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GOVERNOR OF HAWAII



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

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**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
WATER AND LAND**

**Friday, April 9, 2021
1:30 PM**

State Capitol, Via Videoconference, Conference Room 229

**In consideration of
HOUSE CONCURRENT RESOLUTION 166, HOUSE DRAFT 2
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 2 requests 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). Senate Draft 2 of resolution makes two amendments requested by the Department of Land and Natural Resources (Department) regarding the tax map key reference of the relevant area and updating the recitals of the Board of Land and Natural Resources' action regarding the easement. **The Department supports this concurrent resolution.**

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

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

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 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 AOOU.

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 AOOU for the sandbag groin and required the AOOU 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.

Thank you for the opportunity to comment on this measure.