

JAN 24 2007

SENATE CONCURRENT RESOLUTION

AUTHORIZING THE GRANT OF A TERM, NON-EXCLUSIVE EASEMENT COVERING
PORTION OF SUBMERGED LANDS AT LAHAINA, MAUI, FOR DIVE SITE
FOR COMMERCIAL SUBMARINE TOURS.

1 WHEREAS, Atlantis Submarines Hawaii, LLC (Atlantis)
2 currently operates a forty-eight-passenger submarine in the Twin
3 Peaks area; consisting of four existing natural reefs (North,
4 South, Keiki, and Lost Vegas); and
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6 WHEREAS, Atlantis proposed to sink the replica whaling ship
7 Carthaginian to create an artificial reef approximately 3,100
8 feet offshore of Paumana Beach Park and approximately one and
9 one-fourth mile south of Lahaina Harbor. The water depth is
10 approximately one hundred feet deep (sixteen fathoms); and
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12 WHEREAS, Atlantis believes sinking the Carthaginian to
13 create an artificial reef would (1) alleviate pressure on
14 existing natural reef systems from overuse; (2) promote reef and
15 fish biomass increase for commercial and recreational users,
16 divers; and (3) provide educational opportunities to study
17 biomass increase over time; and
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19 WHEREAS, monitoring surveys by the Department of Land and
20 Natural Resources (Department) have shown that artificial reefs
21 increase species diversity up to five times compared to a barren
22 area, and increase fish biomass up to twenty times compared to a
23 barren area; and
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25 WHEREAS, the Department believes artificial reefs have been
26 successful in increasing the fishing and diving opportunities
27 for residents and visitors of Hawaii; and
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29 WHEREAS, Atlantis will not limit public access to the area;
30 and
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1 WHEREAS, the Board of Land and Natural Resources (Board) on
2 September 23, 2005, under agenda item K-2 approved a
3 Conservation District Use Permit; and
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5 WHEREAS, on December 9, 2005, under agenda item D-8, the
6 Board authorized the direct issuance of a term, non-exclusive
7 easement for the use of state submerged lands, subject to
8 certain terms and conditions; and
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10 WHEREAS, the Board granted Atlantis a right-of-entry to
11 sink, and Atlantis did sink, the Carthaginian on December 13,
12 2005, because the Board did not want Atlantis to sink the
13 Carthaginian during whale season and there was concern that the
14 Carthaginian would not make it through another winter in Lahaina
15 Harbor; and
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17 WHEREAS, section 171-53, Hawaii Revised Statutes, requires
18 the prior approval of the Governor and prior authorization of
19 the Legislature by concurrent resolution, before submerged
20 public lands may be leased or easements therein granted; now,
21 therefore,
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23 BE IT RESOLVED by the Senate of the Twenty-fourth
24 Legislature of the State of Hawaii, Regular Session of 2007, the
25 House of Representatives concurring, that the Board of Land and
26 Natural Resources is hereby authorized to grant a term, non-
27 exclusive easement covering a portion of submerged lands at
28 Lahaina, Maui, for a dive site for commercial submarine tours
29 purposes pursuant to section 171-53, Hawaii Revised Statutes;
30 and
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32 BE IT FURTHER RESOLVED that a certified copy of this
33 Concurrent Resolution be transmitted to the Chairperson of the
34 Board of Land and Natural Resources.
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36
37 OFFERED BY: _____
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BY REQUEST

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: CONCURRENT RESOLUTION AUTHORIZING THE GRANT OF A TERM, NON-EXCLUSIVE EASEMENT COVERING PORTION OF SUBMERGED LANDS AT LAHAINA, MAUI, FOR DIVE SITE FOR COMMERCIAL SUBMARINE TOURS.

PURPOSE: To seek the prior approval of the Legislature by concurrent resolution to permit the grant of a term, non-exclusive easement for submerged lands at Lahaina, Maui, for dive site for commercial submarine tours purposes.

MEANS: Concurrent resolution pursuant to section 171-53, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Atlantis Submarines Hawaii, LLC (Atlantis) currently operates a 48-passenger submarine in the Twin Peaks area, consisting of four (4) existing natural reefs (North, South, Keiki, and Lost Vegas) at Lahaina, Maui.

Atlantis proposed to sink the replica whaling ship Carthaginian to create an artificial reef approximately 3,100 feet offshore of Paumana Beach Park and approximately 1 1/4 mile south of Lahaina Harbor. The water depth is approximately 100 feet deep (16 fathoms).

Atlantis believes sinking the Carthaginian to create an artificial reef would; (1) alleviate pressure on existing natural reef systems from overuse; (2) promote reef and fish biomass increase for commercial and recreational users, divers; and (3) provide educational opportunities to study biomass increase over time.

Artificial reef monitoring surveys by the Department have shown that artificial reefs increase species diversity up to five times

compared to a barren area, and increase fish biomass up to twenty times compared to a barren area. The Department believes that artificial reefs have been successful in increasing the fishing and diving opportunities for the residents and visitors of Hawaii.

Atlantis will not limit public access to the area.

The Board of Land and Natural Resources (Board) on September 23, 2005, under agenda item K-2 approved a Conservation District Use Permit.

On December 9, 2005, under agenda item D-8, the Board authorized the direct issuance of a term, non-exclusive easement for the use of state submerged lands, subject to certain terms and conditions.

The Board granted Atlantis a right-of-entry to sink, and Atlantis did sink the Carthaginian on December 13, 2005. The Board did not want Atlantis to sink the Carthaginian during whale season and there was concern that the Carthaginian would not make it through another winter in Lahaina Harbor.

This concurrent resolution is requested to allow for the direct grant of a term, non-exclusive easement for submerged lands as required under section 171-53, HRS.

Impact on the public: Alleviate pressure on existing natural reef systems from overuse; promote reef and fish biomass increase for commercial and recreational users, divers; and provide educational opportunities to study biomass increase over time.

Impact on the department and other agencies:
Generate additional revenues to the State.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LNR 101.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon adoption.