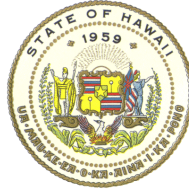


DAVID Y. IGE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
SUZANNE D. CASE  
Chairperson**

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

**Monday, March 29, 2021  
2:00 PM**

**State Capitol, Via Videoconference, Conference Room 329**

**In consideration of  
HOUSE CONCURRENT RESOLUTION 166, HOUSE DRAFT 1  
AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT  
COVERING A PORTION OF STATE SUBMERGED LANDS AT KAPAA, KAWAIHAU,  
KAUAI, FOR CONSTRUCTION OF A GROIN AND FOR USE, REPAIR, AND  
MAINTENANCE OF THE IMPROVEMENTS CONSTRUCTED THEREON**

House Concurrent Resolution 166, House Draft 1 requests the authorization to issue a term, non-exclusive easement covering 1,764 square feet, more or less, portion of state submerged lands identified as tax map key: (4) 4-3-009:seaward of 041, at Kapaa, Kawaihau, Kauai for construction of a groin and for small-scale beach restoration, and for use, repair, and maintenance of the improvements constructed thereon, pursuant to Section 171-53, Hawaii Revised Statutes (HRS). **The Department of Land and Natural Resources (Department) supports this concurrent resolution and proposes two friendly amendments.**

In 2012, a 70-foot long concrete groin located at the northern boundary of the shoreline at Tax Map Key: (4) 4-3-009:seaward 041 was removed. The groin removal caused severe erosion to the shoreline abutting the parcel identified by Tax Map Key: (4) 4-3-009:041, owned by the Association of Unit Owners of Kauai Kailani (AOUO). On December 15, 2016, the Department's Office of Conservation and Coastal Lands (OCCL) accepted the AOUO's Emergency Conservation District Use Application (CDUA) No. KA-17-16. The long-term solution proposed was a beach nourishment event stabilized by a temporary sandbag groin. Since the proposed sandbag groin was part of the beach nourishment, it would be entirely on State land. In early 2017, an emergency erosion protection repair structure (sandbag barrier) was installed. On June 4, 2019, the Chairperson of the Board of Land and Natural Resources (Board) approved the AOUO's Category II Small Scale Beach Nourishment (SSBN) No. KA-19-3830, as recommended by OCCL. The proposal was to place up to 1,140 cubic yards of compatible beach quality sand from the Waipouli Drainage Canal on the shoreline as part of a beach nourishment project. The AOUO intends to remove the sandbag barrier constructed in 2017 and replace it with a sandbag groin. At its meeting on February 14, 2020, under agenda item D-3, the Board approved the issuance of a non-exclusive easement for the sandbag groin and an immediate

**SUZANNE D. CASE**  
CHAIRPERSON  
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

right-of-entry permit for the sandbag barrier. The term of the easement was the date of construction until June 4, 2029. The easement area was 960 square feet, more or less. The Board unanimously approved the proposed sandbag groin easement and there were no public opposition.

A right-of-entry permit dated February 24, 2020 was signed and executed by the AOUO.

At its meeting on March 25, 2021, under agenda item D-3, the Board rescinded the prior Board action of February 14, 2020 and approved the issuance of a revocable permit for the shoreline protection structure, beach nourishment activities and installation of the sandbag groin. The purpose was to replace the right-of-entry permit dated February 24, 2020 with a revocable permit. The Board ratified and approved the continuation of the right-of-entry permit dated February 24, 2020 until the replacement revocable permit can be issued. The Board also approved the grant of term, non-exclusive easement to the AOUO for the sandbag groin and required the AOUO to post a removal bond in the event legislative approval is not secured for an easement for the groin. The March 25, 2021 Board action additionally increased the easement area to 1,764 square feet, more or less. The Board unanimously approved as amended to add that the easement “term shall be amended to 25 years”. There was no public opposition.

The grantee shall pay the State the fair market value of the easement, as consideration for the use of public lands as determined by an independent appraisal.

The Department respectfully requests two amendments to the resolution. The first amendment relates to the tax map key number cited in the resolution: Tax Map Key: (4) 4-3-009:seaward of 050 (Parcel 50). County tax records do not currently reflect a Parcel 50 as that parcel appears to have been consolidated with Tax Map Key: (4) 4-3-009:041 (Parcel 41), with the whole of the area now designated as Parcel 41. Accordingly, the Department requests the resolution refer to Tax Map Key: (4) 4-3-009:seaward of 050 now designated as Tax Map Key: (4) 4-3-009:seaward of 41.

The second proposed amendment is for the resolution to include a recital to the Board’s action of March 25, 2021 under agenda Item D-3 referenced above. For a clear record, the following should be inserted at line 9 of page 3 of the resolution:

WHEREAS, at its meeting on March 25, 2021, under agenda item D-3, the Board rescinded its prior action of February 14, 2020 and approved the issuance of a revocable permit for the shoreline protection structure, beach nourishment activities and installation of the sandbag groin. The purpose was to replace the right-of-entry permit dated February 24, 2020 with a revocable permit. The Board approved the grant of term, non-exclusive easement to the Association of Unit Owners of Kauai Kailani for the sandbag groin and required the association to post a removal bond in the event legislative approval is not secured for an easement for the groin. The March 25, 2021 Board action increased the easement area to 1,764 square feet, more or less. The Board unanimously approved as amended to add that the easement “term shall be amended to 25 years”. There was no public opposition; and

Thank you for the opportunity to comment on this measure.



Written Statement of  
**DR. PATRICK K. SULLIVAN**  
**PRESIDENT/CEO OCEANIT**

Before the

**HOUSE COMMITTEE ON CONSUMER PROTECTION**

March 29, 2021 2:00 p.m.  
State Capitol, Conference Room 329 (Via Videoconference)

In SUPPORT of  
**HCR 166 HD1 State Submerged Lands at Kapaa, Kauai; Lease**

To: Chair Representative Aaron Ling Johanson, Vice Chair Representative Lisa Kitagawa and Members of the Committee

From: Dr. Patrick K. Sullivan, President/CEO

Re: Testimony in Support of HCR 166 HD1

Honorable Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to provide testimony in Support of **HCR 166 HD1**.

The authorization of this easement will allow for the restoration of a portion of the public beach at Kapaa, Kauai, which has eroded dramatically in recent years. The proximity of the rapidly receding shoreline to inhabited dwellings presents a risk of natural hazards that imminent threatens public health, welfare and safety. The beach restoration project is a sustainable, low-impact, nature-based approach to address the coastal erosion issue, and has been approved by regulatory agencies at local, state and federal levels. We appreciate your consideration to this important concurrent resolution.

Therefore, Oceanit strongly supports HCR 166 HD1.

**HCR-166-HD-1**

Submitted on: 3/28/2021 8:45:58 AM

Testimony for CPC on 3/29/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Patti Udin	Individual	Support	No

Comments:

Kauai Kailani has been our Hawaiian vacation "home" since my girls were 12 and 13. They are now 45 and 46. We purchased our condo when the project was renovated. We watched as our beautiful beach was ravaged by the ocean currents when the groin was removed at the beginning of the renovation project. It has been heartbreaking to watch our beach disappear. We have devoted time, money, prayers, and physical effort to stop the erosion. We are totally committed to restoring this beach so that it can be returned to it's original state as a fishing spot for local fishermen and lovely beach for visitors and locals as well. We humbly ask for your assistance to attain these goals.

Mahalo--Patti Udin

**HCR-166-HD-1**

Submitted on: 3/28/2021 8:55:50 AM

Testimony for CPC on 3/29/2021 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Allan Udin	Individual	Support	No

Comments:

Kauai Kailani has been our Hawaiian vacation "home" since my girls were 12 and 13. They are now 45 and 46. We purchased our condo when the project was renovated. We watched as our beautiful beach was ravaged by the ocean currents when the groin was removed at the beginning of the renovation project. It has been heartbreaking to watch our beach disappear. We have devoted time, money, prayers, and physical effort to stop the erosion. We are totally committed to restoring this beach so that it can be returned to it's original state as a fishing spot for local fishermen and lovely beach for visitors and locals as well. We humbly ask for your assistance to attain these goals.

Mahalo--Allan Udin