawal of 8,890.275 acres from the Puna Forest Reserve, District of Puna, Island of Hawaii, being set aside by Governor's Proclamation dated December 22, 1928, identified as a portion of TMK 1-2-10:02.

The land exchange is for the purpose of exploration and development of geothermal energy pursuant to Act 296, SLH 1983, and Act 151, SLH 1984, providing for the designation of geothermal resource subzones. In addition, the land exchange will permit the acquisition of lands by the State of Hawaii to be set aside for natural area purposes.

Minutes of the public hearing, public hearing notice, and Board approval (Item H-6) dated October 25, 1985 are attached.

As evidenced by the minutes of the hearing, there were no strong negative feelings against the withdrawal per se. One contested case hearing was received and denied by the Attorney General's office.

RECOMMENDATION:

That the Board of Land and Natural Resources:

1. Accept the Master's Report, and
2. Approve the withdrawal of 8,890.275 acres from the Puna Forest Reserve, District of Puna, and identified as a portion of TMK 1-2-10:02.

Respectfully submitted,

  
LIBERT K. LANDGRAF  
Administrator

Attachments

APPROVED FOR SUBMITTAL:

  
SUSUMU ONO, Chairperson

ITEM C-1

DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

Public Hearing for )  
Proposed Withdrawal )  
of 8,890.275 Acres )  
from the Puna Forest )  
Reserve, Tax Map Key: )  
1-2-10:02, Puna, Hawaii. )  
\_\_\_\_\_ )

PUBLIC HEARING

Before Libert Landgraf, on November 12, 1985, commencing at  
7:10 p.m., at the State Office Building, Conference Rooms  
A, B, C, 75 Aupuni Street, Hilo, Hawaii.

BEFORE: Jean Marie McManus, CSR #156  
Notary Public, State of Hawaii

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1 MR. CHAIRMAN: I would like to convene this Public  
2 Hearing. First of all, I would like to introduce myself, my  
3 name is Libert Landgraf, and I'm the Administrator of the  
4 Division of Forestry and Wildlife, State of Hawaii,  
5 Department of Land and Natural Resources.

6 For the record, since it is relatively short, I  
7 would like to read the notice of this Public Hearing, which  
8 will basically set the stage for what we are about to do here  
9 this evening.

10 Incidentally, since we have a rather small group  
11 this evening, if you can't hear me in the back, please either  
12 raise your hand or throw a shoe or something, and I'll speak  
13 up a little louder.

14 The notice of this Public Hearing states that  
15 pursuant to Chapters 91 and 92 of the Hawaii Revised Statutes  
16 and other applicable laws, notice is hereby given that the  
17 Board of Land and Natural Resources will hold a Public  
18 Hearing beginning 7:00 p.m., Tuesday, November 12, 1985, at  
19 the State Office Building, Conference Rooms A, B and C, 75  
20 Aupuni Street, Hilo, Hawaii, for the purpose of considering a  
21 proposed withdrawal of 8,890.275 acres from the Puna Forest  
22 Reserve, Tax Map Key: 1-2-10:02, Puna, Hawaii.

23 The subject land is set aside by Governor's  
24 Proclamation dated December 22nd, 1928, as part of the Puna  
25 Forest Reserve.

1 Pursuant to the Decision and Order of the Board of  
2 Land and Natural Resources dated December 28, 1984, the  
3 parcel consisting of 8,890.275 acres is proposed to be  
4 exchanged with Campbell Estate for Campbell Estate Kahaualea  
5 lands.

6 The land exchange is being proposed for the purpose  
7 of exploration and development of geothermal energy, pursuant  
8 to Act 296, State Laws of Hawaii, 1983; and Act 151, State  
9 Laws of Hawaii, 1984, providing for the designation of  
10 geothermal resource subzones.

11 In addition, the land exchange will permit the  
12 acquisition of lands by the State of Hawaii to be set aside  
13 for natural area reserve purposes. In order for the exchange  
14 to proceed, the land must be withdrawn from forest reserve  
15 status.

16 Persons wishing to offer comments or testimony are  
17 invited to appear at the public hearing on the date and time  
18 and at the place specified above, Board of Land and Natural  
19 Resources, signed by Mr. Susumu Ono, chairperson and member.

20 This notice appeared in the Honolulu Star Bulletin,  
21 October 27, 1985; and in the Hilo Tribune Herald on October  
22 27, 1985.

23 The authority for me personally to conduct this  
24 hearing was authorized by the Governor, in a memorandum from  
25 Governor George Ariyoshi to Mr. Susumu Ono, and it approved

1 and specifically appoints me, Mr. Libert Landgraf, as the  
2 Master to conduct this hearing.

3 In terms of procedures, I think most of us here are  
4 familiar with the procedures, and have either conducted or  
5 appeared at public hearings in the past. We do have a  
6 sign-up sheet here on the front table to my right.

7 If you wish to present testimony, either written or  
8 oral, if you would be kind enough to sign up on that, we will  
9 use that as the list in terms of order of who appears. If  
10 you are not on that list, please sign up, and we would prefer  
11 if you would print. If anyone comes in after that sheet has  
12 been presented to me, I will announce later in this public  
13 hearing for any further testimony, either written or oral.

14 If you would be kind enough please, if you are  
15 going to testify, if you would identify yourself and whom you  
16 represent, if it's an organization or an individual, it  
17 really doesn't make any difference, but that way we will be  
18 certain to have you properly identified and your testimony  
19 not fall through the crack somewhere.

20 Also in terms of procedures, again I reiterate,  
21 it's solely for the purpose of receiving your testimony, and  
22 your comments, there will be no cross examination of  
23 witnesses from the gallery or from people testifying. Myself  
24 and applicable staff who are here will respond to any  
25 questions that you may have. But again, they will have to be

1 questions that are pertinent and applicable to this  
2 withdrawal.

3 And again, I reiterate, it is for the withdrawal of  
4 that approximately 8,800 acres from the Puna Forest Reserve  
5 for which I have already explained.

6 There is basically no time limit in your testimony,  
7 however, for the sake of meeting the time schedule, I think  
8 there is a time that we have to be out of here, I would  
9 appreciate it if you would make it to the point.

10 Again, I don't want this to be misinterpreted as we  
11 are attempting to muscle anyone or not give anyone their fair  
12 and appropriate time, quote in court, unquote.

13 If there are those of you here this evening that  
14 represent an organization, a community or a group of people,  
15 and wish rather than individually coming up and testifying,  
16 wish to select a spokesperson, that is perfectly acceptable,  
17 and we will have no problems there.

18 I think, unless you have any questions in terms of  
19 the purpose of this hearing, the procedures, or the format,  
20 which I would receive any comments regarding that at this  
21 time, we will go ahead and take the sign-up sheet in terms of  
22 people who wish to testify, and proceed.

23 Hearing no names, I will proceed with the list of  
24 people wishing to testify. The first person that wishes to  
25 testify is Mrs. Mae Mull, and the organization is the Hawaii

1 Audobon Society. Mae, if you would be kind enough to step  
2 forward here.

3 TESTIMONY OF MAE MULL

4 MS. MULL: My name is Mae Mull, I'm a resident of  
5 Volcano, and I have been authorized to present testimony on  
6 behalf of the Hawaii Audobon Society, and also to raise  
7 questions on behalf of the Audobon Society. The Audobon  
8 Society's interest in this goes back -- in these lands --  
9 really goes back for a long time because these lands provide  
10 habitat for a number of native Hawaiian birds.

11 Of particular interest more recently has been the  
12 establishment of the natural area reserve system, and  
13 discussions went on, I think it was five or six years ago  
14 here in Hilo, on the establishment of a natural area reserve  
15 out of these Puna Forest Reserve lands, and the Hawaii  
16 Audobon Society was one among several organizations and  
17 groups who were very much interested in having this natural  
18 area reserve set up.

19 And I remember that the State District Forester, at  
20 that time, Mr. Landgraf, was very active also in wanting to  
21 have that natural area reserve set up, and he contributed  
22 really a lot of help in getting it accomplished.

23 And now I know the purpose of the hearing tonight  
24 is for the withdrawal of lands from the Puna Forest Reserve  
25 and not specifically from the natural area reserve, but in



1 our view, you just cannot separate those completely, because  
2 there are a lot of the same type of forest involved there.

3 I understand we are having the public hearing  
4 because it is required by law, before lands can be taken out  
5 of the forest reserve, the public must have an opportunity  
6 for input. But yet I want to ask about the natural area  
7 reserve lands that are just right adjacent to it that are  
8 really a part of it, that is, is no public hearing required  
9 for the withdrawal of the natural area reserve lands?

10 Those really, in a way, have a higher category of  
11 protection than the Puna Forest Reserve. They were specially  
12 set apart, and the uses there are much more restricted and  
13 limited of the natural area reserve lands than of the forest  
14 reserve lands.

15 I would also like to point out that the Puna -- the  
16 forest reserve lands are in the highest category that is  
17 possible to attain under the state law, that is the  
18 protective subzone of the Conservation District. There is no  
19 more land that has a higher degree of protection than that,  
20 except probably for the natural area of reserve lands. But  
21 those also have a protective subzone category.

22 So I think this is a real very serious matter about  
23 taking lands, withdrawing them from the forest reserve, when  
24 they are already recognized by the Department of Land and  
25 Natural Resources, by the Board and by the Governor, these

1 are already recognized as of very good quality forest areas.

2 So it just isn't like it's some junk degraded piece  
3 of forest, you know, that sometimes there are pieces of land  
4 like that in the forest reserve that are taken out, and have  
5 been in the past taken out for other agriculture purposes,  
6 this is not that category, you know, kind of land at all.

7 A lot of that Puna forest lands is in the category  
8 that Dr. Lamoureux calls high quality wet ohia habitat for  
9 native species. So this really, it cannot be done very  
10 lightly.

11 I have a lot of questions to ask on behalf of the  
12 Society, as far as the land exchange goes. For one thing,  
13 will there be an opportunity for any public input on the land  
14 exchange, the way there is for this hearing now on the  
15 withdrawal of the forest lands? Or is it just decided  
16 between the Land Board and the landowner, if they come to  
17 agreement, then it goes to the legislature, then it's up to  
18 the legislature to decide whether that land exchange is in  
19 the best interest of the State? Is there any opportunity for  
20 public input on that land exchange?

21 We are really concerned because of the public  
22 notices that have come out as a result of the Land Board's  
23 meetings, and where it indicates that this whole Puna mid  
24 rift forest, the natural area and the Puna Forest Reserve,  
25 and some State ag lands are going to be swapped in total for

1 all of Campbell Estate lands at Kahaualea and some land that  
2 is not even in Kahaualea.

3 There really must be a time, in our view, for the  
4 State and the landowners involved in this exchange to listen  
5 to public comment on the land exchange.

6 For one thing we would oppose very strongly the  
7 removal of all of the Wao Kele 'O Puna natural area reserve  
8 as a part of the land exchange. It is our belief that there  
9 are lands in that natural area reserve which are simply  
10 unsuitable for geothermal development.

11 A large part of that forest area, the northern part  
12 of the forest area, the north western part of the forest area  
13 is not necessary and completely unneeded for geothermal  
14 development. It has the protective subzone status, and as I  
15 understand it in the land exchange, the land use category is  
16 not changed, it will retain that protective subzone status.  
17 And the uses would be, will there are very limited uses that  
18 the private landowner could put to it.

19 But I think there has to be an opportunity for the  
20 Land Board to listen to it. We do not want all of that  
21 natural area reserve to be exchanged to Campbell Estate, some  
22 of those lands are unsuitable. I think there is a question  
23 about whether Campbell Estate would even want to have some of  
24 those lands. And they were put in a natural area reserve.

25 We would like to see some way where those lands up

1 in the northwest portion of the natural area reserve and the  
2 lands that are in the southern part of the rift zone stay in  
3 the natural area reserve.

4 Another problem that we have with the land  
5 exchange, and I'm bringing up this question now because I  
6 don't know if I'll have a chance again to bring it up, is  
7 about the Campbell Estate ag lands. In the documents that  
8 have come out from the Board, it appears that some of  
9 Campbell Estate ag lands that are not even a part of  
10 Kahaualea would be in the exchange, and the State would  
11 receive some of those lands. You see the yellow area over  
12 there, that is the Kahaualea, then the land south of that is  
13 a continuation of the Kahaualea Puu, some of those lands are  
14 completely ruined lands that really have no use as far as  
15 native forest protection goes any more. Some of those lands  
16 have just gone through this ohia chipping to supply wood  
17 chips to run the boilers there at Keeau, and that land has no  
18 value any more as a native forest, it's not even in the  
19 Kahaualea Puu. We take a very strong position that that land  
20 should remain with Campbell Estate and should not become a  
21 part of State lands.

22 If Campbell wants, I'm sure they could use it for  
23 some kind of an agriculture use, they should do it. It's ag  
24 lands now that its forest value is just ruined.

25 We generally -- I'd like to say this positive, make

1 these positive comments about the land exchange. We  
2 generally favor a land exchange. We are very much in favor  
3 of the principle of the prime forest areas of Kahaualea  
4 becoming a natural area reserve. I'm glad that the State has  
5 come up with this kind of a proposal. We want that to  
6 happen. We want, you know, a fair land exchange.

7 And we have, if it's necessary for the Puna -- if  
8 these 9,000 acres of the Puna Forest Reserve to be a part of  
9 that, we realize that there has to be some tradeoffs, so we  
10 realize we can't have Kahaualea natural area reserve and  
11 expect to save everything in the mid rift too, we do  
12 understand that.

13 But we want some of these values that I have  
14 addressed here to be very carefully considered, and we really  
15 ask, will there be an opportunity for public input, and all  
16 of these questions involving the land exchange? Thank you,  
17 very much, for the opportunity to raise these questions.

18 MR. HEARING OFFICER: Thank you, very much, Mrs.  
19 Mull.

20 The next person that has indicated they would like  
21 to present testimony is Melissa Kirkendall.

22 TESTIMONY OF MELISSA KIRKENDALL

23 MRS. KIRKENDALL: My name is Melissa Kirkendall, I  
24 live in Kaohe Homestead, have lived there for 13 years on a  
25 piece of property adjacent to Wao Kele 'O puna and the Puna

1 Forest Reserve.

2 As I understand, before I start, as I understand  
3 what came out, what we are doing tonight is just withdrawing  
4 the 8000 acres from forest reserve. Now the entire thing is  
5 forest reserve though, in addition to the natural area  
6 reserve, from what I understand, so I am a little confused on  
7 that point.

8 However, I realize whatever I say is basically at  
9 this point mute. So what I would like to say is that I feel,  
10 as Mae Mull does, that a lot of concern should go into this,  
11 it should not be done lightly. I believe that in 1928 when  
12 this was set up, it was done so for a purpose for State  
13 lands, for people to use as a wildlife refuge, for nature to  
14 proliferate.

15 In addition, there is a great deal of hunting that  
16 is done there, although no hunters are representing  
17 themselves here, I do feel that their concerns are important  
18 and should be taken into consideration.

19 This is also a watershed area, that's one of the  
20 reasons that the natural forest reserves were set up, to  
21 preserve this entire environment. And I would feel remiss  
22 were I not to tell you that I do not feel that taking this  
23 out of the forest reserve is really right. I do feel  
24 strongly about this, that wild lands are diminishing, and I  
25 realize that it's been promised that the area in Kahaualea

1 will become a natural area reserve.

2 I'm not sure that that area there is -- it is very  
3 pristene, I have heard, I've not been in there myself. I  
4 realize that we need all the areas that we can at this point.  
5 It's just important to me that this not be done lightly. I  
6 think something that a govenor stated in 1928 and set aside  
7 should take a lot of thought before it is just done away  
8 with.

9 For the sake of all the public, this is not  
10 something that is up for a vote, do we want to take this  
11 public land that belongs to all of the people, all of the  
12 residents of the State of Hawaii. There will be no vote on  
13 this, it will be subject to the Board's decision, which I do  
14 firmly believe has already been made.

15 I wish that there were more people here to  
16 represent this particular viewpoint. I know there are a lot  
17 of people who feel this strongly about it. However, I did  
18 want to state my viewpoint about this living next to a forest  
19 reserve, having chosen to live next to a forest reserve and  
20 realizing that I will no longer live next to a forest  
21 reserve. Thank you.

22 MR. HEARING OFFICER: Excuse me, before you leave,  
23 I think, unless there is additional testimony, for a point of  
24 clarification, if I may get to the map and explain what is  
25 happening here, and I apologize for it, because looking over

1 the audience this evening, I assumed that all of you here  
2 know what we are talking about and have been there. And I  
3 don't anticipate any cross examination here between you and  
4 I, but I just, if I could summarize it again, I apologize.

5 The original Puna Forest Reserve that was set up is  
6 this line that's right in here. And then what happened for  
7 the natural area reserve when it was set up, this green L  
8 shape piece here that looks like a baby crib or baby  
9 carriage, that was formally withdrawn.

10 So by public hearings similar to what I'm doing  
11 here this evening, this was withdrawn from this whole piece  
12 here and the natural area is established.

13 And this remained in forest reserve status, this  
14 portion here, that's the part that we are talking about this  
15 evening.

16 MRS. KIRKENDALL: Right.

17 MR. HEARING OFFIER: I assume --

18 MRS. KIRKENDALL: I do understand that from this, I  
19 do have one quesiton, although I won't cross examine.

20 MR. HEARING OFFICER: Fine.

21 MRS. KIRKENDALL: Will there be a time, or a  
22 hearing within which point the Wao Kele 'O Puna natural area  
23 reserve will be withdrawn from said status?

24 MR. HEARING OFFICER: I don't know, I really don't  
25 know.



1 MRS. KIRKENDALL: There is no rule that says that  
2 just as we have to withdraw the forest reserve from that  
3 status, we also have to withdraw a natural area reserve,  
4 which seems a good deal more specific than a forest reserve  
5 even still, it seems like that would require its own hearing.

6 MR. HEARING OFFICER: I am not aware of any  
7 requirements that a public hearing, per se as I'm conducting  
8 here this evening, has to be conducted for the withdrawal of  
9 the natural area, that's all I know.

10 MRS. KIRKENDALL: Does that seem to you a more  
11 specific status, a natural area reserve?

12 MR. HEARING OFFICER: More specific?

13 MRS. KIRKENDALL: Than forest reserve.

14 MR. HEARING OFFICER: They accomplish basically the  
15 same thing.

16 MRS. KIRKENDALL: So I would think if what's  
17 required for one would be required for the other.

18 MR. HEARING OFFICER: I think, and I'm not passing  
19 the buck, but because there is a formal legal established  
20 Natural Areas Commission that administers or recommends to  
21 the Department, that those questions are, or whatever  
22 questions that you have, may be more properly addressed to  
23 the Natural Areas Commission.

24 MRS. KIRKENDALL: Could you give me a suggestion on  
25 how to pursue that for my own knowledge, perhaps, or peace of

1 mind, as it were?

2 MR. HEARING OFFICER: If you would leave me your  
3 address here at the close, I will relay that message to the  
4 Administrator of the Natural Area Reserve Commission.

5 MRS. KIRKENDALL: I would appreciate that and hope  
6 you encourage them to follow --

7 MR. HEARING OFFICER: And express your concerns,  
8 thank you, very much.

9 Is there anyone other than the two previous  
10 individuals that would care to present testimony this  
11 evening? If not, I would like to also in closing state that --

12 MS. MULL: Excuse me, could we have some questions  
13 then, didn't you say that you would answer some of our  
14 questions as best you could?

15 MR. HEARING OFFICER: Mrs. Mull, if it's  
16 specifically pertinent to the withdrawal and the withdrawal  
17 only, and if you feel that it has direct implications and  
18 input into the public hearing, fine. If not, after the  
19 meeting is closed, my and my staff would be very happy to  
20 remain and answer any questions that you might have.

21 MS. MULL: As a part of my testimony I did raise  
22 the question about public input on the land exchange which  
23 includes the Puna forest.

24 MR. HEARING OFFICER: And my answer is I don't know  
25 the policies and procedures. My expertise is specifically

1 just the withdrawal portion of the forest reserves.

2 MS. MULL: If you are going to -- Mrs. Kirkendall  
3 asked, you were going to pass her name on to the Natural Area  
4 Reserve Commission, could you also give them my name as a  
5 representative of the Hawaii Audobon Society who wants to  
6 know how this natural area will be treated, you know, as a  
7 part of the land exchange. We want to know the conditions  
8 under which it will be withdrawn, and can some of it be  
9 retained as a natural area.

10 MR. HEARING OFFICER: I won't relate that, but I  
11 will pass on the expression of yourself and Melissa's  
12 concerns, and he can contact you directly.

13 MR. L'ORANGE: Within the confines of what you said  
14 so far, are any of us here able to contest the withdrawal of  
15 these lands?

16 MR. HEARING OFFICER: Yes, sir.

17 MR. L'ORANGE: Is that something that has to be, I  
18 don't know whether legal is the right word, but do we have to  
19 formally contest that, and then what ramification does that  
20 have that is being contested here tonight?

21 MR. HEARING OFFICER: If it is your pleasure to  
22 contest the withdrawal of the remaining portion of the Puna  
23 Forest Reserve, we are prepared to present to you a format  
24 which you can fill out and submit to the Department of Land  
25 and Natural Resources in terms of requesting a contested

1 hearing. There are procedures set out by rules and  
2 regulations that allow for that, and we can present you with  
3 it, actually it's a form.

4 MR. L'ORANGE: Do I understand it correctly,  
5 though, that if it's not contested tonight at this meeting,  
6 then it cannot be in the future contested, the withdrawal?

7 MR. HEARING OFFICER: The withdrawal, you have an  
8 opportunity this evening to submit either in writing or  
9 verbally that you would like to contest the withdrawal.

10 MR. L'ORANGE: I would like to do that.

11 MR. HEARING OFFICER: If you would step forward, at  
12 least identify yourself.

13 MR. L'ORANGE: My name is Francois L'Orange, and I  
14 live in Kapoho, and I would like to formally contest the  
15 withdrawal of the land.

16 MR. HEARING OFFICER: Would you present this to Mr.  
17 L'Orange.

18 STAFF: You have ten days to submit this in  
19 writing.

20 MR. HEARING OFFICER: Excuse me, Mr. L'Orange, if  
21 you have any further questions in terms of deadlines and why  
22 the ten days and so on, we do have the administrative rules  
23 and practices and procedures that were adopted for the  
24 contested case hearings, if you wonder why it's ten days and --

25 MR. L'ORANGE: Can I get a copy of that?

1 MR. HEARING OFFICER: Sure.

2 MR. L'ORANGE: I have another question. Is there  
3 an Environmental Impact Statement required before the State  
4 can withdraw the lands?

5 MR. HEARING OFFICER: From the forest reserve  
6 status?

7 MR. L'ORANGE: From the forest reserve status.

8 MR. HEARING OFFICER: No, sir.

9 MR. L'ORANGE: There is not?

10 MR. HEARING OFFICER: No, sir.

11 MR. L'ORANGE: It would seem to me just living in  
12 Puna, common citizen of Puna, that they would have to have  
13 some sort of an impact statement if the State is going to  
14 sell the land or exchange the land or give the land to a  
15 private concern, private individual, private corporation.

16 MR. HEARING OFFICER: I repeat myself, for the  
17 withdrawal of it from forest reserve status, the answer to  
18 that again is no.

19 MR. L'ORANGE: Then the further question is then  
20 before Campbell Estate can proceed with the drilling, do they  
21 have to have an Environmental Impact Statement?

22 MR. HEARING OFFICER: I don't know. Again, I'm  
23 confining my response to you clearly and only for the  
24 withdrawal from the Puna Forest Reserve in --

25 MR. L'ORANGE: I have another question. Is there

1 any other way besides formally contesting the withdrawal that  
2 the citizens of Puna can stop the exchange of lands?

3 MR. HEARING OFFICER: I don't know, I answered your  
4 question, I don't know if there is any other mechanism for  
5 the citizens of Puna to do what your question asks, I don't  
6 know.

7 MR. L'ORANGE: Would you be able to direct me to  
8 someone who would know? In other words, my question is, how  
9 can the people that live out there, that really don't know  
10 the mechanizations of the State procedures, how can we find  
11 out and get some help from the State, find out what our legal  
12 rights are in this matter?

13 MR. HEARING OFFICER: Staff, do you have any  
14 comments?

15 STAFF: According to the Administrative Procedures,  
16 Rules and Regulations are set up by the Department. The  
17 first step that you would have to go through would be a  
18 contested case proceeding. If you fail to do that, you may  
19 lose your standing in any court of appeals.

20 MR. L'ORANGE: You said court of appeals, is that a  
21 legal court?

22 STAFF: Third Circuit Court or Hawaii Court of  
23 Appeals or State Supreme Court. It is administrative --  
24 contested case hearing is an administrative hearing, that is  
25 your first step that is required.

1 MR. L'ORNAGE: I don't have any other questions.

2 MR. HEARING OFFICER: Thank you, very much.

3 MS. MULL: I don't recall that you said the time  
4 frame for this withdrawal of land to take place.

5 MR. HEARING OFFICER: I didn't, and if you are  
6 going to ask me, I would say I don't know. The only time  
7 frame I presented was we will receive testimony, written, for  
8 the next 15 calendar days; and secondly, if whomever wishes  
9 to submit formally in writing the request for contested  
10 hearing, that deadline is ten days.

11 MS. MULL: As I recall the legislature gave  
12 instructions to the Board of Land and Natural Resources to  
13 make a report to the legislature, I think, by December 15th,  
14 on the status of the land exchange.

15 Do you recall that that is -- is that correct? And  
16 so I was just wondering, you see whether this land exchange  
17 itself had to be finished by December 15th, or whether, you  
18 know, the Land Board would just report to the legislature  
19 that they have taken these many steps now to bring about the  
20 land exchange.

21 MR. HEARING OFFICER: Again your question, Mrs.  
22 Mull, is what?

23 MS. MULL: The time frame for the actual withdrawal  
24 of the lands, you know, does that have to be accomplished by  
25 December 15th, if possible, you know, if it's legally

1 possible, or does the Land Board just have to say we have  
2 started, you know, the paper work that is necessary for this  
3 withdrawal by, for one thing by having this public hearing?

4 MR. HEARING OFFICER: I don't know, I can't respond  
5 to that, I don't know the answer.

6 Are there any other questions? If not, I would  
7 like to close this public hearing for the withdrawal of the  
8 8000 acres from the Puna Forest Reserve. I and staff will  
9 remain after the formal portion of this public hearing to  
10 assist you or to answer any questions you may have.

11 Again a reminder that we will accept written  
12 testimony for the next 15 calendar days. No further  
13 business, I so declare this public hearing closed. Thank  
14 you, very much.

15 (Whereupon the hearing was concluded at 7:45 p.m.)  
16  
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## CERTIFICATE

STATE OF HAWAII )  
                  ) SS.  
CITY AND COUNTY )  
OF HONOLULU       )

I, JEAN MARIE McMANUS, Notary Public, State of  
Hawaii, do hereby certify:

That on November 12, 1985, at 7:10 o'clock p.m.,  
the hearing contained herein was taken down by me in  
machine shorthand and was thereafter reduced to typewriting  
under my supervision; that the foregoing represents, to the  
best of my ability, a true and correct copy of the proceedings  
had in the foregoing matter.

I further certify that I am not of counsel for  
any of the parties hereto, nor in any way interested in the  
outcome of the cause named in the caption.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 1985,  
in Honolulu, Hawaii.

JEAN MARIE McMANUS CSR #156  
Notary Public, State of Hawaii  
My commission expires: 4/28/88

D. n. v

## NOTICE OF PUBLIC HEARING

### Proposed Withdrawal of Puna Forest Reserve Lands

Pursuant to Chapters 91 and 92, Hawaii Revised Statutes, and other applicable laws notice is hereby given that the Board of Land and Natural Resources will hold a Public Hearing beginning at 7:00 p.m., Tuesday, November 12, 1985 at the State Office Building, Conference Rooms A, B, and C, 75 Aupuni Street, Hilo, Hawaii, for the purpose of considering a proposed withdrawal of 8,890.275 acres from the Puna Forest Reserve, Tax Map Key 1-2-10:02, Puna, Hawaii,

The subject land is set aside by Governor's Proclamation dated December 22, 1928, as part of the Puna Forest Reserve. Pursuant to the Decision and Order of the Board of Land and Natural Resources dated December 28, 1984, the parcel consisting of 8,890.275 acres is proposed to be exchanged with Campbell Estate for Campbell's Kahaualea lands. The land exchange is being proposed for the purpose of exploration and development of geothermal energy pursuant to Act 296, SLH 1983, and Act 151, SLH 1984, providing for the designation of geothermal resource subzones. In addition, the land exchange will permit the acquisition of lands by the State of Hawaii to be set aside for Natural Area Reserve purposes. In order for the exchange to proceed, the land must be withdrawn from forest reserve status.

Persons wishing to offer comments or testimony are invited to appear at the public hearing on the date and at the time and place specified above.

State of Hawaii  
BOARD OF LAND AND NATURAL RESOURCES

  
SUSUMU ONO  
Chairperson

Dated: October 21, 1985  
Publish in the Honolulu Star Bulletin  
and Hawaii Tribune Herald, issue  
of October 27, 1985



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF LAND MANAGEMENT  
P. O. BOX 621  
HONOLULU, HAWAII 96809

October 25, 1985

Board of Land and  
Natural Resources  
Honolulu, Hawaii

Gentlemen:

HAWAII

Subject: Proposal for Exchange of Land Between the  
State of Hawaii and the Estate of James  
Campbell

STATUTE: Section 171-50, Hawaii Revised Statutes

PURPOSE: Development of geothermal energy and acquisition  
of land for natural area reserve.

ESTATE OF JAMES CAMPBELL TO CONVEY TO STATE OF HAWAII:

<u>Tax Map Key</u>	<u>Area (Acres, Approx.)</u>	<u>LUC Zoning</u>	<u>County Zoning</u>
1-1-1:por. 1	16,293.111	Conservation	None
1-1-1:por. 1 (Tract 22)	5,650.00	"	None
1-1-1:por. 1	992.0	Agriculture	A-20
1-2-8:01	<u>2,526.20</u>	"	A-20

Total 25,461.311 acres

STATE OF HAWAII TO CONVEY TO ESTATE OF JAMES CAMPBELL:

<u>Tax Map Key</u>	<u>Area (Acres, Approx.)</u>	<u>LUC Zoning</u>	<u>County Zoning</u>	<u>Land Title</u>
1-2-10:01	1,930.00	Agriculture	A-20	5(b)
1-2-10:02	8,890.275	Conservation	None	5(b)
1-2-10:03	<u>16,843.891</u>	"	None	5(b)

Total 27,644.166 acres

Board of Land and  
Natural Resources

October 25, 1985

CONSIDERATION: Land exchange to be predicated on equally valued land, to be based on independent appraisal, subject to review and acceptance by the Chairperson. Should the lands to be conveyed by Campbell Estate be of greater value than those to be conveyed by the State, the Campbell Estate will waive the overage. Should the land to be conveyed by the State be of greater value than those to be conveyed by the Campbell Estate, the Campbell Estate will pay the difference.

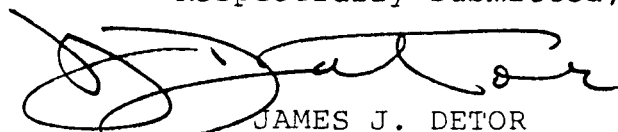
REMARKS: The Board's December 28, 1984 decision and order on the proposed geothermal subzone affecting the Kilauea upper east rift zone invited the Estate of James Campbell to propose an exchange of lands wherein the Campbell lands adjacent to Volcanoes National Park would be conveyed to the State in exchange for state lands located further to the east along the Kilauea middle east rift zone.

This exchange proposal is a follow-up of the Board's decision and order. Other related actions necessary to effectuate the decision and order will be presented separately for Board consideration.

RECOMMENDATION: That the Board approve the exchange of land between the Estate of James Campbell and the State of Hawaii as detailed above, subject to the following terms and conditions:

1. That the Chairperson be authorized, based on valuation of the parcels as established by appraisal, to determine the acreage and parcels to be conveyed.
2. Publication of notice of disposition as required by law.
3. Disapproval by the Legislature.
4. Such other terms and conditions as may be prescribed by the Chairperson to carry out the intent of the Board.

Respectfully submitted,



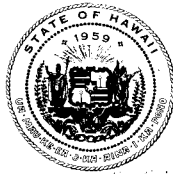
JAMES J. DETOR  
Land Management Administrator

APPROVED FOR SUBMITTAL:



SUSUMU ONO, Chairperson

GEORGE R. ARIYOSHI  
GOVERNOR OF HAWAII



STATE OF HAWAII

DEPARTMENT OF LAND AND NATURAL RESOURCES

P. O. BOX 621  
HONOLULU, HAWAII 96809

SUSUMU ONO, CHAIRMAN  
BOARD OF LAND & NATURAL RESOURCES

EDGAR A. HAMASU  
DEPUTY TO THE CHAIRMAN

DIVISIONS:  
AQUACULTURE DEVELOPMENT  
PROGRAM  
AQUATIC RESOURCES  
CONSERVATION AND  
RESOURCES ENFORCEMENT  
CONVEYANCES  
FORESTRY AND WILDLIFE  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

RECEIVED

'85 OCT 22 P4:13

FORESTRY & WILDLIFE  
STATE OF HAWAII  
October 17, 1985

MEMORANDUM

TO: Honorable George R. Ariyoshi  
Governor, State of Hawaii

FROM: Susumu Ono

SUBJECT: Request to Authorize Public Hearing for Proposed  
Withdrawal of 8,890.275 Acres from the Puna Forest  
Reserve, Tax Map Key: 1-2-10:02, Puna, Hawaii

The subject land is set aside by Governor's Proclamation dated December 22, 1928, as part of the Puna Forest Reserve. Pursuant to the Decision and Order of the Board of Land and Natural Resources dated December 28, 1984, the parcel consisting of 8,890.275 acres is proposed to be exchanged with Campbell Estate for Campbell's Kahaualea land.

The land exchange is being proposed for the purpose of exploration and development of geothermal energy pursuant to Act 296, SLH 1983, and Act 151, SLH 1984, providing for the designation of geothermal resource subzones. In addition, the land exchange will permit the acquisition of lands by the State of Hawaii to be set aside for Natural Area Reserve purposes.

In order for the exchange to proceed, the land must be withdrawn from the forest reserve. However, such withdrawal must be made subsequent to a public hearing pursuant to Section 183-12, Hawaii Revised Statutes.

The Governor's authorization to hold a public hearing on the Island of Hawaii to consider testimony for and against the proposed withdrawal and the appointment of Mr. Libert Landgraf, Administrator for the Division of Forestry and Wildlife, Department of Land and Natural Resources, as Master; and the authorization of the Chairperson to determine the date, time and place for the public hearing are requested.

SUSUMU ONO

Chairperson of the Board

APPROVED/~~DISAPPROVED~~

George R. Ariyoshi  
Governor, State of Hawaii

85:522-09

11. The decision today to... middle rift, Puna, Hawaii, as a geothermal resource subzone is only the first step. The identification of which land will have on-site geothermal activity will undergo greater refinement in subsequent permitting processes. For example, any use of conservation land will require a CDU permit.

Mr. Ono said the above are the main factors which were considered in arriving at the geothermal subzone as depicted on the map on the wall. Mr. Ono asked the board if they had any additional comments.

There were none so the decision and order was executed.

Mr. Ono said that the Division of Water and Land's original recommendation was to cover an area of 11,745 acres. The designated subzone covers an area of 8,447 acres or a reduction of 3,298 acres from what was proposed.

MASTER'S REPORT ON PUBLIC HEARING TO WITHDRAW STATE-OWNED LAND FROM THE PUNA FOREST RESERVE FOR EXCHANGE WITH CAMPBELL ESTATE FOR CAMPBELL'S KAHAAULEA LAND.

ITEM C-1

Mr. Landgraf said that as evidenced by the minutes of the hearing (which were attached to the submittal) there were more strong negative feelings against the withdrawal per se. There was one request for contested case hearing but was denied on the basis that he did not have standing.

Mr. Landgraf recommended that the Board accept his Master's Report and approve the withdrawal of 8,890.275 acres from the Puna Forest Reserve, District of Puna, and identified as portion of TMK 1-2-10:02.

At Mr. Zalopany's request, the area affected was pointed out to the board from a map on the wall.

Mr. Higashi asked to amend the submittal by adding the words "more or less" after the acreage shown in the submittal.

ACTION Unanimously approved as recommended by Mr. Landgraf and as amended by Mr. Higashi. (Higashi/Arisumi)

RECESS: 9:20 A.M. in order for the audience to review the boundaries of the geothermal subzone.

RECONVENE: 9:25 A.M.

RESUBMITTAL - ADOPTION OF NEW IRRIGATION WATER RATES FOR THE STATE OPERATED WAIMEA, MOLOKAI, AND WAIMANALO IRRIGATION SYSTEMS.

ITEM D-1

Mr. Tagomori said that at the December 6, 1985 meeting, the Board moved to defer this item to today's meeting to allow the Waimea farmers to address the board directly and also that the decision making on this matter be further deferred to the January 10, 1985 meeting in Honolulu to allow the Waimanalo farmers and other farmers from Molokai to again address the board directly.

A fact sheet was presented to the board showing the number of farmers in the various areas. This sheet was prepared at the request of Mr. Ing at the last board meeting.

Mr. Tagomori then went on to point out the Waimea Irrigation System from a map on the wall. Mr. Tagomori also briefed the board on staff's proposed programs for the area.

Mr. Ono asked if there were any representatives from the farming community.

*BLNR MINUTES OF DEC. 20, 1985 MEETING.*

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

DIVISION OF FORESTRY AND WILDLIFE

December 20, 1985

Board of Land and  
Natural Resources  
Honolulu, Hawaii

Gentlemen:

SUBJECT: Master's Report on Public Hearing to Withdraw State-owned  
Land from the Puna Forest Reserve for Exchange with  
Campbell Estate for Campbell's Kahaulea Land

In accordance with the Notice of Public Hearing published in the Honolulu Star Bulletin and the Hawaii Tribune Herald on October 27, 1985, and as authorized by Governor George R. Ariyoshi, I have conducted a public hearing on November 12, 1985 relative to the withdrawal of 8,890.275 acres from the Puna Forest Reserve, District of Puna, Island of Hawaii, being set aside by Governor's Proclamation dated December 22, 1928, identified as a portion of TMK 1-2-10:02.

The land exchange is for the purpose of exploration and development of geothermal energy pursuant to Act 296, SLH 1983, and Act 151, SLH 1984, providing for the designation of geothermal resource subzones. In addition, the land exchange will permit the acquisition of lands by the State of Hawaii to be set aside for natural area purposes.

Minutes of the public hearing, public hearing notice, and Board approval (Item H-6) dated October 25, 1985 are attached.

As evidenced by the minutes of the hearing, there were no strong negative feelings against the withdrawal per se. One contested case hearing was received and denied by the Attorney General's office.

RECOMMENDATION:

That the Board of Land and Natural Resources:

1. Accept the Master's Report, and
2. Approve the withdrawal of 8,890.275 acres from the Puna Forest Reserve, District of Puna, and identified as a portion of TMK 1-2-10:02.

Respectfully submitted,

  
LIBERT K. LANDGRAF  
Administrator

Attachments

APPROVED FOR SUBMITTAL:

  
SUSUMU ONO, Chairperson

ITEM C-1

*Hand to check  
w/ Nobu Honda (ext 2861)*

DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

Public Hearing for )  
Proposed Withdrawal )  
of 8,890.275 Acres )  
from the Puna Forest )  
Reserve, Tax Map Key: )  
1-2-10:02, Puna, Hawaii. )

PUBLIC HEARING

Before Libert Landgraf, on November 12, 1985, commencing at  
7:10 p.m., at the State Office Building, Conference Rooms  
A, B, C, 75 Aupuni Street, Hilo, Hawaii.

BEFORE: Jean Marie McManus, CSR #156  
Notary Public, State of Hawaii



## INDEX

PUBLIC WITNESSES	PAGE
MAE MULL	7
MELISSA KIRKENDALL	12

1 MR. CHAIRMAN: I would like to convene this Public  
2 Hearing. First of all, I would like to introduce myself, my  
3 name is Libert Landgraf, and I'm the Administrator of the  
4 Division of Forestry and Wildlife, State of Hawaii,  
5 Department of Land and Natural Resources.

6 For the record, since it is relatively short, I  
7 would like to read the notice of this Public Hearing, which  
8 will basically set the stage for what we are about to do here  
9 this evening.

10 Incidentally, since we have a rather small group  
11 this evening, if you can't hear me in the back, please either  
12 raise your hand or throw a shoe or something, and I'll speak  
13 up a little louder.

14 The notice of this Public Hearing states that  
15 pursuant to Chapters 91 and 92 of the Hawaii Revised Statutes  
16 and other applicable laws, notice is hereby given that the  
17 Board of Land and Natural Resources will hold a Public  
18 Hearing beginning 7:00 p.m., Tuesday, November 12, 1985, at  
19 the State Office Building, Conference Rooms A, B and C, 75  
20 Aupuni Street, Hilo, Hawaii, for the purpose of considering a  
21 proposed withdrawal of 8,890.275 acres from the Puna Forest  
22 Reserve, Tax Map Key: 1-2-10:02, Puna, Hawaii.

23 The subject land is set aside by Governor's  
24 Proclamation dated December 22nd, 1928, as part of the Puna  
25 Forest Reserve.

1 Pursuant to the Decision and Order of the Board of  
2 Land and Natural Resources dated December 28, 1984, the  
3 parcel consisting of 8,890.275 acres is proposed to be  
4 exchanged with Campbell Estate for Campbell Estate Kahaualea  
5 lands.

6 The land exchange is being proposed for the purpose  
7 of exploration and development of geothermal energy, pursuant  
8 to Act 296, State Laws of Hawaii, 1983; and Act 151, State  
9 Laws of Hawaii, 1984, providing for the designation of  
10 geothermal resource subzones.

11 In addition, the land exchange will permit the  
12 acquisition of lands by the State of Hawaii to be set aside  
13 for natural area reserve purposes. In order for the exchange  
14 to proceed, the land must be withdrawn from forest reserve  
15 status.

16 Persons wishing to offer comments or testimony are  
17 invited to appear at the public hearing on the date and time  
18 and at the place specified above, Board of Land and Natural  
19 Resources, signed by Mr. Susumu Ono, chairperson and member.

20 This notice appeared in the Honolulu Star Bulletin,  
21 October 27, 1985; and in the Hilo Tribune Herald on October  
22 27, 1985.

23 The authority for me personally to conduct this  
24 hearing was authorized by the Governor, in a memorandum from  
25 Governor George Ariyoshi to Mr. Susumu Ono, and it approved

1 and specifically appoints me, Mr. Libert Landgraf, as the  
2 Master to conduct this hearing.

3 In terms of procedures, I think most of us here are  
4 familiar with the procedures, and have either conducted or  
5 appeared at public hearings in the past. We do have a  
6 sign-up sheet here on the front table to my right.

7 If you wish to present testimony, either written or  
8 oral, if you would be kind enough to sign up on that, we will  
9 use that as the list in terms of order of who appears. If  
10 you are not on that list, please sign up, and we would prefer  
11 if you would print. If anyone comes in after that sheet has  
12 been presented to me, I will announce later in this public  
13 hearing for any further testimony, either written or oral.

14 If you would be kind enough please, if you are  
15 going to testify, if you would identify yourself and whom you  
16 represent, if it's an organization or an individual, it  
17 really doesn't make any difference, but that way we will be  
18 certain to have you properly identified and your testimony  
19 not fall through the crack somewhere.

20 Also in terms of procedures, again I reiterate,  
21 it's solely for the purpose of receiving your testimony, and  
22 your comments, there will be no cross examination of  
23 witnesses from the gallery or from people testifying. Myself  
24 and applicable staff who are here will respond to any  
25 questions that you may have. But again, they will have to be

1 questions that are pertinent and applicable to this  
2 withdrawal.

3 And again, I reiterate, it is for the withdrawal of  
4 that approximately 8,800 acres from the Puna Forest Reserve  
5 for which I have already explained.

6 There is basically no time limit in your testimony,  
7 however, for the sake of meeting the time schedule, I think  
8 there is a time that we have to be out of here, I would  
9 appreciate it if you would make it to the point.

10 Again, I don't want this to be misinterpreted as we  
11 are attempting to muscle anyone or not give anyone their fair  
12 and appropriate time, quote in court, unquote.

13 If there are those of you here this evening that  
14 represent an organization, a community or a group of people,  
15 and wish rather than individually coming up and testifying,  
16 wish to select a spokesperson, that is perfectly acceptable,  
17 and we will have no problems there.

18 I think, unless you have any questions in terms of  
19 the purpose of this hearing, the procedures, or the format,  
20 which I would receive any comments regarding that at this  
21 time, we will go ahead and take the sign-up sheet in terms of  
22 people who wish to testify, and proceed.

23 Hearing no names, I will proceed with the list of  
24 people wishing to testify. The first person that wishes to  
25 testify is Mrs. Mae Mull, and the organization is the Hawaii

1 Audobon Society. Mae, if you would be kind enough to step  
2 forward here.

3 TESTIMONY OF MAE MULL

4 MS. MULL: My name is Mae Mull, I'm a resident of  
5 Volcano, and I have been authorized to present testimony on  
6 behalf of the Hawaii Audobon Society, and also to raise  
7 questions on behalf of the Audobon Society. The Audobon  
8 Society's interest in this goes back -- in these lands --  
9 really goes back for a long time because these lands provide  
10 habitat for a number of native Hawaiian birds.

11 Of particular interest more recently has been the  
12 establishment of the natural area reserve system, and  
13 discussions went on, I think it was five or six years ago  
14 here in Hilo, on the establishment of a natural area reserve  
15 out of these Puna Forest Reserve lands, and the Hawaii  
16 Audobon Society was one among several organizations and  
17 groups who were very much interested in having this natural  
18 area reserve set up.

19 And I remember that the State District Forester, at  
20 that time, Mr. Landgraf, was very active also in wanting to  
21 have that natural area reserve set up, and he contributed  
22 really a lot of help in getting it accomplished.

23 And now I know the purpose of the hearing tonight  
24 is for the withdrawal of lands from the Puna Forest Reserve  
25 and not specifically from the natural area reserve, but in

1 our view, you just cannot separate those completely, because  
2 there are a lot of the same type of forest involved there.

3 I understand we are having the public hearing  
4 because it is required by law, before lands can be taken out  
5 of the forest reserve, the public must have an opportunity  
6 for input. But yet I want to ask about the natural area  
7 reserve lands that are just right adjacent to it that are  
8 really a part of it, that is, is no public hearing required  
9 for the withdrawal of the natural area reserve lands?

10 Those really, in a way, have a higher category of  
11 protection than the Puna Forest Reserve. They were specially  
12 set apart, and the uses there are much more restricted and  
13 limited of the natural area reserve lands than of the forest  
14 reserve lands.

15 I would also like to point out that the Puna -- the  
16 forest reserve lands are in the highest category that is  
17 possible to attain under the state law, that is the  
18 protective subzone of the Conservation District. There is no  
19 more land that has a higher degree of protection than that,  
20 except probably for the natural area of reserve lands. But  
21 those also have a protective subzone category.

22 So I think this is a real very serious matter about  
23 taking lands, withdrawing them from the forest reserve, when  
24 they are already recognized by the Department of Land and  
25 Natural Resources, by the Board and by the Governor, these

1 are already recognized as of very good quality forest areas.

2 So it just isn't like it's some junk degraded piece  
3 of forest, you know, that sometimes there are pieces of land  
4 like that in the forest reserve that are taken out, and have  
5 been in the past taken out for other agriculture purposes,  
6 this is not that category, you know, kind of land at all.

7 A lot of that Puna forest lands is in the category  
8 that Dr. Lamoureux calls high quality wet ohia habitat for  
9 native species. So this really, it cannot be done very  
10 lightly.

11 I have a lot of questions to ask on behalf of the  
12 Society, as far as the land exchange goes. For one thing,  
13 will there be an opportunity for any public input on the land  
14 exchange, the way there is for this hearing now on the  
15 withdrawal of the forest lands? Or is it just decided  
16 between the Land Board and the landowner, if they come to  
17 agreement, then it goes to the legislature, then it's up to  
18 the legislature to decide whether that land exchange is in  
19 the best interest of the State? Is there any opportunity for  
20 public input on that land exchange?

21 We are really concerned because of the public  
22 notices that have come out as a result of the Land Board's  
23 meetings, and where it indicates that this whole Puna mid  
24 rift forest, the natural area and the Puna Forest Reserve,  
25 and some State ag lands are going to be swapped in total for



1 all of Campbell Estate lands at Kahaualea and some land that  
2 is not even in Kahaualea.

3 There really must be a time, in our view, for the  
4 State and the landowners involved in this exchange to listen  
5 to public comment on the land exchange.

6 For one thing we would oppose very strongly the  
7 removal of all of the Wao Kele 'O Puna natural area reserve  
8 as a part of the land exchange. It is our belief that there  
9 are lands in that natural area reserve which are simply  
10 unsuitable for geothermal development.

11 A large part of that forest area, the northern part  
12 of the forest area, the north western part of the forest area  
13 is not necessary and completely unneeded for geothermal  
14 development. It has the protective subzone status, and as I  
15 understand it in the land exchange, the land use category is  
16 not changed, it will retain that protective subzone status.  
17 And the uses would be, will there are very limited uses that  
18 the private landowner could put to it.

19 But I think there has to be an opportunity for the  
20 Land Board to listen to it. We do not want all of that  
21 natural area reserve to be exchanged to Campbell Estate, some  
22 of those lands are unsuitable. I think there is a question  
23 about whether Campbell Estate would even want to have some of  
24 those lands. And they were put in a natural area reserve.

25 We would like to see some way where those lands up

1 in the northwest portion of the natural area reserve and the  
2 lands that are in the southern part of the rift zone stay in  
3 the natural area reserve.

4 Another problem that we have with the land  
5 exchange, and I'm bringing up this question now because I  
6 don't know if I'll have a chance again to bring it up, is  
7 about the Campbell Estate ag lands. In the documents that  
8 have come out from the Board, it appears that some of  
9 Campbell Estate ag lands that are not even a part of  
10 Kahaualea would be in the exchange, and the State would  
11 receive some of those lands. You see the yellow area over  
12 there, that is the Kahaualea, then the land south of that is  
13 a continuation of the Kahaualea Puu, some of those lands are  
14 completely ruined lands that really have no use as far as  
15 native forest protection goes any more. Some of those lands  
16 have just gone through this ohia chipping to supply wood  
17 chips to run the boilers there at Keeau, and that land has no  
18 value any more as a native forest, it's not even in the  
19 Kahaualea Puu. We take a very strong position that that land  
20 should remain with Campbell Estate and should not become a  
21 part of State lands.

22 If Campbell wants, I'm sure they could use it for  
23 some kind of an agriculture use, they should do it. It's ag  
24 lands now that its forest value is just ruined.

25 We generally -- I'd like to say this positive, make

1 these positive comments about the land exchange. We  
2 generally favor a land exchange. We are very much in favor  
3 of the principle of the prime forest areas of Kahaualea  
4 becoming a natural area reserve. I'm glad that the State has  
5 come up with this kind of a proposal. We want that to  
6 happen. We want, you know, a fair land exchange.

7 And we have, if it's necessary for the Puna -- if  
8 these 9,000 acres of the Puna Forest Reserve to be a part of  
9 that, we realize that there has to be some tradeoffs, so we  
10 realize we can't have Kahaualea natural area reserve and  
11 expect to save everything in the mid rift too, we do  
12 understand that.

13 But we want some of these values that I have  
14 addressed here to be very carefully considered, and we really  
15 ask, will there be an opportunity for public input, and all  
16 of these questions involving the land exchange? Thank you,  
17 very much, for the opportunity to raise these questions.

18 MR. HEARING OFFICER: Thank you, very much, Mrs.  
19 Mull.

20 The next person that has indicated they would like  
21 to present testimony is Melissa Kirkendall.

22 TESTIMONY OF MELISSA KIRKENDALL

23 MRS. KIRKENDALL: My name is Melissa Kirkendall, I  
24 live in Kaohe Homestead, have lived there for 13 years on a  
25 piece of property adjacent to Wao Kele 'O puna and the Puna

1 Forest Reserve.

2 As I understand, before I start, as I understand  
3 what came out, what we are doing tonight is just withdrawing  
4 the 8000 acres from forest reserve. Now the entire thing is  
5 forest reserve though, in addition to the natural area  
6 reserve, from what I understand, so I am a little confused on  
7 that point.

8 However, I realize whatever I say is basically at  
9 this point mute. So what I would like to say is that I feel,  
10 as Mae Mull does, that a lot of concern should go into this,  
11 it should not be done lightly. I believe that in 1928 when  
12 this was set up, it was done so for a purpose for State  
13 lands, for people to use as a wildlife refuge, for nature to  
14 proliferate.

15 In addition, there is a great deal of hunting that  
16 is done there, although no hunters are representing  
17 themselves here, I do feel that their concerns are important  
18 and should be taken into consideration.

19 This is also a watershed area, that's one of the  
20 reasons that the natural forest reserves were set up, to  
21 preserve this entire environment. And I would feel remiss  
22 were I not to tell you that I do not feel that taking this  
23 out of the forest reserve is really right. I do feel  
24 strongly about this, that wild lands are diminishing, and I  
25 realize that it's been promised that the area in Kahaualea

1 will become a natural area reserve.

2 I'm not sure that that area there is -- it is very  
3 pristine, I have heard, I've not been in there myself. I  
4 realize that we need all the areas that we can at this point.  
5 It's just important to me that this not be done lightly. I  
6 think something that a governor stated in 1928 and set aside  
7 should take a lot of thought before it is just done away  
8 with.

9 For the sake of all the public, this is not  
10 something that is up for a vote, do we want to take this  
11 public land that belongs to all of the people, all of the  
12 residents of the State of Hawaii. There will be no vote on  
13 this, it will be subject to the Board's decision, which I do  
14 firmly believe has already been made.

15 I wish that there were more people here to  
16 represent this particular viewpoint. I know there are a lot  
17 of people who feel this strongly about it. However, I did  
18 want to state my viewpoint about this living next to a forest  
19 reserve, having chosen to live next to a forest reserve and  
20 realizing that I will no longer live next to a forest  
21 reserve. Thank you.

22 MR. HEARING OFFICER: Excuse me, before you leave,  
23 I think, unless there is additional testimony, for a point of  
24 clarification, if I may get to the map and explain what is  
25 happening here, and I apologize for it, because looking over

1 the audience this evening, I assumed that all of you here  
2 know what we are talking about and have been there. And I  
3 don't anticipate any cross examination here between you and  
4 I, but I just, if I could summarize it again, I apologize.

5 The original Puna Forest Reserve that was set up is  
6 this line that's right in here. And then what happened for  
7 the natural area reserve when it was set up, this green L  
8 shape piece here that looks like a baby crib or baby  
9 carriage, that was formally withdrawn.

10 So by public hearings similar to what I'm doing  
11 here this evening, this was withdrawn from this whole piece  
12 here and the natural area is established.

13 And this remained in forest reserve status, this  
14 portion here, that's the part that we are talking about this  
15 evening.

16 MRS. KIRKENDALL: Right.

17 MR. HEARING OFFIER: I assume --

18 MRS. KIRKENDALL: I do understand that from this, I  
19 do have one quesiton, although I won't cross examine.

20 MR. HEARING OFFICER: Fine.

21 MRS. KIRKENDALL: Will there be a time, or a  
22 hearing within which point the Wao Kele 'O Puna natural area  
23 reserve will be withdrawn from said status?

24 MR. HEARING OFFICER: I don't know, I really don't  
25 know.

1 MRS. KIRKENDALL: There is no rule that says that  
2 just as we have to withdraw the forest reserve from that  
3 status, we also have to withdraw a natural area reserve,  
4 which seems a good deal more specific than a forest reserve  
5 even still, it seems like that would require its own hearing.

6 MR. HEARING OFFICER: I am not aware of any  
7 requirements that a public hearing, per se as I'm conducting  
8 here this evening, has to be conducted for the withdrawal of  
9 the natural area, that's all I know.

10 MRS. KIRKENDALL: Does that seem to you a more  
11 specific status, a natural area reserve?

12 MR. HEARING OFFICER: More specific?

13 MRS. KIRKENDALL: Than forest reserve.

14 MR. HEARING OFFICER: They accomplish basically the  
15 same thing.

16 MRS. KIRKENDALL: So I would think if what's  
17 required for one would be required for the other.

18 MR. HEARING OFFICER: I think, and I'm not passing  
19 the buck, but because there is a formal legal established  
20 Natural Areas Commission that administers or recommends to  
21 the Department, that those questions are, or whatever  
22 questions that you have, may be more properly addressed to  
23 the Natural Areas Commission.

24 MRS. KIRKENDALL: Could you give me a suggestion on  
25 how to pursue that for my own knowledge, perhaps, or peace of

1 mind, as it were?

2 MR. HEARING OFFICER: If you would leave me your  
3 address here at the close, I will relay that message to the  
4 Administrator of the Natural Area Reserve Commission.

5 MRS. KIRKENDALL: I would appreciate that and hope  
6 you encourage them to follow --

7 MR. HEARING OFFICER: And express your concerns,  
8 thank you, very much.

9 Is there anyone other than the two previous  
10 individuals that would care to present testimony this  
11 evening? If not, I would like to also in closing state that --

12 MS. MULL: Excuse me, could we have some questions  
13 then, didn't you say that you would answer some of our  
14 questions as best you could?

15 MR. HEARING OFFICER: Mrs. Mull, if it's  
16 specifically pertinent to the withdrawal and the withdrawal  
17 only, and if you feel that it has direct implications and  
18 input into the public hearing, fine. If not, after the  
19 meeting is closed, my and my staff would be very happy to  
20 remain and answer any questions that you might have.

21 MS. MULL: As a part of my testimony I did raise  
22 the question about public input on the land exchange which  
23 includes the Puna forest.

24 MR. HEARING OFFICER: And my answer is I don't know  
25 the policies and procedures. My expertise is specifically



1 just the withdrawal portion of the forest reserves.

2 MS. MULL: If you are going to -- Mrs. Kirkendall  
3 asked, you were going to pass her name on to the Natural Area  
4 Reserve Commission, could you also give them my name as a  
5 representative of the Hawaii Audobon Society who wants to  
6 know how this natural area will be treated, you know, as a  
7 part of the land exchange. We want to know the conditions  
8 under which it will be withdrawn, and can some of it be  
9 retained as a natural area.

10 MR. HEARING OFFICER: I won't relate that, but I  
11 will pass on the expression of yourself and Melissa's  
12 concerns, and he can contact you directly.

13 MR. L'ORANGE: Within the confines of what you said  
14 so far, are any of us here able to contest the withdrawal of  
15 these lands?

16 MR. HEARING OFFICER: Yes, sir.

17 MR. L'ORANGE: Is that something that has to be, I  
18 don't know whether legal is the right word, but do we have to  
19 formally contest that, and then what ramification does that  
20 have that is being contested here tonight?

21 MR. HEARING OFFICER: If it is your pleasure to  
22 contest the withdrawal of the remaining portion of the Puna  
23 Forest Reserve, we are prepared to present to you a format  
24 which you can fill out and submit to the Department of Land  
25 and Natural Resources in terms of requesting a contested

1 hearing. There are procedures set out by rules and  
2 regulations that allow for that, and we can present you with  
3 it, actually it's a form.

4 MR. L'ORANGE: Do I understand it correctly,  
5 though, that if it's not contested tonight at this meeting,  
6 then it cannot be in the future contested, the withdrawal?

7 MR. HEARING OFFICER: The withdrawal, you have an  
8 opportunity this evening to submit either in writing or  
9 verbally that you would like to contest the withdrawal.

10 MR. L'ORANGE: I would like to do that.

11 MR. HEARING OFFICER: If you would step forward, at  
12 least identify yourself.

13 MR. L'ORANGE: My name is Francois L'Orange, and I  
14 live in Kapoho, and I would like to formally contest the  
15 withdrawal of the land.

16 MR. HEARING OFFICER: Would you present this to Mr.  
17 L'Orange.

18 STAFF: You have ten days to submit this in  
19 writing.

20 MR. HEARING OFFICER: Excuse me, Mr. L'Orange, if  
21 you have any further questions in terms of deadlines and why  
22 the ten days and so on, we do have the administrative rules  
23 and practices and procedures that were adopted for the  
24 contested case hearings, if you wonder why it's ten days and --

25 MR. L'ORANGE: Can I get a copy of that?

1 MR. HEARING OFFICER: Sure.

2 MR. L'ORANGE: I have another question. Is there  
3 an Environmental Impact Statement required before the State  
4 can withdraw the lands?

5 MR. HEARING OFFICER: From the forest reserve  
6 status?

7 MR. L'ORANGE: From the forest reserve status.

8 MR. HEARING OFFICER: No, sir.

9 MR. L'ORANGE: There is not?

10 MR. HEARING OFFICER: No, sir.

11 MR. L'ORANGE: It would seem to me just living in  
12 Puna, common citizen of Puna, that they would have to have  
13 some sort of an impact statement if the State is going to  
14 sell the land or exchange the land or give the land to a  
15 private concern, private individual, private corporation.

16 MR. HEARING OFFICER: I repeat myself, for the  
17 withdrawal of it from forest reserve status, the answer to  
18 that again is no.

19 MR. L'ORANGE: Then the further question is then  
20 before Campbell Estate can proceed with the drilling, do they  
21 have to have an Environmental Impact Statement?

22 MR. HEARING OFFICER: I don't know. Again, I'm  
23 confining my response to you clearly and only for the  
24 withdrawal from the Puna Forest Reserve in --

25 MR. L'ORANGE: I have another question. Is there

1 any other way besides formally contesting the withdrawal that  
2 the citizens of Puna can stop the exchange of lands?

3 MR. HEARING OFFICER: I don't know, I answered your  
4 question, I don't know if there is any other mechanism for  
5 the citizens of Puna to do what your question asks, I don't  
6 know.

7 MR. L'ORANGE: Would you be able to direct me to  
8 someone who would know? In other words, my question is, how  
9 can the people that live out there, that really don't know  
10 the mechanizations of the State procedures, how can we find  
11 out and get some help from the State, find out what our legal  
12 rights are in this matter?

13 MR. HEARING OFFICER: Staff, do you have any  
14 comments?

15 STAFF: According to the Administrative Procedures,  
16 Rules and Regulations are set up by the Department. The  
17 first step that you would have to go through would be a  
18 contested case proceeding. If you fail to do that, you may  
19 lose your standing in any court of appeals.

20 MR. L'ORANGE: You said court of appeals, is that a  
21 legal court?

22 STAFF: Third Circuit Court or Hawaii Court of  
23 Appeals or State Supreme Court. It is administrative --  
24 contested case hearing is an administrative hearing, that is  
25 your first step that is required.

1 MR. L'ORNAGE: I don't have any other questions.

2 MR. HEARING OFFICER: Thank you, very much.

3 MS. MULL: I don't recall that you said the time  
4 frame for this withdrawal of land to take place.

5 MR. HEARING OFFICER: I didn't, and if you are  
6 going to ask me, I would say I don't know. The only time  
7 frame I presented was we will receive testimony, written, for  
8 the next 15 calendar days; and secondly, if whomever wishes  
9 to submit formally in writing the request for contested  
10 hearing, that deadline is ten days.

11 MS. MULL: As I recall the legislature gave  
12 instructions to the Board of Land and Natural Resources to  
13 make a report to the legislature, I think, by December 15th,  
14 on the status of the land exchange.

15 Do you recall that that is -- is that correct? And  
16 so I was just wondering, you see whether this land exchange  
17 itself had to be finished by December 15th, or whether, you  
18 know, the Land Board would just report to the legislature  
19 that they have taken these many steps now to bring about the  
20 land exchange.

21 MR. HEARING OFFICER: Again your question, Mrs.  
22 Mull, is what?

23 MS. MULL: The time frame for the actual withdrawal  
24 of the lands, you know, does that have to be accomplished by  
25 December 15th, if possible, you know, if it's legally

1 possible, or does the Land Board just have to say we have  
2 started, you know, the paper work that is necessary for this  
3 withdrawal by, for one thing by having this public hearing?

4 MR. HEARING OFFICER: I don't know, I can't respond  
5 to that, I don't know the answer.

6 Are there any other questions? If not, I would  
7 like to close this public hearing for the withdrawal of the  
8 8000 acres from the Puna Forest Reserve. I and staff will  
9 remain after the formal portion of this public hearing to  
10 assist you or to answer any questions you may have.

11 Again a reminder that we will accept written  
12 testimony for the next 15 calendar days. No further  
13 business, I so declare this public hearing closed. Thank  
14 you, very much.

15 (Whereupon the hearing was concluded at 7:45 p.m.)  
16  
17  
18  
19  
20  
21  
22  
23  
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25

## CERTIFICATE

STATE OF HAWAII )  
                  ) SS.  
CITY AND COUNTY )  
OF HONOLULU       )

I, JEAN MARIE McMANUS, Notary Public, State of  
Hawaii, do hereby certify:

That on November 12, 1985, at 7:10 o'clock p.m.,  
the hearing contained herein was taken down by me in  
machine shorthand and was thereafter reduced to typewriting  
under my supervision; that the foregoing represents, to the  
best of my ability, a true and correct copy of the proceedings  
had in the foregoing matter.

I further certify that I am not of counsel for  
any of the parties hereto, nor in any way interested in the  
outcome of the cause named in the caption.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 1985,  
in Honolulu, Hawaii.

JEAN MARIE McMANUS CSR #156  
Notary Public, State of Hawaii  
My commission expires: 4/28/88

D. C. U

## NOTICE OF PUBLIC HEARING

### Proposed Withdrawal of Puna Forest Reserve Lands

Pursuant to Chapters 91 and 92, Hawaii Revised Statutes, and other applicable laws notice is hereby given that the Board of Land and Natural Resources will hold a Public Hearing beginning at 7:00 p.m., Tuesday, November 12, 1985 at the State Office Building, Conference Rooms A, B, and C, 75 Aupuni Street, Hilo, Hawaii, for the purpose of considering a proposed withdrawal of 8,890.275 acres from the Puna Forest Reserve, Tax Map Key 1-2-10:02, Puna, Hawaii,

The subject land is set aside by Governor's Proclamation dated December 22, 1928, as part of the Puna Forest Reserve. Pursuant to the Decision and Order of the Board of Land and Natural Resources dated December 28, 1984, the parcel consisting of 8,890.275 acres is proposed to be exchanged with Campbell Estate for Campbell's Kahaualea lands. The land exchange is being proposed for the purpose of exploration and development of geothermal energy pursuant to Act 296, SLH 1983, and Act 151, SLH 1984, providing for the designation of geothermal resource subzones. In addition, the land exchange will permit the acquisition of lands by the State of Hawaii to be set aside for Natural Area Reserve purposes. In order for the exchange to proceed, the land must be withdrawn from forest reserve status.

Persons wishing to offer comments or testimony are invited to appear at the public hearing on the date and at the time and place specified above.

State of Hawaii  
BOARD OF LAND AND NATURAL RESOURCES

  
SUSUMU ONO  
Chairperson

Dated: October 21, 1985  
Publish in the Honolulu Star Bulletin  
and Hawaii Tribune Herald, issue  
of October 27, 1985





STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF LAND MANAGEMENT  
P. O. BOX 621  
HONOLULU, HAWAII 96809

October 25, 1985

Board of Land and  
Natural Resources  
Honolulu, Hawaii

Gentlemen:

HAWAII

Subject: Proposal for Exchange of Land Between the  
State of Hawaii and the Estate of James  
Campbell

STATUTE: Section 171-50, Hawaii Revised Statutes

PURPOSE: Development of geothermal energy and acquisition  
of land for natural area reserve.

ESTATE OF JAMES CAMPBELL TO CONVEY TO STATE OF HAWAII:

<u>Tax Map Key</u>	<u>Area (Acres, Approx.)</u>	<u>LUC Zoning</u>	<u>County Zoning</u>
1-1-1:por. 1	16,293.111	Conservation	None
1-1-1:por. 1 (Tract 22)	5,650.00	"	None
1-1-1:por. 1	992.0	Agriculture	A-20
1-2-8:01	<u>2,526.20</u>	"	A-20
Total	25,461.311 acres		

STATE OF HAWAII TO CONVEY TO ESTATE OF JAMES CAMPBELL:

<u>Tax Map Key</u>	<u>Area (Acres, Approx.)</u>	<u>LUC Zoning</u>	<u>County Zoning</u>	<u>Land Title</u>
1-2-10:01	1,930.00	Agriculture	A-20	5(b)
1-2-10:02	8,890.275	Conservation	None	5(b)
1-2-10:03	<u>16,843.891</u>	"	None	5(b)
Total	27,644.166 acres			

ITEM H-6

October 25, 1985

CONSIDERATION: Land exchange to be predicated on equally valued land, to be based on independent appraisal, subject to review and acceptance by the Chairperson. Should the lands to be conveyed by Campbell Estate be of greater value than those to be conveyed by the State, the Campbell Estate will waive the overage. Should the land to be conveyed by the State be of greater value than those to be conveyed by the Campbell Estate, the Campbell Estate will pay the difference.

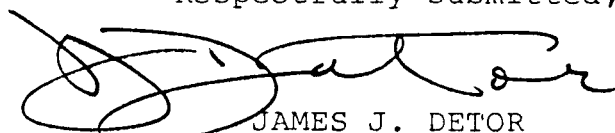
REMARKS: The Board's December 28, 1984 decision and order on the proposed geothermal subzone affecting the Kilauea upper east rift zone invited the Estate of James Campbell to propose an exchange of lands wherein the Campbell lands adjacent to Volcanoes National Park would be conveyed to the State in exchange for state lands located further to the east along the Kilauea middle east rift zone.

This exchange proposal is a follow-up of the Board's decision and order. Other related actions necessary to effectuate the decision and order will be presented separately for Board consideration.

RECOMMENDATION: That the Board approve the exchange of land between the Estate of James Campbell and the State of Hawaii as detailed above, subject to the following terms and conditions:

1. That the Chairperson be authorized, based on valuation of the parcels as established by appraisal, to determine the acreage and parcels to be conveyed.
2. Publication of notice of disposition as required by law.
3. Disapproval by the Legislature.
4. Such other terms and conditions as may be prescribed by the Chairperson to carry out the intent of the Board.

Respectfully submitted,



JAMES J. DETOR  
Land Management Administrator

APPROVED FOR SUBMITTAL:



SUSUMU ONO, Chairperson

SPARK M. MATSUNAGA  
HAWAII

WASHINGTON OFFICE:  
109 HART BUILDING  
WASHINGTON, DC 20510

HONOLULU OFFICE:  
3104 PRINCE KUHIO BUILDING  
HONOLULU, HI 96850

# United States Senate

WASHINGTON, DC 20510

December 19, 1985

1240  
CHIEF DEPUTY  
DEMOCRATIC WHIP

MEMBER:

COMMITTEE ON FINANCE

COMMITTEE ON ENERGY AND  
NATURAL RESOURCES

COMMITTEE ON LABOR AND  
HUMAN RESOURCES

COMMITTEE ON  
VETERANS' AFFAIRS

DEC 21 42

STATE OF HAWAII

Mr. Susumu Ono  
Chairman  
Board of Land and Natural Resources  
Kalanimoku Building  
1151 Punchbowl Street  
Honolulu, Hawaii 96813


Dear Sus:

I am writing on behalf of several of my constituents regarding the proposed withdrawal of the Puna Forest Reserve.

My constituents are concerned that transfer of ownership of the reserve to the private sector will lead to commercial development and the destruction of one of the last reserves in Puna. I understand that a petition for a contested case hearing has been filed, and I would greatly appreciate an update on the status of the petition at your earliest convenience.

Aloha and best wishes.

Sincerely,

  
Spark Matsunaga  
U. S. Senator

DIV OF WATER &  
LAND DEVELOPMENT

85 DEC 26 AM 10:09

RECEIVED

Reply sent from  
Dir. of Planning &  
Wildlife.

GEORGE R. ARIYOSHI  
GOVERNOR



STATE OF HAWAII  
DEPARTMENT OF THE ATTORNEY GENERAL  
LAND/TRANSPORTATION DIVISION

ROOM 300, KEKUANAO'A BUILDING  
465 SOUTH KING STREET  
HONOLULU, HAWAII 96813

December 5, 1985

RECEIVED

'85 DEC 10 P3:46

FORESTRY & WILDLIFE  
STATE OF HAWAII

MEMORANDUM

TO: Libert Landgraf, Forestry Division, DLNR

FROM: William M. Tam. Deputy Attorney General

SUBJECT: \_\_\_\_\_

Enclosed please find a draft letter for Mr. Ono's consideration rejecting Mr. L'Orange's petition for a contested case hearing on the proposed withdrawal of the Puna Forest Reserve.

William M. Tam  
Deputy Attorney General

WMT:dsk  
Encl.

REV OF WATER &  
LAND DEVELOPMENT

85 DEC 10 P4:10

RECEIVED

December , 1985

Mr. Francois C. L'Orange  
P. O. Box 1548  
Pahoa, Hawaii 96778

Dear Mr. L'Orange:

We received your written petition for a contested case hearing on the proposed withdrawal of land from the Puna Forest Reserve.

First, please note that the withdrawal of land from forest reserves is governed by Hawaii Revised Statutes §183-11 through -22, not Hawaii Revised Statutes §183-41 as noted in your petition. Hawaii Revised Statutes §183-12 provides in relevant part that

Before setting apart any government lands under this chapter or before revoking, modifying or suspending any orders and proclamations or any part thereof which set apart such lands as forest reservations, the governor shall give not less than fourteen days notice, by advertisement in not less than two newspapers, published in the State of his intention

to consider either the setting apart of government land for forest reservation under this chapter, or the revoking, modifying, or suspending of any orders and proclamations or any part thereof which set aside such lands.

Notice was published in the Honolulu Star-Bulletin and the Hilo Tribune Herald on October 27, 1985. There is no provision for individual notice to property owners. The public hearing was held on November 12, 1985.

Second, although the withdrawal of the forest reserve designation has been proposed in order to consummate a land exchange with the Estate of James Campbell, the land will remain in the conservation district and subject to the requirements of H.R.S. Chapter 183. Moreover, the proposed withdrawal of the Puna Forest Reserve designation will not create any new or changed use of the land nor will it in any way affect the water resources in the area.

Third, private ownership does not preclude the land from later being surrendered for forest reserve purposes. H.R.S. §183-15 provides that a private landowner may, upon written agreement with the Department of Land and Natural Resources, surrender to the government the care, custody and

control of any land as forest reserve land for a period of not less than twenty years. During the period of the surrender, no taxes are levied or collected on the land.

Finally, although you live in Kapoho, you own no real property anywhere in Puna and have not otherwise demonstrated how your personal interests are different from those of the public generally.

Therefore, your petition for a contested case hearing is hereby denied.

Very truly yours,

Susumu Ono, Chairperson  
On behalf of the Board of  
Land and Natural Resources

L-8-85-20  
747

RECEIVED

35 NOV 21 P 1:40

DEPT. OF LAND  
& NATURAL RESOURCES  
STATE OF HAWAII

- \*808-965--8541  
Phone

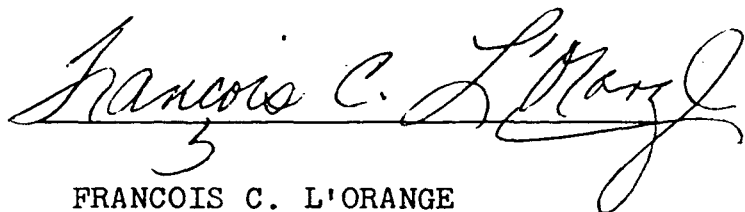


12. The relief or remedy to which you seek or deem yourself  
entitled: SEE ATTACHED BUT NOT LIMITED THERETO

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(If there is not sufficient space to fully answer any of the  
items above, use additional sheets of paper.)

The above-named person hereby requests and petitions the  
Board of Land and Natural Resources for a contested case hearing  
in the matter described above.

Dated: NOVEMBER 19, 1985

  
FRANCOIS C. L'ORANGE

Request for Contested Case Status  
F.C. L'ORANGE

Attachment #I Question #8

My specific legal interest in the proposed withdrawal of the Puna Forest Reserve is: I am a registered voter and a legal resident of Puna, Hawaii. These are Public Lands managed by the State of Hawaii for the People of Hawaii; here specifically for the residents of Puna. I have, in the sense, a legal right as a resident to ensure that these lands are, in fact, managed in the best interests of myself and my neighbors in Puna and the People of Hawaii. I have a specific legal interest in that the Board's decision (i.e. the Board of the Dept. of Land and Natural Resources) will effect myself and my neighbors in Puna should the Board decide to transfer ownership of the Puna Forest Reserve from the People of Hawaii to private ownership. I am contest-- this proposed withdrawal in my name and in the name of the People of Puna who are opposed to such a withdrawal. As long as the Puna Forest Reserve is publicly owned, myself and the residents of Puna are protected by law as to the uses of this Forest and Watershed area. In privately owned status, however, the rules and regulations regarding use of this Forest and Watershed area for the most part are no longer applicable.

This proposed withdrawal of the Puna Forest Reserve is of great and overriding concern to me and to my neighbors. To most of us it is the most significant thing in our lives at this time. I have a legal and moral obligation as a citizen in a democratic country to ensure to the best of my ability that elected and/or appointed government officials acting in my name act and decide issues in a manner consistent with the residents most affected best interests. In this case, withdrawal of Public Land, the Puna Forest Reserve is not in the best interests of the people most effected. Likewise, exchange and conversion to private ownership with the very real possibility of commercial development is not in any way in the best interests of the residents of Puna.

Finally, the Puna Forest Reserve is a portion of the last remaining Forest Reserve in Puna. I have a legal interest and responsibility to ensure that there is Public Land in Puna available to hunters, nature lovers, people, like myself, who find it necessary to go into the Puna Forest Reserve in order to preserve our physical, mental and spiritual wellbeing by communing with and experiencing the tranquility and peace and serenity of the natural Forest. To some of us residents of Puna the substitution of Kahaule'a will not suffice. The Puna Forest Reserve is in our backyard and is the Forest that contributes to our sense of wellbeing, our humanness, our kinship and connection to all life and all living things.

These are my legal, moral and spiritual interests in this matter before the Board and for these reasons I ask contested case status.

I would also add to the above that I am representing all or at the least some of those landowners whose property is directly affected by this proposed change and withdrawal and who were not notified by mail according to HRS. 183-41 (3).

I am also representing and contesting in the name of the landowners above and some residents and farmers of Puna who fear for the quality of their County Water should the proposed withdrawal occur.

Request for Contested Case Status  
F.C. L'ORANGE

Attachment #2 Question #9

That the Puna Forest Reserve should NOT be withdrawn from the Forest Reserve System nor should it be considered for land exchange at this time.

Question #10

A That the original intent of considering this land for exchange was to enable the establishment of a Geothermal Resource Subzone in the Kilauea Middle East Rift Zone. As the proposed boundaries of the Geothermal Resource Subzone do NOT include any land within the Puna Forest Reserve there is NO compelling reason to include these lands. That, in fact, ANY proposed exchange of this area must be based SOLELY on its own merits.

B. That the request for the withdrawal violates the provisions of section 183-41 (d) of the Hawaii Revised Statutes that specifically require the Dept. of Land and Natural Resources to notify all landowners whose property is directly affected by any proposed change by mail not less than 20 days prior to the date set for the hearing. This requirement was NOT complied with.

C. The potential social costs are not in the best interests of the people of Puna. If this Public Forest Reserve land is withdrawn and placed in private ownership there is the possibility of commercial development. At this time we simply do not know the potential consequences of such development on the Watershed areas that supply water to the people of Puna. Therefore the farmers, crops and residents of Puna are in potential risk should this withdrawal occur.

Question #11

The withdrawal of 8890.275 acres from the Puna Forest Reserve is contrary to and a violation of the clearly defined duties of the Dept. of Land and Natural Resources as set down in law in HRS 183-1 (2) (3) (4). These duties mandated by law are 1. care of the Forest reservations; 2. protection of Forest and Water supply; 3. self support of forests.

The Dept. of Land and Natural Resources reason for the proposed withdrawal is to exchange it with Campbell Estate for their privately owned Kahaule'a in order to facilitate an even larger (16,843.891 acres) exchange of Publicly owned Conservation and Natural Area Reserve Forest land with Campbell Estate for their privately owned Kahaule'a land.

I would suggest and argue that under the Laws of Hawaii (see above already cited) and under HRS 183-2 and HRS 171-50 (a) that the proposed withdrawal is invalid and contrary to both spirit and intent of the Laws of Hawaii.

Request for Contested Case Status  
F.C. L'ORANGE

Attachment #3 Question #11 continued.

The Dept. of Land and Natural Resources in the person of the Board has no compelling and overriding reason to withdraw this Publicly owned Conservation Zoned Pristine Puna Forest Reserve. In addition, under HRS 171-50 (a) public notice of any proposed change shall be given in accordance with HRS 171-16 (d) and under HRS 183-41 (3) the Dept. of Land and Natural Resources shall give notice by mail to all landowners whose property is directly affected by any proposed change. Having spoken with landowners directly affected by this proposed withdrawal and change I have been unable to find any directly affected landowner who was notified by mail and I do not believe that the Dept. of Land and Natural Resources did, in fact, notify these landowners by mail as mandated by law.

I am contesting this proposed withdrawal in my name as a resident of Puna who will be directly and indirectly affected by such a withdrawal and also in the name of the property owners whose property will be directly affected by the proposed change in order that their rights are protected and represented before the Dept. of Land and Natural Resources under the Laws of the State of Hawaii.

I would suggest that the Dept. of Land and Natural Resources' position in this matter is hastily conceived, ill-advised, contrary to the best interests of the People of Hawaii most especially the People of Puna, not sufficiently publicized to Puna residents who are most directly affected. Except for two individuals, there has been no public debate or input on this proposed withdrawal. Most Puna residents are unaware their Forest, the Puna Forest Reserve, is proposed to become private property.

I would argue that under the provisions of HRS 183-41 (4) where the Law states the Dept. of Land and Natural Resources shall govern the use of land within the boundaries of the Forest and Water reserve Zones as will NOT be detrimental to the conservation and development of WATER RESOURCES adequate for present and future needs and the conservation and preservation of open space areas for PUBLIC use and enjoyment that the proposed withdrawal is unlawful.

A substantial portion, if not all, of the County Water supply for Puna is percolated and aquifered through the Puna Forest Reserve and the Puna Natural Area Reserve. This water is essential for the life of the People of Puna and for the growing of crops to feed these people. Should these Public Lands become private property the People of Puna who rely on these Forest and ground aquifers for drinking and farming could be at risk i.e. the water could become contaminated. The County Water in Puna is, by some documentation, cleaner and purer than the groundwater in Hamakua and Kau. In fact, the Puna County Water is, by some measures, the cleanest water on the entire East Side of the Island of Hawaii primarily because of the untouched and pristine condition of the Puna Forest Reserve and the Natural Area Reserve in Puna.

Request for Contested Case Status  
F.C. L'ORANGE

Attachment #4 Question #11 continued.

No decision by the Dept. of Land and Natural Resources can fail to recognize and take into account the potentially grave consequences to the Puna County Water supply especially since the Dept. of Land and Natural Resources is expressly directed by State Law to preserve and conserve the sources of water supply and the Watershed areas i.e. this conservation and Puna Forest Reserve Land. I would suggest that much more study and documentation and public debate on the relationship of this whole Conservation Zone including the Puna Forest Reserve and the Puna Water supply is demanded for the future health and indeed Life of the residents of Puna. As a Puna resident who recognizes this I must contest the proposed withdrawal in my name and in the name of Puna residents on Puna County Water to ensure that our rights and legitimate concerns about our water supply are brought to the attention of the Dept. of Land and Natural Resources and the Board. Additionally, under HRS 183-31 I believe the Puna County Water Wells located between Pahoa and Keaau fall under the classification of Watershed Areas and that again much more study and documentation is needed before Public Lands, i.e. the Puna Forest Reserve and the Natural Area Reserve, are placed in private property status. We simply cannot afford to make a mistake or a hasty decision regarding the supply of Water to Puna residents. Water is critical to the Life of the Puna residents, to the farmers for their crops and indeed to all life in Puna. Accordingly the Dept. Of Land and Natural Resources should delay and postpone the proposed withdrawal of the Puna Forest Reserve. Finally, this proposed withdrawal of the Puna Forest Reserve is NOT NECESSARY. This Forest Reserve lies totally outside the proposed Geothermal Resource Subzone. It is NOT necessary to the Geothermal Subzone; there is NO logical or direct connection between the two areas; they are totally separate and distinct from one another. Therefore there is NO reason for the Board to consider the withdrawal at this time. This withdrawal must be considered on its own merits and not as part of or in connection with any other matter. This withdrawal is a separate and distinct case and should be treated by the Board in that manner.

Question #12

- A. That the proposed withdrawal of the Puna Forest Reserve ITSELF be withdrawn and cancelled.
- B. That the Puna Forest Reserve be so designated IN PERPETUITY by the State Legislature.
- C. If the Dept. of Land and Natural Resources still deems the proposed withdrawal necessary then the Dept. of Land and Natural Resources should be required to follow the procedures set forth in HRS 183-41 (3, Notice, Hearings) as to notification by mail of all effected landowners PRIOR to a public hearing on such a proposed withdrawal of the Puna Forest Reserve.
- D. Any consideration of a proposed withdrawal and/or exchange of the Puna Forest Reserve should be based strictly on its own merits and as separate and distinct from considerations/hearings on the proposed Geothermal Resource Subzone.

copies of the above application for  
contested hearing status are also  
being mailed to the following persons  
and newspapers.

Daniel K. Inouye  
Spark M. Matsunaga

Daniel K. Akaka  
Cecil Heftel

Los Angeles Times  
San Francisco Chronicle  
San Diego Union  
Sacramento Bee  
Washington Post  
New York Times  
Hilo Tribune Herald  
Honolulu Star Bulletin  
Honolulu Advertiser

GEORGE R. ARIYOSHI  
GOVERNOR



STATE OF HAWAII  
DEPARTMENT OF THE ATTORNEY GENERAL  
LAND/TRANSPORTATION DIVISION

ROOM 300, KEKUANAO'A BUILDING  
465 SOUTH KING STREET  
HONOLULU, HAWAII 96813

December 5, 1985

RECEIVED

'85 DEC 10 P3:46

FORESTRY & WILDLIFE  
STATE OF HAWAII

MEMORANDUM

TO: Libert Landgraf, Forestry Division, DLNR

FROM: William M. Tam, Deputy Attorney General

SUBJECT: \_\_\_\_\_

Enclosed please find a draft letter for Mr. Ono's consideration rejecting Mr. L'Orange's petition for a contested case hearing on the proposed withdrawal of the Puna Forest Reserve.

William M. Tam  
Deputy Attorney General

WMT:dsk  
Encl.

December , 1985

Mr. Francois C. L'Orange  
P. O. Box 1548  
Pahoa, Hawaii 96778

Dear Mr. L'Orange:

We received your written petition for a contested case hearing on the proposed withdrawal of land from the Puna Forest Reserve.

First, please note that the withdrawal of land from forest reserves is governed by Hawaii Revised Statutes §183-11 through -22, not Hawaii Revised Statutes §183-41 as noted in your petition. Hawaii Revised Statutes §183-12 provides in relevant part that

Before setting apart any government lands under this chapter or before revoking, modifying or suspending any orders and proclamations or any part thereof which set apart such lands as forest reservations, the governor shall give not less than fourteen days notice, by advertisement in not less than two newspapers, published in the State of his intention



to consider either the setting apart of government land for forest reservation under this chapter, or the revoking, modifying, or suspending of any orders and proclamations or any part thereof which set aside such lands.

Notice was published in the Honolulu Star-Bulletin and the Hilo Tribune Herald on October 27, 1985. There is no provision for individual notice to property owners. The public hearing was held on November 12, 1985.

Second, although the withdrawal of the forest reserve designation has been proposed in order to consummate a land exchange with the Estate of James Campbell, the land will remain in the conservation district and subject to the requirements of H.R.S. Chapter 183. Moreover, the proposed withdrawal of the Puna Forest Reserve designation will not create any new or changed use of the land nor will it in any way affect the water resources in the area.

Third, private ownership does not preclude the land from later being surrendered for forest reserve purposes. H.R.S. §183-15 provides that a private landowner may, upon written agreement with the Department of Land and Natural Resources, surrender to the government the care, custody and

control of any land as forest reserve land for a period of not less than twenty years. During the period of the surrender, no taxes are levied or collected on the land.

Finally, although you live in Kapoho, you own no real property anywhere in Puna and have not otherwise demonstrated how your personal interests are different from those of the public generally.

Therefore, your petition for a contested case hearing is hereby denied.

Very truly yours,

Susumu Ono, Chairperson  
On behalf of the Board of  
Land and Natural Resources

L-8-85-20  
747

35 NOV 21 P 1:40

41 DEPARTMENT OF LAND AND NATURAL RESOURCES  
STATE OF HAWAII

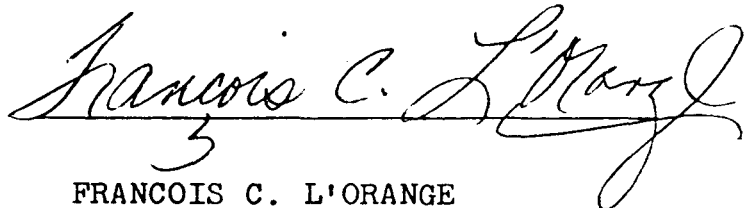
- Roger \_\_\_\_\_ Post \_\_\_\_\_  
Aki \_\_\_\_\_ Library \_\_\_\_\_  
Anne \_\_\_\_\_ Maude \_\_\_\_\_  
Dean \_\_\_\_\_ Barbara \_\_\_\_\_  
\_\_\_\_\_  
File in \_\_\_\_\_  
To Carol For \_\_\_\_\_

12. The relief or remedy to which you seek or deem yourself  
entitled: SEE ATTACHED BUT NOT LIMITED THERETO

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(If there is not sufficient space to fully answer any of the  
items above, use additional sheets of paper.)

The above-named person hereby requests and petitions the  
Board of Land and Natural Resources for a contested case hearing  
in the matter described above.

Dated: NOVEMBER 19, 1985

  
FRANCOIS C. L'ORANGE

Request for Contested Case Status  
F.C. L'ORANGE

Attachment #I Question #8

My specific legal interest in the proposed withdrawal of the Puna Forest Reserve is: I am a registered voter and a legal resident of Puna, Hawaii. These are Public Lands managed by the State of Hawaii for the People of Hawaii; here specifically for the residents of Puna. I have, in the sense, a legal right as a resident to ensure that these lands are, in fact, managed in the best interests of myself and my neighbors in Puna and the People of Hawaii. I have a specific legal interest in that the Board's decision (i.e. the Board of the Dept. of Land and Natural Resources) will effect myself and my neighbors in Puna should the Board decide to transfer ownership of the Puna Forest Reserve from the People of Hawaii to private ownership. I am contest-- this proposed withdrawal in my name and in the name of the People of Puna who are opposed to such a withdrawal. As long as the Puna Forest Reserve is publicly owned, myself and the residents of Puna are protected by law as to the uses of this Forest and Watershed area. In privately owned status, however, the rules and regulations regarding use of this Forest and Watershed area for the most part are no longer applicable.

This proposed withdrawal of the Puna Forest Reserve is of great and overriding concern to me and to my neighbors. To most of us it is the **most** significant thing in our lives at this time. I have a legal and moral obligation as a citizen in a democratic country to ensure to the best of my ability that elected and/or appointed government officials acting in my name act and decide issues in a manner consistent with the residents most affected best interests. In this case, withdrawal of Public Land, the Puna Forest Reserve is not in the best interests of the people most effected. Likewise, exchange and conversion to private ownership with the very real possibility of commercial development is not in any way in the best interests of the residents of Puna.

Finally, the Puna Forest Reserve is a portion of the last remaining Forest Reserve in Puna. I have a legal interest and responsibility to ensure that there is Public Land in Puna available to hunters, nature lovers, people, like myself, who find it necessary to go into the Puna Forest Reserve in order to preserve our physical, mental and spiritual wellbeing by communing with and experiencing the tranquility and peace and serenity of the natural Forest. To some of us residents of Puna the substitution of Kahaule'a will not suffice. The Puna Forest Reserve is in our backyard and is the Forest that contributes to our sense of wellbeing, our humanness, our kinship and connection to all life and all living things.

These are my legal, moral and spiritual interests in this matter before the Board and for these reasons I ask contested case status.

I would also add to the above that I am representing all or at the least some of those landowners whose property is directly affected by this proposed change and withdrawal and who were not notified by mail according to HRS. 183-41 (3).

I am also representing and contesting in the name of the landowners above and some residents and farmers of Puna who fear for the quality of their County Water should the proposed withdrawal occur.

Request for Contested Case Status  
F.C. L'ORANGE

Attachment #2 Question #9

That the Puna Forest Reserve should NOT be withdrawn from the Forest Reserve System nor should it be considered for land exchange at this time.

Question #10

A That the original intent of considering this land for exchange was to enable the establishment of a Geothermal Resource Subzone in the Kilauea Middle East Rift Zone. As the proposed boundaries of the Geothermal Resource Subzone do NOT include any land within the Puna Forest Reserve there is NO compelling reason to include these lands. That, in fact, ANY proposed exchange of this area must be based SOLELY on its own merits.

B. That the request for the withdrawal violates the provisions of section 183-41 (d) of the Hawaii Revised Statutes that specifically require the Dept. of Land and Natural Resources to notify all landowners whose property is directly affected by any proposed change by mail not less than 20 days prior to the date set for the hearing. This requirement was NOT complied with.

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Request for Contested Case Status  
F.C. L'ORANGE

Attachment #3 Question #11 continued.

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Request for Contested Case Status  
F.C. L'ORANGE

Attachment #4 Question #11 continued.

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copies of the above application for  
contested hearing status are also  
being mailed to the following persons  
and newspapers.

Daniel K. Inouye  
Spark M. Matsunaga

Daniel K. Akaka  
Cecil Heftel

Los Angeles Times  
San Francisco Chronicle  
San Diego Union  
Sacramento Bee  
Washington Post  
New York Times  
Hilo Tribune Herald  
Honolulu Star Bulletin  
Honolulu Advertiser

FRANCOIS C. L'ORANGE  
POST OFFICE BOX 1548  
PAHOA, HAWAII 96778  
TELEPHONE 808-965-8541

747

PETITION FOR A CONTESTED CASE HEARING  
BOARD OF LAND AND NATURAL RESOURCES

4:40 PM 11:40

1. Name FRANCOIS C. L'ORANGE \*808-965--8541 Phone STATE OF HAWAII
2. Address POST OFFICE BOX 1548 PAHOA, HAWAII 96778
3. Attorney (if any) none Phone
4. Address
5. Subject matter: PROPOSED WITHDRAWAL OF THE PUNA FOREST RESERVE
6. Date of public hearing/Board meeting NOV. 12, 1985
7. Legal authority under which hearing, proceeding or action is being made TITLE 13-1-29 DLNR: SUBTITLE1, CHAPT. 1, PAR: 29.
8. Nature of your specific legal interest in the above matter, including tax map key of property affected: SEE ATTACHED  
BUT NOT LIMITED THERETO.
9. The specific disagreement, denial or grievance with the above matter: SEE ATTACHED BUT NOT LIMITED THERETO
10. Outline of specific issues to be raised: SEE ATTACHED  
BUT NOT LIMITED THERETO.
11. Outline of basic facts: SEE ATTACHED BUT NOT LIMITED

THERETO

Roger  Post   
Aki  Library   
Anne  Maude   
Dean  Barbara

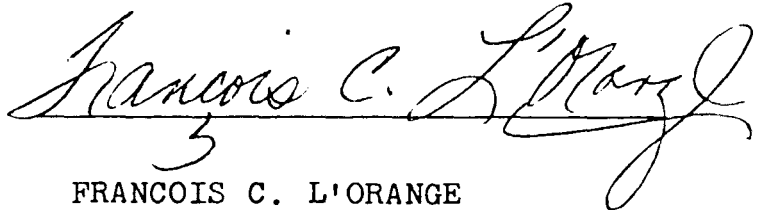
File in   
To Carol For

12. The relief or remedy to which you seek or deem yourself  
entitled: SEE ATTACHED BUT NOT LIMITED THERETO

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(If there is not sufficient space to fully answer any of the  
items above, use additional sheets of paper.)

The above-named person hereby requests and petitions the  
Board of Land and Natural Resources for a contested case hearing  
in the matter described above.

Dated: NOVEMBER 19, 1985

  
FRANCOIS C. L'ORANGE

Request for Contested Case Status  
F.C. L'ORANGE

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Request for Continued Case Status  
F.C. L'ORANGE

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Request for Contested Case Status  
F.C. L'ORANGE

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I would suggest that the Dept. of Land and Natural Resources' position in this matter is hastily conceived, illadvised, contrary to the best interests of the People of Hawaii most especially the People of Puna, not sufficiently publicized to Puna residents who are most directly affected. Except for two individuals, there has been no public debate or input on this proposed withdrawal. Most Puna residents are unaware their Forest, the Puna Forest Reserve, is proposed to become private property.

I would argue that under the provisions of HRS 183-41 (4) where the Law states the Dept. of Land and Natural Resources shall govern the use of land within the boundaries of the Forest and Water reserve Zones as will NOT be detrimental to the conservation and development of WATER RESOURCES adequate for present and future needs and the conservation and preservation of open space areas for PUBLIC use and enjoyment that the proposed withdrawal is unlawfull.

A substantial portion, if not all, of the County Water supply for Puna is percolated and aquifered through the Puna Forest Reserve and the Puna Natural Area Reserve. This water is essential for the life of the People of Puna and for the growing of crops to feed these people. Should these Public Lands become private property the People of Puna who rely on these Forest and ground aquifers for drinking and farming could be at risk i.e. ~~the~~ water could become contaminated. The County Water in Puna is, by some documentation, cleaner and purer than the groundwater in Hamakua and Kau. In fact, the Puna County Water is, by some measures, the cleanest water on the entire East Side of the Island of Hawaii primarily because of the untouched and pristine condition of the Puna Forest Reserve and the Natural Area Reserve in Puna.

Request for Contested Case Status  
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Attachment #4 Question #11 continued.

No decision by the Dept. of Land and Natural Resources can fail to recognize and take into account the potentially grave consequences to the Puna County Water supply especially since the Dept. of Land and Natural Resources is expressly directed by State Law to preserve and conserve the sources of water supply and the Watershed areas i.e. this conservation and Puna Forest Reserve Land. I would suggest that much more study and documentation and public debate on the relationship of this whole Conservation Zone including the Puna Forest Reserve and the Puna Water supply is demanded for the future health and indeed Life of the residents of Puna. As a Puna resident who recognizes this I must contest the proposed withdrawal in my name and in the name of Puna residents on Puna County Water to ensure that our rights and legitimate concerns about our water supply are brought to the attention of the Dept. of Land and Natural Resources and the Board. Additionally, under HRS 183-31 I believe the Puna County Water Wells located between Pahoa and Keaau fall under the classification of Watershed Areas and that again much more study and documentation is needed before Public Lands, i.e. the Puna Forest Reserve and the Natural Area Reserve, are placed in private property status. We simply cannot afford to make a mistake or a hasty decision regarding the supply of Water to Puna residents. Water is critical to the Life of the Puna residents, to the farmers for their crops and indeed to all life in Puna. Accordingly the Dept. Of Land and Natural Resources should delay and postpone the proposed withdrawal of the Puna Forest Reserve. Finally, this proposed withdrawal of the Puna Forest Reserve is NOT NECESSARY. This Forest Reserve lies totally outside the proposed Geothermal Resource Subzone. It is NOT necessary to the Geothermal Subzone; there is NO logical or direct connection between the two areas; they are totally separate and distinct from one another. Therefore there is NO reason for the Board to consider the withdrawal at this time. This withdrawal must be considered on its own merits and not as part of or in connection with any other matter. This withdrawal is a separate and distinct case and should be treated by the Board in that manner.

Question #12

- A. That the proposed withdrawal of the Puna Forest Reserve ITSELF be withdrawn and cancelled.
- B. That the Puna Forest Reserve be so designated IN PERPETUITY by the State Legislature.
- C. If the Dept. of Land and Natural Resources still deems the proposed withdrawal necessary then the Dept. of Land and Natural Resources should be required to follow the procedures set forth in HRS 183-41 (3, Notice, Hearings) as to notification by mail of all effected landowners PRIOR to a public hearing on such a proposed withdrawal of the Puna Forest Reserve.
- D. Any consideration of a proposed withdrawal and/or exchange of the Puna Forest Reserve should be based strictly on its own merits and as separate and distinct from considerations/hearings on the proposed Geothermal Resource Subzone.

copies of the above application for  
contested hearing status are also  
being mailed to the following persons  
and newspapers.

Daniel K. Inouye  
Spark M. Matsunaga

Daniel K. Akaka  
Cecil Heftel

Los Angeles Times  
San Francisco Chronicle  
San Diego Union  
Sacramento Bee  
Washington Post  
New York Times  
Hilo Tribune Herald  
Honolulu Star Bulletin  
Honolulu Advertiser