

MAR 11 2022

SENATE CONCURRENT RESOLUTION

STRONGLY URGING THE UNITED STATES ARMY CORPS OF ENGINEERS TO
WORK WITH THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO
MITIGATE NEGATIVE IMPACTS TO CORALS AND OTHER IMPORTANT
CORAL REEF RESOURCES WHILE DREDGING IN STATE WATERS.

1 WHEREAS, shipping channels are essential for providing
2 goods to Hawaii and require dredging to create, and periodic
3 maintenance to facilitate, maritime shipping traffic; and
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5 WHEREAS, environmental planning is conducted for dredging
6 projects to mitigate impacts to aquatic resources, including
7 avoiding, minimizing, and compensating resource loss; and
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9 WHEREAS, maintenance dredging is federally permitted under
10 Nationwide Permit 35; and
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12 WHEREAS, it was announced on December 27, 2021, in section
13 86 Federal Register 73522, that Nationwide Permit 35 has been
14 reissued with an effective date of February 25, 2022, and will
15 expire on March 14, 2026; and
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17 WHEREAS, the nationwide permit general conditions,
18 published in the United States Code of Federal Regulations,
19 authorizes the District Engineer to modify, suspend, or revoke
20 nationwide permit authorization for activities determined to,
21 pursuant to title 33 Code of Federal Regulations section
22 330.4(e)(2), have "more than minimal individual or cumulative
23 adverse effects to the environment"; and
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25 WHEREAS, title 33 Code of Federal Regulations section
26 330.4(e)(2) specifically states: "A [District engineer] may
27 assert discretionary authority by modifying, suspending, or
28 revoking [Nationwide Permit] authorization for a specific
29 activity whenever he determines sufficient concerns for the
30 environment or any other factor of the public interest so



1 requires. Whenever the [District Engineer] determines that a
2 proposed activity covered by an [Nationwide Permit] would have
3 more than minimal individual or cumulative adverse effects on
4 the environment or otherwise may be contrary to the public
5 interest, he must either modify the [Nationwide Permit]
6 authorization to reduce or eliminate the adverse impacts, or
7 notify the prospective permittee that the proposed activity is
8 not authorized by [Nationwide Permit] and provide instructions
9 on how to seek authorization under regional general or
10 individual permit."; and

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12 WHEREAS, corals and other coral reef resources are
13 important aquatic resources for Hawaii, shaping the State's
14 iconic nearshore reefs and providing key habitats and food for
15 marine fishes and invertebrates; and

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17 WHEREAS, Hawaii corals are under immense threat due to
18 climate-driven ocean heatwaves, land-based sources of pollution,
19 and physical damage caused by storms and human activity; and

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21 WHEREAS, Hawaii is experiencing increasing numbers of coral
22 bleaching events caused by climate-driven marine heatwaves; and

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24 WHEREAS, coral bleaching events in 2014 and 2015 led to
25 declines in total coral cover ranging from thirty to fifty
26 percent across the islands of Hawaii, Maui, and Oahu, and up to
27 ninety percent loss in particularly susceptible species at
28 certain sites; and

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30 WHEREAS, corals that will be directly or indirectly
31 impacted by dredging to create or maintain shipping channels
32 should be incorporated into planning efforts to mitigate loss of
33 corals, including avoiding, minimizing, or compensating resource
34 loss; now, therefore,

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36 BE IT RESOLVED by the Senate of the Thirty-first
37 Legislature of the State of Hawaii, Regular Session of 2022, the
38 House of Representatives concurring, that this body disagrees
39 with the United States Army Corps of Engineers' finding that
40 destruction of at least seventy coral colonies is considered to
41 be a minimal individual or cumulative adverse effect on the
42 environment; and



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1 BE IT FURTHER RESOLVED that the United States Army Corps of
2 Engineers is strongly urged to update the Corps' analysis for
3 "individual or cumulative adverse effects" to accurately account
4 for the immense ecological value of corals in Hawaii; and
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6 BE IT FURTHER RESOLVED that the District Engineer of the
7 United States Army Corps of Engineers in Hawaii is strongly
8 urged to invoke the District Engineer's power under title 33
9 Code of Federal Regulations section 330.4(e)(2) to suspend
10 Nationwide Permit 35 authorization for maintenance dredging of
11 Honolulu Harbor and all other channel dredging projects so that
12 each permittee may work with the Department of Land and Natural
13 Resources and other federal partners to mitigate the adverse
14 effects that maintenance dredging will have on the identified
15 coral colonies that will be impacted by the dredging; and
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17 BE IT FURTHER RESOLVED that certified copies of this
18 measure be transmitted to the United States Army Corps of
19 Engineers Commander and District Engineer of the Honolulu
20 District and Chairperson of the Board of Land and Natural
21 Resources.
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OFFERED BY:

