

LINDA LINGLE  
GOVERNOR OF HAWAII



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

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**Testimony of  
LAURA H. THIELEN  
Chairperson**

**Before the House Committee on  
WATER, LAND, AND OCEAN RESOURCES**

**Monday, March 8, 2010  
10:00 AM  
State Capitol, Conference Room 325**

**In consideration of  
SENATE BILL 2547, SENATE DRAFT 1  
RELATING TO SMALL BOAT HARBORS**

Senate Bill 2547, Senate Draft 1 requires a condition to be added to the commercial use permits issued to a permittee who provides an excursion between state boating facilities, that disembarks fare-paying passengers with the expectation that they will enter upon any public or quasi-public real property during the course of their excursion, to comply with all rules and regulations applicable to these areas. The Department of Land and Natural Resources (Department) opposes this measure.

The Department's Division of Boating and Ocean Recreation (DOBOR) cannot be responsible for monitoring, investigating, and responding to complaints about activities of passengers or alleged passengers while on any public land, which includes roads, parks, public buildings, and vast areas outside the purview of the Department's small boat harbors. Furthermore, there is no definition of "quasi-public" land so the Department and the public are unclear about how that provision would apply. Other agencies and property owners can enforce their own rules and regulations. Boaters and DOBOR tenants should not have to shoulder that responsibility.

LAURA H. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

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AQUATIC RESOURCES  
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CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**Email submittal:** <http://www.capitol.hawaii.gov/emailtestimony>.

Testimony by Harry Saunders  
President, Castle & Cooke Hawaii  
March 6, 2010

Before the House Committee on

**WATER, LAND, AND OCEAN RESOURCES**

March 8, 2010  
10:00 am  
Room 325

**In Support of SB 2547 SD1**  
RELATING TO SNMALL BOAT HARGORS

Chair Ito, Vice Chair Har, and Members of the Committee on WATER, LAND, AND OCEAN RESOURCES.

Castle & Cooke Resorts, LLC and its affiliates (including the Fours Seasons Resort Lanai at Manele Bay) support SB 2547 SD1 as it will address the serious problem of unauthorized commercial use of Hulopoe Beach Park on Lanai by Maui tour boat operators, which has resulted in unregulated overcrowding and overburdening of the Beach Park resources and facilities. We offer the following comments to SB 2547 SD1 for your consideration.

In 1987, Castle & Cooke Resorts, LLC (formerly known as Lanai Company, Inc.) dedicated in perpetuity a 66.33 acre parcel of land known as Hulopoe Beach Park ("Park") for park and recreational purposes, and agreed to establish a citizen-based Park Council to obtain the reasonable consensus of Lanai residents and community groups in connection with (1) the future development of the Park; and (2) the adoption of the rules and regulations relating to the use and operation of the Park. While the Park Area Rules and Regulations ("Rules and Regulations") approved by the Council forbid the commercial use of the Park without a Type IV (Commercial) permit, the Rules and Regulations recognize, and create an exception for, "tour boat operators" who had pre-existing agreements with Castle & Cooke at the time the Park was dedicated. Of the two original tour boar operators, only Trilogy remains. 100% of the revenues generated by Trilogy's permit to use a portion of the Park go toward defraying a portion of the cost to improve and maintain comfort stations, showers and other facilities.

In recent years, other Maui-based tour boat operators have been bringing customers to Lanai and directing and/or encouraging them to use the Park and its amenities, without first obtaining proper permits from Castle & Cooke. As a result many (sometimes hundreds) of customers of these commercial operators wander about the Park each day totally unsupervised. We believe that these commercial activities overburden the Park and prejudice recreational use by the community.

The proposed legislation would require the commercial operators to comply with the Hulopoe Beach Park rules and regulations which have been approved by the Park Council and the County of Maui, and enable Castle & Cooke and similarly-situated entities to manage this precious and unique island resource.

Mahalo for your consideration of our testimony. If you have any questions, please feel free to contact us:

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TESTIMONY TO: Senate WTL Committee:  
Senator Clayton Hee, Chair  
Senator Jill Tokuda, Vice Chair

March 8, 2010  
Robin Kaye  
Speaking in the **Strongest Support of SB 2547**

Chair Hee, Vice Chair Tokuda and members of the WTL committee:

My name is Robin Kaye and I am a full time Lanai Resident. I have owned a home on Lanai since 1974. **I am speaking in strong support of the revised SB 2547.**

I have served on the Hulopoe Beach Park Council and am a member of the Lana'iians for Sensible Growth (LSG). I also serve as the Lanai representative on MACZAC, the statewide citizen group that oversees the coastal zone. I am very well acquainted with the problem this bill seeks to remedy. The revised SB2547 is a strong address to a long-time challenge; it will provide both the State and Castle & Cooke with the tools to solve this seemingly intractable problem.

Hulopoe Beach is Lana'i's only publicly-accessible, facility-friendly beach. It is the site for resident birthday parties, family reunions, spontaneous gatherings, and abundant camping. It is a beautiful, treasured beach, designated as a Marine Life Conservation District after much hard work by the Lana'i community. But within the past ten years, the overuse by commercial operators has severely threatened this valuable natural resource. Too many times, the beach is overcrowded, residents are pushed aside, and its limited facilities are over-used and abused by commercial operators.

The Hulopoe Beach Park Council, a management Council composed of Lana'i residents and Castle & Cooke employees, has a long-established set of Park Rules, to which Maui County is a legal partner. But these rules are constantly and obnoxiously flouted by the many commercial boat operators coming from Maui to Lana'i. This legislation -- SB 2547 -- will require the commercial operators to provide a long-absent level of safety for the island's visitors AND comply with the Hulopoe Beach Park rules and regulations which have been approved by the Beach

Park Council and the County of Maui. It is a long-needed tool for the Lana'i community to manage its threatened natural resource.

The recently renovated Manele Small Boat Harbor and the adjacent Hulopoe Beach Park are frequently overrun by several tour boat operators from Maui Island and their passengers, resulting in overcrowding and misuse of Lana'i's only easily accessible beach park. These **unregulated commercial activities** have adversely impacted the residents of Lana'i who feel they are being driven away from the Harbor and the Beach by the large numbers of **unsupervised** tour boat patrons transported to Lanai by these companies.

Mahalo for your consideration of my testimony; please support this legislation.

If you have any questions, please feel free to contact me.

Sincerely,

Robin Kaye  
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Lana'i City, HI 96763

March 6, 2010

## Testimony in Opposition to SB 2547, SD1

The House Committee on Water, Land & Ocean Resources  
In room 325 at 1000 on Monday, 8 March 2010

Chair Ito and Respected Members of the committee;

My name is Reg White. I work in the small passenger vessel sector of our tourism industry. This bill seems to serve no purpose - unless there is something hidden here - and let's face it, if that's so, then that cannot be good! When an excursion boat or a ferry, or an airline for that matter, takes passengers to another port it is really none of the operator's business what the true purpose of the passenger making the transit truly is. That would be the most original invasion of privacy, which is expressly prohibited by all sorts of laws and rules, as is any violation of local property laws and rules by any person visiting another port, whether they arrive by boat, airline, or swim in on their own. This bill is either subversive, and I can't figure it out, or it's redundant to all existing state and local laws and rules and therefore is not required. In either case it should be sent directly to the shredder. If you do pass it out, you must make it include passengers arriving by air as well as by sea, as there is truly no difference in a visiting person's behavior due to the mode of transportation used.

Respectfully,

Reg White  
Vp, project development  
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