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KA 'OIHANA KUMUWAIWAI 'ĀINA**

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KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**Testimony of  
DAWN N. S. CHANG  
Chairperson**

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

**Wednesday, March 29, 2023  
1:00 PM**

**State Capitol, Conference Room 229 and Videoconference**

**In consideration of  
SENATE CONCURRENT RESOLUTION 83  
AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT  
COVERING A PORTION OF STATE SUBMERGED LANDS AT KĀNE'OHE,  
KO'OLAUPOKO, O'AHU, FOR THE EXISTING BOAT RAMP, CONCRETE WALL,  
AND PORTION OF A WALL AND FOR USE, REPAIR, AND MAINTENANCE  
OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.**

Senate Concurrent Resolution 83 requests authorization to issue a term, non-exclusive easement covering a 319 square foot, more or less, portion of state submerged lands fronting the property identified as Tax Map Key: (1) 4-5-:047: seaward of 051, at Kāne'ōhe, Ko'olaupoko, O'ahu for the existing boat ramp and concrete wall, and for the use, repair, and maintenance of the existing improvements constructed thereon. **The Department of Land and Natural Resources (Department) supports this concurrent resolution.**<sup>1</sup>

The encroachment at issue consists of three elements: a concrete boat ramp of approximately 147 square feet, a submerged concrete wall of approximately 169 square feet, and a portion of another wall of approximately 3 square feet. The final easement area is subject to review and approval by the Department of Accounting and General Services, Survey Division. According to aerial images provided to the Department, all three elements are a part of a larger seawall that has been in place since at least 1967. The residential properties surrounding the property at issue are also bordered on the makai side with similar seawalls and boat ramps.

The current owner, James Michael Elhoff/ Michael Elhoff Living Trust, purchased the private property that abuts the subject shoreline encroachments in 2021. The encroachments were noted in the course of a

<sup>1</sup> Please note: SCR83 is not an Administration measure.

shoreline certification process and the owner requested to pursue a land disposition to resolve the encroachments. The Board of Land and Natural Resources approved the grant of a term, non-exclusive easement, right-of-entry permit, and revocable permit for the encroachment at its meeting on August 26, 2022, under agenda item D-4. If the Legislature approves the easement, the next steps would be to survey the final easement area and appraise the fair market value of the term, non-exclusive easement, which the current owners shall be required to pay to the State as consideration for use of public lands.<sup>2</sup>

The Department's Office of Conservation and Coastal Lands (OCCL) has supported and continues to support the disposition of the subject land by easement in order to resolve the encroachment. In the context of the easement application process, OCCL stated, by letter dated March 3, 2022, that removal of the encroachments may compromise the abutting property as well as neighboring properties because the seawall serves as primary erosion control for these properties. Erosion may cause landscaping and sediment material to fall or leach into marine waters, posing a potential harm to the health of marine life. Additionally, OCCL noted that the encroachments do not negatively affect beach or shoreline access in the area because there is no sandy beach present and the land is constantly submerged.

Mahalo for the opportunity to testify in support of this measure.

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<sup>2</sup> Please note: The shoreline certification for the subject property is currently in progress and the processing period will expire September 18, 2023. A completed shoreline certification is necessary for determining the area of encroachment onto State land. The Department will be able to appraise fair market value of the encroachment upon completion of certification.