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GOVERNOR OF HAWAII



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DEPARTMENT OF LAND AND NATURAL RESOURCES**

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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**TESTIMONY OF THE CHAIRPERSON
OF THE BOARD OF LAND AND NATURAL RESOURCES**

On Senate Bill 3138, Senate Draft 1 – Relating To The Waianae Coast

**BEFORE THE SENATE COMMITTEE ON
WAYS AND MEANS**

February 25, 2008

Senate Bill 3138, Senate Draft 1 proposes to amend Act 6, Special Session Laws of Hawaii 2005, to require the Department of Land and Natural Resources (Department) to prepare an interim report on the baseline environmental study for the Waianae Coast, Oahu, to be submitted to the 2008 Legislature and final report to the 2009 Legislature. The bill also appropriates an unspecified sum to the Department for continuing preparation of the study. The Department does not feel this bill is necessary as the Department anticipates that the final report will be delivered to the Legislature prior to the 2009 Legislative Session.

The Department notes that it submitted a status report (attached) to the 2008 Legislature in November of 2007. The report gives the status of the environmental baseline study for the Waianae Coast, Oahu, and gives a tentative completion date of April 2008.

REPORT TO THE TWENTY-FOURTH LEGISLATURE
2008 REGULAR SESSION

STATUS ON THE ENVIRONMENTAL BASELINE STUDY OF THE
WAIANAE OCEAN AREA



PREPARED BY THE

DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF BOATING AND OCEAN RECREATION
STATE OF HAWAII

IN RESPONSE TO
ACT 6, SPECIAL SESSION LAWS OF HAWAII 2005

NOVEMBER 2007

STATUS ON THE ENVIRONMENTAL BASELINE STUDY OF THE WAIANAE OCEAN AREA

INTRODUCTION

This status report to the 2008 Legislature is prepared in response to Act 6 of the 2005 Special Legislative Session which asked the Department of Land and Natural resources (DLNR) to submit a baseline environmental study of the Waianae Coast to the Legislature not later than 20 days prior to the convening of the Regular Session of 2008.

BACKGROUND

Through Act 6 of the 2005 Special Legislative Session (Act 6), the Legislature finds it a matter of concern that along the Waianae Coast, the growing population of West Oahu and the visitor industry are affecting the traditional uses of the area and are having cumulative economic, environmental, social, and cultural effects on the many communities along this coastline. The increased usage of beach parks and state boating facilities to accommodate commercial ocean recreation activities between Kalaeloa and Kaena has had a significant impact on traditional commercial fishing activities, as well as other non-commercial ocean recreational activities.

The Legislature further believes that the ocean waters in this area should be designated by the DLNR as an ocean recreation management area (ORMA) to reduce user conflicts, maintain overall public safety, and to regulate commercial activities by placing limitations on the locations, times, and types of ocean recreation activities that are permitted.

Act 6 placed a moratorium on the issuance of new commercial vessel permits in state small boat harbors involving ocean-related activities for ocean waters between Kalaeloa Point and Kaena Point until the boundaries of a Kalaeloa to Kaena ORMA are designated and administrative rules on recreational boating activities and commercial vessel activities are adopted.

However, the completion of a baseline environmental study is a prerequisite to the establishment of the boundaries of an ORMA and the adoption of the ocean recreation management area rules.

Thus, Act 6 tasked DLNR with the preparation a baseline environmental study as an informational document to be used for the preparation of draft ORMA rules in accordance with procedures set forth in the Act.

The limited financial resources of the State prohibited funding for this baseline environmental study in 2005. Accordingly, the Legislature sought a funding source to ensure that this important baseline environmental study was performed. As a result, Act 314, Session Laws of Hawaii 2006, appropriated \$120,000 to fund the study.

STATUS

DLNR submitted a request for the release of the \$120,000. Simultaneously, pursuant to the Hawaii Public Procurement Code, DLNR's Division of Boating and Ocean Recreation issued a request for proposals (RFP) to conduct a baseline environmental study of the Waianae Coast as required by Act 6.

At the end of 2006, a RFP process was concluded and DLNR chose Environet as the contractor to complete the study. The contract was executed in February 2007.

It came to DLNR's attention in April 2007 that the President of Environet is also the President of Club Kona/Sea Hawaii Incorporated, which holds two mooring permits for commercial boating activities at the Waianae Small Boat Harbor. The Department of the Attorney General was consulted and subsequently ruled that by virtue of the principal of Environet having two mooring permits for commercial boating activities in a harbor that would be part of the study, a breach of the contract's "conflicts of interest" clause had occurred ; thus the contract with Environet had to be cancelled in May 2007.

After cancelling the contract with Environet, DLNR began drafting a new RFP while settling its payment to Environet; as some invoices for the project had already been received. It was determined that the first invoice of \$17,823.60 came with deliverables that were beneficial to DLNR and could possibly be used by the future contractor.

In June 2007, a new contractor was selected,.Tetra Tech EM, Inc.

In July 2007, the Board of Land and Natural Resources approved entering into a contract with Tetra Tech EM, Inc. for a baseline environmental study of the Waianae Coast, Oahu. After negotiations, DLNR executed a contract for \$99,941.00 with Tetra Tech EM, Inc. to complete the scope of work within 6 months. As a condition, if any extensions are needed they must be made in writing to DLNR.

The contract start date was set at October 2, 2007 with an official completion date of April 2, 2008. To date, no extensions have been requested by Tetra Tech EM, Inc. Once the baseline study final is completed, tentatively April 2008, a copy will be transmitted to the Legislature and posted on the DLNR website.

testimony

From: carl [mjellings@hawaii.rr.com]
Sent: Friday, February 22, 2008 4:15 PM
To: testimony
Subject: SB 3138

SB 3138, SD1

RELATING TO THE

WAIANAEO COAST

DATE: Monday, February 25, 2008
TIME: 10:30 a.m.
PLACE: Conference Room 211

State Capitol

415 South Beretania Street

**COMMITTEE ON WAYS AND
MEANS**

***Senator Rosalyn H. Baker,
Chair***

***Senator Shan S. Tsutsui,
Vice Chair***

***Aloha Senator Chairperson of WAM Rosalyn H Baker Vice Chair
Shan S Tsutui and Honorable Committee Members***

***My name is Carl P Jellings Life long Waianae resident it is with great
Sincerity I write testimony in **SUPPORT** of SB 3138
Waianae baseline environmental study extention***

testimony

From: William Aila Jr [ailaw001@hawaii.rr.com]
Sent: Saturday, February 23, 2008 2:47 PM
To: testimony
Subject: SB 31318 SD1
Attachments: SB 3138 SD1.doc

Please forward the attached testimony to the Ways and Means committee for a hearing scheduled on Feb 25, 2008, at 10:30 am, in room 211. Mahalo!

Sen. Rosalyn H. Baker, Chair, Committee on Ways and Means

February 25, 2008
10:30 am. Room 211

Testimony in strong support of SB 3138 SD1.

Chair Baker, and members of the committees:

I am an employee of DLNR however the testimony that follows is that of my own as an individual.

SB 3138 SD1 seeks to amend Act 6, SLH Special Session 2005, by requiring an interim report on the baseline environmental study to be submitted to the 2008 legislature and the final report to the 2009 legislature.

The reason for this extension is that the initial contractor awarded the contract to complete the baseline study was found to have a conflict of interest. The contract was rescinded and contractor paid for the work completed to date.

A second contract was issued based upon the remaining funds available. During the conduct of the study several data gaps were identified. The passage of this bill would allow for the report deadlines to be pushed back a year, and allow for the filling of these data gaps.

There is an appropriation line in this bill as a place holder. Since the identification of data gaps was recently completed, the additional funds required to fill these gaps are unknown at this time.

I ask that pass this bill forward to WAM in order to buy time to identify the appropriate amount needed to fill the data gaps. This study is a very important study that will impact Wai'anae Coast policies for the next twenty years. The results of this study will likely be applicable to similar problems occurring on many coasts in the State.

Mahalo for the opportunity to testify in favor of SB 3138 SD1.