

DAVID Y. IGE
GOVERNOR OF
HAWAII



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

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DEPUTY DIRECTOR - WATER

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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
SUZANNE D. CASE
Chairperson

Before the Senate Committee on
WAYS AND MEANS

Tuesday, April 5, 2016
1:00 P.M.
State Capitol, Conference Room 211

In consideration of
SENATE CONCURRENT RESOLUTION 142/SENATE RESOLUTION 104
REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO
AUTHORIZE THE ESTABLISHMENT OF A MONUMENT IN HILO ON STATE LAND
IN HONOR OF THE LATE SENATOR GILBERT KAHELE

Senate Concurrent Resolution 142 and Senate Resolution 104 request the Department of Land and Natural Resources to authorize the establishment of a monument in Hilo on State land in honor of the late Senator Gilbert Kahele. **The Department of Land and Natural Resources (“Department”) offers the following comments on these measures.**

The appropriate disposition for the proposed monument is likely a term easement issued by the Board of Land and Natural Resources (Board) to an entity that is willing to take on the responsibility for the monument, including maintenance, insurance and indemnity. The entity would need to apply to the Department for such an easement and the Department’s staff would then solicit comments from various state and County of Hawaii agencies regarding the details of the proposed disposition, including the naming of the point. The Department would thereafter present the request to the Board for consideration at a public meeting. The Board has authority to issue an easement of up to 65 years’ duration under current law.¹ If the monument is erected on the Naniloa Resort lease premises, the consent of the current lessee, WHR LLC, would also be required. If all

¹ Current law also requires that the easement holder be charged fair market value for the granting of the easement. However, if the easement holder were set up as an Internal Revenue Code Section 501(c)(3) entity, Department staff could explore with the Department of the Attorney General whether the Board has the authority to issue the easement at something other than fair market value.

or a part of the easement encumbers state submerged lands, then legislative approval for the leasing of submerged lands would need to be obtained.

Additionally, the applicant would need to comply with all permitting requirements for the project. The proposed site is located within the Special Management Area and/or within the State Conservation District. Depending on the scope of the project, it may be found to be exempt from an environmental assessment under Hawaii Revised Statutes Chapter 343. The Department can provide more information to the applicant on the procedure for obtaining an easement.

Thank you for your consideration of this testimony.