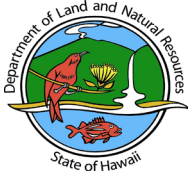


DAVID Y. IGE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
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**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committee on
CONSUMER PROTECTION & COMMERCE**

**Thursday, April 15, 2021
2:00 PM**

State Capitol, Via Videoconference, Conference Room 329

**In consideration of
SENATE CONCURRENT RESOLUTION 102, SENATE DRAFT 1, HOUSE DRAFT 1
AUTHORIZING THE ISSUANCE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT
COVERING PORTIONS OF STATE SUBMERGED LANDS AT MAUNALUA, OAHU,
HAWAII, FOR THE CONSTRUCTION AND MAINTENANCE OF A ROCK GROIN TO
SLOW THE RATE OF SEDIMENT DEPOSITION INTO THE ENTRANCE CHANNEL
OF THE HAWAII KAI MARINA**

Senate Concurrent Resolution 102, Senate Draft 1, House Draft 1 requests the authorization to issue a perpetual, non-exclusive easement for a portion of state submerged lands, 7,852 square feet, more or less, identified by tax map key: (1) 3-9-002:seaward of Kalaniana'ole Highway near the bridge, at Maunaloa, Oahu for the use, repair, and maintenance of a rock rubble groin to be constructed thereon, pursuant to Section 171-53, Hawaii Revised Statutes (HRS). Senate Draft 1 of the measure makes technical, non-substantive amendments for the purposes of consistency and clarity. **The Department of Land and Natural Resources (Department) supports this resolution.**

The requested area will be used to build a rock rubble groin on state lands and will serve the purpose of replacing the existing deteriorating 150-foot long, sandbag groin. The grantee (Hawaii Kai Marina Community Association) currently has a perpetual, non-exclusive easement issued in 2004 for maintenance of the Hawaii Kai Marina channel entrance at the Kalaniana'ole Highway bridge and the sandbag groin. The existing easement area is divided into Easement "A" and Easement "B", 21,768 and 29,120 square feet, respectively. The grantee paid the fair market value of the easement, in the amount of \$71,000, in 2004 as consideration for the use of public lands as determined by an independent appraisal.

In March 2016, the grantee started working with the Department's Office of Conservation and Coastal Lands (OCCL) to address the deteriorating sandbag structure located within Easement B. The sandbag structure was originally constructed to slow the longshore transport rate of sand along Portlock Beach and reduce the rate of sediment accumulation in the channel entrance. However,

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BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

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

due to the rising cost of maintenance, repair, and replacement of the sandbags and the cost of maintaining and dredging the channel entrance a more permanent solution was sought. The rock rubble groin will eliminate the need for maintaining sandbags. OCCL notes that the rock rubble groin will reduce the rate of sediment loss from Portlock Beach into the channel entrance, thereby reducing the number and frequency of dredging activities which can stress the environment.

Also, although not a condition of the Conservation District Use Permit (CDUP), the grantee is proposing to use the accumulated sand that collects against the up-drift side of the rock rubble groin for beach nourishment (sand back-passing approximately every 4 years) at the east end of Portlock Beach. OCCL pointed out that sand back-passing would prevent excess accumulated sand from being deposited into the marina channel, and it would be an efficient and sustainable strategy to maintain the limited sand resource at Portlock Beach. The larger rock rubble groin will require an additional 7,852 square feet, more or less, beyond that of the existing easement area. At its meeting on August 30, 2018, under agenda item K-2, the Board of Land and Natural Resources (Board) unanimously approved OCCL's CDUP OA-3820 for the Hawaii Kai Marina entrance groin replacement project and there was no public opposition.

Subsequently, at its meeting on June 12, 2020, under agenda item D-7, the Board unanimously approved amending the existing easement by increasing the area to the requested 7,852 square feet, more or less, and there was no public opposition.

The grantee is working with the Department to resolve the proposed improvements through a disposition. As required by Section 171-53, HRS, the Board may lease submerged lands "with the prior approval of the Governor and the prior authorization of the Legislature by concurrent resolution".

The grantee is required by law to pay fair market value for the easement, which the State's independent appraiser determined to be \$400,000. Recently, grantee rejected the appraised value. There is a procedure specified in Section 171-17, Hawaii Revised Statutes, to address disputes of fair market value and the Department will request the grantee to adhere to that process. Accordingly, no consideration has been paid for the easement to date.

Thank you for the opportunity to comment on this measure.