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Attorneys for Petitioners-Appellants

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

KALANIHALE, KO'OLAUPOKO
HAWAIIAN CIVIC CLUB, FOR THE
FISHES, CHARLES K.H. YOUNG AND
MICHAEL NAKACHI,

Petitioners-Appellants,

v.

BOARD OF LAND AND NATURAL
RESOURCES, STATE OF HAWAI'I AND
DEPARTMENT OF LAND AND
NATURAL RESOURCES, STATE OF
HAWAI'I,

Respondents-Appellees.

) CIVIL NO.
) (Environmental court)
)
) IN RE: PETITION OF KALANIHALE,
) KO'OLAUPOKO HAWAIIAN CIVIC
) CLUB, FOR THE FISHES, CHARLES
) K.H. YOUNG, AND MICHAEL
) NAKACHI FOR DECLARATORY
) RULING, filed October 10, 2024
)
) NOTICE OF APPEAL; STATEMENT OF
) THE CASE; EXHIBIT A; DESIGNATION
) OF RECORD ON APPEAL; ORDER FOR
) CERTIFICATION AND TRANSMISSION
) OF RECORD; CERTIFICATE OF
) SERVICE
)

NOTICE OF APPEAL



Notice is hereby given that Petitioners-Appellants Kalanihale, Ko‘olaupoko Hawaiian Civic Club, For the Fishes, Charles K. H. Young, and Michael Nakachi, by and through their counsel Earthjustice and pursuant to Hawai‘i Revised Statutes § 91-14 and Hawai‘i Rule of Civil Procedure 72, appeal to the Circuit Court of the First Circuit, Environmental Court, from the State of Hawai‘i Board of Land and Natural Resources’ Order Denying Petition For Declaratory Ruling, entered September 26, 2025.

A copy of the September 26, 2025 Order Denying Petition For Declaratory Ruling is attached hereto as Exhibit “A.” The grounds for this appeal are set forth in the statement of the case filed herewith.

DATED: Honolulu, Hawai‘i, October 16, 2025.

/s/ Mahesh Cleveland
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EARTHJUSTICE

Attorneys for Petitioners-Appellants
Kalanihale, Ko‘olaupoko Hawaiian Civic Club,
For the Fishes, Charles K. H. Young, and
Michael Nakachi

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KALANIHALE, KO'OLAUPOKO	) CIVIL NO.
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	) K.H. YOUNG, AND MICHAEL
v.	) NAKACHI FOR DECLARATORY
	) RULING, filed October 10, 2024
BOARD OF LAND AND NATURAL	)
RESOURCES, STATE OF HAWAI'I AND	) STATEMENT OF THE CASE
DEPARTMENT OF LAND AND	)
NATURAL RESOURCES, STATE OF	)
HAWAI'I,	)
	)
Respondents-Appellees.	)
	)

STATEMENT OF THE CASE

Pursuant to Rule 72(e) of the Hawai‘i Rules of Civil Procedure (“HRCP”), Petitioners-Appellants Kalanihale, Ko‘olaupoko Hawaiian Civic Club, For the Fishes, Charles K. H. Young, and Michael Nakachi (collectively, “Appellants”), by and through their counsel Earthjustice, hereby submit the following statement of the case:

I. INTRODUCTION

1. On December 8, 2023, Respondent-Appellee the State of Hawai‘i Board of Land and Natural Resources (the “Board”) unanimously approved Appellants’ formal request to initiate rulemaking to ban commercial aquarium collection throughout Hawai‘i (the “Rulemaking Petition”). The Board Chair further directed Respondent-Appellee the Department of Land and Natural Resources (“DLNR”) to ensure that the new ban rule is “consistent with statutory provisions,” specifically in relation to Hawai‘i Revised Statutes (“HRS”) § 188-31, which grants the Board and DLNR (collectively, “Appellees”) discretionary authority to issue permits for the use of fine-meshed nets to collect fish and hold them in captivity.

2. Despite having granted the Rulemaking Petition, Board members expressed varying positions on the Board’s authority to ban commercial aquarium collection or deny commercial collection permits and licenses. DLNR used this apparent lack of clarity as to the Board’s legal powers to justify proceeding with rulemaking that would further *permit* commercial aquarium collection, rather than *prohibit* commercial collection as requested in the unanimously approved Rulemaking Petition.

3. On October 10, 2024, in an attempt to rectify the Board’s confusion over its authority and powers regarding commercial aquarium collection, Appellants filed a petition for declaratory ruling (the “Declaratory Petition”), pursuant to HRS § 91-8 and Hawai‘i Administrative Rules (“HAR”) § 13-1-27, requesting that the Board confirm its authority to (a)

prohibit commercial aquarium collection statewide via administrative rules promulgated pursuant to HRS § 190-3, and (b) deny commercial aquarium collection permits and licenses under HRS § 188-31 and HAR § 13-74-2(4), respectively.

4. On October 11, 2024, the Board Chair circulated a letter to various stakeholders, reiterating DLNR’s “plans to develop proposed administrative rules to *regulate* commercial aquarium collection.”

5. On April 11, 2025, six months after the Board received the Declaratory Petition, Appellants sent a letter to the Board Chair and Board members requesting that the Board promptly address the Declaratory Petition to avoid causing any further unreasonable delay in resolving the matter. Appellants stressed that it would be unreasonable for the Board to proceed to rulemaking to “regulate” commercial aquarium collection before deciding whether it has the authority to more broadly prohibit the activity, as requested in the Rulemaking Petition. The Board continued to take no action on Appellants’ Declaratory Petition.

6. On September 16, 2025, nearly a year after submitting the Declaratory Petition, Appellants filed a complaint in circuit court challenging the Board’s unreasonable delay in issuing a declaratory ruling. *See* 1CCV-25-0001544, JEFS Dkt. No. 1.

7. Ten days later, on September 26, 2025, the Board issued its Order Denying Petition For Declaratory Ruling (“Order”). Appellants, accordingly, voluntarily dismissed the September 16, 2025 unreasonable delay complaint on October 2, 2025 (as corrected on October 7, 2025). *See* 1CCV-25-0001544, JEFS Dkt. Nos. 22, 24.

8. In its Order, the Board concedes that issuance of HRS § 188-31 permits is discretionary, but concludes in error that it cannot ban commercial collection by administrative rule. Appellants take issue with and specifically appeal the Board’s conclusions that it lacks

authority to prohibit commercial aquarium collection under HRS §§ 190-3 and 188-31. *See* Conclusion of Law (“COL”) Nos. 12 through 18.

II. JURISDICTION AND VENUE

9. This Court has jurisdiction over this matter pursuant to HRS § 91-14, which provides for an appeal to the circuit court from a final decision and order on a petition for agency declaratory ruling. The Board’s Order is an appealable decision and order pursuant to HRS §§ 91-8 and 91-14. *See also Lingle v. Hawai‘i Gov’t Emp. Ass’n*, 107 Hawai‘i 178, 185-86, 111 P.3d 587, 594-95 (2005) (holding that “orders disposing of petitions for declaratory rulings under HRS § 91-8 are appealable to the circuit court pursuant to HRS § 91-14”).

10. This Statement of the Case may also be construed as an original complaint, pursuant to HRCF Rules 1, 8(a), 8(e), and 72(e) and, if so construed, the Court has jurisdiction pursuant to HRS §§ 603-21.5, 603-21.8, 603-21.9, 661-1, HRS chapter 632, and article XI, §§ 1 and 9, and article XII, § 7 of the Hawai‘i Constitution.

11. The environmental court has exclusive jurisdiction over this case pursuant to HRS § 604A-2 because the administrative proceeding underlying this appeal arises under HRS title 12.

12. Venue properly lies in this judicial circuit pursuant to HRS § 603-36(5) because Appellants’ claims for relief arose in this circuit and the Board and DLNR are domiciled in this circuit.

III. PARTIES

A. Appellants

13. Appellants are Native Hawaiian organizations, cultural practitioners, and marine conservation advocacy organizations whose missions or lifeways depend upon Hawai‘i’s coral

reef ecosystems, which provide recreational, cultural, educational, subsistence, and other social benefits, as well as ecological and structural protections against the effects of climate change. Appellants, moreover, are beneficiaries of Hawai‘i’s constitutional public trust, which encompasses Hawai‘i’s coastal and marine resources. Appellants also include lineal descendants of the aboriginal people who inhabited the Hawaiian Islands prior to 1778 and who engage in traditional and customary Native Hawaiian practices that are inextricably linked to nearshore marine ecosystems.

14. Kalanihale is a 501(c)(3) non-profit community organization based in Miloli‘i, Hawai‘i. Kalanihale’s mission is to improve the educational, environmental, and cultural well-being of community members in Miloli‘i and throughout the South Kona area. Kalanihale strives to protect and perpetuate Native Hawaiian traditional and customary practices, including but not limited to: lawai‘a pono (responsible fishing, *i.e.*, taking only what is needed to feed oneself and one’s ‘ohana), mālama ‘āina (caring for natural resources), ‘āina momona (promoting abundance in natural resources), kilo (astute observation of natural resources), ho‘okupu (ceremonial offerings), and konohiki practices. Kalanihale conducts educational programs to teach South Kona youth these values and how to perpetuate them. Kalanihale’s interests extend to the conservation and enhancement of nearshore marine resources in Hawai‘i, the perpetuation of Native Hawaiian traditional and customary fishing practices, and the restoration of West Hawai‘i’s historic nearshore abundance for the benefit of present and future generations. Kalanihale was among the petitioners who submitted the Rulemaking Petition to prohibit commercial aquarium collection and later submitted the Declaratory Petition.

15. Kalanihale members Wilfred (“Uncle Willy”) Kaupiko—one of the South Kona kūpuna who inspired the formation of Kalanihale—and Uncle Willy’s son Ka‘imi Kaupiko were

plaintiffs in *Umberger v. Dep't of Land & Natural Res.*, 140 Hawai'i 500, 403 P.3d 277 (2017), in which the Hawai'i Supreme Court held that aquarium collection permitting is subject to environmental review under the Hawai'i Environmental Policy Act ("HEPA"), HRS chapter 343. Uncle Willy and Ka'imi were also plaintiffs in the follow-up lawsuit, *Kaupiko v. Department of Land & Natural Resources*, Civil No. 1CCV-20-0000125 (JPC) ("*Kaupiko I*"), which closed the loophole that effectively exempted from HEPA review commercial aquarium collection using gear other than fine-meshed nets and fine-meshed traps in areas outside of the West Hawai'i Regional Fishery Management Area. The Kaupikos later were plaintiffs and appellants in *Kaupiko v. Bd. of Land & Natural Res.*, 154 Hawai'i 456, 555 P.3d 143 (2024) ("*Kaupiko II*"), in which the Hawai'i Supreme Court held that opposing views and information attached to a final environmental impact statement ("EIS") "should be considered part of a complete document" to enable "fully informed" agency decisions.

16. Kalanihale's cultural, educational, subsistence, aesthetic, and recreational interests are harmed by the Board's Order, particularly in light of DLNR's plans to pursue rulemaking to authorize—rather than prohibit—commercial aquarium collection. Proceeding to rulemaking to permit commercial collection based on the Board's Order would threaten to authorize and recommence commercial aquarium collection, and its harmful impacts to reef ecosystems, based on a legally erroneous interpretation of the Board's powers, including its authority to prohibit commercial aquarium collection by administrative rule.

17. Ko'olaupoko Hawaiian Civic Club ("KPHCC") is a community organization established in August 1937 by kama'āina residents in the Ko'olaupoko community on the island of O'ahu. KPHCC members include lawai'a, kia'i loko i'a, cultural practitioners, and descendants of konohiki families with roots in the Ko'olaupoko community dating back to time

immemorial. KPHCC's mission is to perpetuate and cultivate Native Hawaiian culture and values, including lawai'a pono, mālama 'āina, 'āina momona, and aloha 'āina (love and respect for the land and its resources as 'ohana). KPHCC furthers its mission through advocacy, volunteerism, community engagement, and education. Commercial aquarium collection is a direct affront to the traditional and cultural values held by KPHCC's members and is inconsistent with the values of its community. As such, ending commercial aquarium collection in Ko'olaupoko (which includes Kāne'ohe Bay, a collection hot-spot) has been a club priority for decades. KPHCC and its members have engaged actively for years in legislative and administrative efforts to prohibit commercial aquarium collection statewide. KPHCC's interests extend to the conservation, supplementation, and increasing of marine resources in Ko'olaupoko and throughout Hawai'i. KPHCC was among the petitioners who submitted the Rulemaking Petition to prohibit commercial aquarium collection and later submitted the Declaratory Petition.

18. KPHCC's cultural, educational, subsistence, aesthetic, and recreational interests are harmed by the Board's Order, particularly in light of DLNR's plans to initiate rulemaking to authorize—rather than prohibit—commercial aquarium collection. Proceeding to rulemaking to permit commercial collection would threaten to authorize and recommence commercial aquarium collection, and its harmful impacts to reef ecosystems, based on a legally erroneous interpretation of the Board's powers, including its authority to prohibit commercial aquarium collection by administrative rule.

19. For the Fishes ("FTF") is a Hawai'i-based nonprofit organization dedicated to protecting coral reef wildlife through education, outreach, and advocacy. FTF's board and staff include researchers, conservationists, and advocates who actively engage in efforts to reduce the amount of wild-caught Hawaiian reef animals traded on the international aquarium pet market.

FTF's core goals are to reduce the needless death and suffering of coral reef wildlife, to enhance legal protections for such animals, and to increase, restore, and protect wild fish populations and coral reef habitat. FTF has advocated at the Hawai'i State Legislature for measures to protect reef fish and other wildlife, by lobbying in support of favorable proposals or against measures which would weaken protections already in place. At the local level, FTF advocated successfully for two measures of county legislation that effectively ended the capture of reef animals in the County of Maui for the aquarium pet trade. FTF's executive director Rene Umberger is the lead named plaintiff in *Umberger*. FTF was also a plaintiff in the *Kaupiko* cases and was among the petitioners who submitted the Rulemaking Petition to prohibit commercial aquarium collection and later submitted the Declaratory Petition.

20. FTF's interests are harmed by the Board's Order, particularly in light of DLNR's plans to initiate rulemaking to authorize—rather than prohibit—commercial aquarium collection. Proceeding to rulemaking that would permit commercial collection based on an erroneous interpretation of the Board's legal powers undermines the interests of FTF and its staff and supporters in protecting coral reef wildlife and restoring coral reef ecosystems. The Board's Order denying its legal authority to prohibit commercial aquarium collection by administrative rule has required and will continue to require FTF to divert the organization's limited resources toward further legislative, administrative, and judicial efforts to seek better protections and oversight over reef wildlife and ecosystems.

21. Charles K.H. Young resides in the ahupua'a of Kealia in West Hawai'i. Mr. Young is a Native Hawaiian cultural rights advocate and practitioner who has spent decades striving to protect Hawai'i's cultural and natural heritage. Mr. Young is a lifelong freediver and fisherman and was taught from an early age how to select reef fish to harvest for food; that the

health and vitality of the nearshore and offshore fisheries are inextricably connected; and that robust nearshore ecosystems directly support robust offshore ecosystems. Mr. Young has served on several community advisory boards and committees, including as current Hawai‘i Island Po‘o on the Aha Moku Advisory Committee, and as a member of the West Hawai‘i Fisheries Council. He is a founding member of Kama‘āina United to Protect the ‘Āina (“KUPA”) and the related organization KUPA Friends of Ho‘okena Beach Park, which were founded to preserve Hawai‘i’s natural and cultural resources, specifically in Ho‘okena and across West Hawai‘i. In his capacity as a member of KUPA and KUPA Friends of Ho‘okena Beach Park, Mr. Young is a member of Kua‘āina ‘Ulu Auamo, a coalition of community leaders and cultural experts formed in 2003 for the purpose of empowering communities to improve their quality of life through caring for their natural and cultural heritage. Moreover, Mr. Young is a long-time member of the organization Ka Pa‘akai o ka ‘Āina, which successfully litigated for recognition and protection of Native Hawaiian rights in agency decision-making. *See Ka Pa ‘akai O Ka ‘Āina v. Land Use Comm’n*, 94 Hawai‘i 31, 7 P.3d 1068 (2000). KUPA Friends of Ho‘okena Beach Park was among the petitioners who submitted the Rulemaking Petition to prohibit commercial aquarium collection. Mr. Young, in his individual capacity, is also among the petitioners who submitted the Declaratory Petition.

22. Mr. Young’s cultural, aesthetic, and recreational interests are harmed by the Board’s Order, particularly in light of DLNR’s plans to initiate rulemaking to authorize—rather than prohibit—commercial aquarium collection. Proceeding to rulemaking to permit commercial collection would threaten to authorize and recommence commercial aquarium collection, and its harmful impacts to reef ecosystems, based on an erroneous interpretation of the Board’s legal

powers, including its authority to prohibit commercial aquarium collection by administrative rule.

23. Michael Nakachi is a resident of Kailua-Kona in West Hawai‘i. He is a Native Hawaiian cultural practitioner whose ‘ohana maintains its long-held and close spiritual connection to marine life as kahu manō (caretakers of sharks). Mr. Nakachi was raised as a fisherman by his father, life-long fisher and waterman Ling Nakachi, and is a member of the West Hawai‘i Fisheries Council. For decades, Mr. Nakachi has been a dive tour operator and has focused his business on educating his clients about the cultural and environmental importance of protecting and restoring Hawai‘i’s marine ecosystems. Mr. Nakachi has conducted thousands of dives along the West Hawai‘i coast and is intimately familiar with West Hawai‘i waters and reefs. Mr. Nakachi is committed to the protection of Hawai‘i’s public trust and cultural marine resources along the West Hawai‘i coast. Mr. Nakachi was a plaintiff in the *Umberger* and *Kaupiko* lawsuits concerning environmental review of commercial aquarium collection permits and licenses. In his capacity as Director of Moana ‘Ohana, Mr. Nakachi was among the petitioners who submitted the Rulemaking Petition to prohibit commercial aquarium collection. Mr. Nakachi, in his individual capacity, is also among the petitioners who submitted the Declaratory Petition.

24. Mr. Nakachi’s cultural, aesthetic, and recreational interests, as well as his economic interests in environmentally and culturally responsible business practices, are harmed by the Board’s Order, particularly in light of DLNR’s plans to initiate rulemaking to authorize—rather than prohibit—commercial aquarium collection. Proceeding to rulemaking to permit commercial collection would threaten to authorize and recommence commercial aquarium collection, and its harmful impacts to reef ecosystems, based on an erroneous interpretation of

the Board's legal powers, including its authority to prohibit commercial aquarium collection by administrative rule.

25. As long the Board's Order remains in effect, the Board and DLNR will take zero steps to prohibit commercial aquarium collection through rulemaking, despite the Board's unanimous ruling on the Rulemaking Petition and regardless of existing or future circumstances necessitating a ban to protect public trust resources and traditional and customary practices for present and future generations. The Board's constricted and invalid interpretation of its rulemaking authority in relation to HRS §§ 188-31 and 190-3 could result in further degradation of public trust resources and, thus, harm Appellants' rights and interests in healthy reef ecosystems.

B. Appellees

26. Respondent-Appellee the Board is the executive decision-making body of DLNR, responsible for issuing decisions on declaratory petitions regarding the applicability of the statutes and rules governing the Board and DLNR. HRS § 91-8; HAR § 13-1-27.

27. Respondent-Appellee DLNR is the State agency responsible for managing, administering, and exercising control over water resources, ocean waters, and coastal areas, including the State's aquatic life and aquatic resources. HRS §§ 171-3, 187A-2(1), -5. DLNR will moreover be responsible for recommending Board actions regarding the promulgation of rules and the issuance of permits and licenses regarding commercial aquarium collection under HRS §§ 188-31, 189-2 and HAR § 13-74-2. DLNR is named as a necessary party for relief. *See* HRCF Rule 19.

IV. FACTUAL ALLEGATIONS

A. Rulemaking Proceedings to Prohibit Commercial Aquarium Collection and the Board's Subsequent Push to Resume Permitting.

28. On October 19, 2023, Kalanihale, KUPA Friends of Ho‘okena Beach Park,¹ Moana ‘Ohana,² KPHCC, and FTF (the “Rulemaking Petitioners”) submitted a formal request to prohibit commercial aquarium collection via administrative rule. The Rulemaking Petitioners asked the Board “to adopt rules to prohibit commercial aquarium collecting statewide” and provided draft administrative rules and rule amendments that would effectuate the proposed ban.

29. The matter was first placed on the Board’s November 9, 2023 agenda. DLNR had recommended rejecting the Rulemaking Petition because it had not taken the time to internally review the proposed rule, but DLNR later cancelled the November 9 agenda. Petitioners withdrew the Rulemaking Petition and resubmitted it on November 9, which effectively extended the 30-day deadline for the Board to render a decision. *See* HAR § 13-1-26(c). The matter was then placed on the Board’s December 8, 2023 agenda, with a substantially revised staff recommendation. This time, DLNR did not claim that there had been any lack of internal review, and the revised recommendation contained no concerns or opinions about the Board’s authority to adopt the proposed rule.

30. On December 8, 2023, the Board considered the Rulemaking Petition at its duly scheduled public meeting. After extensive public testimony was received and a motion to approve the Rulemaking Petition was made and seconded, an executive session appears to have prompted the idea of an alleged conflict between the proposed rule and HRS § 188-31, the

¹ KUPA Friends of Ho‘okena Beach Park was represented in the Rulemaking Petition by Appellant Charles Young, who appears here in his individual capacity.

² Moana ‘Ohana was represented in the Rulemaking Petition by Appellant Michael Nakachi, who appears here in his individual capacity.

statute granting DLNR discretionary authority to issue permits for the use of fine-meshed nets to collect fish for aquariums. This purported legal issue was missing from DLNR's submittals and, therefore, was not subject to any review or testimony by the public. As a result of this last-minute executive session, the Board instructed DLNR to ensure that the new ban rule is "consistent with the statutory provisions," before it unanimously approved the Rulemaking Petition.

31. Following the Board's decision to grant the Rulemaking Petition, several collectors requested a contested case. In their contested case petition, the collectors requested that the Board reconsider its December 8 decision and prevent adoption of a rule that prohibits aquarium collection.

32. While the collectors' contested case request has remained pending and unresolved ever since, DLNR requested from the Board clarification and further guidance on the Board's decision to grant the Rulemaking Petition. The request was put on the Board's April 12, 2024 agenda as a "non-action item" that essentially proposed the *same result the collectors had requested in their contested case*: to reject the proposed rule and rewrite it to authorize, rather than prohibit, commercial aquarium collection. DLNR's submittal provided no justification for advancing the industry's agenda in this way and, instead, directly contradicted both the Rulemaking Petition and the Board's unanimous December 8 decision granting it.

33. To date, there have been no agency efforts to move forward with rulemaking to prohibit commercial aquarium collection, as the Rulemaking Petitioners proposed and the Board unanimously approved.

34. Rather than proceed with rulemaking to prohibit commercial aquarium collection, DLNR has instead pushed an agenda to resume authorizing it. On August 23, 2024, DLNR staff

presented for Board approval: a proposed statewide aquarium collection permit application form; proposed terms and conditions for West Hawai‘i aquarium collection permits; and a request that the Board delegate authority to the Chair to review, approve, issue, and renew up to seven West Hawai‘i permits subject to those terms and conditions.

35. After a motion to approve the West Hawai‘i permit terms and conditions in modified form was made and seconded, Appellant Charles Young orally requested a contested case opposing DLNR’s proposed terms and conditions, on behalf of himself and a hui of Native Hawaiians and conservationists, including Kalanihale, For the Fishes, and Michael Nakachi. DLNR withdrew its request to delegate permitting authority to the Chair. Appellants’ contested case request was later rendered moot when DLNR withdrew entirely its August 23, 2024 recommendations regarding aquarium collection permitting.

36. DLNR, nonetheless, has continued to move forward with and actively promoted rulemaking to regulate and permit commercial aquarium collection based on the flawed legal view that it cannot prohibit commercial aquarium collection by administrative rule.

37. Appellants are informed and believe, and on the basis thereof allege, that DLNR intends to bring an administrative rules package that it *developed in consultation with commercial collectors* to the Board on October 24, 2025.

B. The Board Denies Appellants’ Declaratory Petition.

38. On October 10, 2024, Appellants filed their Declaratory Petition to clarify the Board’s authority over commercial aquarium collection. Appellants requested the Board to provide clarity to the public and issue a declaratory ruling affirming the Board’s authority to: (1) prohibit commercial aquarium collection through rulemaking, pursuant to HRS § 190-3, and (2) deny commercial aquarium collection permits and licenses in its discretion, pursuant to HRS §

188-31, HRS § 189-2, and HAR § 13-74-2(4). Appellants further urged that the Board must refrain from considering or issuing any permits or licenses for commercial aquarium collection until the Declaratory Petition is resolved and the Board’s December 2023 rulemaking decision is implemented.

39. On October 11, 2024, the Board Chair circulated a letter to various stakeholders, including the Rulemaking Petitioners, informing them that DLNR “plans to develop proposed administrative rules to *regulate* commercial aquarium collection.” The Chair’s letter further stated that public hearings on the proposed rulemaking may begin as early as “Spring 2025.”

40. On April 11, 2025, six months after the Board received the Declaratory Petition, Appellants sent a letter to the Board Chair and Board members requesting that the Board promptly address the Declaratory Petition. The letter asserted that six months is an unreasonable delay in deciding important legal issues that bear directly on past and future Board decisions, which include the Board’s December 8, 2023 decision to accept the Rulemaking Petition to ban commercial aquarium collection. The letter further reiterated that the Board must promptly and publicly resolve the threshold questions in the Declaratory Petition of whether the Board has authority to ban commercial aquarium collection and deny permits and licenses. Appellants stressed that it would be unreasonable for the Board to proceed to rulemaking to “regulate” commercial aquarium collection before deciding whether it has the authority to more broadly ban the activity.

41. On September 16, 2025, Appellants filed a complaint with the circuit court alleging that the Board had unreasonably delayed issuing a ruling on the Declaratory Petition, particularly in light of DLNR’s intention to push forward with rulemaking to “regulate” commercial aquarium collection. *See* 1CCV-25-0001544, JEFS Dkt. No. 1.

42. On September 26, 2025, the Board issued its Order, conceding that the Board has discretion to deny aquarium collection permits but concluding in error that it lacks authority to prohibit commercial aquarium collection under HRS §§ 190-3 and 188-31. Appellants, accordingly, voluntarily dismissed the September 16, 2025 unreasonable delay complaint on October 2, 2025 (as corrected on October 7, 2025). *See* 1CCV-25-0001544, JEFS Dkt. Nos. 22, 24.

43. Appellants take issue with and specifically appeal the Board's conclusions that it lacks authority to prohibit commercial aquarium collection under HRS §§ 190-3 and 188-31. *See* COL Nos. 12 through 18.

PRAYER FOR RELIEF

WHEREFORE, Appellants respectfully pray that this Court:

- A. Vacate and reverse the Board's Order and declare that the Board has authority to ban commercial aquarium collection via administrative rule pursuant to HRS § 190-3;
- B. Stay the Board's Order until this appeal is resolved;
- C. Prohibit Appellees from proceeding with rulemaking to permit commercial aquarium collection and from issuing any aquarium collection permits and licenses until this appeal is resolved;
- D. Retain continuing jurisdiction to review Appellees' compliance with all judgments and orders entered herein;
- E. Provide for such additional judicial determinations and orders as may be necessary to effectuate the foregoing;

- F. Award Appellants the cost of the suit herein, including reasonable expert witness and attorneys' fees; and
- G. Provide for such other and further relief as the Court may deem just and proper to effectuate a complete resolution of the legal disputes between the Appellants and Appellees.

DATED: Honolulu, Hawai'i, October 16, 2025.

/s/ Mahesh Cleveland

KYLIE W. WAGER CRUZ

MAHESH CLEVELAND

DRU N. HARA

EARTHJUSTICE

Attorneys for Petitioners-Appellants
Kalanihale, Ko'olaupoko Hawaiian Civic Club,
For the Fishes, Charles K. H. Young, and
Michael Nakachi

EXHIBIT A

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

IN THE MATTER OF)
) ORDER DENYING PETITION FOR
PETITION OF KALANIHALE,) DECLARATORY RULING
KO'OLAUPOKO HAWAIIAN CIVIC CLUB,)
FOR THE FISHES, CHARLES K.H.)
YOUNG, AND MICHAEL NAKACHI FOR)
DECLARATORY RULING, filed October 10,)
2024)
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DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

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ORDER DENYING PETITION FOR DECLARATORY RULING

On October 10, 2024, Kalanihale, Ko'olaupoko Hawaiian Civic Club, For the Fishes, Charles K. H. Young, and Michael Nakachi (collectively, "Declaratory Petitioners"), through their counsel Earthjustice, filed a petition for a declaratory ruling pursuant to Hawaii Revised Statutes ("HRS") § 91-8 and Hawai'i Administrative Rules ("HAR") § 13-1-27.¹

Declaratory Petitioners requested a declaratory ruling from the State of Hawai'i Board of Land and Natural Resources ("Board") regarding the applicability of HRS §§ 190-3 and 188-31 and HAR § 13-74-2(4), in connection with the Board's "unanimous December 8, 2023 decision to approve a petition for rulemaking to prohibit commercial aquarium collection in the State of Hawai'i."²

Specifically, Declaratory Petitioners sought a ruling that:

¹ *Petition of Kalanihale, Ko'olaupoko Hawaiian Civic Club, For The Fishes, Charles K.H. Young, and Michael Nakachi for Declaratory Ruling*, filed October 10, 2024.

² *Id.* at p.1.

- (1) HRS § 190-3 authorizes rulemaking to prohibit commercial aquarium collection statewide; and
- (2) HRS § 188-31 and HAR § 13-74-2(4) provide for discretion to deny aquarium collection permits and related commercial marine licenses and present no conflict with the Board's power to adopt rules under HRS § 190-3.

This Board, having reviewed the Petition, hereby makes the following findings of fact, conclusions of law, and decision and order:

FINDINGS OF FACT

Procedural History

1. To the extent that any of the following Findings of Fact shall be determined to be Conclusions of Law, they shall be deemed as such.
2. On October 19, 2023, Kalanihale, KUPA Friends of Ho'okena Beach Park, Moana 'Ohana, Ko'olaupoko Hawaiian Civic Club, and For The Fishes ("Rulemaking Petitioners") submitted a formal request to prohibit commercial aquarium collection via administrative rule ("Rulemaking Petition").³ The Rulemaking Petitioners asked the Board "to adopt rules to prohibit commercial aquarium collecting statewide" and provided draft administrative rules and rule amendments that would effectuate the proposed ban.⁴
3. The Rulemaking Petition was first placed on the Board's November 9, 2023, agenda, but

³ See Kalanihale's, KUPA Friends of Ho'okena Beach Park's, Moana 'Ohana's, Ko'olaupoko Hawaiian Civic Club's, and For the Fishes' Petition for Rulemaking to Prohibit the Take of Marine Life for Commercial Aquarium Purposes (With Exemptions), *available at*: <https://dlnr.hawaii.gov/wp-content/uploads/2023/12/F-3.pdf>

⁴ *Id.* at 6, 11-13.

that Board meeting was ultimately cancelled.

4. Rulemaking Petitioners withdrew their original Rulemaking Petition and resubmitted it on November 9, 2023, and the Board placed the resubmitted Rulemaking Petition on its December 8, 2023, agenda.
5. The Department of Land and Natural Resources' ("DLNR") Division of Aquatic Resources ("DAR") recommended in its submittal to the Board that the Board deny the Rulemaking Petition. DAR's reasoning for denying the Rulemaking Petition was based on 1) the Hawaii State Legislature's consideration of commercial aquarium fishing bans in the past and the Legislature's decision not to ban the practice; 2) the fact that the Hawaii aquarium fishery is not exclusively herbivores, as many of the testimonies in support of the ban implied; and 3) some level of aquarium take is sustainable.
6. Following discussion of DAR's recommendations, the Board voted to go into executive session. After returning from executive session, Board Chairperson Dawn Chang stated "[T]here is a legal question of whether we can issue out a total ban [for aquarium fishing]. Although there are numbers of us who read [HRS] 188-31 as permissive, it doesn't say "shall" it says "may," but [we're directing] DAR to take the petition, to take full consideration of Petitioner's request, and proceed with rulemaking consistent with the statutory provisions."⁵
7. The Board then voted to "deny staff recommendations" and that DAR shall take into consideration the Petitioners' request and proceed with rulemaking "consistent with the

⁵ ⁵ December 8, 2023, BLNR Meeting, *available at*: <https://www.youtube.com/watch?v=V4xDtBo3ywU> (last visited Apr. 22, 2025), at 8:03:50 BLNR's meeting occurred over the course of two days (December 7 and 8, 2023). Although the cited video recording is labeled "12.07.2023," this portion of the meeting occurred on December 8, 2023.

statutory provisions (HRS 188-31).”⁶ The Board passed this motion unanimously.⁷

8. On October 10, 2024, Declaratory Petitioners, through their counsel Earthjustice, filed a petition for a declaratory ruling.⁸
9. Petitioners filed the Petition pursuant to HRS § 91-8 and HAR § 13-1-27.

CONCLUSIONS OF LAW

Jurisdiction

1. To the extent that any of the following Conclusions of Law shall be determined to be Findings of Fact, they shall be deemed as such.
2. HRS § 91-8 allows any interested person to petition an agency for a declaratory order as to the applicability of any statutory provision or of any rule or order of the agency. Each agency shall adopt rules prescribing the form of the petitions and the procedure for their submission, consideration, and prompt disposition. Orders disposing of petitions in such cases shall have the same status as other agency orders.
3. HAR § 13-1-27 allows any interested person to petition the Board for a declaratory ruling regarding the applicability of any statutory provision or of any rule or order of the Board.
4. HAR § 13-1-27 requires a petitioner seeking a declaratory ruling to provide the following:
 - 1) The name, address, and telephone number of the petitioner;
 - 2) A statement of the nature of the petitioner’s interest, including reasons for submission of the petition;
 - 3) A designation of the specific provision, rule, or order in question;
 - 4) A clear and concise statement of the position or contention of the petitioner;
 - 5) A memorandum of authorities, containing a full discussion of the reasons, including legal authorities, in support of such position or contention; and
 - 6) The signature of each petitioner.

⁶ *Id.* at 8:04:12.

⁷ *Id.* at 8:04:44.

⁸ Note 1, *supra*.

5. Declaratory Petitioners provided all information required by HAR § 13-1-27 in their Petition of Kalanihale, Ko‘olaupoko Hawaiian Civic Club, For The Fishes, Charles K. H. Young, and Michael Nakachi For Declaratory Ruling.
6. The Board concludes that Declaratory Petitioners are “interested person[s]” who have standing to submit their Declaratory Petition request.

The DLNR May Not Nullify Statutes

7. Under HRS § 188-31, the Hawai‘i Legislature granted DLNR the discretion to issue aquarium fish permits to use fine meshed nets to take aquatic life for aquarium purposes:

§188-31 Permits to take aquatic life for aquarium purposes. (a) Except as prohibited by law, the department, upon receipt of a written application, may issue an aquarium fish permit, not longer than one year in duration, to use fine meshed traps, or fine meshed nets other than throw nets, for the taking of marine or freshwater nongame fish and other aquatic life for aquarium purposes.

(b) Except as prohibited by law, the permits shall be issued only to persons who can satisfy the department that they possess facilities to and can maintain fish and other aquatic life alive and in reasonable health.

(c) It shall be illegal to sell or offer for sale any fish and other aquatic life taken under an aquarium fish permit unless those fish and other aquatic life are sold alive for aquarium purposes.

The department may adopt rules pursuant to chapter 91 for the purpose of this section.

8. Under HRS § 190-3, the Hawai‘i Legislature granted DLNR the authority to adopt rules concerning marine resources if the rules will “further the state policy of conserving, supplementing and increasing the State’s marine resources.” HRS § 190-3 states:

§190-3 Rules. The department of land and natural resources pursuant to chapter 91, shall adopt rules governing the taking or conservation of fish, crustacean, mollusk, live coral, algae, or other marine life as it determines will further the state policy of conserving, supplementing and increasing the State's

marine resources. The rules may prohibit activities that may disturb, degrade, or alter the marine environment, establish open and closed seasons, designate areas in which all or any one or more of certain species of fish or marine life may not be taken, prescribe and limit the methods of fishing, including the type and mesh and other description of nets, traps, and appliances, and otherwise regulate the fishing and taking of marine life either generally throughout the State or in specified districts or areas. The rules shall upon taking effect supersede any state laws inconsistent therewith.

9. Under HAR § 13-74-2(4), the DLNR issues licenses and permits that fall within its jurisdiction. HAR § 13-74-2(4) states:

§13-74-2 General license and permit conditions.... (4) The department or its agents may issue licenses and permits as authorized by law, and with such conditions necessary to manage, protect, and conserve aquatic life;

10. From the plain reading of HRS § 188-31 and HAR § 13-74-2(4), the words “may issue” in both the statute and rule imply that the issuance of both HRS § 188-31 aquarium permits and HAR § 13-74-2(4) general licenses is a permissive, discretionary action by DLNR.
11. From the plain reading of HRS § 190-3, any rule promulgated under HRS § 190-3 would supersede any conflicting state law: “The rules shall upon taking effect *supersede any state laws inconsistent therewith*” (emphasis added).
12. Despite the plain language of HRS § 190-3, Hawai‘i courts have ruled that administrative rules cannot override statutes, even if it appears that a different statute gives an agency that power. “Although an administrative agency may always determine questions about its own jurisdiction it generally lacks power to pass upon constitutionality of a statute. *The law has long been clear that agencies may not nullify statutes.*” *HOH Corp. v. Motion Vehicle Industry Licensing Bd.*, 69 Haw. 135, 141, 736 P.2d 1271, 1275 (1987) (emphasis added, internal quotations, brackets, and citation omitted).

13. Further, courts have repeatedly ruled that a general statute may not nullify or control a specific one. “As always, where there is no *clear* intention otherwise, a specific statute will not be controlled or nullified by a general one, regardless of the priority of enactment.” *Crawford Fiting Co. v. J.T. Gibbons, Inc.*, 482 U.S. 437, 445 (1987) (citations and internal quotations omitted, emphasis in original). Here, HRS § 190-3 generally gives DLNR the power to enact rules which regulate fishing and other taking of marine life. Whereas HRS § 188-31 gives DLNR explicit authority to issue permits for the taking of marine life for aquarium purposes. To interpret the legislature’s general delegation of authority to DLNR as allowing DLNR to ban the take of marine life for aquarium purposes would mean that HRS § 190-3 is nullifying the *specific* grant of authority to DLNR to allow the take of marine life for aquarium purposes.
14. Agencies, such as the DLNR, may also not “construe [a] statute in a way that completely nullifies textually applicable provisions meant to limit its discretion.” *Whitman v. American Trucking Associations*, 531 U.S. 457, 485 (2001). Here, HRS § 188-31 limits DLNR’s authority to ban aquarium fishing. If DLNR construed HRS § 190-3 as granting it authority to ban aquarium fishing, DLNR would be construing HRS § 190-3 in a way that completely nullifies HRS § 188-31.
15. Under HRS § 188-31, the Hawai‘i Legislature granted DLNR the authority to issue aquarium fish permits to use fine meshed nets to take aquatic life for aquarium purposes *and also* anticipated that these permits would be used for commercial aquarium collecting:

§188-31 Permits to take aquatic life for aquarium purposes...

(b) Except as prohibited by law, *the permits shall be issued* only to persons who can satisfy the department that they possess facilities to and can maintain fish and other aquatic life alive and in reasonable health.

(c) *It shall be illegal to sell or offer for sale* any fish and other aquatic life taken under an aquarium fish permit *unless those fish and other aquatic life are sold alive for aquarium purposes* (emphasis added).

16. If DLNR were to ban commercial aquarium fishing under the authority of HRS § 190-3, it would be overriding, or “nullifying,” HRS § 188-31 because HRS § 188-31 specifically anticipates and allows for commercial aquarium fishing in sections (b) and (c).

A Ban on Aquarium Fishing would not be an appropriate application of HRS § 190-3

17. Assuming, *arguendo*, that DLNR does have authority to completely ban commercial aquarium fishing through rulemaking and that HRS § 190-3 does not conflict with HRS § 188-31, DLNR, through its Division of Aquatic Resources, has nevertheless determined that the commercial aquarium fishery, if properly regulated through rules, would be sustainable.
18. The Board therefore determines that a complete ban on commercial aquarium fishing would not “further the state policy of conserving, supplementing and increasing the State's marine resources” and therefore not be an appropriate application of HRS § 190-3, regardless of whether the HRS § 190-3 and HRS § 188-31 conflict.

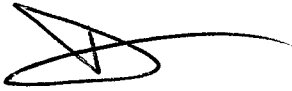
ORDER DENYING PETITION

Pursuant to the foregoing Findings of Fact and Conclusions of Law and having considered the Petition and testimony, this Board ORDERS that the Petition be DENIED.

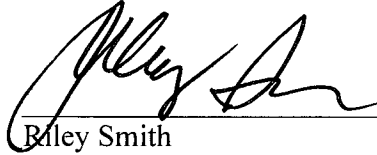
ADOPTION OF DECLARATORY ORDER

This ORDER shall take effect upon the date this ORDER is certified by this Board.

Done at Honolulu, O'ahu, Hawai'i, this 26 day of September, 2025.



Dawn N.S. Chang
Chairperson
Board of Land and Natural Resources



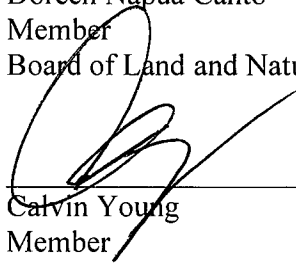
Riley Smith
Member
Board of Land and Natural Resources



Denise Iseri-Matsubara
Member
Board of Land and Natural Resources

Wesley "Kaiwi" Yoon
Member
Board of Land and Natural Resources

Doreen Nāpua Canto
Member
Board of Land and Natural Resources



Calvin Young
Member
Board of Land and Natural Resources

APPROVED AS TO FORM



Deputy Attorney General

Karen Ono
Member
Board of Land and Natural Resources

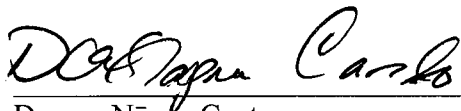
ADOPTION OF DECLARATORY ORDER

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Dawn N.S. Chang
Chairperson
Board of Land and Natural Resources

Denise Iseri-Matsubara
Member
Board of Land and Natural Resources

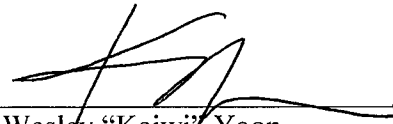


Doreen Nāpua Canto
Member
Board of Land and Natural Resources

Calvin Young
Member
Board of Land and Natural Resources

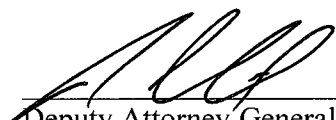
Karen Ono
Member
Board of Land and Natural Resources

Riley Smith
Member
Board of Land and Natural Resources



Wesley "Kaiwi" Yoon
Member
Board of Land and Natural Resources

APPROVED AS TO FORM



Deputy Attorney General

ADOPTION OF DECLARATORY ORDER

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Done at Honolulu, O`ahu, Hawai`i, this 26 day of September 2025.

Dawn N.S. Chang
Chairperson
Board of Land and Natural Resources

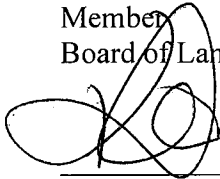
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Calvin Young
Member
Board of Land and Natural Resources



Karen Ono
Member
Board of Land and Natural Resources

APPROVED AS TO FORM



Deputy Attorney General

BOARD OF LAND AND NATURAL RESOURCES
STATE OF HAWAI'I

In the Matter of

PETITION OF KALANIHALE,
KO'OLAUPOKO HAWAIIAN CIVIC CLUB,
FOR THE FISHES, CHARLES K.H.
YOUNG, AND MICHAEL NAKACHI FOR
DECLARATORY RULING, filed October
10,2024

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was duly served on the following via email, on the date indicated below:

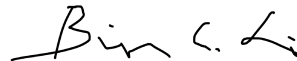
KYLIE W. WAGER CRUZ, ESQ. (Via Email: kwager@earthjustice.org)

ELENA L. BRYANT, ESQ. (Via Email: ebryant@earthjustice.org)

MAHESH CLEVELAND, ESQ. (Via Email: mcleveland@earthjustice.org)

Attorneys for Petitioners

DATED: HONOLULU, HAWAI'I, SEPTEMBER 26, 2025.



BIN C. LI

Administrative Proceedings Coordinator

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Attorneys for Petitioners-Appellants

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

KALANIHALE, KO'OLAUPOKO	) CIVIL NO.
HAWAIIAN CIVIC CLUB, FOR THE	) (Environmental Court)
FISHES, CHARLES K.H. YOUNG AND	)
MICHAEL NAKACHI,	) IN RE: PETITION OF KALANIHALE,
	) KO'OLAUPOKO HAWAIIAN CIVIC
Petitioners-Appellants,	) CLUB, FOR THE FISHES, CHARLES
	) K.H. YOUNG, AND MICHAEL
v.	) NAKACHI FOR DECLARATORY
	) RULING, filed October 10, 2024
BOARD OF LAND AND NATURAL	)
RESOURCES, STATE OF HAWAI'I AND	) DESIGNATION OF RECORD ON
DEPARTMENT OF LAND AND	) APPEAL
NATURAL RESOURCES, STATE OF	)
HAWAI'I,	)
	)
Respondents-Appellees.	)
	)

DESIGNATION OF RECORD ON APPEAL

Pursuant to Rule 72(d)(1) of the Hawai‘i Rules of Civil Procedure, Petitioners-Appellants Kalanihale, Ko‘olaupoko Hawaiian Civic Club, For the Fishes, Charles K. H. Young, and Michael Nakachi (collectively, “Appellants”), through their counsel Earthjustice, hereby designate as the Record on Appeal for the above-captioned matter Respondents-Appellees the Board of Land and Natural Resources’ (“Board’s”) and Department of Land and Natural Resources’ (“DLNR’s”) files and records relating to Appellants’ petition for declaratory ruling filed October 10, 2024, and the Board’s denial of the same, as defined in Hawai‘i Revised Statutes section 91-9(f), including but not limited to pleadings, minutes, exhibits, motions, intermediate rulings, evidence received or considered (including oral testimony, exhibits, and a statement of matters officially noticed), offers of proof and rulings thereon, proposed findings and exceptions, report of the officer who presided at the hearing, and DLNR staff memoranda or recommendations submitted to the Board in connection with their consideration of matters relating to commercial aquarium collection, as applicable.

The aforementioned designated materials minimally include, but are not limited to:

- A. Kalanihale’s, KUPA Friends of Ho‘okena Beach Park’s, Moana ‘Ohana’s, Ko‘olaupoko Hawaiian Civic Club’s, and For the Fishes’ Petition for Rulemaking to Prohibit the Take of Marine Life for Commercial Aquarium Purposes (With Exemptions), dated November 9, 2023, including all attachments, exhibits, and appendices thereto;
- B. Meeting agendas, DLNR submittals and recommendations, minutes, video or audio recordings, transcripts, and written public testimony relating to the following Board meetings and specific agenda items:
 - a. November 9, 2023, agenda item “F-3”;

- b. December 7-8, 2023, agenda item “F-3”;
- c. April 12, 2024, agenda item “F-3”;
- d. August 23, 2024, agenda item “F-1”;
- C. Petition for Contested Case Hearing and attachments, submitted to the Board on December 19, 2023, on behalf of Ron Tubbs, et al.;
- D. Petitions for Contested Case Hearing and attachments, submitted to the Board on September 3, 2024, on behalf of Kalanihale, For the Fishes, Charles K.H. Young, and Michael Nakachi;
- E. Petition of Kalanihale, Ko‘olaupoko Hawaiian Civic Club, For The Fishes, Charles K.H. Young, and Michael Nakachi for Declaratory Ruling, including exhibits and appendices, submitted to the Board on October 10, 2024;
- F. DLNR Chair Chang letter “Re: Aquarium permitting and rulemaking process – next steps,” dated April 1, 2024;
- G. DLNR Chair Chang letter “Re: Aquarium permitting and rulemaking process – May 2024 update,” dated May 3, 2024;
- H. DLNR Chair Chang letter “Re: Aquarium permitting and rulemaking process – October 2024 update,” dated October 11, 2024;
- I. Appellants’ letter to the Board “Re: *Petition of Kalanihale, Ko‘olaupoko Hawaiian Civic Club, For the Fishes, Charles K.H. Young, and Michael Nakachi for Declaratory Ruling*, submitted October 10, 2024,” dated April 11, 2025, with attachments;
- J. Video or audio recordings, or transcript, of oral arguments in *Kaupiko v. Bd. of Land & Natural Res.*, SCAP-22-0000557 (Dec. 5, 2023);

K. The Board's Order Denying Petition for Declaratory Ruling, dated September 26, 2025.

DATED: Honolulu, Hawai'i, October 16, 2025.

/s/ Mahesh Cleveland

KYLIE W. WAGER CRUZ

MAHESH CLEVELAND

DRU N. HARA

EARTHJUSTICE

Attorneys for Petitioners-Appellants

Kalani Hale, Ko'olaupoko Hawaiian Civic Club,

For the Fishes, Charles K. H. Young, and

Michael Nakachi

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Attorneys for Petitioners-Appellants

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

KALANIHALE, KO'OLAUPOKO	) CIVIL NO.
HAWAIIAN CIVIC CLUB, FOR THE	) (Environmental Court)
FISHES, CHARLES K.H. YOUNG AND	)
MICHAEL NAKACHI,	) IN RE: PETITION OF KALANIHALE,
	) KO'OLAUPOKO HAWAIIAN CIVIC
Petitioners-Appellants,	) CLUB, FOR THE FISHES, CHARLES
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v.	) NAKACHI FOR DECLARATORY
	) RULING, filed October 10, 2024
BOARD OF LAND AND NATURAL	)
RESOURCES, STATE OF HAWAI'I AND	)
DEPARTMENT OF LAND AND	) ORDER FOR CERTIFICATION AND
NATURAL RESOURCES, STATE OF	) TRANSMISSION OF RECORD
HAWAI'I,	)
	)
Respondents-Appellees.	)
	)

ORDER FOR CERTIFICATION AND TRANSMISSION OF RECORD

TO: STATE OF HAWAI‘I, BOARD OF LAND AND NATURAL RESOURCES

In accordance with section 91-14(d), Hawai‘i Revised Statutes, and Rule 72(d) of the Hawai‘i Rules of Civil Procedure, you are hereby ordered to certify and transmit to this Court, within twenty (20) calendar days of the date of this Order, or within such further time as may be allowed by this Court, the entire record as defined by section 91-9(e), Hawai‘i Revised Statutes, and as set forth in the Designation of Record on Appeal. Any request to enlarge time shall be submitted to the Court prior to the expiration of the above 20-day period.

DATED: Honolulu, Hawai‘i, October 16, 2025.

ELECTRONICALLY ISSUED AND
CERTIFIED VIA JEFS

KYLIE W. WAGER CRUZ #10165
MAHESH CLEVELAND #11023
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Attorneys for Petitioners-Appellants

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

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	) RULING, filed October 10, 2024
BOARD OF LAND AND NATURAL	)
RESOURCES, STATE OF HAWAI'I AND	)
DEPARTMENT OF LAND AND	) CERTIFICATE OF SERVICE
NATURAL RESOURCES, STATE OF	)
HAWAI'I,	)
	)
Respondents-Appellees.	)
	)

CERTIFICATE OF SERVICE

I hereby certify that on this date and by the methods of service noted below, a true and correct certified copy of Petitioners-Appellants' Notice of Appeal, Statement of the Case; Exhibit A; Designation of Record on Appeal; and Order for Certification and Transmission of Record, filed on October 16, 2025, was served on the following:

Board of Land and Natural Resources
Department of Land and Natural Resources
State of Hawai'i
1151 Punchbowl Street
Honolulu, Hawai'i 96813

Department of Land and Natural Resources Via U.S. Mail
State of Hawai‘i
1151 Punchbowl Street
Honolulu, Hawai‘i 96813

ANNE E. LOPEZ
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Department of the Attorney General
State of Hawai‘i
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Attorneys for Defendant
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State of Hawai'i

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Attorney General
Department of the Attorney General
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Attorneys for Defendant
Department of Land and Natural Resources,
State of Hawai‘i

DATED: Honolulu, Hawai‘i, October 16, 2025.

/s/ Mahesh Cleveland
 MAHESH CLEVELAND
 EARTHJUSTICE
 Attorneys for Petitioners-Appellants