

lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 5:29 PM
To: waltestimony
Cc: lynhowe1946@yahoo.com
Subject: *Submitted testimony for HB2226 on Feb 7, 2014 09:00AM*

HB2226

Submitted on: 2/5/2014

Testimony for WAL/OMH on Feb 7, 2014 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Lyn Howe	Individual	Support	No

Comments:

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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**TESTIMONY TO THE JOINT COMMITTEES:
COMMITTEE ON WATER & LAND
COMMITTEE ON OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS**

FRBRUARY 7, 2014 Conference Rm: 325 9:00 AM

Subject: HB 2226 - Keauhou Bay; Ocean Recreation Management Area; Baseline Environmental Study

SUPPORT OF HB 2226

REP. CINDY EVANS, Chair & REP. FAYE HANOHANO and Members of the Committees:

My name is Melynda Dant, I am the Vice President of our third generation family snorkel business in Kona, Fair Wind, Inc. We employ 45 full-time people. We have been running our snorkel and dive company from Keauhou Bay since 1971.

We strongly agree that the state should place a moratorium on the issuance of new commercial use in Keauhou Bay. Currently, DOBOR has a plan to add 7-9 additional moorings to Keauhou Bay. They hired Sea Engineering last year to do a study of the bay to decipher where they can add these moorings. This study cost the state \$160,000. The dollars allocated for the additional moorings installation in the bay should be transferred to conduct a baseline environmental study.

The suggestion to make the bay an ORMA is an appropriate plan. This bay is home of the birthplace of Kamehameha III, and has had both commercial and recreational activities for decades.

As we have been in this bay since 1971, we have seen the start up and continued growth of the canoe club, the growth of the ramp use for commercial as well as recreational, the commercial kayak companies from the beach, the change from moored vessels being sport fishing to majority of vessels being used for snorkeling tours. When the bite is "on" for the fishermen for pole fishing it can get hectic and challenging on the pier. Also when the bay is host for the local triathlon the area is beyond it's maximum and does close businesses from being allowed to run as usual.

The limited parking limits the growth to some degree, but the commercial users have leased a parking area from Keauhou Bay Assoc, who leases land from Kamehameha Schools to provide parking for customers on snorkel tours.

The bay has about six private homes surrounding it. The Sheraton Keauhou Bay Spa & Resort is located on the point of the bay. The Fair Wind Cruises and Hula Kai Charters office as well as a new café, Akule Supply are located at the mouth of this bay. The beach area used for the canoe clubs hale, volleyball and public enjoyment. The King Kamehameha birthplace monument adds the historical interest and draws people also.

Currently the users in this bay are conducting commercial as well as recreational activities by making adjustments and trying to work in harmony. The problems arise when new or additional users such as DOBOR's plan for additional commercial moorings are introduced without realizing the bay is at its maximum use. With a baseline environmental study and further consideration of an ORMA status for Keauhou Bay we can protect the environment and the concerns of the public for this very historical bay on the Kona Coast.

Thank you for you time and attention to our concerns. Please support his bill.

Sincerely,

Melynda Dant
Vice President
Fair Wind Cruises
Kona Sunrise Charters

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 House Committees on
WATER & LAND
and
OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS**

**Friday, February 07, 2014
9:00 A.M.**

State Capitol, Conference Room 325

**In consideration of
HOUSE BILL 2226
RELATING TO OCEAN RECREATION**

House Bill 2226 proposes to authorize a baseline environmental study of the Keauhou Bay area and establishes a moratorium on the issuance of new commercial vessel permits in the area.

The Department of Land and Natural Resources (Department) does not support this measure.

The Keauhou Bay Small Boat Harbor (SBH) was transferred to the Department of Transportation in 1978 and then to the Department in 1992. At the time of the transfer to the Department, the Keauhou Bay SBH had fifteen offshore moorings and four recreational berths. In contrast, according to a 1985 United States (U.S.) Army Corps of Engineers study regarding the State's small craft navigational facilities, Keauhou Bay SBH had twenty four offshore moorings and four recreational berths, all of which were occupied at the time of the study.

Keauhou Bay is located within the West Hawaii Ocean Recreation Management Area and Hawaii Administrative rules have been adopted regarding the management of this facility. In 2013, the Department hired an engineering firm, Sea Engineering, to survey the bay to determine the amount of vessels that could be safely moored in the offshore mooring area and design a new offshore mooring system. The results of the survey showed that some of the vessels that are currently moored in the bay are actually located within the United States Coast Guard (USCG) ingress/egress channel, the existing moorings were haphazardly placed in the bay, the moorings were not properly engineered, there appeared to be coral and live rock damage, and mooring chains were actually wrapped around coral heads.

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
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

As a result of the survey, a new mooring system was created and the new offshore mooring area was designed to ensure that none of the vessels would encroach into the USCG channel. The foot print of the new offshore mooring area is basically the same as the existing one but because the vessels are now moored in an organized fashion we were able to provide an additional seven moorings for recreational vessels.

The study performed by Sea Engineering also included a detailed Marine Resources Survey conducted by marine biologists to inventory the marine environment within Keauhou Bay and determine potential impacts to the environment due to the placement of the proposed moorings. The survey concluded only a minimal effort would be required to relocate corals located near the proposed mooring anchors.

In addition to the Marine Resources Survey, the Department has submitted a permit application to the U.S. Army Corps of Engineers that will be reviewed by federal resource agencies (such as the National Oceanic and Atmospheric Administration, the Environmental Protection Agency, and the U.S. Fish and Wildlife) for comments regarding potential environmental impacts.

Keauhou Bay SBH has a limit of six commercial use permits for vessels moored in the Bay and all permits are currently accounted for. There is one additional "Vessel Moored Elsewhere" commercial use permit that has been issued for the loading dock and the department is not issuing any new commercial use permits for the harbor at this time.

Because of the long history in Keauhou Bay, the recent survey that was conducted by Sea Engineering, and the U.S. Army Corps of Engineers permit application already under environmental review, the Department does not feel that a baseline environmental study is needed.

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 06, 2014 12:35 PM
To: waltestimony
Cc: glennshiroma@hawaiiantel.net
Subject: Submitted testimony for HB2226 on Feb 7, 2014 09:00AM

HB2226

Submitted on: 2/6/2014

Testimony for WAL/OMH on Feb 7, 2014 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Glenn Shiroma	Individual	Support	No

Comments: Testimony in STRONG SUPPORT. DLNR, Division of Boating & Ocean Recreation has gone out of their way to WITHHOLD information of the installation of offshore mooring buoys in Keauhou Bay. Carefully listed to the interview with Gov. Ambercrobie and Sherry Bracken on Saturday, February 1, 2014 regarding Keauhou Bay in West Hawaii.
<http://www.youtube.com/watch?v=YbXg8V2wqbk> Governor understanding of the community concerns at Keauhou is WRONG.

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**TESTIMONY TO THE JOINT COMMITTEES:
COMMITTEE ON WATER & LAND
COMMITTEE ON OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS**

FRBRUARY 7, 2014 Conference Rm: 325 9:00 AM

Subject: HB 2226 - Keauhou Bay; Ocean Recreation Management Area; Baseline Environmental Study

SUPPORT OF HB 2226

Representative, CINDY EVANS, Chair & Representative, FAYE HANOHANO, and Members of the Committees:

My name is Bill Murtagh, I am the sole owner /operator of Li'i Makau, Inc., a Sport Fishing business, which has been operated out of Keauhou Bay, Hawaii. Since 2004.

As I am not fully prepared to give significant, well thought of testimony in regards to HB 2226 at this time, please know I fully support a moratorium being implemented on the issuance of new commercial permits for Keauhou Bay. Additionally, I also believe this HB should include a moratorium on any additional moorings, either recreational or commercial, planned for Keauhou.

I do not only agree and support HB2226 because I am a commercial operator who may possibly for see future competition if additional permits or moorings are allowed.

I have fished recreationally from Keauhou on regular, if not daily basis since 1992, and have witnessed Keauhou change from the safe, enjoyable, special and historical place, to a complete danger zone.

The bay has been at maximum capacity for many years on both commercial and recreational levels, with no intervention from DOBOR despite the request of many individuals, associations, clubs, and those with vested interest in the bay.

Those responsible for the mismanagement and neglect of their responsibilities to properly maintain and protect our resource should be held responsible or required to pay for the environmental study depending on the findings. This would deter future occurrences of violations according to the state's priorities that are listed in order as protect, recreational, then commercialism.

HB 2226 is very much needed, along with many other restrictions and revised rules to ensure our resource is properly maintained and preserved. I am excited to see the beginning of a conscious effort to do just that.

Obviously, I am respectfully requesting all to support HB 2226.

Thank you

Bill Murtagh

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 06, 2014 3:07 PM
To: waltestimony
Cc: teresa.parsons@hawaii.edu
Subject: Submitted testimony for HB2226 on Feb 7, 2014 09:00AM

HB2226

Submitted on: 2/6/2014

Testimony for WAL/OMH on Feb 7, 2014 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Teresa Parsons	Individual	Support	No

Comments: I Strongly Support this measure. Mahalo for bringing this bill to a hearing.

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 06, 2014 3:12 PM
To: waltestimony
Cc: rebeccasaddress@gmail.com
Subject: Submitted testimony for HB2226 on Feb 7, 2014 09:00AM

HB2226

Submitted on: 2/6/2014

Testimony for WAL/OMH on Feb 7, 2014 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Rebecca Melendez	Individual	Oppose	No

Comments: Aloha committee, As you know our country was built on people creating businesses. It was built on freedom and the right to create. If you close keauhou down to the companies who make their livelihood from their through businesses they created you are taking away the foundation this country was built on. You not only will be taking away Hawaiian families jobs away but you will be taking tourist experiences away from thousands and thousands of tourists a year. Again taking away the freedman to truly enjoy the island. Please consider the fact the Hawaiian families who made their lives here will suffer. These companies have proven they can work together in a safe, Aloha spirit manner. I have worked for every company in keauhou throughout the years and I know they all have proven for years now that they are safe and considerate and keauhou is working well with all of them. Keauhou is small and to add more moorings will cause to much congestion and be unsafe. Keauhou is perfect as it is. It represent the Big Island as a small Aloha community. The harbor is made for more cars and boats and there are a lot of places near there for moorings to be built. Please consider the harbor as a safer alternative and please don't take Hawaiian families jobs away. Please don't take people's right to create a business that will not be taken away. They have all proven for years that keauhou is well with them and more will be to many. Add traffic that it can not handle and the feel of the island will change to being more like a cattle run than Aloha island style. Please consider these points. Much Mahalo and Aloha, Rebecca Melendez

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 06, 2014 5:08 PM
To: waltestimony
Cc: alohamicahlindsay@yahoo.com
Subject: Submitted testimony for HB2226 on Feb 7, 2014 09:00AM

HB2226

Submitted on: 2/6/2014

Testimony for WAL/OMH on Feb 7, 2014 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
micah dennis	Individual	Oppose	No

Comments: Aloha, I have been a part of Ocean Safaris Adventures since it's inception. We have always been good custodians of Keauhou Bay and have been sharing our aloha with people from all over the world for as long as I can remember. The businesses that need commercial ramp permits to operate and continue to share aloha with others will just plain not survive if they are shut down for a couple of years. We have all been ambassadors, sharing beautiful sights and experiences with tourists and locals alike. Many families depend on their commercial permits at keauhou to provide all of their income. These are businesses that have become successful with hard work and determination. Please consider these thoughts. Please allow us all to continue to operate out of and take good care

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From: Anna Kelly on behalf of Rep. Nicole Lowen
Sent: Thursday, February 06, 2014 5:28 PM
To: waltestimony
Subject: FW: HB2226... Testimony and questions...Keauhou bay

From: Mike [mailto:mikeinkona@gmail.com]
Sent: Thursday, February 06, 2014 3:18 PM
To: Rep. Nicole Lowen
Subject: Fwd: HB2226... Testimony and questions...Keauhou bay

This is meant as testimony. There is no grandfather provision. I would like it in writing that existing permits are honored and extended. Aloha, mike Dennis

Sent from my iPad

Begin forwarded message:

From: Mike <mikeinkona@gmail.com>
Date: February 6, 2014, 9:42:09 AM HST
To: repevans@capitol.hawaii.gov
Cc: "repreagan@capitol.hawaii.gov" <repreagan@capitol.hawaii.gov>
Subject: HB2226... Testimony and questions...Keauhou bay

Aloha Representative Evans,

I received a copy of HB2226 from our council member Dru Kanuha.

I am the owner of Ocean Safaris Adventures in Keauhou Bay.

We have held a commercial vessel ramp permit since 1995. In fact, we were the first kayak company to obtain a commercial permit in the State.

As bill 2226 is currently written it looks as if I, along with all other long time ocean recreation businesses will be driven out of business by this bill.

You see all commercial ramp permits 'expire' every year. Then, 'new permits' are given.

The way this bill is written is ambiguous. It looks as if we will be denied 'new permits' on expiration of our current permits. I do not believe that this is your intention.

This would have terrible economic impacts on the established businesses here in Keauhou. Not to mention the reliance on the Sherton Keauhou on the activities here. It would be devastating.

The other huge problem with this Bill is this:

Any ramp permit holder on this island can launch at any ramp in the island besides the 'home' ramp where the permittee is supposedly based. This means that even if you put a moratorium on new permits for Keauhou all other permittees from other parts of the island can still operate in Keauhou Bay.

Also, vessels moored elsewhere will not be affected and will operate in Keauhou Bay.

In summary, I believe that this bill, while having a good intention will in effect ruin local business and opportunities for recreation which we offer to visitors and kamaaina alike.

Please contact me at the above email address or call me at: 808-896-4780

Sincerely, Mike Dennis Ocean Safaris Inc. a Hawaii corporation.

Sent from my iPad

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 06, 2014 5:59 PM
To: waltestimony
Cc: keauhoubay@gmail.com
Subject: Submitted testimony for HB2226 on Feb 7, 2014 09:00AM

HB2226

Submitted on: 2/6/2014

Testimony for WAL/OMH on Feb 7, 2014 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Michael	Individual	Support	No

Comments: The moratorium should include both recreational and commercial permits and moorings. An assessment should also include input from property owners on the bay as they as they have an important stake in preserving its integrity and have a unique vantage point for understanding its recreational activities. For example, some living areas of our home are only 50ft from the edge of the bay and related decisions can have a significant impact on our quality of life.

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Aloha Distinguished Representatives,

With regards to House Bill No. 2226, I humbly request that you oppose this bill as written. After close examination and cross referencing this bill with existing laws, it is in contradiction to existing directives provided by the Ocean Recreation Management Area Rules Part 1, 2 and 3 governing waters within the State of Hawai'i. We appeal to your offices to use good judgment and prohibit this bill from moving forward until a closer examination of it's true intentions as well as repercussions of said bill to the people of Keauhou Bay, all small boat harbors state wide, commercial and recreational users throughout the archipelago and cultural practitioners in the Ocean Recreation Management Area can be accurately assessed.

Contradictions in HB 2226 to existing Administrative Rules and points we ask you to consider are as follows:

- Page 1, line items 1-10, section 1, paragraph 1 implies that "growing population and visitor industry are affecting the traditional uses of the area around Keauhou Bay" (It's actually a Small Boat Harbor according to the Administrative Rules, Section 13-231-58 (B)(18).
The fact of the matter is that arbitrary application and enforcement of existing laws governing Keauhou Bay Small Boat Harbor are the root of user conflicts in this area. The mismanagement and disregard for the Hawaii Administrative Procedures Act have brought Keauhou Bay Small Boat Harbor to the Legislative theatre.
- Page 1, line items 11-17, section 1, paragraph 2 states that the legislature should designate "this area" (it's a Small Boat Harbor by rule, Section 13-231-58) as an "Ocean Recreation Management Area to reduce user conflict, maintain overall public safety and to regulate commercial activities..."
13-256-1 (B) orders "all other waters of the State within 3,000 feet seaward of the base line of the territorial sea are established as non-designated Ocean Recreation Management Area subject to this chapter. [EFF Feb. 24, 1994] (AUTH: HRS SS 200-2, 200-3, 200-4)"
In other words, legislature is ordering implementation of a rule that already exists but is not being enforced by Administration, as Keauhou Bay and all State assets within the Small Boat Harbor are never more than 3,000 feet from shore.
- Page 2, line items 2-5, section 1, paragraph 2 clearly states "there is no funding for a base line study to enact the ORMA Rules" (which already exist). However, "legislature intends to identify a funding source". Let's not forget that a \$166,000 feasibility study has already been completed and a \$450,000 RFP has already been awarded to a vendor. Not to mention additional FEMA monies already spent from the 2011 tsunami. How much more taxpayer dollars will be spent on a baseline study that is unnecessary if the existing rules are followed?
- Page 2, line items 6-13, section 1, paragraph 3 states that "the purpose of this act is to place a moratorium on the issuance of new commercial vessel permits in Keauhou Bay Small Boat Harbor and adjacent offshore moorings..." First of all, nowhere in the ORMA Rules governing Keauhou Bay do the "offshore moorings" exist. Is it the intention of legislature to designate these moorings as "offshore"? FYI – there are significant collateral affects of this designation,

including restrictions on swimming, canoeing, diving, installation of additional moorings, etc... Secondly, according to ORMA 13-231-5 "period of validity and renewal of use permits, the Department may issue or renew a use permit for any period up to but not exceeding one year. **Upon expiration of the period state therein, the permit and all rights to the permittee there under shall automatically terminate**". In other words, by an act of law through attrition, over 20 businesses, their employees and their services will become illegal "until the boundaries of a Keauhou Bay ORMA are designated". (According to 13-256-1 (B) they already exist, but are not being enforced).

- Page 2, line items 14-22, section 2, paragraph 1 implies that the Department will not issue any commercial permits beyond "the total number of permits already issued". I would like to pose the question, "Are the permits issued at this time lawful?" "And if not, does this act of legislature ratify their existence outside the existing laws?"
- I will not address Section 3 of HB 2226 as it appears to set the stage for eminent domain by the State for surrounding properties of this fragile resource.

In closing, it appears to me that HB 2226 removes the applicable rules presently in place, pretends to impose a new layer of rules pending funding that will never be procured and in perpetuity assigns arbitrary control to the same people that got us into this mess to begin with.

I can only surmise that whoever wrote this bill had either absolutely no understanding of the Hawai'i Administrative Rules, Title 13, Subtitle 11, Part 1, 2 and 3 or has an intimate understanding of these rules with a specific hidden agenda.

Please stop this bill and use all of your political resources to encourage the DLNR to follow their own, existing rules.