

TESTIMONY

HCR 120

Measure Title: REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO CONDUCT A STUDY OF THE COMMERCIAL VESSEL PERMITS IN STATE SMALL BOAT HARBORS INVOLVING OCEAN-RELATED ACTIVITIES FOR OCEAN WATERS BETWEEN KALAELOA POINT AND KAENA POINT.

Report Title: Department of Land and Natural Resources; Kaena Point; Kalaeloa Point; Small Boat Harbors; Commercial Permits

Description:

Companion: [HR91](#)

Package: None

Current Referral: WTL

Introducer(s): JORDAN

<u>Sort by</u> <u>Date</u>		Status Text
4/2/2013	S	Received from House (Hse. Com. No. 388).
4/9/2013	S	Referred to WTL.
4/16/2013	S	The committee(s) on WTL has scheduled a public hearing on 04-19-13 9:45AM in conference room 224.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

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

**Before the Senate Committee on
WATER AND LAND**

**Friday, April 19, 2013
9:45 A.M.**

State Capitol, Conference Room 224

**In consideration of
HOUSE CONCURRENT RESOLUTION 120
REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO
CONDUCT A STUDY OF THE COMMERCIAL VESSEL PERMITS IN STATE SMALL
BOAT HARBORS INVOLVING OCEAN-RELATED ACTIVITIES FOR OCEAN
WATERS BETWEEN KALAELOA POINT AND KAENA POINT.**

House Concurrent Resolution 120 requests the Department of Land and Natural Resources (Department) to conduct a study of the commercial vessel permits in state small boat harbors involving ocean-related activities for ocean waters between Kalaeloa Point and Kaena Point.

The Department appreciates the intent of this resolution and offers the following comments.

The Department notes that there has been no increase in the number of commercial recreational activities originating out of the Waianae Small Boat Harbor because the number of commercial permits authorized for that facility are limited by administrative rules promulgated by the Department. Any increase in commercial activity would require an amendment to the administrative rules which has not occurred.

While Act 289, Session Laws of Hawaii 2012, allows the Department to regulate commercial activities taking place in state waters, the administrative rules need to be drafted and approved in order to implement the statute. Consideration must also be given to federal law because the state does not have the ability to restrict a federally documented vessel from navigating within state waters. Also, the Department does not have the authority to restrict commercial activity originating from public and private property outside its area of jurisdiction.

The Department recommends meeting with the various user groups to discuss the 2009 Waianae Baseline Environmental Study and determine whether an Ocean Recreation Management Area should be created off West Oahu and what types of HAR, if any, should be implemented.

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

ESTHER KIA'AINA
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
KAIKOOLOAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



HCR120

REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO
CONDUCT A STUDY OF THE COMMERCIAL VESSEL PERMITS IN STATE SMALL BOAT
HARBORS INVOLVING OCEAN-RELATED ACTIVITIES FOR OCEAN WATERS BETWEEN
KALAELOA POINT AND KAENA POINT
Senate Committee on Water and Land

April 19, 2013

9:45 a.m.

Room 224

The Office of Hawaiian Affairs (OHA) **SUPPORTS HCR120**, which requests that the Department of Land and Natural Resources (DLNR) take steps to better understand how it may mitigate impacts to cultural practices and resources from increasing commercial boating activities off of West O'ahu, and to evaluate the potential revenues generated from such activities.

Our ocean resources are critical for the continuation of Native Hawaiian culture as well as Hawai'i's kama'āina way of life. Given our island setting, the use of the ocean and the sustainability of our marine resources are critical to the perpetuation of many Native Hawaiian traditional and cultural practices, the subsistence needs of rural communities, and the maintenance of human connections to the 'āina, all of which significantly inform the perpetuation of Native Hawaiian culture as well as Hawai'i's unique local values.

Unfortunately, the proliferation of commercial boating activities in certain rural ocean areas appears to have resulted in increasing conflicts with cultural and recreational uses of the ocean. While our ocean tourism industry does provide benefits to our local economy, ocean tourism and other commercial boating activities should be reasonably managed to avoid unnecessarily disrupting the perpetuation of Hawai'i's host culture, or the marine ecological systems upon which it depends. The state, which holds constitutional responsibilities relating to the protection of Native Hawaiian cultural practices as well as Hawai'i's public lands and natural resources, should likewise share an appropriate level of concern.¹

Accordingly, the commercial boating information presently requested of DLNR in these resolutions should provide further insight as how to best mitigate impacts to our cultural practices and resources from commercial boating activities, while identifying

¹ See, e.g., P.L. 103-150 (1993) ("[T]he Republic of Hawaii . . . ceded 1,800,000 acres of crown, government and public lands of the Kingdom of Hawaii, without the consent of or compensation to the Native Hawaiian people of Hawaii or their sovereign government"); HAW. CONST. ART. XI SEC. 1; see also HAW. CONST. ART. XII SECS. 4, 7.

and accommodating reasonable commercial uses of our ocean areas. In addition, the requested information relating to commercial revenues may be relevant to the ongoing discussion of the public lands trust, which includes nearly all state submerged lands as section 5(b) lands under the Admission Act.² An accurate accounting of such revenues should inform the state's due diligence as a trustee and administrator of these public lands trust lands.

Therefore, OHA urges the Committee to **PASS** HCR120. Mahalo for the opportunity to testify.

² See also HAW. CONST. ART. XII SEC. 4; Act 178, SESS. L. OF HAWAI'I 2006, Governor's Executive Order 06-06.

Piikea Tomczyk

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, April 16, 2013 2:05 PM
To: WTLTestimony
Cc: rezentesc@aol.com
Subject: Submitted testimony for HCR120 on Apr 19, 2013 09:45AM

HCR120

Submitted on: 4/16/2013

Testimony for WTL on Apr 19, 2013 09:45AM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Cynthia K.L. Rezendes	Individual	Support	No

Comments: Aloha Chair Solomon and members of the committee, I urge your support of this measure to authorize a study be conducted on the efficacy of Act 6 (SLH2005) and Act 289 (SLH2012) The continuing and increasing trend of commercial near shore activities threatens local personal and commercial use of areas once known for fish aggregation or recreational use. Many of our near shore waters have now become more of a visitor industry versus allowing local subsistence gathering or usage for traditional enjoyment. While it is appropriate that we share our treasures with others, it should not be to the detriment of time-honored tradition and to the detriment of those who have relied upon historic uses of our near shore waters. It is not uncommon to see 6-10 or more commercial boats with visitors off of the Kahe Point shoreline (not all originating at the Waianae Small Boat Harbor) on a weekend while visitors attempt to experience seeing wildlife in the real world, i.e. dolphins, turtles, other snorkeling flora and fauna. But to what detriment to the natural environment and near shore resources? This trend will continue to grow as KoOlina grows but do we as a State do nothing until we lose our resources as was done in Maunalua Bay until it becomes a major effort to restore those resources, both for the health of the environment and for traditional uses? Let's do the study to make sure we understand what impacts we continue to have as we stress our natural resources more and more. By understanding the scenario of action that is occurring, countermeasures should be able to be established that will allow our visitor industry to experience these precious areas while allowing our local constituents the opportunity to practice their traditional uses of the areas while minimizing potential confrontations as many wish to utilize the resources. Mahalo, Cynthia K.L. Rezendes

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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