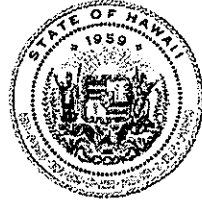
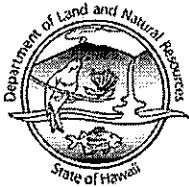


**TESTIMONY**  
**SB2547**

LINDA LINGLE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
LAURA H. THIELEN  
Chairperson**

**Before the Senate Committees on  
WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS**

**Monday, February 22, 2010  
3:00 PM  
State Capitol, Conference Room 229**

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

Senate Bill 2547 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

**RUSSELL Y. TSUJI**  
FIRST DEPUTY

**KEN C. KAWAHARA**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

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

February 22, 2010  
3:00 PM Conference Room 229  
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 the Strongest Support of SB 2547.** I have served on the Hulopoe Beach Park Council and I am a member of the Lana'iians for Sensible Growth (LSG). I also serve as the Lanai representative on MACZAC the state wide citizen group that oversees the coastal zone. I am very well acquainted with the problem this bill seeks to remedy.

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 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. Please support this legislation.

**Please note: the following language -- which was agreed upon by Lana'i residents, the Hulopoe Beach Park Council and Castle & Cooke, should have been substituted into SB2547 which we offer as an amendment:**

“As a condition of any permit issued pursuant to this chapter, a permittee who, in the course of providing an excursion involving use of boating facilities within the state of Hawaii, disembarks fare paying passengers with the expectation that they enter upon any public or quasi-public real property before conclusion of the excursion, shall be required to comply with all rules and regulations including permitting requirements that may govern such entry.”

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.

**We humbly ask you to please pass SB 2547 for the People of Lanai**

Mahalo for your consideration of my testimony.

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

Sincerely,

Robin Kaye  
808-565-6276  
511 Ilima Avenue  
P.O. Box 631313  
Lana'i City, HI 96763

From: mailinglist@capitol.hawaii.gov  
Sent: Friday, February 19, 2010 12:30 PM  
To: WTLTestimony  
Cc: steve@go-lanai.com  
Subject: Testimony for SB2547 on 2/22/2010 3:00:00 PM

Testimony for WTL 2/22/2010 3:00:00 PM SB2547

Conference room: 229  
Testifier position: support  
Testifier will be present: No  
Submitted by: Steven Knight  
Organization: Individual  
Address: 658 Front Street Suite 127 Lahaina  
Phone: 8086613756  
E-mail: [steve@go-lanai.com](mailto:steve@go-lanai.com)  
Submitted on: 2/19/2010

Comments:

At this time Expeditions (and Trilogy) needs your help with support of SB 2547 (HB 2492). With this Bills support and eventual passing Castle and Cooke will finally be able to keep operators from illegally using the beach park and facilities at Hulopo'e on Lana'i. I am sure many of you are aware of this situation in which operators have been running organized for profit activities and tours, without permits, to Hulopo'e beach, literally for years putting an undue burden on this beautiful and pristine marine preserve and beach park area. Please support SB2547 (HB2492) and help protect the area for the people of Lana'i and all Hawai'i. Mahalo for your past support, we truly appreciate all your hard work and efforts put in for this wonderful State.



100 Kalanianaʻolaha Avenue  
Molokai, Hawaii 96769-7007  
P.O. Box 888000  
Molokai, Hawaii 96780-8000  
Phone: (808) 548-1011 • Fax: (808) 548-2000  
Lanaʻi: (808) 565-3000 • Fax: (808) 565-3333

*Harry A. Saunders*  
President

Fax Submittal: 586-6659  
Email Submittal: [WTLTestimony@Capitol.hawaii.gov](mailto:WTLTestimony@Capitol.hawaii.gov)

Testimony by Harry Saunders  
President, Castle & Cooke Hawai'i  
February 19, 2010

Before the Senate Committee on  
**WATER, LAND, AGRICULTURE AND HAWAIIAN AFFAIRS**

February 22, 2010  
3:00 p.m.  
Room 229

**In Support of SB 2547**  
RELATING TO SMALL BOAT HARBORS

Chair Hee, Vice Chair Tokuda and Members of the Senate Water, Land, Agriculture and Hawaiian Affairs Committee.

Castle & Cooke Resorts, LLC and its affiliates (including the Four Seasons Resort Lānaʻi at Mānele Bay) support SB 2547 as it will address the serious problem of unauthorized commercial use of Hulopoʻe Beach Park on Lānaʻi by Maui tour boat operators. We offer the following comments to SB 2547 for your consideration.

In 1987, Castle & Cooke Resorts, LLC (formerly known as Lānaʻi Company, Inc.) dedicated in perpetuity a 66.33 acre parcel of land known as Hulopoʻe Beach Park ("Park") for park and recreational purposes, and agreed to establish a citizen-based Park Council to obtain the reasonable consensus of Lānaʻi 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 boat

operators, only Trilogy remains. One hundred percent 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 Lāna'i 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 Hulopo'e 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 questions, please feel free to contact us:

Harry Saunders, President  
Castle & Cooke Hawai'i  
[aktsukamoto@castlecooke.com](mailto:aktsukamoto@castlecooke.com)  
548-4884

Gary M. Yokoyama, Vice President and Counsel  
Castle & Cooke Hawai'i  
[gyokoyama@castlecooke.com](mailto:gyokoyama@castlecooke.com)  
548-2900

Carleton Ching, Vice President – Community and Government Relations  
Castle & Cooke Hawai'i  
[cching@castlecooke.com](mailto:cching@castlecooke.com)  
548-3793

**COMMITTEE ON WATER LAND, AGRICULTURE AND HAWAIIAN AFFAIRS**

Senator Clayton Hee, Chair, Senator Jill N. Tokuda, Vice Chair

Submitted by:

Sally Kaye  
P.O. Box 631313  
511 Ilima Avenue  
Lana`i City, HI 96763  
808/565-6276

---

I **STRONGLY SUPPORT SB 2547** for the following reasons:

- This measure would amend § 200-9, Purpose and use of state boat harbors, by requiring commercial tour operators, who financially benefit from transporting fare-paying customers between islands, to comply with laws and rules in force on land dedicated to public use that are “used” by their passengers during the tour.
- While most if not all parks in our state are regulated by state or county rules and regulations, not all the costs of maintaining those parks are supported by public funds. This measure would provide notice to those who would abuse lands dedicated to public use – but supported by private funds – that they must abide by properly adopted rules regulating the use of park lands made available, for whatever reason, by a private landowner, or risk losing the annual commercial use permit the state boating division provides to them.

This amendment to §200-9 may be considered a “fair share” measure, and I urge you to **SUPPORT** it.

Thank you for this opportunity to testify to your Committee.



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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 21, 2010 9:02 AM  
**To:** WTLTestimony  
**Cc:** anmevans@gmail.com  
**Subject:** Testimony for SB2547 on 2/22/2010 3:00:00 PM

Testimony for WTL 2/22/2010 3:00:00 PM SB2547

Conference room: 229  
Testifier position: support  
Testifier will be present: No  
Submitted by: Martha Evans  
Organization: Individual  
Address: 539 Akolu Place Lanai City, HI 96763  
Phone: 808 565-6944  
E-mail: [anmevans@gmail.com](mailto:anmevans@gmail.com)  
Submitted on: 2/21/2010

Comments:  
~~COMMITTEE ON WATER LAND AND OCEAN RESOURCES Representative Ken Ito, Chair, Representative Sharon E. Har, Vice Chair~~

Submitted by:  
Martha Evans  
P.O. Box 630374  
539 Akolu Place  
Lana`i City, HI 96763  
808/565-6944

I STRONGLY SUPPORT SB 2547 for the following reasons:

- This measure would amend § 200-9, Purpose and use of state boat harbors, by requiring commercial tour operators, who financially benefit from transporting fare-paying customers between islands, to comply with laws and rules in force on land dedicated to public use that are "used" by their passengers during the tour.
- While most if not all parks in our state are regulated by state or county rules and regulations, not all the costs of maintaining those parks are supported by public funds. This measure would provide notice to those who would abuse lands dedicated to public use - but supported by private funds - that they must abide by properly adopted rules regulating the use of park lands made available, for whatever reason, by a private landowner, or risk losing the annual commercial use permit the state boating division provides to them.

This amendment to § 200-9 may be considered a "fair share" measure, and I urge you to SUPPORT it.

Thank you for this opportunity to testify to your Committee.

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 21, 2010 9:04 AM  
**To:** WTLTestimony  
**Cc:** anmevans@gmail.com  
**Subject:** Testimony for SB2547 on 2/22/2010 3:00:00 PM

Testimony for WTL 2/22/2010 3:00:00 PM SB2547

Conference room: 229  
Testifier position: support  
Testifier will be present: No  
Submitted by: Andrew Evans  
Organization: Individual  
Address: 539 Akolu Place Lanai City, HI 96763  
Phone: 808 565-6944  
E-mail: [anmevans@gmail.com](mailto:anmevans@gmail.com)  
Submitted on: 2/21/2010

Comments:  
~~COMMITTEE ON WATER LAND AND OCEAN RESOURCES Representative Ken Ito, Chair, Representative Sharon E. Har, Vice Chair~~

Submitted by:  
Andrew Evans  
P.O. Box 630374  
539 Akolu Place  
Lana`i City, HI 96763  
808/565-6944

I STRONGLY SUPPORT SB 2547 for the following reasons:

- This measure would amend &#167; 200-9, Purpose and use of state boat harbors, by requiring commercial tour operators, who financially benefit from transporting fare-paying customers between islands, to comply with laws and rules in force on land dedicated to public use that are "used" by their passengers during the tour.
- While most if not all parks in our state are regulated by state or county rules and regulations, not all the costs of maintaining those parks are supported by public funds. This measure would provide notice to those who would abuse lands dedicated to public use - but supported by private funds - that they must abide by properly adopted rules regulating the use of park lands made available, for whatever reason, by a private landowner, or risk losing the annual commercial use permit the state boating division provides to them.

This amendment to &#167;200-9 may be considered a "fair share" measure, and I urge you to SUPPORT it.

Thank you for this opportunity to testify to your Committee.

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 21, 2010 9:05 AM  
**To:** WTLTestimony  
**Cc:** anelamarie@gmail.com  
**Subject:** Testimony for SB2547 on 2/22/2010 3:00:00 PM

Testimony for WTL 2/22/2010 3:00:00 PM SB2547

Conference room: 229  
Testifier position: support  
Testifier will be present: No  
Submitted by: Anela Evans  
Organization: Individual  
Address: 539 Akolu Place Lanai City, HI 96763  
Phone: 808 565-6944  
E-mail: [anelamarie@gmail.com](mailto:anelamarie@gmail.com)  
Submitted on: 2/21/2010

Comments:

~~COMMITTEE ON WATER LAND AND OCEAN RESOURCES Representative Ken Ito, Chair, Representative Sharon E. Har, Vice Chair~~

Submitted by:  
Anela Evans  
P.O. Box 630374  
539 Akolu Place  
Lana`i City, HI 96763  
808/565-6944

I STRONGLY SUPPORT SB 2547 for the following reasons:

- This measure would amend § 200-9, Purpose and use of state boat harbors, by requiring commercial tour operators, who financially benefit from transporting fare-paying customers between islands, to comply with laws and rules in force on land dedicated to public use that are "used" by their passengers during the tour.
- While most if not all parks in our state are regulated by state or county rules and regulations, not all the costs of maintaining those parks are supported by public funds. This measure would provide notice to those who would abuse lands dedicated to public use - but supported by private funds - that they must abide by properly adopted rules regulating the use of park lands made available, for whatever reason, by a private landowner, or risk losing the annual commercial use permit the state boating division provides to them.

This amendment to § 200-9 may be considered a "fair share" measure, and I urge you to SUPPORT it.

Thank you for this opportunity to testify to your Committee.

## Testimony SB 2547

Testimony to Senate WTL Committee  
Senator Clayton Hee, Chair  
Senator Jill Tokuda, Vice Chair

February 22, 2010  
3:00 PM Conf Room 229

Subject: **SB 2547 Relating to Harbors**  
**Bill Caldwell**  
**Speaking in Strong Support**

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

My name is Bill Caldwell, President of Hone Heke Corporation dba Expeditions-The Maui-Lana`I Ferry, which is a regulated Water Carrier, by the Public Utilities Commission since 1990. I am speaking in **Strong Support of SB 2547**.

**Hulopoe Beach is Lana`i's only publicly-accessible, facility-friendly beach;** however, within the past number of years, this valuable resource has been threatened by the overuse of commercial operators other than the ferry. There have been too many times when its limited facilities are over-used and abused by unregulated scheduled commercial operators in Manele Harbor. Sometimes these vessels use the ferry loading area, thereby causing the ferry to be delayed as we have to wait for them to depart before docking. These commercial operators are ignoring the Hulopoe Beach Park Rules and we feel it is unfair to Expeditions that they claim to be like the "Ferry".

The recently renovated Manele Small Boat Harbor and ferry facility, the adjacent Hulopoe Beach Park are frequently overrun by several tour boat operators from the Island of Maui 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 claiming to be like the passenger ferry, Expeditions.

**We humbly ask you to please pass SB 2547 for the People of Lanai**

Mahalo for your consideration of my testimony.

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

Sincerely,  
Bill Caldwell  
808-661-3756 ext.906  
bill@go-lanai.com

**COMMITTEE ON WATER LAND, AGRICULTURE AND HAWAIIAN AFFAIRS**

Senator Clayton Hee, Chair, Senator Jill N. Tokuda, Vice Chair

Submitted by:

Beverly R. Zigmond, D.N.  
P.O. Box 631067  
789-A 9<sup>th</sup> Street  
Lana'i City, Hawaii 96763  
565.6633

---

I **STRONGLY SUPPORT SB 2547** for the following reasons:

- This measure would amend § 200-9, Purpose and use of state boat harbors, by requiring commercial tour operators, who financially benefit from transporting fare-paying customers between islands, to comply with laws and rules in force on land dedicated to public use that are “used” by their passengers during the tour.
- While most if not all parks in our state are regulated by state or county rules and regulations, not all the costs of maintaining those parks are supported by public funds. This measure would provide notice to those who would abuse lands dedicated to public use – but supported by private funds – that they must abide by properly adopted rules regulating the use of park lands made available, for whatever reason, by a private landowner, or risk losing the annual commercial use permit the state boating division provides to them.

This amendment to §200-9 may be considered a “fair share” measure, and I urge you to **SUPPORT** it.

Thank you for this opportunity to testify to your Committee.

*Beverly R. Zigmond, D.N.*

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 21, 2010 1:28 PM  
**To:** WTLTestimony  
**Cc:** Madlure@hotmail.com  
**Subject:** Testimony for SB2547 on 2/22/2010 3:00:00 PM

Testimony for WTL 2/22/2010 3:00:00 PM SB2547

Conference room: 229  
Testifier position: support  
Testifier will be present: No  
Submitted by: Ricky etrata  
Organization: Individual  
Address: 1572 s. hoalauna place Lanai city, hawaii  
Phone: 649-9511  
E-mail: [Madlure@hotmail.com](mailto:Madlure@hotmail.com)  
Submitted on: 2/21/2010

Comments:

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

February 22, 2010  
3:00 PM Conf Room 229

Jonona Mamolani Alconcel  
Speaking in **Very Strong Support of SB 2547**

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

My name is Jonona Alconcel. I am a Lanai resident for over 50 years. I am speaking in **Very Strong Support of SB 2547.**

**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 unregulated commercial operators that are ignoring the Hulopoe Beach Park Rules.

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 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. **Please support this legislation SB 2547**

**Please note: the following language --** which was agreed upon by Lana'i residents, the Hulopoe Beach Park Council and Castle & Cooke, should have been substituted into HB 2492 **which we offer as an amendment:**

“As a condition of any permit issued pursuant to this chapter, a permittee who, in the course of providing an excursion involving use of boating facilities within the state of Hawaii, disembarks fare paying passengers with the expectation that they enter upon any public or quasi-public real property before conclusion of the excursion, shall be required to comply with all rules and regulations including permitting requirements that may govern such entry.”

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.

**We humbly ask you to please pass SB 2547 for the People of Lanai**

Mahalo for your consideration of my testimony.

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

Sincerely,

Name, Jonona M Alconcel

Phone #808-559-0369

Email Address: [pkalconcel@yahoo.com](mailto:pkalconcel@yahoo.com)



---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 21, 2010 1:42 PM  
**To:** WTLTestimony  
**Cc:** makanaakua@hotmail.com  
**Subject:** Testimony for SB2547 on 2/22/2010 3:00:00 PM

Testimony for WTL 2/22/2010 3:00:00 PM SB2547

Conference room: 229  
Testifier position: support  
Testifier will be present: Yes  
Submitted by: Yasha-Ann Kahananui-Peralta  
Organization: Individual  
Address: 457 Kamoku Street Lanai City, HI. 96763  
Phone: 808-559-0040  
E-mail: [makanaakua@hotmail.com](mailto:makanaakua@hotmail.com)  
Submitted on: 2/21/2010

**Comments:**

My family, and I have lived on the island of Lana'i for 10 years. We have definately seen the changes to the Hulopoe beach park. It has become so overcrowded by many unsupervised tour boat patrons, that it has driven us away from utilizing the only publicly accessible beach park.

It saddens me that within the past few years my children have not been able to enjoy the beauty of Hulopoe beach. I have become afraid for their safety due to the overcrowding. We feel that we have been forced out of Lana'i's only beach park with facilities, and have been forced to make due with other beaches that are nbot properly equipted, and are rather hard to access.

Our weekend shoreline fishing, camping, and family picnics has deminished from the Hulope beach park for a lot of our residents. This has created an uneasy feeling for most of us island residents.

We humbly ask for your support in saving our beach park from overcrowding. Please support bill HB2547.

Thank-you in advance for your time.

Yasha-Ann Kahananui-Peralta  
Lanai Resident

**TESTIMONY**

**SB 2547**

**(END)**