July 13, 2015

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Twenty-Eighth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai‘i 96813

The Honorable Joseph M. Souki,  
Speaker and Members of the  
House of Representatives  
Twenty-Eighth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai‘i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on July 13, 2015, the following bill was signed into law:

HB393 HD2 SD2 RELATING TO HAWAIIAN FISHPONDS  
ACT 230 (15)

Sincerely,

[Signature]
DAVID Y. IGE  
Governor, State of Hawai‘i
A BILL FOR AN ACT

RELATING TO HAWAIIAN FISHPONDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that the repair or restoration of Hawaiian loko i'a (fishponds) may require permits from the department of land and natural resources, department of health, office of planning, federal agencies, and county agencies. The legislature further finds that the permit process for repair or restoration of loko i'a may be time-consuming, complicated, confusing, and inconsistent across agencies. Burdensome regulations and permit requirements have historically prevented community organizations or native Hawaiian lawai'a (aquaculturalists) from initiating projects to restore, repair, or maintain loko i'a.

In practice, it has reportedly taken up to ten years to obtain the certifications and permits required for loko i'a restoration and repair by state and federal law, including the Clean Water Act and the Coastal Zone Management Act. For example, sections 401 and 404 of the Clean Water Act require first a water quality certification and permit from the
1 department of health and then a permit from the Army Corps of
2 Engineers before loko i'a activities may proceed.
3
4 Government and community interests have demonstrated their
5 willingness and ability to work together to streamline the
6 permit process for Hawaiian loko i'a. Pursuant to Senate
7 Resolution No. 86 (2012), the department of land and natural
8 resources, office of planning, and department of health have led
9 these efforts, including coordination with cultural
10 practitioners, community groups, and affected federal and county
11 agencies.

12 The department of land and natural resources is in the
13 final stages of implementing a statewide programmatic general
14 permit and programmatic agreement that would allow most
15 applicants for loko i'a restoration and repair permits to submit
16 a single permit application for review by an interagency
17 advisory group and relevant resource agencies instead of a
18 series of single-agency applications. Upon the appropriate
19 findings by the advisory group, the department of land and
20 natural resources would be able to issue the applicant an
21 authorization to proceed. After a final thirty-day comment
22 period, the permit would be issued and the applicant may conduct
restoration and repair activities in compliance with existing environmental protection and other laws, including the Clean Water Act.

The purpose of this Act is to ensure that the statewide programmatic general permit and programmatic agreement function as intended by specifying that a permit applicant that has received notice of authorization to proceed from the department of land and natural resources is not required to obtain additional water quality certification from the department of health. The legislature finds that the intent of this Act is to improve state government efficiency and response time in the administration of water pollution control. It is not the intent of the legislature to limit or impede state environmental controls on water pollution.

SECTION 2. Section 342D-6.5, Hawaii Revised Statutes, is amended to read as follows:

"[±]§342D-6.5[±] Hawaiian [fishponds] loko i'a. (a) The department shall process applications for permits and water quality certifications for the reconstruction, restoration, repair, or reuse of any loko i'a, or Hawaiian fishpond as defined in section 183B-1, before all other permits and certifications.
The director shall render a decision on the completeness of any application for that permit or water quality certification within thirty days of receipt. Applications for loko i'a reconstruction, restoration, or repair that are incomplete shall be denied without prejudice. The director shall render a decision on any complete application for a permit or water quality certification for any loko i'a within one hundred fifty days.

(b) The department shall waive the requirement to obtain water quality certification under this chapter for any person that has received notice of authorization to proceed from the department of land and natural resources office of conservation and coastal lands under the statewide programmatic general permit for the restoration, repair, maintenance, and operation of loko i'a.

(c) For purposes of this section:

"Water quality certification" means state certification pursuant to section 401 of the federal Clean Water Act."
APPROVED this 13 day of JUL, 2015

GOVERNOR OF THE STATE OF HAWAII