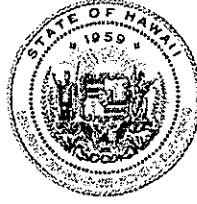
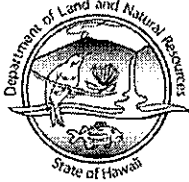


SB 817

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

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

**Saturday, February 12, 2011
10:00 AM
State Capitol, Conference Room 225**

**In consideration of
SENATE BILL 817
RELATING TO KAHOO LAWE ISLAND RESERVE**

Senate Bill 817 proposes to add the Island of Molokini and up to 2 miles of submerged lands and waters surrounding Molokini, to the Kahoolawe Island Reserve (Reserve). This bill also proposes to regulate fishing in the Reserve by administrative rules. While the Department of Land and Natural Resources (Department) is aware of the Reserve's importance, it nonetheless cannot support this measure.

The Island of Kahoolawe is just 7 nautical miles (1nm = 6,076 feet) from the Island of Maui, and Molokini Island is just a little over 2 nautical miles from Maui. As proposed, this extension of the Reserve would then encompass all of the Alaalakeiki Channel waters between Kahoolawe and Molokini, and the waters between Molokini to very near the shoreline of Maui. To prohibit fishing in these waters would unfairly subject commercial and recreational fishers to increased restrictions to their activity.

The Department has not been approached to discuss this proposal. Particularly, Molokini and its surrounding waters are managed as an Marine Life Conservation District under Chapter 13-31, Hawaii Administrative Rule since 1977 (33 years). Since 1995, commercial snorkel and SCUBA tour activity has been regulated successfully by this rule and by the Department's Division of Boating and Ocean Recreation rules. Further the Island is an established state seabird sanctuary. The Department is not aware of how this extension could further the Reserve's mission. As such, it cannot support this measure.

Thank you for this opportunity to provide testimony.

WILLIAM J. AILA, JR.
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
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



SB 817
RELATING TO KAHOOLAWE ISLAND RESERVE
Senate Committee on Hawaiian Affairs
Senate Committee on Water, Land, and Housing

February 12, 2011

10:00 a.m.

Room 225

The Office of Hawaiian Affairs (OHA) **OPPOSES** SB 817. This bill proposes to place Molokini shoal under the jurisdiction of the Kaho'olawe Island Reserve Commission (KIRC).

OHA opposes this bill because the history, community utilization, and stewardship responsibilities required for Kaho'olawe and Molokini are incompatible. Kaho'olawe is a site of cultural rehabilitation and a symbol for the Native Hawaiian community of the struggles endured to begin the restoration of our culture. KIRC's focus is singular in responding to the needs of Kaho'olawe and the visitors who come to learn, restore, and engage in traditional practices. Molokini, on the other hand, while still a site of significance, allows for a great deal of open and public use in the form of casual and commercial snorkeling, diving, and fishing.

This bill would force KIRC to respond to opposite demands for each island. KIRC's current purpose, responding to the complex needs of Kaho'olawe, is challenging enough to implement given declining resources. Adding the responsibility of Molokini would dilute KIRC's focus making it difficult for KIRC to address the stewardship responsibilities and the needs of either location effectively.

OHA urges the committees to **HOLD** this bill. Mahalo nui loa for the opportunity to testify.



Ocean Tourism Coalition

The Voice for Hawaii's Ocean Tourism Industry
Century Square-1188 Bishop St., Ste. 1003
Honolulu, HI 96813-3304
(808) 537-4308 Phone (808) 533-2739 Fax
timlyons@hawaiiantel.net

February 12, 2011

Testimony To: Senate Committee on Hawaiian Affairs
Senator Brickwood Galuteria, Chair

Senate Committee on Water, Land, and Housing
Senator Donovan M. Dela Cruz, Chair

Presented By: Tim Lyons, CAE
Executive Directors

Subject: S.B. 817 – RELATING TO KAHOOLAWE ISLAND RESERVE

Chair Galuteria, Chair Dela Cruz and Members of the Joint Committee:

I am Tim Lyons Executive Director of the Ocean Tourism Coalition and we strongly oppose this bill.

At present, 41 family businesses have permits to operate and take excursions to Molokini Island. This Committee may know that last year a bill was introduced that would have established a \$5.00 per passenger fee on commercial tour operators taking individuals to Molokini. After further discussion, it was determined that there was not a proper nexus for this kind of taxation. It would appear that this bill is only a subterfuge to put Molokini under KIRC so that KIRC can turn around and, either by virtue of this legislation or, future legislation establish fees on operators who go there.

Our industry cannot handle any additional fees. It was only a few years ago that we stepped up to the plate and offered an additional 50% increase in the gross fees that we currently pay. We might remind the Committee that at present, the ocean tourism industry pays a 7% tax on its gross receipts, 4% for the general excise tax and 3% of our gross to operate which is paid to DLNR. Kahoolawe is under DLNR for administrative purposes and it is our feeling that if the legislature deems that Kahoolawe duties and purposes are a sufficient priority that it should be funded out of the general budget and not tax these operators.

Tourists only have a certain amount of discretionary income and they are going to take those extracurricular excursions that fit within their pocketbook. If by virtue of additional fees, our operators need to raise their price beyond what is deemed competitive rates, then tourists are not going to go there and KIRC will not get their income. Based on the above, we cannot recommend this bill and we think it would mean the "death" of 41 family run businesses.

Thank you.

From: mailinglist@capitol.hawaii.gov
To: [WLH Testimony](#)
Cc: talespinner1@gmail.com
Subject: Testimony for SB817 on 2/12/2011 10:00:00 AM
Date: Thursday, February 10, 2011 5:05:01 PM

Testimony for WLH/HWN 2/12/2011 10:00:00 AM SB817

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: Boyd Deel
Organization: Koa Kai Fishing Corp.
Address: 3886 Wailea Ekolu Place Kihei, HI
Phone: 8088745890
E-mail: talespinner1@gmail.com
Submitted on: 2/10/2011

Comments:

I don't believe there are any complaints over the present administration of Molokini. This proposal is simply going to add another layer of bureaucratic make work that is unnecessary. It appears to be a power grab by the Kahoolawe Commission.

**Testimony to the Joint Senate Committees on Water, Land, Agriculture and Hawaiian Affairs
Saturday, February 12, 2011, 10:00am
Conference Room 225**

RE: Senate Bill 817 RELATING TO THE KAHO'OLAWE & Molokini

Chairs Dela Cruz & Galuteria, Vice Chairs Solomon & Ryan and members of the joint committee;

My name is Chip Caldwell. My wife and I are owner/operators of Maui Classic Charters. We operate 2 boats that go from Maalaea Harbor to Molokini.

We are strongly in opposition to SB817.

There is ample evidence that the Kahoolawe Island Reserve Commission, (KIRC), is not equipped to oversee the management of Molokini, and there is really no connection between the Kahoolawe clean-up and the Molokini Marine Preserve.

Before the state levies more taxes to support the Kahoolawe clean-up, it would make sense to see an audit of the funds spent during the past five years.

The HRS 6-K law covering Kahoolawe expressly states that there shall be *no commercial activity*. That alone seems to show how unrealistic the idea of putting these 2 separate areas together as a management zone would be.

The taxes that the state receives from all of the Molokini boats would dry up and that consequence would not be something that the State legislature would want to deal with.

Thank you for allowing us to submit testimony,

Chip Caldwell

President

Maui Classic Charters, Inc.

S. B. NO. 817

I am strongly opposed to the Kaho'olawe Island Reserve Commission being granted control over the island of Molokini and the waters extending seaward two miles from its shoreline.

We presently have Federal fisheries people attempting to manage the bottom fishing industry in the offshore waters of the Hawaiian Islands and the State fisheries people attempting to manage the bottom fishing in the near shore waters, and attempting to coordinate their regulations with the federal rules. These rules and regulations often apply to the same species of fish, differing only by where the fish is caught.

Enacting this legislation would simply install a third layer of bureaucratic red tape and rules for the hapless fisherman, boater, and tour / dive boat operator to sort through. In addition there could be economic considerations if KIRC decides to require additional permits or licenses to use these waters which are presently part of the State domain.

Since the KIRC does not have any bottom fishing in their present jurisdiction does that mean with the passage of this legislation we will also lose the opportunity to bottom fish within 2 miles of Molokini? Will tour and dive boats not be allowed to operate within 2 miles of Molokini? This could be a major impact on many small business owners.

Since KIRC does not allow any bottom fishing in its present jurisdiction they have no demonstrated capability or experienced staff to manage this fishery. Does passage of this legislation mean the state will fund additional staff for the KIRC so they can write new regulations and attempt to manage this very small fishery?

I believe this is bad legislation, proposed for self serving reasons by a small minority of the people of Hawaii. It should not be enacted.

Sincerely

Robert L. Meyer

Testimony in opposition to SB817

SB 817

RELATING TO KAHOOLAWE ISLAND RESERVE.

WLH/HWN, WAM

Places Molokini island under the jurisdiction of the Kahoolawe island reserve commission. Requires the commission to adopt rules to permit fishing in the waters around Molokini island.

Good morning members of the Committee. My name is Michael Trotto and I have been a resident of Kihei, Maui since 1977. Thank you for the opportunity to provide testimony on this measure before you today. I have been a recreational small boat owner & fisherman since purchasing my first boat in 1979. These near shore Maui waters have been a place of great enjoyment for me and many of my friends and family members throughout the years. I truly believe that if this measure passes it will take all of this enjoyment and freedom away from many of the small boat owners and residents of Maui County.

The waters surrounding the Island of Kahoolawe out to two miles from the land has already been restricted to a great extent by the rules and regulations administered by the Kahoolawe Island Reserve Commission (KIRC). Prior to these rules the waters surrounding Kahoolawe were restricted by nature. The high winds and large sea conditions that are prevalent there were sufficient to not allow entry by small boats most of the time.

Now before you is a plan to include Molokini as well as Kahoolawe under these same rules and regulations. I honestly believe that this will cause much distress to the small boat owners and fishermen in Maui. Please consider the magnitude of the proposed area of concern here. "Waters extending seaward two miles from its shoreline" Couple this with the waters extending seaward two miles from Kahoolawe and now, where are we small boat owners supposed to go?

In the early morning hours before daybreak, Molokini light is a navigational point of reference for small boat fishermen heading out to the FADS that are located out beyond Kahoolawe. We need to be free to traverse through these waters surrounding Molokini to get to these areas. Please do not pass legislation that will restrict us from doing so.

In conclusion I think that we should maintain all of our surrounding ocean waters under control by the State Of Hawaii. I believe it to be a very bad policy to transfer control to a private entity. Thank you for your attention to this important matter to the residents of Maui.



Activities & Attractions Association of Hawaii
PO Box 598, Makawao, Hawaii 96768
(808)871-7947 Main (808)877-3104 Fax

**Testimony to the Joint Senate Committees on Water, Land, Agriculture and Hawaiian Affairs
Saturday, February 12, 2011, 10:00am
Conference Room 225**

RE: Senate Bill 817 RELATING TO THE KAHO'OLAWE & Molokini

Chairs Dela Cruz & Galuteria, Vice Chairs Solomon & Ryan and members of the joint committee;

Mahalo for this opportunity to testify, my name is Toni Marie Davis. For the last 13 years it has been my honor to serve the activity & attraction industry of Hawaii through my position as the Executive Director of the Activities & Attractions Association of Hawaii. **A3H strongly opposes SB817.**

I urge you HOLD this Bill in committee. This Bill places Molokini island under the jurisdiction of the Kahoolawe island reserve commission. This Bill addresses permitting fishing in the waters around Molokini and ***completely ignores the 42 vessels that provided daily commercial activities to Molokini.***

Huge void here – is there is a hidden agenda? Either this is for a money grab down the road or an effort to demolish a thriving industry. Or possibly both! Kaho'olawe is looking for money as their 1994 federal appropriation of \$44M has dwindled. We support getting more money to the cause – but not in this ill conceived fashion.

The USCG approved vessels which have been visiting Molokini for 20+ years pay an additional 3% harbor tax over 4% GET (7%) as well as other service and fuel taxes. These businesses employ hundreds of Maui residents. The end of these businesses would have a multiplier economic impact that would devastate many hundreds of families. They are also 90%+ Hawaii resident owned. The profits made by these businesses stays in Hawaii. Due to Molokini's "only reachable" by boat feature the site is in high demand. It is the snorkel & dive destination sought out by visitors.

These businesses are clearly commercial operations. If under Kaho'olawe - ***This is in direct conflict with HRS6-kb regarding the Kaho'olawe district (Commercial uses shall be strictly prohibited.)***

Being heard in the house is HB1223 regarding Kahoolawe Island Reserve; Asset Forfeiture **Description:** Provides for the seizure and forfeiture of a variety of equipment and instruments used or taken in violation of the laws or rules applicable to the island reserve. ***Put these together and not only will these commercial operators be in violation but their vessels and all assets may be seized and forfeited due to the very nature of their business.***

If this is for a money grab down the road, based on principle, shouldn't money from Molokini, whose majority of vessels originates from dilapidated harbor & ramp facilities be provided to another resource? A resource which is off limits for only a select few? Seems wrong! If this were to pass would Molokini now be limited to only a select few? Any money generated from Molokini should go back to this resource and the harbors & ramps providing access.



Activities & Attractions Association of Hawaii
PO Box 598, Makawao, Hawaii 96768
(808)871-7947 Main (808)877-3104 Fax

Kaho'olawe needs money for restoration, we fully support this. Those in leadership positions should be thinking out of the box – working to create new positive solutions. Instead of destroying a thriving environmentally sustainable industry or riding on the shirt tails of others that have worked long and hard to build a successful business.

Kaho'olawe has beautiful pristine reefs along its shores teeming with fish and coral. Designate a use area, clear of undetonated bombs and install manta day use mooring to preserve the reef. Maui Reef Fund and/or Malama Kai (2 not for profit organizations that have worked with the DLNR and Army Core of Engineers) I would think would gladly coordinate this effort at no cost. Many of the Molokini operators already donate their boats, equipment and labor to these efforts. Malama Kai has been involved in the over 200 day use moorings installed in the State. Setting of these moorings minimizes reef damage.

Once a designated area is set, Molokini vessels can market this "only when weather permits" opportunity to visit Kaho'olawe. When possible, these vessels will visit and their customers will pay extra for this new opportunity. Why not have a Kaho'olawe representative board the vessels and collect directly. At the same time, this would provide an opportunity for them to educate the visitors regarding the history and culture of the island.

Mahalo for the opportunity to submit testimony. If you have any questions, please contact me at (808)871-7947 ext. 112 or 1-800-398-9698 ext.112.

Toni Marie Davis

Toni Marie Davis/Executive Director
Activities & Attractions Association of Hawaii

From: mailinglist@capitol.hawaii.gov
To: [WLH Testimony](#)
Cc: robertw@snorkelbob.com
Subject: Testimony for SB817 on 2/12/2011 10:00:00 AM
Date: Thursday, February 10, 2011 8:35:02 AM

Testimony for WLH/HWN 2/12/2011 10:00:00 AM SB817

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: Robert Wintner
Organization: Snorkel Bob's Hawaii
Address:
Phone:
E-mail: robertw@snorkelbob.com
Submitted on: 2/10/2011

Comments:

Molokini Crater should not be open to fishing under any circumstances. It is the only place in Maui County to see large predators, who freely socialize with snorkelers and divers. Nailing a few more fish for a few more dollars will kill a rare remnant of Hawaii's glory. This would be irresponsible, uninformed, inexperienced and tragic. NOWHERE ELSE IN HAWAII HAS BIG JACKS COMING TO CLOSE PROXIMITY! DO NOT SQUANDER THIS RARE TREASURE!

From: mailinglist@capitol.hawaii.gov
To: [WLH Testimony](#)
Cc: tgardner@maui.net
Subject: Testimony for SB817 on 2/12/2011 10:00:00 AM
Date: Wednesday, February 09, 2011 3:42:34 PM

Testimony for WLH/HWN 2/12/2011 10:00:00 AM SB817

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: Tim Gardner
Organization: Maalaea Kai Enterprises, Inc.
Address: 321 Kai Malu Place Wailea, Hi.
Phone: 808 527-2566
E-mail: tgardner@maui.net
Submitted on: 2/9/2011

Comments:

No way! Every year we have to defend ourselves against ill-conceived plans to either regulate, eliminate or further tax our businesses. Do you know how many people come the Maui specifically to go snorkeling at Molokini? Plenty. Hawaii depends on the tourist trade, why make it more difficult if not impossible to stay in business? Tim Gardner, General Manager

From: mailinglist@capitol.hawaii.gov
To: [WLH Testimony](#)
Cc: umi10@aol.com
Subject: Testimony for SB817 on 2/12/2011 10:00:00 AM
Date: Thursday, February 10, 2011 10:19:27 AM

Testimony for WLH/HWN 2/12/2011 10:00:00 AM SB817

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: Jeanne m. Sharp
Organization: Individual
Address: 2718 Puuhoolai St. Kihei, Hi
Phone: 808 385-9920
E-mail: umi10@aol.com
Submitted on: 2/10/2011

Comments:

This is not necessary, DLNR has current jurisdiction over this area.

From: mailinglist@capitol.hawaii.gov
To: [WLH Testimony](#)
Cc: kehautom@gmail.com
Subject: Testimony for SB609 on 2/12/2011 10:00:00 AM
Date: Thursday, February 10, 2011 9:14:17 AM

Testimony for WLH/HWN 2/12/2011 10:00:00 AM SB609

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: Shauna Kehaunani Tom
Organization: Individual
Address:
Phone:
E-mail: kehautom@gmail.com
Submitted on: 2/10/2011

Comments:

From: mailinglist@capitol.hawaii.gov
To: [WLH Testimony](#)
Cc: tgardner@maui.net
Subject: Testimony for SB817 on 2/12/2011 10:00:00 AM
Date: Wednesday, February 09, 2011 3:42:34 PM

Testimony for WLH/HWN 2/12/2011 10:00:00 AM SB817

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: Tim Gardner
Organization: Maalaea Kai Enterprises, Inc.
Address: 321 Kai Malu Place Wailea, HI.
Phone: 808 527-2566
E-mail: tgardner@maui.net
Submitted on: 2/9/2011

Comments:

No way! Every year we have to defend ourselves against ill-conceived plans to either regulate, eliminate or further tax our businesses. Do you know how many people come the Maui specifically to go snorkeling at Molokini? Plenty. Hawaii depends on the tourist trade, why make it more difficult if not impossible to stay in business? Tim Gardner, General Manager

From: mailinglist@capitol.hawaii.gov
To: [WLH Testimony](#)
Cc: info@forthefishes.org
Subject: Testimony for SB817 on 2/12/2011 10:00:00 AM
Date: Thursday, February 10, 2011 8:36:50 AM

Testimony for WLH/HWN 2/12/2011 10:00:00 AM SB817

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: Rene Umberger
Organization: Individual
Address:
Phone:
E-mail: info@forthefishes.org
Submitted on: 2/10/2011

Comments:

Aloha Chairs Galuteria and Dela Cruz, and Committee members.

I am opposed to SB817 because opening fishing in the waters around Molokini will most certainly cause the local extinction of the ulua aukea, the Giant Trevally. As a marine protected area, Molokini has the fish densities required to sustain these giant and magnificent fish. It is one of the few places in the entire state where people can actually view them in their natural habitat and natural behaviors. Highly prized by fishers, they will most certainly be wiped out in no time, as they've been throughout the islands. Please protect these apex predators! Opening one of Hawaii's very few protected areas to fishing is exactly the opposite of what needs to be done to restore the abundance of our seas. Please hold SB817.

Mahalo,
Rene Umberger

From: mailinglist@capitol.hawaii.gov
To: [WLH Testimony](#)
Cc: ashcoftop@aol.com
Subject: Testimony for SB817 on 2/12/2011 10:00:00 AM
Date: Thursday, February 10, 2011 6:26:15 AM

Testimony for WLH/HWN 2/12/2011 10:00:00 AM SB817

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: alfred ching, jr.
Organization: Individual
Address: 2718 puuhoolai st kihei, hi
Phone: 808 385=9919
E-mail: ashcoftop@aol.com
Submitted on: 2/10/2011

Comments:

From: mailinglist@capitol.hawaii.gov
To: [WLH Testimony](#)
Cc: Ftbjs@hotmail.com
Subject: Testimony for SB817 on 2/12/2011 10:00:00 AM
Date: Thursday, February 10, 2011 8:52:57 AM

Testimony for WLH/HWN 2/12/2011 10:00:00 AM SB817

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: Jackie Stuart
Organization: Individual
Address: 50 koki street Kihei, hi 96753
Phone: 808-280-2740
E-mail: Ftbjs@hotmail.com
Submitted on: 2/10/2011

Comments:

Please do not pass this bill. What a mistake it would be for future generations. Think of the bigger, larger picture here.



Indigenous Consultants, LLC

Mililani B. Trask, Principal

P.O.Box 6377 ❖ Hilo, HI 96720

Millani.trask@gmail.com



Senate Bill #817

Hearing: 2-12-11

Room: 225

Time: 10:00 am

Committees: Hawaiian Affairs & WLH

Strongly Support

Aloha Committee Members,

I am happy to support SB 817 Relating to the Kahoolawe Island Reserve.

In recent years, Molokini has become a regular site for tourists and cruise ships. These uses of Molokini have expanded but preservation and protection of other rights of residents, including the cultural fishing rights of native Hawaiians, has been ignored.

This measure is needed to protect Molokini island and to make it part of the Kahoolawe island reserve commission. In the past, the commission has been dominated by a few people who were members of the Protect Kahoolawe Ohana. These people did not adopt rules for the prudent management of the fishing and other natural resources of Kahoolawe island, and did not seek to recognize or maintain Hawaiian fishing rights in the waters off of Kahoolawe. This measure ensures that Molokini will be preserved for the Hawaiian Nation, while also requiring that regulations be made to address fishing off the island.

I thank Senator Kalani English for his support of this effort.

Sincerely,
Mililani B. Trask