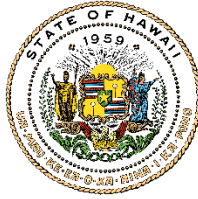


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
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**STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA**

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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

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

**Before the House Committee on
WATER & LAND**

**Tuesday, March 19, 2024
9:30 AM**

State Capitol, Conference Room 415, Via Videoconference

**In consideration of
HOUSE CONCURRENT RESOLUTION 9
AUTHORIZING THE ISSUANCE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT
COVERING A PORTION OF STATE SUBMERGED LANDS AT HEEIA,
KOOLAUPOKO, OAHU, FOR THE EXISTING DRAIN, AND FOR USE, REPAIR, AND
MAINTENANCE OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.**

House Concurrent Resolution 9 requests Legislative approval for a perpetual, non-exclusive easement covering approximately forty-seven square feet of State submerged lands located seaward of the property identified as Tax Map Key: (1) 4-6-003:077, He'eia, Ko'olaupoko, O'ahu, for the existing City & County of Honolulu drain infrastructure present on the site. **The Department of Land and Natural Resources (Department) supports this Concurrent Resolution.**

In July 2009, during the process of authorizing an easement for a dock that encroaches on State submerged land at the shoreline abutting the above-referenced private property, the Department discovered a structure that is part of the City & County of Honolulu's municipal drainage system. The City & County of Honolulu confirmed that the drainage structure was constructed in the 1970s when the abutting land was subdivided for development. Although the City & County obtained a drainage easement at that time for the portion of the system that encroached on private land, it did not hold an easement for the portion of the system that came to be located on State shoreline land. The City & County of Honolulu agreed to obtain an easement from the State for the portion of the drainage system located on State land.

At its meeting on July 8, 2010, under Agenda Item D-15, the Board of Land and Natural Resources approved the grant of a perpetual non-exclusive easement to resolve the drain encroachment at gratis consideration. The perpetual term and gratis consideration were approved because the encroachment at issue is public infrastructure that is owned and operated by the City & County of Honolulu and was constructed by the City & County pursuant to proper permits.

At this meeting, the Office of Hawaiian Affairs, the Department of Health, the Department of Land and Natural Resources' State Historic Preservation Division and Office of Conservation and Coastal Lands, and the City & County of Honolulu's Department of Planning and Permitting and Board of Water Supply indicated that they had no objection to the request for perpetual easement for the drainage infrastructure.

The drainage infrastructure at issue is concrete swale that sits on State submerged land on the makai side of a stone and concrete seawall and is attached to the makai side of an existing drainage pipe. The land on which the structure is sited is a mud flat that is partially or completely submerged by the waters of Kāneʻohe Bay and, because of its physical characteristics, is not sought out by the public for recreational access. The drainage system carries runoff from the private property development into Kāneʻohe Bay. At the time the Board approved the grant of easement, the Board found, "The use of the drainage structure does not result in any known significant impacts, whether immediate or cumulative, to the natural, environmental and/ or cultural resources in the area." The Department's Office of Conservation and Coastal Lands and Division of Aquatic Resources as well as the Department of Health were consulted on this finding. Removal of the structure is not contemplated at this time, as it is an essential part of a functioning City & County drainage system.

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