

2017 MAR 30 P 5:13

**BOARD OF LAND AND NATURAL RESOURCES**  
**STATE OF HAWAI‘I**

In the matter of a Contested Case to Appeal	)	DLNR File No. OA-07-06
The Board of Land and Natural Resources’	)	
Finding of Violation for Unauthorized Repair	)	Regarding Proposed Revised
And Reconstruction of a Boulder Revetment	)	Findings of Fact, Conclusions
At Mokulē‘ia, District of Waialua, O‘ahu,	)	of Law, & Decision and Order:
TMK: (1) 6-8-003:018	)	on Remand; Order Setting
	)	Deadline for Exceptions, and
	)	Setting Hearing on Exceptions
	)	

**AMENDED MINUTE ORDER NUMBER 22**

**REGARDING PROPOSED REVISED FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION AND ORDER:  
ON REMAND; ORDER SETTING DEADLINE FOR EXCEPTIONS, AND SETTING HEARING ON EXCEPTIONS**

On June 25, 2015 the Hearings Officer filed and served on the parties his “Proposed Revised Findings of Fact, Conclusions of Law, & Decision and Order: On Remand” for consideration by the Board of Land and Natural Resources (“Board”) in the above-captioned matter pursuant to Hawai‘i Administrative Rules (HAR) §13-1-41. The Board adopted the Hearings Officer’s report as the proposal for decision by Minute Order Number 20 on June 26, 2015.

The parties were allowed to file exceptions and responsive briefs to exceptions, and made oral argument before the Board on August 28, 2015.

The Board prepared new Proposed Revised Findings of Fact, Conclusions of Law, & Decision and Order: On Remand (“Proposed Decision and Order”), reflecting revised findings and conclusions to that of the Hearings Officer, and including finding, inter alia, that the parties applied the 2011 version of HAR chapter 13-5, rather than the 1994 version in the initial contested case proceeding, Circuit Court appeal, and remand. The Board’s Proposed Decision and Order has been served on the parties.

Any party to the contested case may file exceptions to the Proposed Decision and Order which shall conform to the requirements of HAR §§13-1-42 to 13-1-45, no later than Tuesday, **May 2, 2017**.

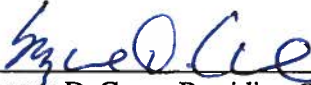
Any responsive briefs to exceptions may be filed which shall conform to the requirements of HAR §13-1-43 no later than Tuesday, **May 16, 2017**.

Any exceptions and responses shall be filed with the Department of Land and Natural Resources, Office of Conservation and Coastal Lands, Room 131, 1151 Punchbowl Street, Honolulu Hawai‘i (original and seven copies), and served on all parties.

Pursuant to Hawai'i Revised Statutes §91-9(c), the Board will entertain oral arguments regarding any filed exceptions to the Proposed Decision and Order on Friday, **May 26, 2017** commencing at 8:00 a.m. in the Board of Land and Natural Resources Conference Room, Room 132, 1151 Punchbowl Street, Honolulu, Hawaii. Any parties who file timely exceptions or responses to exceptions shall be permitted to present oral argument before the Board. Oral argument shall be limited to 30 minutes to each party who timely files exceptions or responses to exceptions.

Except as indicated below, the Members have affixed their acknowledgment and approval of the foregoing order by electronic signature.

SO ORDERED this 30<sup>th</sup> day of March, 2017

  
\_\_\_\_\_  
SUZANNE D. CASE, Presiding Officer  
Board of Land and Natural Resources

/s/ JAMES A. GOMES, Member

/s/ STANLEY H. ROHRIG, Member

/s/ CHRISTOPHER YUEN, Member

/s/ KEITH DOWNING, Member

/s/ THOMAS OI, Member

/s/SAMUEL M. GON III, Member

**Amended Minute Order No. 22**, Regarding Proposed Revised Findings of Fact, Conclusions of Law, & Decision and Order: On Remand; Order Setting Deadline for Exceptions, and Setting Hearing on Exceptions. In the matter of a Contested Case to Appeal the Board of Land and Natural Resources' Finding of Violation for Unauthorized Repair and Reconstruction of a Boulder Revetment at Mokulē'ia, District of Waialua, O'ahu, TMK: (1) 6-8-003:018.

**BOARD OF LAND AND NATURAL RESOURCES**

**STATE OF HAWAII**

In The Matter of a Contested Case to appeal the Board of Land and Natural Resources finding of violation for unauthorized repair and reconstruction of a boulder revetment at Mokulē`ia, District of Waialua, O`ahu, TMK (1) 6-8-003:018.

DLNR File No. OA-07-06

**CERTIFICATE OF SERVICE**


The undersigned hereby certifies that 1) Amended Minute Order Number 22 and 2) Page 5-28 from HAR Chapter 13-5 (1994) was served upon the following parties by the means indicated on March 31, 2017, addressed as follows:

**Gregory W. Kugle**  
Damon Key Leong Kupchak Hastert  
1003 Bishop Street, Suite 1600  
Honolulu, HI 96813  
[gwk@hawaiiilawyer.com](mailto:gwk@hawaiiilawyer.com)  
*Counsel for Landowners*

**Patricia Ohara, Deputy Attorney General**  
**Robyn Chun, Deputy Attorney General**  
Administrative Division  
Hale `Auhau  
425 Queen Street  
Honolulu, Hawaii`i 96813  
*(hand delivered)*  
[patricia.t.ohara@hawaii.gov](mailto:patricia.t.ohara@hawaii.gov)  
[robyn.b.chun@hawaii.gov](mailto:robyn.b.chun@hawaii.gov)  
*Counsels for OCCL*

**Colin Lau, Deputy Attorney General**  
Land Transportation Division  
Kekuanao`a Building  
465 South King Street, Room 300  
Honolulu, HI 96813  
*(hand delivered)*  
[colin.i.lau@hawaii.gov](mailto:colin.i.lau@hawaii.gov)  
*Counsel for the Tribunal*

Dated: Honolulu, Hawaii`i, March 31, 2017



S. Michael Cain  
Department of Land & Natural Resources  
State of Hawaii`i