

Testimony of
Glenn S. Shiroma

House of Representative
Water, Land and Ocean Recreation Committee
Public Hearing, Friday, February 4, 2011

Testimony in STRONG OPPOSITION

House Bill 1436, RELATING TO HARBORS.

Establishes a working group to pursue the creation of a demonstration project for a private-public framework for the governance of the Honokohau marina and small boat harbor with the oversight and assistance of the division of boating and ocean recreation of DLNR.

Request House Water, Land and Ocean Recreation Committee HOLD HB1436 for failure to address the existing problem of mis-management by Nancy Murphy-Thuet, DoBOR Hawaii District Manager and Ed Underwood, DoBOR Administrator.

The “Problem” is not to pursue a demonstration project for a private-public manage to be known as the Honokohau Marina, but hold Nancy Murphy-Thuet and Ed Underwood accountable.

1. This vessel “DOES NOT” has a valid mooring permit for approximately 7 months but is allowed to be moored at Honokohau Small Boat Harbor. Why..?



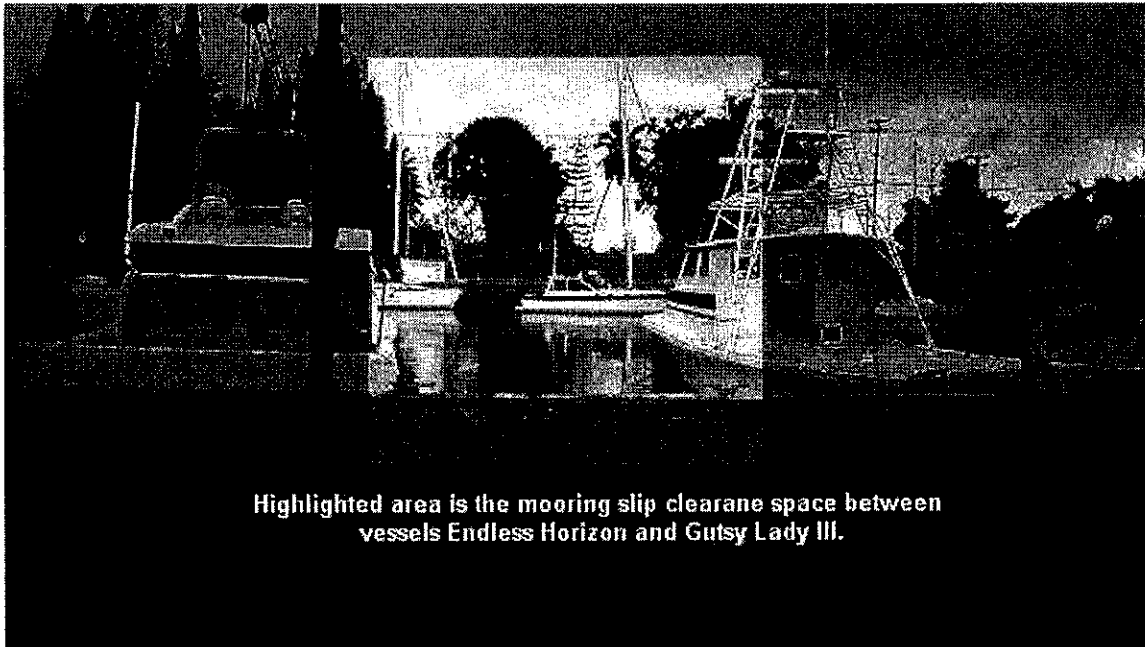
Vessel “El Lobo” formerly known as “Linda”

2. Hiring of Un-Licensed contractor to remove the collapsed Honokohau Small Boat Harbor, Makai Launch Ramp, Loading Dock which fell on morning, Sunday, May 23, 2010.



Rep. Jerry Chang, Rep. Denney Coffman, and Rep. Cindy Evans, all of you were copied by email on June 4, 2010, June 14, 2010 and June 28, 2010 about this problem.

3. Nancy Murphy-Thuett, is denying a 76 years young lady sail-boater for the last 14 months to move into Wailoa Small Boat Harbor, mooring slip 5B (vacant slip) when an application to move was made in December 2009. DoBOR Hawaii Administrative Rules, §13-231-85 Priority and Procedures in Allocation of Berths. An unassigned berth (a berth that is not assigned to a permittee by a regular mooring permit) shall first be offered to the senior applicant holding a regular mooring permit...



Highlighted area is the mooring slip clearance space between vessels Endless Horizon and Gutsy Lady III.

Rep. Jerry Chang, Wailoa SBH is in your 2nd Representative District, I'm requesting your immediate assistance in correcting this problem.

See attached Exhibit A

4. Ed Underwood has failed to address the Attorney General advice that HAR 13-242-26, Passenger User Fees, "CONFLICTS" with US Harbors and Rivers Appropriation Act of 1884.

See attached Exhibit B

5. DoBOR failed to submit and adopt rules for Cruise Ship OFFSHORE ANCHORING FEES since July 1, 1992 after small boat facilities was transferred from Department of Transportation, Harbors Division.

After repeated testimonies, Ed Underwood stated he stopped charging cruise ship OFFSHORE ANCHORING FEES for Kailua-Kona Pier and Lahaina SBH effective on or about April 21, 2010. Each time the cruise ship drops anchor is approximately \$1,000.

Thank you this opportunity to provide testimony.

Cc: Rep. Jerry Chang
Rep. Denny Coffman
Rep. Cindy Evans
Rep. Faye Hanohano
Rep. Cliff Tsuji
Rep. Mark Nakashima
Rep. Sharon Har
Sen. Gilbert Kahele
Sen. Malama Solomon
Sen. Donovan Dela Cruz
William Aila, Jr., Interim DLNR Director
Guy Kaulukukui, DLNR 1st Deputy

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

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BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GLY KAULUKUKU
FIRST DEPUTY

WILLIAM M. TAM
INTERIM DEPUTY DIRECTOR - WATER
EDWARD B. UNDERWOOD
ADMINISTRATOR
DIVISION OF BOATING AND OCEAN RECREATION

**BOR-H 014.11
CERT. MAIL**

January 26, 2011

Keaau, HI 96749

RE: CONDITIONAL REMOOR OFFER - WAILOA SMALL BOAT HARBOR

This is to advise you that slip #39.5 is available for your use at the Wailoa small boat harbor. The slip has been created to accommodate your 21' sailing vessel currently in slip 35. The slip is located between "Gutsy Lady" and "Endless Horizon" which will provide more than adequate space. The owners of the two vessels will be notified that we are relocating your vessel between them. Just as information, we have renumbered the slips within the Wailoa harbor.

This is a one-time offer only. Refusal of this offer will result in your name being removed from the remoor waiting list.

You are advised that Section 13-231-88, Small Boat Harbors Rules and Regulations, provides that intent to accept a Conditional Offer of Available Berth must be received within 14 days of receipt of the offer, and your vessel must be placed in the slip within 14 days of the notice of intent to accept the berth. Failure to comply will result in the slip being offered to the next person on the waiting list and your name being removed from the waiting list. Section 13-231-88 further provides that an extension of time to occupy the slip may be granted upon presentation of evidence that such an extension is reasonable and essential to prevent undue hardship.

Should you accept this offer, the slip is not to be occupied until all paperwork have been completed. Please contact the Wailoa harbor agent at 933-0414 should you have any questions.

Yours very truly
Nancy E. Murphy
Nancy E. Murphy
Hawaii District Manager

ACCEPTED MONDAY JAN. 31, 2011

Cc: Applicant's File
Boating Administrator
Wailoa Harbor Agent

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawaii 96813

November 17, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Requesting final approval of amendments to Chapter 13-242, Hawaii Administrative Rules, as they relate to cruise ship fee increases and requesting authorization to submit the approved rule to the Governor for final adoption.

BACKGROUND: The fees rules packet that was first reviewed by the Land Board on June 22, 2001, included rules that would affect both recreational and commercial fee increases. The Board approved the rules, which were then forwarded to the Governor for permission to proceed to public hearings. Both recreational and commercial rule amendments proceeded to ten public hearings held on October 5, 2002.

Subsequent to the public hearings, amendments to Chapter 13-242 were extracted and forwarded separately.

On April 22, 2005 these Chapter 13-242 amendments went before the Land Board for a second time.

The board approved staff's recommendations to adopt the rules as submitted and grant approval to forward the rules to the Governor for final approval on the condition that, "Before the rules are forwarded to the Governor for final approval, the Division of Boating and Ocean Recreation shall provide the Board a report on their compliance with all Federal laws, specifically the federal Rivers and Harbors Appropriation Act of 1884 so the Board can be assured the Department is in compliance with regards to the projected revenues and how the revenues are used".

Thus the department requested the advise of the Attorney General to comply with the Board's request. The Attorney General advised the department that HAR 13-234-26(b) as written conflicted with federal law, which does not allow differences in fees between intra-state, inter-state or international commerce.

Thus HAR 13-234-26(b) has been amended so that passenger vessels engaged in intra-state, inter-state and international commerce all pay the same \$1.40 user fee each way. All other rule amendments which were approved by the Board at the April 22, 2005 Land Board meeting remain the same.

The Attorney General further advised the department that this change does not require additional public hearings and that the department, with Land Board approval, can forward the rule amendments to the Governor for final approval.

Based on the BLNR's request, the department evaluated the various personnel and other expenses associated with servicing the cruise ships. Below is a break down of various activities undertaken by DOBOR and DOCARE on an average cruise ship call at its two facilities (Lahaina, Maui and Kailua-Kona, Hawaii) currently servicing cruise ships.

STAFF

| | |
|---------------------------------|---|
| District Manager (1) | Coordinates operations both onsite and administratively |
| Enforcement Officer (2/3) | Security |
| Harbor Agent (2) | Booking, scheduling, pier operations, log sheets, coordinates security, traffic control, ground transportation passes, and parking passes |
| Clerk V (1) | Record keeping, processing of passes |
| Accountant Clerk (1) | Invoices, payment entries, record keeping, ground transportation passes, and pier passes |
| Building Maintenance Worker (1) | Repairs to fenders, mooring balls, swim buoys and lanes, and comfort stations |
| General Laborer (1) | Clean pier, restrooms |

The average direct daily expense per cruise ship visit for DOBOR personnel is approximately \$1,200.00. The majority of the expense is overtime related to traffic control at the Lahaina small boat harbor. The cruise ship companies have requested that DOBOR provide traffic control at the Kailua-Kona pier, as well. Should this occur, it will result in a substantial increase in overtime for DOBOR personnel.

Dock side security services last year cost DOBOR approximately \$400,000.

WATER PATROL

Enforcement Officer (2) – Security

We will be instituting periodic water patrols in the near future and this will result in additional expenses that include charges for the DOCARE officers, fuel, and vessel maintenance. The increased cruise ship fees will help to cover these added costs.

MAINTENANCE

General repair and maintenance to facilities used by tenders, docks, restrooms, parking area

Currently, the fendering at the tender dock at Kailua-Kona needs to be repaired and/or replaced. The current bids for the project came in at over \$100,000. This will be an on-going maintenance issue due to the fact that it is an open ocean pier subject to extreme weather conditions.

REST ROOMS

Janitorial Service – Extra cleaning of restrooms

ship visits, DOBOR is considering contracting additional janitorial services for the Kailua-Kona facilities. DOBOR currently has staff perform extra cleaning during cruise ship days but they are unable to keep up with demand.

PARKING CONTROL

Parking Concession/Service - Access control and parking for piers

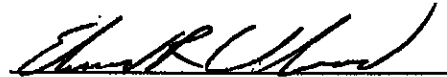
DOBOR has contracted with a parking vendor at the Kailua-Kona pier for approximately \$80,000 per year. The purpose for this is to provide and check point during cruise ship visits as well as provide security at all times throughout the year.

The department has evaluated the fees and believes they are reasonable; likewise, the allocation of revenues cover all costs associated with cruise ship operations by DLNR staff and resources. We believe the proposed fee package address this.

RECOMMENDATION: That the Board:

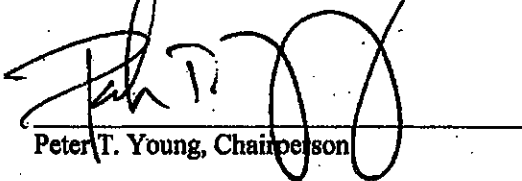
1. Adopt the rules as submitted.
2. Grant approval to forward amendments to Chapter 13-242, Hawaii Administrative Rules to the Governor for final approval.

Respectfully Submitted,



Ed Underwood
Administrator, Division of Boating and Ocean Recreation

APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson