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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 28, 2011 9:18 PM  
**To:** JDLEstimony  
**Cc:** johns.1943@yahoo.com  
**Subject:** Testimony for SB815 on 3/1/2011 9:00:00 AM

**LATE TESTIMONY**

Testimony for JDL 3/1/2011 9:00:00 AM SB815

Conference room: 016  
Testifier position: support  
Testifier will be present: No  
Submitted by: john soliven  
Organization: Individual  
Address:  
Phone:  
E-mail: [johns.1943@yahoo.com](mailto:johns.1943@yahoo.com)  
Submitted on: 2/28/2011

Comments:

All I need to see is Senator Tsutsui support of this measure. I have been on Kanaloa a few times as a volunteer and this project must be completed no matter how long it takes.

**LATE TESTIMONY**

Testimony of  
**KA'IULANI MURPHY**  
Education Specialist  
Polynesian Voyaging Society

Before the Senate Committee on  
**JUDICIARY AND LABOR**

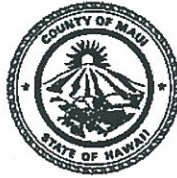
Tuesday, March 1, 2011  
9:00 AM  
State Capitol, Conference Room 016

In consideration of  
**SENATE BILL 815**  
**RELATING TO ASSET FORFEITURE**

I respectfully request that the Committee support Senate Bill 815, which provides for the seizure and forfeiture of various equipment and instruments used or taken in violation of the laws or rules applicable to the Kaho'olawe Island Reserve. This measure would allow for stricter penalties for violators and strengthen the Kaho'olawe Island Reserve Commission's ability to enforce such laws and rules meant to protect the resources of the Reserve.

Mahalo for the opportunity to provide testimony in support of SB 815.

ALAN M. ARAKAWA  
Mayor



**LATE TESTIMONY**

JOHN D. KIM  
Prosecuting Attorney  
ROBERT D. RIVERA  
First Deputy Prosecuting Attorney

**DEPARTMENT OF THE PROSECUTING ATTORNEY**

COUNTY OF MAUI  
150 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
PHONE (808) 270-7777 • FAX (808) 270-7625

CONTACT: RICHARD. K. MINATOYA  
Deputy Prosecuting Attorney  
Supervisor, Appellate, Asset Forfeiture and Administrative Services Division

TESTIMONY OF THE  
DEPARTMENT OF THE PROSECUTING ATTORNEY  
COUNTY OF MAUI

ON  
**SB 815** - RELATING TO ASSET FORFEITURE

MARCH 1, 2011  
9:00 A.M.

The Honorable Clayton Hee  
Chair  
The Honorable Maile S.L. Shimabukuro  
Vice Chair  
and Members  
Senate Committee on Judiciary and Labor

Chair Hee, Vice Chair Shimabukuro and Member of the committee:

The Department of the Prosecuting Attorney, County of Maui supports SB. 815, which provides for asset forfeiture of any equipment, article, instrument, aircraft, vehicle, vessel, business record, or natural resource used or taken in violation of laws or rules applicable to the Kaho'olawe Island Reserve.

Our office is responsible to pursue asset forfeiture proceedings involving the Kaho'olawe Island Reserve. In 2008, we started forfeiture proceedings for a helicopter that was used to land illegally on Kaho'olawe with passengers. Unfortunately, the Carlisle v. One (1) Boat and Tran case was subsequently issued, and the helicopter had to be returned. In addition to the helicopter incident, we consistently receive reports of illegal fishing and other activities on and around Kaho'olawe. This bill will help correct this situation, and serve as an additional deterrent to protect Kaho'olawe's fragile ecology, as well as protect members of the public who may be ignorant of the dangers of unexploded ordinance on and around the island.

The Department of the Prosecuting Attorney requests that this measure be PASSED. Thank you very much for the opportunity to provide this testimony.



**LATE TESTIMONY**

**SB 815**  
**RELATING TO ASSET FORFEITURE**  
Senate Committee on Judiciary and Labor

March 1, 2011

9:00 a.m.

Room: 016

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The Office of Hawaiian Affairs (OHA) **SUPPORTS SB 815**, which would specify that forfeiture laws apply to violations of conservation and resources statutes and rules to protect the Kaho'olawe Island Reserve.

As the Hawai'i Supreme Court found, in *Carlisle v. One (1) Boat*, 119 Hawaii 245, 195 P.3d 117 (2008), authorized enforcement of natural and cultural resource protections cannot include forfeiture of related assets unless forfeiture is specifically and clearly allowed in applicable statutes. This bill's language would meet that intent for the Kaho'olawe Island Reserve Commission's (KIRC's) laws and rules.

It is imperative that the state do everything in its power to protect Hawai'i's treasured natural and cultural resources. The ability to apply forfeiture penalties to such violations within the Kaho'olawe Island Reserve would serve as a critical tool to preserve the resources of this relatively isolated and extremely degraded part of Hawai'i. The possibility of asset forfeiture would also provide a major deterrent to those who seek to harm or pillage Kaho'olawe's environment and cultural resources. The marine and terrestrial components of the Kaho'olawe Island Reserve are beginning to heal from decades of extreme damage, and the KIRC has made such progress in part through the ability of isolation. Isolation can be both a benefit and a detriment to resource protection and conservation, however, if enforcement is not regular, swift and punishing.

This bill provides further clarity to enforcement officers that they have the authority to take away personal property that is being used by perpetrators of Hawai'i's appropriately stringent laws protecting and conserving our natural and cultural resources within the Kaho'olawe Island Reserve.

OHA respectfully urges the committee to PASS SB 815, and we thank the committee for the opportunity to testify.

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



KŪKULU KE EA A KĀNALOA

## **KAHO'OLAWE ISLAND RESERVE COMMISSION**

811 Kolu Street, Suite 201, Wailuku, HI 96793  
Telephone (808) 243-5020 Fax (808) 243-5885  
Website: <http://kahoolawe.hawaii.gov>

# LATE TESTIMONY

COMMISSION MEMBERS

CRAIG NEFF  
*Chairperson*  
AMBER NĀMAKA WHITEHEAD  
*Vice-Chair*  
WILLIAM J. AILA, Jr.  
COLETTE Y. MACHADO  
DAVIANNA P. MC GREGOR, Ph.D.  
MICHELE MCLEAN  
KĀIULANI MURPHY

Michael K. Nāho'opi'i  
*Executive Director*

Testimony of  
**MICHAEL K. NAHO'OPI'I**  
Executive Director

Before the Senate Committee on  
JUDICIARY AND LABOR

Tuesday, March 1, 2011  
9:00 AM  
State Capitol, Conference Room 016

In consideration of  
**SENATE BILL 815**  
RELATING TO ASSET FORFEITURE

Senate Bill 815, 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. The Kaho'olawe Island Reserve Commission (KIRC) **supports** this measure for it would strengthen our enforcement ability and provide the KIRC with another tool to manage the Kaho'olawe Island Reserve (Reserve).

The Hawai'i Supreme Court, in *Carlisle v. One (1) Boat and Tran* (Nov 17, 2008), overturned an Intermediate Court of Appeals decision that allowed asset forfeiture in cases of natural resource destruction – ultimately taking the teeth out of any enforcement rules in place. According to the decision, the penalty sections of DLNR (and, therefore, KIRC) rules must specifically authorize forfeiture.

The KIRC seeks the addition of the forfeiture clause to HRS 6K-8 to increase the penalties for violators, thus strengthening our enforcement capabilities and our protection of the Reserve's resources.



# 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

LATE TESTIMONY

March 1, 2011

Testimony To: Senate Committee on Judiciary and Labor  
Senator Clayton Hee, Chair

Presented By: **Tim Lyons**, CAE  
Executive Director

Subject: **S.B. 815** – RELATING TO ASSET FORFEITURE.

Chair Hee and Members of the Committee:

I am Tim Lyons, Executive Director of the Ocean Tourism Coalition and we have **comments** on this bill.

We are not totally opposed to this bill as written because in this version it only applies to Kaho'olawe. Kaho'olawe cannot have any commercial activity and therefore it is outside of our "realm".

However, as this Committee is aware, there have been attempts last session and this session to place Molokini under the jurisdiction of the Kaho'olawe Island Reserve Commission, meaning that this asset forfeiture provision would also apply to commercial tourism boats that currently have legal and valid permits for excursions to Molokini. That creates a problem for us inasmuch

as we don't think that KIRC is the proper authority to confiscate the commercial vessels of small businesses who are really in no position to be able to defend themselves should the actions be wrong or ill-advised.

Therefore, we would respectfully request that additional language be inserted that provides for certain steps be taken prior to any forfeiture action. Our idea here is that if we are able to communicate violations and educate the violator and they continue to do it, that is one thing however, if it is just a mistake they should not be subject to the forfeiture action.

Based on the above, again, we appreciate the opportunity to comment on this bill.

Thank you.

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**LATE 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

**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 Committee on**  
**JUDICIARY AND LABOR**

**Tuesday, March 1, 2011**  
**9:00 AM**  
**State Capitol, Conference Room 016**

**In consideration of**  
**SENATE BILL 815**  
**RELATING TO ASSET FORFEITURE**

Senate Bill 815 would establish provisions to allow for the seizure and forfeiture of any equipment, article, instrument, aircraft, vehicle, vessel, business record, or natural resource used or taken in violation of the rules applicable to the Kaho'olawe Island Reserve. The Department of Land and Natural Resources **supports** this bill.

In Fiscal Year 2009, The Kaho'olawe Island Reserve Commission implemented a vessel permit and registration process that has raised the awareness of permitted activities within the Reserve. The addition of forfeiture provisions to Section 6K-8, Hawaii Revised Statutes, would greatly increase the penalties for violators, thus strengthening the Department's enforcement capabilities and allowing for greater protection of the Reserve's resources.