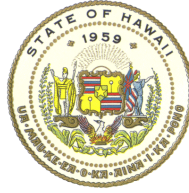
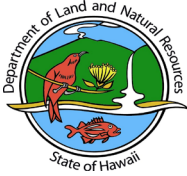


DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
WATER AND LAND**

**Monday, March 14, 2022
1:00 PM**

State Capitol, Conference Room 229, Via Videoconference

**In consideration of
SENATE CONCURRENT RESOLUTION 64
REQUESTING THE BOARD OF LAND AND NATURAL RESOURCES TO SUPPORT
AND AUTHORIZE THE NAPILI BEACH PUBLIC ACCESS STAIR PROJECT**

Senate Concurrent Resolution 64 requests the Board of Land and Natural Resources to support and authorize the Napili Beach public access stair project in Maui. **The Department of Land and Natural Resources (Department) supports this resolution but is proposing the attached amended resolution be adopted in its place to secure the legislative approval of the easement required for the stair project pursuant to Section 171-53, Hawaii Revised Statutes (HRS).**

As the resolution notes, this matter relates to the replacement of a public beach access stairway at Napili Beach, Kaanapali, Maui. In 2021, Napili Bay and Beach Foundation Inc. (NBBF), a Hawaii non-profit corporation and an Internal Revenue Code Section 501(c)(3) tax exempt organization, applied to the Department for an easement to construct and maintain an elevated beach access stairs and dune walkover on State lands located at Tax Map Keys: (2) 4-3-002:023 por. and 099 por. A portion of the replacement stairs will be located on submerged lands and within the State conservation land use district. Pursuant to Section 171-53, HRS, the easement for the portion of the stairs located on submerged lands requires "the prior approval of the Governor and the prior authorization of the Legislature by concurrent resolution."

In January 2021, the Department's Office of Conservation and Coastal Lands issued a site plan approval for the replacement of the failed concrete with the new access stairs. In February 2021, the County of Maui Department of Planning issued a special management area exemption, shoreline setback approval and environmental assessment exemption for the project.

At its meeting of October 22, 2021, under agenda item D-5, the Board of Land and Natural Resources (Board) unanimously approved the issuance of a 25-year term, non-exclusive

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

easement over both submerged and fast lands for the purpose stated above and there was no public opposition. NBBF additionally sought an immediate construction right-of-entry permit (ROE) to allow it to construct the access stairs prior to securing legislative approval for the submerged lands easement. As a condition to approving this request, the Board required NBBF to post a removal bond for the new construction in the event the Legislature did not approve the easement. NBBF posted a bond in the amount of \$55,000 with the Department in satisfaction of this condition.

The purpose of Senate Concurrent Resolution 64 should be to secure the legislative approval for the easement as required by Section 171-53, HRS. Accordingly, the Department is proposing and attaching hereto an amended resolution for consideration and respectfully requests that the amended resolution be approved in place of the current one.

Thank you for the opportunity to comment on this measure.

SENATE CONCURRENT
RESOLUTION

~~[REQUESTING THE BOARD OF LAND AND NATURAL RESOURCES TO SUPPORT
AND AUTHORIZE THE NAPILI BEACH PUBLIC ACCESS STAIR PROJECT]~~
AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT
COVERING A PORTION OF STATE SUBMERGED LANDS AT NAPILI,
KAANAPALI, MAUI, FOR A PORTION OF STAIRS FOR PUBLIC BEACH
ACCESS, AND FOR USE, REPAIR, AND MAINTENANCE OF THE STAIRS.

1 WHEREAS, Hawaii is already experiencing the impacts of
2 climate change, including rising sea levels, extreme tides,
3 accelerated coastal erosion, and stronger, more frequent storms;
4 and
5

6 WHEREAS, the old Napili Beach public access concrete
7 stairs, originally constructed in the 1980s, from headland to
8 the south end of the Napili Beach were seriously damaged by a
9 heavy south swell on Labor Day, 2017; and
10

11 WHEREAS, while slightly damaged and slanted, the stairs
12 reopened in October 2017 for public use; and
13

14 WHEREAS, in 2019, the Napili Bay and Beach Foundation Inc.
15 applied for and received a state grant-in-aid to replace the
16 older stairs with a more resilient, trex decking stairs, which
17 [~~is~~] are open tread to allow seasonal ebb and flow of beach
18 sand; and
19

20 WHEREAS, the older stairs were completely destroyed in a
21 heavy south swell during July 2019; and
22

23 WHEREAS, to mitigate some impacts from further coastal
24 erosion and south swells, the Napili Beach Public Access Stair
25 Project is proposed to be relocated at a location further away
26 from south swell impact; and
27

S.C.R. NO. 64
Proposed S.D. 1

1 WHEREAS, portions of the failed beach access stairs as well
2 as portions of the replacement stairs are located in the
3 conservation district and a significant portion of the
4 replacement project is located in the special management area;
5

6 [~~WHEREAS, through a combination of grants from the~~
7 ~~Legislature grant-in-aid and Maui County, demolition and~~
8 ~~construction on the project began in November 2021, and the~~
9 ~~public access stair project is expected to be completed in~~
10 ~~February 2022; and]~~

11
12 WHEREAS, in January 2021 the Department of Land and Natural
13 Resources, Office of Conservation and Coastal Lands, issued a
14 site plan approval for the replacement of the failed concrete
15 stairs with the new access stairs; and
16

17 WHEREAS, in February 2021 the County of Maui, Department of
18 Planning, issued a special management area exemption, shoreline
19 setback approval and environmental assessment exemption for the
20 project; and
21

22 [~~WHEREAS, the Napili Bay and Beach Foundation is currently~~
23 ~~experiencing constraints to secure a removal bond; and~~
24

25 ~~WHEREAS, despite prior approval and award of grant-in-aid~~
26 ~~funds by the Legislature and Governor, the Board of Land and~~
27 ~~Natural Resources has expressed concern that the Napili Beach~~
28 ~~Public Access Stair Project may not be approved; now,~~
29 ~~therefore,]~~
30

31 WHEREAS, at its meeting of October 22, 2021, under agenda
32 Item D-5, the Board of Land and Natural Resources approved a 25-
33 year term, non-exclusive easement for elevated beach access
34 stairs and dune walkover on State lands identified by Tax Map
35 Keys: (2) 4-3-002:023 por. and 099 por. for the project; and
36

37 WHEREAS, the Board of Land and Natural Resources at the
38 same meeting also approved an immediate construction right-of-
39 entry permit to allow construction of the beach access stairs
40 and dune walkover prior to Napili Bay and Beach Foundation Inc.
41 obtaining legislative approval of the easement for the portion
42 of the stairs to be located on State submerged lands as required
43 by Section 171-53, Hawaii Revised Statutes, provided that Napili

1 Bay and Beach Foundation Inc. post a removal bond in the amount
2 of \$55,000; and

3
4 WHEREAS, the Department of Land and Natural Resources will
5 be able to release the removal bond if the Legislature approves
6 a concurrent resolution for the easement approved by the Board
7 of Land and Natural Resources; and

8
9 WHEREAS, no consideration was charged for issuing the
10 easement since Napili Bay and Beach Foundation Inc. is a Hawaii
11 non-profit corporation and an Internal Revenue Code Section
12 501(c)(3) tax exempt organization and is undertaking the project
13 for purposes of facilitating public access to the beach and
14 Napili Bay and Beach Foundation Inc. will construct and maintain
15 the access at its own expense and with the aid of grants; and

16
17 WHEREAS, through a combination of grants from the
18 Legislature grant-in-aid and Maui County, demolition and
19 construction on the project began in November 2021, and the
20 public access stair project is expected to be completed in 2022;
21 and

22
23 WHEREAS, Section 171-53, Hawaii Revised Statutes, requires
24 the prior approval of the Governor and prior authorization of
25 the Legislature by concurrent resolution to lease state
26 submerged lands; now, therefore,

27
28 BE IT RESOLVED by the Senate of the Thirty-first
29 Legislature of the State of Hawaii, Regular Session of 2022, the
30 House of Representatives concurring, that the Board of Land and
31 Natural Resources is [~~requested to support and authorize the~~
32 ~~Napili Beach Public Access Stair Project~~] hereby authorized to
33 issue a term, non-exclusive easement to Napili Bay and Beach
34 Foundation Inc. covering a portion of state submerged lands
35 identified as Tax Map Key: (2) 4-3-002:023, Napili, Kaanapali,
36 Maui, for a portion of the beach access stairs constructed
37 thereon pursuant to section 171-53, Hawaii Revised Statutes; and

38
39 BE IT FURTHER RESOLVED that certified copies of this
40 Concurrent Resolution be transmitted to the Governor,
41 Chairperson of the Board of Land and Natural Resources, and
42 President of the Napili Bay and Beach Foundation Inc.

43
44

S.C.R. NO. 64
Proposed S.D. 1

1
2
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4
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OFFERED BY: _____

SCR-64

Submitted on: 3/13/2022 12:45:08 PM

Testimony for WTL on 3/14/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Russell Tsuji	Testifying for DLNR	Support	Remotely Via Zoom

Comments:

I am available for questions to DLNR. Please allow me Zoom access.

SCR-64

Submitted on: 3/13/2022 12:49:10 PM

Testimony for WTL on 3/14/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Calen Miyahara	Testifying for DLNR	Support	Remotely Via Zoom

Comments:

I am available for questions to DLNR. Please allow me Zoom access.

SCR-64

Submitted on: 3/13/2022 12:52:56 PM

Testimony for WTL on 3/14/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ian Hirokawa	Testifying for DLNR	Support	Remotely Via Zoom

Comments:

I am available for questions to DLNR. Please allow me Zoom access.

SCR-64

Submitted on: 3/13/2022 12:55:49 PM

Testimony for WTL on 3/14/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Daniel Ornellas	Testifying for DLNR	Support	Remotely Via Zoom

Comments:

I am available for questions to DLNR. Please allow me Zoom access.



Bay and Beach Foundation

PO Box 10823
Lahaina, HI 96761

March 13, 2022

To: Hawaii State Legislature
Re: Senate Concurrent Resolution 64 (SCR0064)
From: Pat B. Lindquist for Napili Bay and Beach Foundation, Inc.

Napili Bay and Beach Foundation supports the amendments made by DLNR Land Division to Senate Concurrent Resolution 64, scheduled for WTL hearing on March 14, at 1 pm.

The language changes will ensure that DLNR and BLNR have the language needed to provide them with legislative approval of an easement for these public beach access stairs.

Mahalo nui loa,

A handwritten signature in black ink that reads "Pat B. Lindquist". The signature is fluid and cursive, with a long horizontal flourish extending from the end.

We are a non-profit organization formed to protect and improve the health of Napili beach and bay.

Pat B. Lindquist, President

Gregg Nelson, Vice-President

Nane Aluli, Secretary

Norm Runyan, Director

Jamie Lung-Ke'o, Director

Tano Taitano, Director