
SENATE CONCURRENT RESOLUTION

STRONGLY URGING VARIOUS GOVERNMENT AGENCIES TO TAKE APPROPRIATE ACTIONS TO PROTECT THE WAHI PANA OF WAIMAKAOHI'IAKA AND PRESERVE THE TRADITIONAL AND CUSTOMARY PRACTICE OF MAKING SALT BEDS AND GATHERING PA'AKAI (SALT) IN HANAPEPE, KAUA'I.

1 WHEREAS, Waimakaohi'iaka, in the 'ili of 'Ukulā, in the
2 ahupua'a of Hanapēpē, in the moku of Kona or also known as the
3 salt ponds of Hanapēpē is a wahi pana, a culturally significant
4 sacred site specifically for the making of pa'akai (salt), which
5 has been traditionally cultivated and gathered by native
6 Hawaiians since time immemorial; and
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8 WHEREAS, Waimakaohi'iaka, is the only area in all of Hawai'i
9 that continues to make the salt beds and harvest pa'akai using
10 these traditional methods, which are passed generation to
11 generation by native Hawaiian 'ohana who are exercising their
12 constitutionally protected traditional and customary salt-making
13 knowledge and skills; and
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15 WHEREAS, article XII, section 7, of the Hawaii State
16 Constitution provides: "The State reaffirms and shall protect
17 all rights, customarily and traditionally exercised for
18 subsistence, cultural, and religious purposes and possessed by
19 ahupua'a tenants who are descendants of native Hawaiians who
20 inhabited the Hawaiian Islands prior to 1778, subject to the
21 right of the State to regulate such rights"; and
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23 WHEREAS, in keeping with centuries-old traditions, the
24 pa'akai gathered at this location cannot be bought nor is it
25 sold, but is generously shared or traded by the twenty-two
26 families who are the lineal descendants of past salt-makers,
27 resulting in this resource being distributed throughout Kaua'i,
28 statewide, nationally, and internationally for subsistence,
29 cultural, and religious purposes; and



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 2 WHEREAS, the Hawai'i Register of Historic Places is an
 3 official list of properties that have been recognized for their
 4 significance to the history, architecture, archaeology, or
 5 culture of Hawai'i communities, and the Hanapēpē Salt Pans have
 6 been listed in the State Inventory of Historic Places; and
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8 WHEREAS, the Waimakaohi'iaka parcel is zoned for
 9 conservation, and is identified as an open/special treatment
 10 resource and cultural district by the County of Kaua'i; and
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12 WHEREAS, urbanization, commercial, and recreational
 13 activities adjacent to Waimakaohi'iaka cause threatening factors
 14 such as dust, noise, and contamination from sources ranging from
 15 an ill-placed helicopter operation sited at Port Allen Airport,
 16 also known as Burns Field, and vehicles accessing the beach, to
 17 broken beer bottles and trash left by beach users; and
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19 WHEREAS, on June 25, 2019, the Kaua'i Planning Commission
 20 considered an application submitted by Smoky Mountain
 21 Helicopters, Inc. (SMI) for after-the-fact permit applications
 22 during which over seventy-five people testified and hundreds
 23 more submitted written testimonies to protect this last of its
 24 kind salt making tradition in Hanapēpē; and
 25

26 WHEREAS, subsequently, the Kaua'i Planning Commission was
 27 preparing for a contested case hearing for the after-the-fact
 28 permit applications and was granted intervenor status to the Hui
 29 Hana Pa'akai o Hanapēpē, a native Hawaiian organization formed in
 30 1964, comprised of the twenty-two 'ohana that continue the salt-
 31 making and gathering practice; and
 32

33 WHEREAS, on August 1, 2019, the Hui Hana Pa'akai o Hanapēpē
 34 sent a certified letter to the Department of Health and the
 35 United States Environmental Protection Agency urgently
 36 requesting them to investigate immediately the use of an
 37 unpermitted restroom facility utilizing a cesspool at Burns
 38 Field by SMI, a lessee; and
 39

40 WHEREAS, on two occasions in August 2019, the County of
 41 Kaua'i Planning Department sent a certified notice of violations



1 of Kaua'i's comprehensive zoning ordinance and special management
 2 area rules and regulations and orders to pay fines to the
 3 Department of Transportation, Airports Division; SMI; D & J Air
 4 Adventures; and Maverick Helicopter citing the illegal
 5 development within the special area management district, failure
 6 to secure required special management area permit determination,
 7 and violations of the comprehensive zoning ordinance; and

8
 9 WHEREAS, in response to inquiries sent by State
 10 Representative Dee Morikawa and Kaua'i Councilman Luke Evslin,
 11 the Department of Health Wastewater Branch (WWB) investigated
 12 the site on August 21, 2019, and found that: an illegal
 13 cesspool was constructed but not in use, the Maverick
 14 Helicopters facility was utilizing two portable toilets,
 15 plumbing fixtures (toilet, sink and associated piping) were
 16 recently removed from the facility's restroom, no wastewater was
 17 observed being discharged to the illegal cesspool, and the WWB
 18 will be issuing the facility a field citation for the
 19 construction of an illegal cesspool; and

20
 21 WHEREAS, additional WWB investigations found that: SMI had
 22 previously utilized an unapproved cesspool for an unpermitted
 23 restroom, the cesspool was not in use and the fixtures from the
 24 restroom were removed before the inspection, two portable
 25 toilets were provided at the Maverick Helicopters facility for
 26 employees and customers, the WWB will be issuing the Maverick
 27 Helicopters a field citation for the construction and use of a
 28 cesspool that was not approved by the Director of Health, and
 29 Maverick Helicopters will be ordered to: (1) properly abandon
 30 the cesspool; (2) obtain a building permit for the restroom; (3)
 31 construct a new individual wastewater system to serve the
 32 restroom; and (4) remove the two portable toilets after the
 33 individual wastewater system is issued an approval to use from
 34 the WWB; and

35
 36 WHEREAS, on August 30, 2019, the County of Kaua'i Director
 37 of Planning received a copy of a letter from Belles Graham LLP
 38 representing SMI in receipt of the Planning Department's letter
 39 dated August 5, 2019, informing the client of a Notice of
 40 Violation and Order to Pay Fines, as well as a Petition to
 41 Appeal Decision of the Planning Director as provided for by
 42 chapter 9 of the Planning Commission rules; and



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 2 WHEREAS, the Hui Hana Pa'akai o Hanapēpē has developed a web
 3 strategy to share updated and relevant information with the
 4 community, which can be found on their website; now, therefore,
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6 BE IT RESOLVED by the Senate of the Thirtieth Legislature
 7 of the State of Hawai'i, Regular Session of 2020, the House of
 8 Representatives concurring, that the Governor and County of
 9 Kaua'i are strongly urged to protect the wahi pana of
 10 Waimakaohi'iaka and the traditional and customary practice of
 11 making salt beds and gathering pa'akai (salt) in Hanapēpē, Kaua'i
 12 for all future generations; and
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14 BE IT FURTHER RESOLVED that this body stands in solidarity
 15 with the Hui Hana Pa'akai o Hanapēpē as protectors of the wahi
 16 pana; and
 17

18 BE IT FURTHER RESOLVED that the Department of
 19 Transportation is strongly urged to order the relocation of the
 20 operations of Smoky Mountain Helicopters, Inc. from Burns Field
 21 to the more appropriate Līhu'e Airport where all other Kaua'i
 22 helicopter tour businesses operate, then close the Port Allen
 23 Airport, and provide adequate security to prevent illegal
 24 trespassing and camping in the areas under its jurisdiction; and
 25

26 BE IT FURTHER RESOLVED that the Department of Land and
 27 Natural Resources and the County of Kaua'i are urged to control,
 28 regulate, and enforce illegal beach access impacting the salt
 29 ponds in the areas under its jurisdictions; and
 30

31 BE IT FURTHER RESOLVED that the United States Environmental
 32 Protection Agency is urged to investigate the use of an
 33 unpermitted restroom facility utilizing a cesspool at Burns
 34 Field, Kaua'i by SMI and send a response to the Hui Hana Pa'akai
 35 o Hanapēpē; and
 36

37 BE IT FURTHER RESOLVED that certified copies of this
 38 Concurrent Resolution be transmitted to the Administrator of the
 39 United States Environmental Protection Agency, Governor, Chair
 40 of the Board of Trustees of the Office of Hawaiian Affairs,
 41 Chairperson of the Board of Land and Natural Resources, Director



1 of Transportation, Mayors of each county, Chair of County of
2 Kaua'i Council, Chair of County of Kaua'i Planning Commission,
3 County of Kaua'i Planning Department, and President of the
4 Association of Hawaiian Civic Clubs.

