
SENATE CONCURRENT RESOLUTION

AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT KAPAA, KAWAIHAU, KAUAI, FOR THE CONSTRUCTION, MAINTENANCE, AND REPAIR OF A TEMPORARY SAND GROIN TO SHELTER KUHIO BEACH FROM NEARSHORE CURRENTS AND SLOW LITTORAL DRIFT.

1 WHEREAS, a shoreline encroachment exists on certain
2 property located on a portion of government land located seaward
3 of Kapaa, Kawaihau, Kauai, and identified as Tax Map Key:
4 (4) 4-3-009: seaward of 041; and

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6 WHEREAS, the removal of a seventy-foot long concrete groin
7 at the northern boundary of the proposed easement site in 2012
8 resulted in an increase of longshore littoral drift, which, in
9 turn, exacerbated erosion so that approximately five hundred
10 cubic yards of sand were transported away from Kuhio beach over
11 a two-year period; and

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13 WHEREAS, in response to the erosion, a temporary emergency
14 erosion control structure (DLNR Ref: Emer. CDUA KA-17-16) was
15 installed in 2017, with authorization from the Department of
16 Land and Natural Resources, and repaired and lengthened in 2020;
17 and

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19 WHEREAS, the emergency erosion control structure was
20 authorized to remain in place for a period of three years while
21 a long-term solution could be implemented; and

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23 WHEREAS, the Category II Small Scale Beach Nourishment
24 application KA-19-3830 for the Kauai Kailani Groin and Sand
25 Placement Project at Kapaa, Kauai, fronting Tax Map Keys:
26 (4) 4-3-009:041 and (4) 4-3-008:017 was approved by the
27 Department of Land and Natural Resources on June 4, 2019; and
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1 WHEREAS, as part of the small-scale beach nourishment
2 authorization, the emergency structure was authorized to remain
3 in place until the initiation of the second nourishment effort,
4 approximately three years following the initial nourishment; and
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6 WHEREAS, the beach nourishment project proposed consists of
7 one preliminary nourishment, followed by several smaller
8 periodic nourishments over a ten-year period, ending on June 4,
9 2029; and
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11 WHEREAS, the Association of Unit Owners of Kauai Kailani
12 Condominiums subsequently applied for approval of the
13 installation of a temporary sandbag groin structure and the
14 placement of approximately 1,140 cubic yards of beach-quality
15 sand sourced from the Waipouli Drainage Canal at Tax Map Key:
16 (4) 4-3-008:017; and
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18 WHEREAS, the Department of Land and Natural Resources'
19 Office of Conservation and Coastal Lands supported a disposition
20 of a proposed shoreline easement to resolve the existing
21 encroachment; and
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23 WHEREAS, at its meeting on February 14, 2020, under agenda
24 item D-3, the Board of Land and Natural Resources approved the
25 issuance of an after-the-fact right-of-entry permit and the
26 grant of a term, nonexclusive easement to Association of Unit
27 Owners of Kauai Kailani Condominiums for the construction,
28 maintenance, and repair of a temporary sand groin to run with
29 the land and inure to the benefit of the abutting property; and
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31 WHEREAS, at its meeting on March 25, 2021, under agenda
32 item D-3, the Board of Land and Natural Resources rescinded its
33 prior action of February 14, 2020, and approved the issuance of
34 a revocable permit for the shoreline protection structure, beach
35 nourishment activities, and installation of the sandbag groin;
36 and
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38 WHEREAS, the purpose of this revocation was to replace the
39 right-of-entry permit dated February 24, 2020, with a revocable
40 permit; and
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1 WHEREAS, the Board of Land and Natural Resources approved
2 the grant of the term, non-exclusive easement to the Association
3 of Unit Owners of Kauai Kailani for the sandbag groin and
4 required the association to post a removal bond in the event
5 that legislative approval was not secured for an easement for
6 the groin; and

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8 WHEREAS, the March 25, 2021, board action increased the
9 easement area to approximately 1,764 square feet; and

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11 WHEREAS, the Board of Land and Natural Resources
12 unanimously approved to add that the easement "term shall be
13 amended to [twenty-five] years"; and

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15 WHEREAS, there was no public opposition to the easement;
16 and

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18 WHEREAS, the subject area of approximately 1,764 square
19 feet is subject to confirmation by the Department of Accounting
20 and General Services' Land Survey Division; and

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22 WHEREAS, the grantee will be required to pay the State the
23 fair market value of the easement, as consideration for the use
24 of public lands, to be determined by an independent appraiser;
25 and

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27 WHEREAS, section 171-53, Hawaii Revised Statutes, requires
28 the prior approval of the Governor and prior authorization of
29 the Legislature by concurrent resolution to lease state
30 submerged lands; now, therefore,

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32 BE IT RESOLVED by the Senate of the Thirty-first
33 Legislature of the State of Hawaii, Regular Session of 2021, the
34 House of Representatives concurring, that the Board of Land and
35 Natural Resources is hereby authorized to issue a term, non-
36 exclusive easement covering a portion of state submerged lands
37 fronting the property identified as Tax Map Key: (4) 4-3-009:
38 seaward of 041, Kapaa, Kawaihau, Kauai, for the construction of
39 a temporary sand groin pursuant to section 171-53, Hawaii
40 Revised Statutes; and

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1 BE IT FURTHER RESOLVED that certified copies of this
2 Concurrent Resolution be transmitted to the Governor and
3 Chairperson of the Board of Land and Natural Resources.

