State of Hawaii  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Aquatic Resources  
Honolulu, Hawaii 96813  

June 12, 2020  

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii  

APPROVAL OF PETITIONS FOR CONTESTED CASE HEARING BY TYRON TERAZONO, KACIE TERAZONO, AND WAYNE NEWMAN REGARDING ENFORCEMENT ACTION AGAINST TYRON TERAZONO, KACIE TERAZONO, AND WAYNE NEWMAN FOR UNLAWFUL COLLECTION OF AQUATIC LIFE FOR AQUARIUM PURPOSES WITHIN THE WEST HAWAI'I REGIONAL FISHERY MANAGEMENT AREA, ISLAND OF HAWAI'I  

SUMMARY  

Petitioners Tyron Terazono, Kacie Terazono, and Wayne Newman (collectively “Petitioners”) have requested a contested case hearing challenging the Enforcement Action against Tyron Terazono, Kacie Terazono, and Wayne Newman for Unlawful Collection of Aquatic Life for Aquarium Purposes within the West Hawai‘i Regional Fishery Management Area, Island of Hawai‘i, which was scheduled to be considered by the Board of Land and Natural Resources (“Board”) at its May 22, 2020 meeting. We find that Petitioners are entitled to a contested case hearing and recommend that the Board grant the petitions.  

BACKGROUND  

At the May 22, 2020 Board meeting via Zoom, under agenda item F-1, the Board was scheduled to consider the Enforcement Action against Tyron Terazono, Kacie Terazono, and Wayne Newman for Unlawful Collection of Aquatic Life for Aquarium Purposes within the West Hawai‘i Regional Fishery Management Area, Island of Hawai‘i. Prior to the meeting, on May 21, 2020, attorney for Tyron and Kacie Terazono notified the Division of Aquatic Resources (”DAR”) by email that he would be requesting a contested case on behalf of his clients. Based on that representation, agenda item F-1 was withdrawn from consideration by the Board at the beginning of the May 22, 2020 meeting. On May 26, 2020, the Department of Land and Natural Resources (“Department”) received written petitions for a contested case hearing from Tyron Terazono and Kacie Terazono. See Exhibits 1 and 2. On June 1, 2020, the Department received a written petition for a contested case hearing from Wayne Newman. See Exhibit 3.  

DISCUSSION  

Hawaii Administrative Rules (HAR) §13-1-29(a) requires a person to make an oral or written

ITEM F-1
request for a contested case hearing “no later than the close of the board meeting at which the subject matter of the request is scheduled for board disposition.” A person so requesting a contested case must also file (or mail a postmarked) written petition with the board for a contested case no later than ten calendar days after the close of the board meeting at which the matter was scheduled for disposition. For good cause, the time for making the oral or written request or submitting a written petition or both may be waived.

Under HAR §13-1-31.1 an alleged violator is entitled to a contested case hearing as long as the petition is made in accordance with HAR §13-1-29(a). Petitioners Tyron and Kacie Terazono made a timely written request for a contested case hearing and timely filed written petitions with the Board. Petitioners Tyron and Kacie Terazono complied with the procedural requirements of HAR §13-1-29(a) and thus are entitled to a contested case hearing.

Petitioner Wayne Newman did not make an oral or written request for a contested case hearing prior to the close of the May 22, 2020 Board meeting, but he did timely file a written petition with the Board. Considering 1) the communication challenges associated with holding a Board meeting via Zoom and 2) the Board’s withdrawal of agenda item F-1 at the beginning of the meeting due to receipt of a written request for a contested case by Tyron and Kacie Terazono, DAR believes there is good cause to waive the time for Petitioner Wayne Newman to make an oral or written request. DAR construes Petitioner Newman’s written petition for a contested case hearing as a written request for the purposes of fulfilling the procedural requirements of HAR §13-29(a).

CONCLUSION

Based on the foregoing, and upon consultation with the Department of the Attorney General, DAR recommends that the Board approve all three petitions and commence contested case proceedings.
RECOMMENDATIONS:

That the Board:

1. Find that there is good cause to waive the requirement under HAR § 13-1-29(a) that an oral or written request for a contested case hearing be made prior to the end of the meeting at which the subject matter of the request is scheduled for board disposition for Wayne Newman;

2. Approve the Petitions for Contested Case Hearing by Tyron Terazono, Kacie Terazono, and Wayne Newman; and

3. Authorize the Chairperson to appoint a hearing officer to preside over the hearing.

Respectfully submitted,

[Signature]

Brian J. Neilson, Administrator
Division of Aquatic Resources

APPROVED FOR SUBMITTAL:

[Signature]

SUZANNE D. CASE, Chairperson
Board of Land and Natural Resources

Attachments

Exhibit 1 – Petition for Contested Case Hearing by Tyron Terazono
Exhibit 2 – Petition for Contested Case Hearing by Kacie Terazono
Exhibit 3 – Petition for Contested Case Hearing by Wayne Newman
### PETITION FOR A CONTESTED CASE HEARING

#### OFFICIAL USE ONLY

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<tr>
<th>Case No.</th>
<th>Date Received</th>
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<th>Division/Office</th>
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#### INSTRUCTIONS:

1. File (deliver, mail or fax) this form within ten (10) days of the Board Action Date to:
   
   Department of Land and Natural Resources  
   Administrative Proceedings Office  
   1151 Punchbowl Street, Room 130  
   Honolulu, Hawaii 96813  
   Phone: (808) 587-1496, Fax: (808) 587-0390

2. DLNR’s contested case hearing rules are listed under Chapter 13-1, HAR, and can be obtained from the DLNR Administrative Proceedings Office or at its website (http://dlnr.hawaii.gov/forms/contested-case-form/). Please review these rules before filing a petition.

3. If you use the electronic version of this form, note that the boxes are expandable to fit in your statements. If you use the hardcopy form and need more space, you may attach additional sheets.

4. Pursuant to §13-1-30, HAR, a petition that involves a Conservation District Use Permit must be accompanied with a $100.00 non-refundable filing fee (payable to “DLNR”) or a request for waiver of this fee. A waiver may be granted by the Chairperson based on a petitioner’s financial hardship.

5. All materials, including this form, shall be submitted in **three (3)** photocopies.

#### A. PETITIONER

(If there are multiple petitioners, use one form for each.)

<table>
<thead>
<tr>
<th>1. Name</th>
<th>2. Contact Person</th>
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<tbody>
<tr>
<td>Tyron Terazono</td>
<td>Jason R. Braswell, Esq.</td>
</tr>
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<table>
<thead>
<tr>
<th>3. Address</th>
<th>4. City</th>
<th>5. State and ZIP</th>
</tr>
</thead>
<tbody>
<tr>
<td>79-983 Kawanui Place</td>
<td>Kealakekua</td>
<td>HI 96750</td>
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<tr>
<th>6. Email</th>
<th>7. Phone</th>
<th>8. Fax</th>
</tr>
</thead>
<tbody>
<tr>
<td><a href="mailto:tyronterazono@gmail.com">tyronterazono@gmail.com</a></td>
<td>(808) 443-6575</td>
<td></td>
</tr>
</tbody>
</table>

#### B. ATTORNEY (if represented)

<table>
<thead>
<tr>
<th>9. Attorney Name</th>
<th>10. Firm Name</th>
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<tbody>
<tr>
<td>Jason R. Braswell</td>
<td>Braswell Fujioka-Lilley LLP</td>
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<tbody>
<tr>
<td>P.O. Box 2429</td>
<td>Kailua-Kona</td>
<td>HI 96745</td>
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<tr>
<th>14. Email</th>
<th>15. Phone</th>
<th>16. Fax</th>
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<tbody>
<tr>
<td><a href="mailto:jason@bfllaw.com">jason@bfllaw.com</a></td>
<td>(808) 464-5223</td>
<td></td>
</tr>
</tbody>
</table>
C. SUBJECT MATTER

17. Board Action Being Contested
   Enforcement Action against Tyron Terazono, Kacie Terazono, and Wayne Newman for
   Unlawful Collection of Aquatic Life for Aquarium Purposes within the West Hawai‘i Regional
   Fishery Management Area, Island of Hawai‘i.

18. Board Action Date
   May 22, 2020

19. Item No.
   F-1

20. Any Specific Statute or Rule That Entitles Petitioner to a Contested Case
   Because a significant fine is sought against petitioner, a contested case is required by the due process
   clauses of the Hawai‘i State Constitution and the United States Constitution.

21. Any Specific Property Interest of Petitioner That Is Entitled to Due Process Protection
   A significant monetary fine is sought against petitioner.

22. Any Disagreement Petitioner May Have with an Application before the Board
   Petitioner contests all aspects of the Division of Aquatic Resources' request/recommendation
   for fines against petitioner.

23. Any Relief Petitioner Seeks or Deems Itself Entitled to
   Petitioner is entitled to rejection of the staff recommendation and a closure of the
   enforcement action. Additionally, because of petitioner’s property interests and due process
   rights, petitioner is entitled to a hearing and judicial review of the Board’s decision.

24. How Petitioner’s Participation in the Proceeding Would Serve the Public Interest
   Petitioner's participation will insure that due process is afforded to petitioner and that the
   Board's action is based on evidence and witness testimony subject to rights and protections of
   contested case procedures. Petitioner faces significant fines that staff recommends, and must
   be afforded an opportunity to present their case and appeal an adverse decision.

25. Any Other Information That May Assist the Board in Determining Whether Petitioner Meets
    the Criteria to Be a Party under Section 13-1-31, HAR

☐ Check this box if Petitioner is submitting supporting documents with this form.
☐ Check this box if Petitioner will submit additional supporting documents after filing this form.

Jason R. Braswell, Esq.
Petitioner or Representative (Print Name)  

Signature  

Date  5/22/2020

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STATE OF HAWAII  
BOARD OF LAND AND NATURAL RESOURCES  

PETITION FOR A CONTESTED CASE HEARING

OFFICIAL USE ONLY

Case No.  

Date Received  

Board Action Date / Item No.  

Division/Office  

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5. All materials, including this form, shall be submitted in three (3) photocopies.

A. PETITIONER  
   (If there are multiple petitioners, use one form for each.)

   1. Name  
      Kacie Terazono

   2. Contact Person  
      Jason R. Braswell, Esq.

   3. Address  
      79-983 Kawanui Place

   4. City  
      Kealakekua

   5. State and ZIP  
      HI 96750

   6. Email  
      tyronterazono@gmail.com

   7. Phone  
      (808) 443-6575

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B. ATTORNEY (if represented)

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      Jason R. Braswell

   10. Firm Name  
      Braswell Fujioka-Lilley LLP

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      P.O. Box 2429

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   14. Email  
      jason@bflwlaw.com

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Page 1 of 2  

EXHIBIT E
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Jason R. Braswell, Esq.
Petitioner or Representative (Print Name)  

Signature  

Date  

FORM APO-11  
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<tr>
<td>Wayne Newman</td>
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<th>Address</th>
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<tr>
<td>PO Box 3471</td>
<td>Kailua Kona</td>
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<tr>
<th>Email</th>
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<tbody>
<tr>
<td><a href="mailto:qualityoceananicexports@gmail.com">qualityoceananicexports@gmail.com</a></td>
<td>808-938-9178</td>
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## B. ATTORNEY (if represented)

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Jason R. Braswell, Esq.
Petitioner or Representative (Print Name)

[b熊] Sign[熊]ature

5/26/2020
Date

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Page 2 of 2