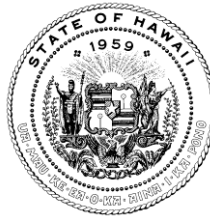


DAVID Y. IGE  
GOVERNOR OF HAWAII



SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA  
FIRST DEPUTY

M. KALEO MANUEL  
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  
SUZANNE D. CASE  
Chairperson**

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

**Wednesday, March 27, 2019  
1:20 P.M.  
State Capitol, Conference Room 229**

**In consideration of  
SENATE CONCURRENT RESOLUTION 209/SENATE RESOLUTION 168  
REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF BOATING AND OCEAN RECREATION TO COLLABORATE WITH  
THE COUNTY OF HAWAII TO IMPROVE AND STREAMLINE THE STATE WATERS  
AND BEACH AND SHORELINE COMMERCIAL USE PERMIT PROCESSES FOR  
KAHALU'U BEACH PARK ON HAWAII ISLAND**

Senate Concurrent Resolution 209/Senate Resolution 168 requests the Department of Land and Natural Resources (Department), Division of Boating and Ocean Recreation (DOBOR), to collaborate with the County of Hawai'i to improve and streamline the State waters and beach, and shoreline commercial use permit processes for Kahalu'u Beach Park on Hawai'i Island. **The Department offers the following comments and amendment.**

Kahalu'u Bay has experienced significant overcrowding in recent years, particularly with the expansion of commercial surf schools and other commercial operations. These operations are launched from the beach at Kahalu'u Beach Park, under the jurisdiction of the County of Hawai'i. Once in the ocean, the activities are under the jurisdiction of DOBOR. This dual governmental oversight has been challenging for everyone – County, State, and commercial operators.

The Department, the County of Hawai'i, and other affected stakeholders have been discussing the issue since at least 2015. The result of discussions was that the County of Hawai'i would take the lead in limiting access to Kahalu'u Bay ocean waters and enforcing those limitations. The County of Hawai'i proposed – and the Department accepted - a limit of four permits for commercial surf schools that would be authorized to conduct surf school instruction from County of Hawai'i property at Kahalu'u Bay. The question of which entities would receive these

commercial permits was obviously important. The County of Hawai‘i planned to select a non-profit entity to solicit surf school bids and select the four permittees.

To implement the plan on the State side, the Department prepared changes to the applicable Hawai‘i Administrative Rules (HAR) section to support the County's initiative. These rule changes first went to the Board of Land and Natural Resources on October 9, 2015. The then-Director and Deputy Director for the Department of Parks and Recreation (DPR), County of Hawai‘i, both testified in support of the proposed HAR amendments.

After adoption of DOBOR’s Kahalu‘u Bay Ocean Waters amendments in 2016, the County of Hawai‘i then created the Kahalu‘u Beach Park Commercial Surfing Instruction Program (Program), whereby the County of Hawai‘i would select the four commercial surf instruction operators through the agreed-upon bidding process. The County of Hawai‘i contracted with The Kohala Center to manage the Program to ensure that permitted schools abide by all laws and do not harm Kahalu‘u Bay marine life.

On March 8, 2019, the current DPR Director and Deputy Director stated to the Department that DPR now intends to authorize all surf schools who meet the minimum requirements to conduct surf instruction from County property at Kahalu‘u Bay, rather than completing the plan previously agreed upon in 2015, which would have authorized only four surf schools.

There are at least seven surf schools that have now received authorization from the County of Hawai‘i to conduct surf school instruction from the beach at Kahalu‘u Beach Park. However, under current DOBOR administrative rules, only four commercial surf instruction operators can be issued a permit for commercial instruction in Kahalu‘u Bay ocean waters.

The Department realizes that this is a complex situation requiring close collaboration with County of Hawai‘i administration. The Department hopes to collaborate with the County of Hawai‘i to identify and pursue the best plan of action to meet both the County and the State’s interest in reaching a balanced solution for community and business that addresses the issues of overcrowding and safety through the commercial permitting process. Once DOBOR and DPR clarify responsibilities, the Department will move forward in addressing the issue, including amending DOBOR administrative rules, if needed.

Lastly, the Department respectfully requests these resolutions be amended as follows:

BE IT RESOLVED by the Senate of the Thirtieth Legislature of the State of Hawaii, Regular Session of 2019, the House of Representatives concurring, that the Division of Boating and Ocean Recreation [~~is requested to collaborate with~~] and the County of Hawai‘i [to] are requested to collaborate to identify and pursue together the best plan of action moving forward given County and State adjacent jurisdictions at Kahalu‘u Bay, to meet both the County and the State’s interest in supporting a balanced solution for community and business to address issues of overcrowding and safety through [improve] improving and [streamline] streamlining the state waters and beach and shoreline commercial use permit processes for Kahalu'u Beach Park; and

Thank you for the opportunity to comment on these measures.



**Department of Land and Natural Resources  
Aha Moku Advisory Committee  
State of Hawaii  
Post Office Box 621  
Honolulu, Hawaii 96809**

Testimony of  
Aha Moku Advisory Committee  
  
Senate Committee on Water and Land  
  
Wednesday, March 27, 2019  
1:20 p.m.  
Conference Room 229

**LATE**

**In Support of SCR 209 and SR 168 with Amendment  
Relating to Kahaluu Beach Park on Hawaii Island – Commercial Use Permit Process**

SCR 209 and SR 168 requests that the Department of Land and Natural Resources (DLNR) collaborate with the County of Hawaii to improve and streamline the State waters and beach and shoreline commercial use permit processes for Kahaluu Beach Park on Hawaii Island. **Aha Moku supports this measure with a requested amendment** in the Be It Resolved Clause as follows:

BE IT RESOLVED, by the Senate of the Thirtieth Legislature of the State of Hawaii, Regular Session of 2019, the House of Representatives concurring, that the Division of Boating and Ocean Recreation [~~is requested to collaborate with~~] and the County of Hawaii [to] are requested to collaborate to identify and pursue together the best plan of action moving forward given County and State adjacent jurisdiction at Kahalu'u Bay, to meet both the County and the State's interest in supporting a balanced solution for community and business to address issues of overcrowding and safety [improve] improving, identifying and **protecting Native Hawaiian cultural and gathering rights and practices, and [streamline] streamlining** the state waters and beach and shoreline commercial use permit processes for Kahalu'u Beach Park; and

Kahaluu Bay is a traditional cultural gathering site for the native Hawaiian that holds great significance to the indigenous people of Hawaii, and particularly to the native Hawaiian communities of the Kahaluu Ahupuaa, and the neighboring ahupuaa of Keauhou on its south side, and Kaumalualu on its north side, all in the Kona Moku of Moku O Keawe (Hawaii). In ancient times, a breakwater was constructed that might have once enclosed the entire bay and remnants of that wall are seen submerged offshore. The Bay was a prime source of fishing, gathering and surfing for Hawaiians and supported the entire ahupua'a. Kahaluu was also the site of at least 10 heiau which was very unusual then and now. The oceanfront and shoreline are also very important areas that are rich in history.

However, Kahaluu Beach and nearshore areas, over the years have succumbed to the demands of tourism. Overcrowding taxes the natural and cultural resources to the point of no return. Further, native Hawaiians who, for generations have gathered, practiced their cultural activities, and cared for the natural and cultural resources of the Bay have been squeezed out of the area by the sheer number of tourists, and the management of the beach and coastal areas given to non-profits who are not from Kahaluu. Finally, because the Kahaluu Bay District was held in such high esteem because of its historic and cultural value by the communities of South Kona, and in fact, the entire Island of Hawaii, it was added to the National Register of Historic Places on December 27, 1974.

Aha Moku believes that the complexity of the management of the commercial activities on Kahaluu Bay, both on land and in the water are major concerns for the residents of the area, including Native Hawaiians, because management currently does not follow the State and County agreed-upon process of allowing only 4 commercial surf instruction operators. The State Division of Boating and Ocean Recreation (DOBOR) has done its best to ensure the safety of snorkelers and surfer, and reduce overcrowding in the ocean, but the difficulty is there when those responsible for the management of the beach and commercial activities allow more than four surf operators. There currently are seven commercial use surf instruction operators in Kahaluu. There is no balance now, and there is a fear among the residents and ahupuaa communities that Kahaluu will soon be so over-run by tourists and commercial entities that it will either become Moku O Keawe's Hanauma Bay (as on Oahu), or decline beyond the ability to be restored unless completely closed off to people until the resources recuperate.

To avoid that last resort, Aha Moku supports the DLNR amendment to SCR 209 and SR 168, as stated above, with the added amendment in **bold "protecting Native Hawaiian cultural and gathering rights and practices"**.

Piilani Kaawaloa, Po'o, Moku O Keawe  
Hawaii State Aha Moku Advisory Committee  
Phone: 808-896-4172  
Email: [Punatita7@yahoo.com](mailto:Punatita7@yahoo.com)

Kawehi Nguyen, Kona Moku Representative  
Hawaii State Aha Moku  
Phone: 808-937-1714  
Email: [knguyen@hawaii.edu](mailto:knguyen@hawaii.edu)

