

# ***ASSOCIATION OF HAWAIIAN CIVIC CLUBS***

## ***A RESOLUTION***

No. 2019 - 54

### **STRONGLY URGING THE STATE OF HAWAI‘I AND THE COUNTY OF KAUA‘I TO PROTECT THE WAHI PANA OF WAIMAKAOHI‘IAKA AND THE TRADITIONAL AND CUSTOMARY PRACTICE OF MAKING THE SALT BEDS AND GATHERING PA‘AKAI (SALT) IN HANAPĒPĒ, KAUA‘I FOR ALL FUTURE GENERATIONS**

WHEREAS, Waimakaohi‘iaka, in the ‘ili of ‘Ukulā, in the ahupua‘a of Hanapēpē, in the moku of Kona or also known as the salt ponds of Hanapēpē is a wahi pana, a culturally significant sacred site specifically for the making of pa‘akai (salt), which has been traditionally cultivated and gathered by Native Hawaiians since time immemorial; and

WHEREAS, Waimakaohi‘iaka, is the only area in all of Hawai‘i that continues to make the salt beds and harvest pa‘akai using these traditional methods which are passed generation to generation by Native Hawaiian ‘ohana who are exercising their constitutionally protected traditional and customary salt-making knowledge and skills; and

WHEREAS, Article XII §7 of the Hawai‘i State Constitution provides: *“The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua‘a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.”*

WHEREAS, in keeping with centuries-old traditions, the pa‘akai gathered at this location cannot be bought nor is it sold, but is generously shared or traded by the 22 families who are the lineal descendants of past salt-makers, resulting in this resource being distributed throughout Kaua‘i, statewide, nationally and internationally for subsistence, cultural and religious purposes; and

WHEREAS, the Hawai‘i Register of Historic Places is an official list of properties that have been recognized for their significance to the history, architecture, archaeology, or culture of Hawai‘i communities, and the Hanapēpē Salt Pans have been listed in the State Inventory of Historic Places as SIHP #50-30-09-00049 since September 30, 1988; and

WHEREAS, the Waimakaohi‘iaka parcel is zoned for conservation, and is identified as an Open/Special Treatment Resource and Cultural District by the County of Kaua‘i; and

WHEREAS, urbanization, commercial, and recreation activities adjacent to Waimakaohi‘iaka cause threatening factors such as dust, noise, and contamination from sources ranging from an ill-placed helicopter operation sited at Port Allen Airport, also known as Burns Field, and vehicles accessing the beach, to broken beer bottles and trash left by beach users; and

WHEREAS, June 25, 2019, the Kaua‘i Planning Commission considered an application submitted by Smoky Mountain Helicopters, Inc. (SMI) for after-the-fact permit applications during which over 100 people testified in person, producing over 100 written testimonies and generating 34,000+ signatures on an online petition found at <http://change.org/protectpaakai>, to protect this last of its kind salt making tradition in Hanapēpē; and

WHEREAS, subsequently, the Kaua‘i Planning Commission was planning for a contested case hearing for the after-the-fact permit applications and granted intervenor status to the Hui Hana Pa‘akai o Hanapēpē, a Native Hawaiian organization organized in 1964, comprised of the 22 ‘ohana that continue the salt-making and gathering practice; and

WHEREAS, on August 1, 2019, the Hui Hana Pa‘akai o Hanapēpē sent a certified letter to the State of Hawai‘i Department of Health and the U.S. Environmental Protection Agency (EPA) urgently requesting them to investigate immediately the use of an unpermitted restroom facility utilizing a cesspool at Burns Field, Kaua‘i by SMI; and

WHEREAS, on two occasions in August 2019, the County of Kaua‘i Planning Department sent a certified notice of violations of Kaua‘i’s comprehensive zoning ordinance and Special Management Area Rules and Regulations and orders to pay fines to the State of Hawai‘i Department of Transportation, Airports Division (Owner), SMI (Lessee), D & J Air Adventures, and Maverick Helicopter citing the illegal development within the SMA District, failure to secure required SMA permit determination and violations of the comprehensive zoning ordinance on Executive Order No. 931(P); and

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

WHEREAS, additional WWB investigations found: SMI had previously utilized an unapproved cesspool for an unpermitted restroom, the cesspool was not in use and the fixtures from the restroom were removed before the inspection, two portable toilets were provided at Maverick Helicopter facility for employees and customers, the WWB will be issuing the Maverick Helicopters a field citation for the construction and use of a cesspool that was not approved by the Director of Health, and Maverick Helicopters will be ordered to: (1) properly abandon the cesspool; (2) obtain a building permit for the restroom; (3) construct a new

individual wastewater system (IWS) to serve the restroom; and (4) remove the two portable toilets after the IWS is issued an approval to use from the WWB; and

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

WHEREAS, the Hui Hana Pa'akai o Hanapēpē has developed a web strategy to share updated and relevant information with the community (see <http://protectpaakai.org>); and

NOW, THEREFORE, BE IT RESOLVED, by the Association of Hawaiian Civic Clubs at its 60th Annual Convention in Lahaina, Maui, in the malama of Welehu and the rising of Lā'au Pau, this 16th day of November 2019, strongly urging the State of Hawai'i and the County of Kaua'i to protect the wahi pana of Waimakaohi'iaka and the traditional and customary practice of making salt beds and gathering pa'akai (salt) in Hanapēpē, Kaua'i for all future generations; and

BE IT FURTHER RESOLVED, that the Association of Hawaiian Civic Clubs stand in solidarity with the Hui Hana Pa'akai o Hanapēpē as protectors of this wahi pana; and

BE IT FURTHER RESOLVED, that the State of Hawai'i Department of Transportation move the operations of Smoky Mountain Helicopters, Inc. from Burns Field to the more appropriate Līhu'e Airport where all other Kaua'i helicopter tour businesses operate, then close the Port Allen Airport, and provide adequate security to prevent illegal trespassing and camping in the areas under its jurisdiction; and

BE IT FURTHER RESOLVED, that the State of Hawai'i Department of Land and Natural Resources, and the County of Kaua'i also control, regulate and enforce illegal beach access impacting the salt ponds in the areas under its jurisdictions, and

BE IT FURTHER RESOLVED, that the United States Environmental Protection Agency (EPA) urgently investigate the use of an unpermitted restroom facility utilizing a cesspool at Burns Field, Kaua'i by Smoky Mountain Helicopters, Inc. and send a response to the Hui Hana Pa'akai o Hanapēpē, and

BE IT FINALLY RESOLVED, that a certified copy of this resolution be transmitted to the County of Kaua'i Planning Commission and Planning Director, State of Hawai'i Department of Transportation, State of Hawai'i Department of Land and Natural Resources, the United States Environmental Protection Agency, the County of Kaua'i Council, the Kaua'i Representatives and Senators, as well as the Governor of the State of Hawai'i, President of the State Senate, Speaker of the State House of Representatives, Chair of the State Senate subject matter committee on Hawaiian Affairs, Chair of the State House subject matter committee on

Hawaiian Affairs, Chair of the Board of Trustees of the Office of Hawaiian Affairs, and all County Mayors.



The undersigned hereby certifies that the foregoing Resolution was duly adopted in the malama of Welehu and the rising of Lā'au Pau on the 16<sup>th</sup> day of November 2019, at the 60th Annual Convention of the Association of Hawaiian Civic Clubs in Lahaina, Maui.

A handwritten signature in black ink, appearing to read "Hailama V. K. K. Farden".

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Hailama V. K. K. Farden, President