

①

Testifier List
October 23, 2007

PLEASE PRINT CLEARLY

Angel

- ✓ 1. BILL SANBORN
- ✓ 2. RON DELA CRUZ
- ✓ 3. JIM COHN
- ✓ 4. GINA MARTINEZ
- ✓ 5. RICHARD STILLMAN
- ✓ 6. DAVID LONGACRE
- ✓ 7. DANIEL DIAMOND
- ✓ 8. JEFFRY F. HALVERSON
- ✓ 9. WILLIAM AHYON AKAN
- ✓ 10. ROLLIN FROST
- ✓ 11. JIM McRAE
- ✓ 12. JIM MEDEIROS SR.
- ✓ 13. JAN J. McHEELEY
- ✓ 14. RON SELF
- ✓ 15. EARL LOUIS
- ✓ 16. HANK ELABAN
- ✓ 17. JEFF SACHER
- ✓ 18. MARIE BURNS
- ✓ 19. TERESA L. NAKAMA
- ✓ 20. JAMES MITCHELL

Testifier List
October 23, 2007

PLEASE PRINT CLEARLY

- ✓ 1. Lunakanawai Hanario
- ✓ 2. Michael Buchal
- ✓ 3. John Buckstead
- ✓ 4. Gary Orton
- * 5. Kamealoha Hanuharu-Smith
- ✓ 6. Sepa Tanoai
- ✓ 7. WARREN HAHLBECK
- ✓ 8. George A. Wilbur
- 9. ~~Shirley Himes~~ left already - in favor of Superintendent
- * 10. Leinaala Francette Kulolua - proxy (Mauney)
- ✓ 11. KALANI NAKOA
- ✓ 12. Paul Campbell (Sierra Club)
- ✓ 13. CORY HARIDEN
- ✓ 14. Bill Graham
- 15. Manuel Makahaapu Kulolua
- ✓ 16. Dick Okey
- 17. Marilyn Kollbracht
- 18. MERLE DANKOF
- 19. URSULA EBERN
- 20. VICKI KALMAN

Testifier List
October 23, 2007

PLEASE PRINT CLEARLY

- ✓ 1. GLENNON GINGO
- 2. ✓ Marni Heekes MARNI Heekes
- 3. ✓ KEKAHUNA, ANNETTE L.
- 4. ✓ Shane K. Kekahuna
- 5. ✓ ~~Jack R. Alexander~~ Scott A Bell
- 6. ✓ Adele Vasconcellos
- 7. ✓ Norman Allen
- 8. Anastacia Abeller (Anastacia Abeller)
- 9. Adele McGee
- 10. Roger McGee
- 11. GREG COLDEN.
- ✓ 12. Kaloko-Honokohau National Historical Park (Sally Brantley)
- ✓ 13. FRANK SNOW
- 14. Gretchen Lambeth
- ✓ 15. Ru Carley
- 16. SOHRAB DORABJI
- ✓ 17. Dianne Morgado
- ✓ 18. ~~Kiel Castano~~
- ✓ 19. Stathie Prattas
- ✓ 20. Kalani Makekau-Whittaker

9

Testifier List
October 23, 2007

PLEASE PRINT CLEARLY

- ✓ 1. ~~Trusty~~ Maile Marchil
- ✓ 2. RAY CHAIKIN
- ✓ 3. ISAAC HARP
- ✓ 4. TAMMY HARP
- ✓ 5. Michele LeBlanc
- ✓ 6. Beth Goodwin
- ✓ 7. Stephanie Amick
- 8. Judy Langton
- ✓ 9. Ken Obenski
- ✓ 10. Kanea Gomes
- ✓ 11. Russ Robinson
- ✓ 12. Lisa Dzigas-Cressman
- 13. K. ANGELO PILAGO
- 14. Rick GARNEY
- 15. Jerry Bess
- ✓ 16. GORDANA LEONARD
- ✓ 17. WALT THOMPSON
- ✓ 18. ~~James Adams~~ Oakley
- 19. James Adams Felan
- ✓ 20. Clayton Adams

Testifier List
October 23, 2007

PLEASE PRINT CLEARLY

- ✓ 1. FRIDA ADAMS.
- ✓ 2. Seantree Osage
- 3. Robert Woodward
- 4. Ben Duke
- ✓ 5. MIKE MATSUOKAWA
- 6. Monic Figueroa
- 7. Joe Baratta.
- ✓ 8. Jim Donovan
- 9. ~~K. ANGEL PILAGO~~ - Councilman Dist 8
- 10. Ann Kern
- 11. Alex Munster
- ✓ 12. Hi Kanu o ke Aina NCPAS (Nicole Anakalea Dalton Kileo)
- ✓ 13. CLAUD BAYBAYAN
- ✓ 14. Keala Kahuani
- 15. Kehau Fernandez
- ✓ 16. Michael Ayson, Ph.D.
- ✓ 17. Star Newland, Sirius Institute
- ✓ 18. KEITH JOHNSON
- 19. Tony Comacho
- ✓ 20. GUNNER MENCH
- ✓ Andy Levin

Testifier List

October 23, 2007

6

PLEASE PRINT CLEARLY

✓ 1. SHANNON RUDOLPH

✓ 2. Deanne Swenson

✓ 3. Kelli Sieffle

✓ 4. SAMMIE STANBRO

Myoani
Stein

✓ 5. Michelle Damm Damm

✓ 6. ~~Barna~~ ~~Barrman~~

— 7. Scott Martin

— 8. Heidi CALHOUN

✓ 9. Lisa Long

— 10. Sheryl Henderson

— 11. SANDRA SCARR

— 12. Michael Egan

— 13. Waike Keauhi

14. ~~ANDY LEVIN~~

✓ 15. Charles Flaherty

✓ 16. Deborah Ward

✓ 17. Lee Tepley

✓ 18. Eden Peart

— 19. Jejo Tanimoto

✓ 20. Bo Kahui

Testifier List
October 23, 2007

PLEASE PRINT CLEARLY

- 1. ~~_____~~ ~~_____~~ Ian Kinsey
- 2. ~~_____~~ KEN SHEPPARD.
- ✓ 3. ~~_____~~ Linda Kroll
- ✓ 4. ~~_____~~ KIHEI SOLI NIHEO
- 5. ~~_____~~ RALPH ROLAND
- 6. ~~_____~~ ~~KAALA KAHUANUI~~
- ✓ 7. ~~_____~~ MARK GARLAND
- 8. ~~_____~~ Angela Garland (No to Superfund)
- 9. ~~_____~~ Rex H. Corry
- ✓ 10. ~~_____~~ Tony Pasciuta
- 11. ~~_____~~ Jai Kihori
- 12. ~~_____~~ Kanaa Kimball
- 13. ~~_____~~ ~~_____~~
- 14. ~~_____~~ Coty White
- 15. ~~_____~~ Jere Pennell
- 16. ~~_____~~ MOANIKÉALA AKAKA
- 17. ~~_____~~ Moana Tavares
- 18. ~~_____~~ MAILE DAVID
- ✓ 19. ~~_____~~ KAREN EOFF
- ✓ 20. ~~_____~~ SIMMY McMICHAEL

6

Testifier List
October 23, 2007

PLEASE PRINT CLEARLY

- ✓ 1. Sheryl Iona
- ✓ 2. Keakealani Iona-Duncan
- 3. Liana Carroll
- 4. EODIE ALONZO - HAVE MTG IN HILO
START ABOUT 4:30-5PM
- ✓ 5. Amber Namaka Whitehead
- 6. Tammy Harp
- 7. Isaac Harp
- 8. KUSTI KAWA
- 9. David Shoup
- ✓ 10. Donna Goodale
- 11. Gail Byrne
- 12. JOAN BEAVERS
- 13. ROSE C. ~~SMITH~~ BALL
- 14. MARIA MANN
- 15. CASEY MCCARTY
- 16. ~~DAVID MALONEY~~ David Maloney
- 17. ~~DAVID MALONEY~~
- 18. Danby Armstrong
- 19. Kumuia
- ✓ 20. (KONOHIKI KAWAIA) Abel S. hui^o
KINGDOM OF HAWAII^{oo}

Testifier List
October 23, 2007

PLEASE PRINT CLEARLY

1. Mark Lewis
2. Andrea Alden
3. ~~Mohala~~ Haukani
4. Dr. Alex Leonard
5. Kathleen Kuikahi
6. Shimon Sing
7. Tom David
8. Georgia
9. John Snyder
10. Leah Snyder
11. Star Hellickson
12. Veeva Leibulu "Lota" Mamea
13. LARRY MORRIS
14. Carl Ph.
15. Josephine BARNEY
16. Rebecca Lopes Pontes
17. Anjela Barua
18. Mikahala Roy Kulana Huli Honua
19. ~~KALISTAR~~
20. Josephine Ketiipio

27 October 2007

Aloha mai kākou,

My name is Amber Nāmaka Whitehead. I am a resident of Hawai'i Island, born and raised in Pāpā, South Kona. I am here today to testify in opposition to the convening of a special session to permit Superferry operation prior to the preparation of an environmental impact statement.

I work in the field of Conservation and Natural Resources Management here on Hawai'i Island, and am currently a PhD student in the Botany Department at the University of Hawai'i at Mānoa. As such, I have seen firsthand the impacts of invasive species, population growth, and increased access on the natural and cultural resources of Hawai'i Island. Without strict controls, Superferry operation will facilitate both the increased introduction and spread of invasive species and increased access to and consumption of important natural and cultural resources.

Should the Senate decide to convene a special session, I urge you to consider the establishment of the following operating conditions:

- (1) Mandatory powerwash of the undercarriages of all vehicles, to remove invasive plant seeds, insects, and other biota.
- (2) Restrict the transportation of ATVs, dirt bikes, and other similar recreational vehicles. Such vehicles are often used to trespass into sensitive natural areas.
- (3) Restrict the transportation of significant natural and cultural resources, including but not limited to: imu stones, rockwall material, 'ili'ili, and other pōhaku; maile, and other native vegetation; and 'opihi and other near shore coastal and marine resources.
- (4) Fund and hire of additional DOCARE enforcement staff on Hawai'i Island, Maui, and Kaua'i. Current staffing levels should be at least doubled to accommodate the increased pressure on resources expected due to Superferry operations.

Mahalo nui to the Committees for visiting Kona and considering our mana'o on this Bill. Should the Special Session be held, I urge you to consider first and foremost the health and well-being of our 'āina, and not allow Superferry operation prior to the preparation and acceptance of an environmental impact statement.

Mahalo,

Amber Nāmaka Whitehead, Botanist
Pāpā, Kona Hema, Hawai'i Island
88-1489 B Mamalahoa Hwy. Captain Cook, Hawai'i 96704

Aloha,

I appreciate your making this extra effort to come here to meet with us face-to-face.

I have had many concerns about Hawaii Superferry (HSF). Here are just two:

I question if HSF is truly affordable and convenient for local families. A woman wrote to me saying, "How are these types of prices going to help our local families? This is sooo much more expensive than any of us could have imagined...what could have been a viable way for my family to travel, just got thrown out the window due to expense."

Regarding inspections: Based on the 110 vehicles HSF says they will most likely carry, there will be **32.7 seconds to inspect each vehicle IF** all vehicles check in one hour prior to departure. They say they'll check for Driver License, proof of insurance, vehicle registration, and Vehicle Movement Authorization if applicable. They also have to do agricultural inspections. And they say they will open vehicles' hoods, trunk and back cargo area, look into the wheel wells, under the bumpers and in compartments. This is great! But, seriously, how can this be done thoroughly in 32.7 seconds?

Pin them down on any one of their environmental protection procedures, and I guarantee you'll find huge holes.

As much as I was happy to hear you would be holding these meetings, after reading this 50-page draft of proposed legislation I asked why would take time out of your day and ours to even consider something that accommodates a private business that is already benefiting from State funding and a Federal loan guarantee while at the same time throwing out Chapter 343 of the Hawaii Revised Statutes. This legislation allows Hawaii Superferry to operate without regard to the environmental laws that have served us well for over 30 years. If this legislation is passed, it will greatly affect our environment and our legal process.

The Plaintiffs in the recent court cases went through all the proper channels in the legal process and were successful in obtaining a favorable judgment that said an EA must be performed prior to HSF beginning service. **You are trampling on everyone's constitutional rights if you try to overturn this ruling.**

Due to the Governor apparently trying to change the laws after the fact, the Plaintiffs, in the interest of protecting the State's environment and our environmental laws, submitted 29 conditions to be enacted in the event HSF is allowed to sail while conducting an EA. **NOT ONE** of those conditions is contained anywhere in this document. Apparently, neither the Governor, nor DOT, nor HSF appears to be willing to do ANY kind of negotiating in order to protect our environment or our laws.

And to add insult to injury, this document puts decision-making in the hands of the Governor – the very person who helped create this mess. Isn't that putting the fox in charge of the hen house?

Please, consider the consequences for ^{our} ~~for~~ environment and for ^{our} legal process if a special session is called to bail out a company that made a poor business decision and lost their bet by moving forward with that decision.

And no matter what happens, please **investigate** under what circumstances Governor Lingle and DOT granted the exemption.

Let the Court rulings stand. NO ferry service until an EA is conducted.

Mahalo,
Jeff Sacher
Kawaihae, Big Island

COMMITTEE ON JUDICIARY AND LABOR

Senator Brian T. Taniguchi, Chair
Senator Clayton Hee, Vice Chair

COMMITTEE ON TRANSPORTATION AND INTERNATIONAL AFFAIRS

Senator J. Kalani English, Chair
Senator Mike Gabbard, Vice Chair

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Ron Menor, Chair
Senator Gary L. Hooser, Vice Chair

Aloha Senators,

Thank you for the opportunity to testify about the content of this proposed bill for the operation of the superferry.

This proposed bill seems to have the following main points:

1. This superferry is critical to the state and to the people of the state of Hawaii. No state environmental laws or county regulations will be allowed to affect superferry operations, which will begin as soon as possible.
2. We're going to do an environmental impact statement for the superferry operations, but it will not be allowed to interfere with superferry operation.
3. The governor will determine the terms and conditions of operation for the superferry.

There are certainly benefits from having a superferry operating between islands, but to say it is critical to Hawaii is an exaggeration. We have gotten along fine without it, and there are potential problems that must be addressed. It certainly should have had an EIS early in the process, but that didn't happen. I favor the fast completion of a thorough EIS before operation resumes.

While I respect Governor Lingle, she is a huge booster of the superferry and I have heard her say it is critical to the economy of Hawaii. I'm not comfortable with it operating under her guidance in lieu of an EIS.

I ask you NOT to allow operation prior to the completion of an EIS.

Sincerely,
David Shoup
Kailua Kona

Jojo Tanimoto
P.O. Box 44337
Kawaihae, Hawaii 96743
Cell Phone.: 808-895-5226
Email: Homesteadlady001@yahoo.com

October 23, 2007
Senate Committees
Public Hearing on the Hawaii Superferry
Kealakehe High School
3:00 PM

Aloha and thank you for coming to the Big Island to hear our points of view. My name is Jojo Tanimoto and I live in the Kawaihae Hawaiian Homestead. **I support the concept of the Superferry, but not without an Environmental Impact Study. Whether the ferry should operate while the Environmental Assessment is being done**, is an emotional question because if the court case referred to Kawaihae; my answer would be no.

Kawaihae has been overlooked so many times in the past when it comes to infrastructure that Kawaihae deserves the attention at this time. Most of the support has been for Hilo or Kona; including the environmental data for the cruise ships and roll-on/roll-off services. The ferry system is not new to Kona. I lived in Kona for over 30 years when the hydrofoil left the Kona pier to Oahu. At that time, it was the Chamber of Commerce, the Kona businesses, the Hawaiian Civic Club, the Kailua Village Design and the County Council who were very concerned about the environment, the parking, the traffic, etc. What has changed, the ferry is not going to Kona.

The following issues are of concern to me:

The Hawaii Supreme Court determined that an Environmental Assessment and all secondary impacts be made for all commercial harbors. ***Hurray, and I just want to take this time to thank Maui and Kauai for achieving this success!!*** Although, the ferry is not destined for Kawaihae until 2009, I would like to know will the term "limited period" ending 45 days after the end of the 2009 Legislature take into account the completion of the Kawaihae Harbor, as well? The DOT has crews surveying the Queen Ka'ahumanu Highway at Kawaihae; but the development has been held up pending the construction of the Waimea portion. Perhaps you know that Waimea doesn't want this ByPass, which makes us wonder why the priority cannot be switched in case the ferry comes to Kawaihae. The alternative for the ferry is to go to Hilo.

The creation of a Task Force. I would volunteer. I would watch dog the part of this ACT that allows the Governor to impose conditions and protocols to mitigate environmental effects. The first condition I would seek would be to re-direct the ferry from touring along the coastline where people live. The close proximity to shore allows clear view of nobody at home and no security protection for the homeowners as the ferry passes each subdivision. I would rather

the ferry sail outside/or at the 3 mile boundary because our whales, dolphins and turtles travel close to shore and our children who should be home from school and alone, will be safe from intruders.

The second condition would be to allow the small boats in the harbor; to continue mooring in the harbor until such time as the Legislature and DLNR can fund and construct both small boat harbors at each end. Otherwise, these boats have no where to go and this understanding from many years put undue pressure to move elsewhere. It would help a lot if the confusion of DOT or DLNR boundary authority is completed along with the small boat harbors.

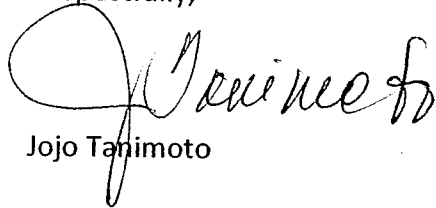
The third condition would be to fund and identify a water resource; and implement construction of infrastructure for the water resource in Kawaihae. Areas, not adjacent to the harbor, have limited resources of water for further development. **One development would be a community center to hold meetings; so meetings like this one can come to Kawaihae and to fight fires in a community where range fires are frequent.**

(Page 6) I would feel comfortable if the term "ONLY" was included indicating that this NEW Policy will be the last mistake with regard to Hawaii's environmental values.

(Page 16) I don't think having the Agricultural inspectors on the boat will achieve as much success as inspecting each vehicle at the entry point. The primary focus is not to ship the invasive species at all.

Other than how much will be paid for the submerged lands; I would again like to thank you for the opportunity to share my concerns.

Respectfully,

A handwritten signature in cursive script, appearing to read "Jojo Tanimoto". The signature is written in black ink and is positioned above the printed name.

Jojo Tanimoto

Aloha,

10/23/07

My name is Keoni Walters and I am against running the Ferry.

I have been voluntarily participating in the Division of Aquatic Resources, Uluu/Papio, and recently Moi, tag and release project here on my home island since October of 2003. I have been letting all my fish go tagged or not, have 400+ tagged, released and documented in my area. This project expanded to include DNA sampling of Papios/Uluas/Moi, of which I have submitted samples for study.

I try hard to protect our natural resources against degradation, abuse, and neglect. I've filled trash bags with flotsam/jetsam collected on the Kawaihae Small Boat Basin beach, shoveled sand off the Hapuna Beach sidewalk behind the north tower, repeatedly complained of illegal sand dumping on the resort (which still was occurring after initial reply by DLNR stating to me that "be happy it's going back into the ocean" when it is actually burying active tidepools that had no sand).

I feel that I have the bigger picture in mind when I say that the SuperFerry will bring about negative impacts to the unique natural environment of this island. Within a year of startup to Kawaihae all my research spots will be overfished and will have wasted years and thousands of dollars, along with making what is currently a healthy ecosystem into a aquatic desert (like a couple spots on the coast already).

I have some understanding of the economic impacts not allowing the Ferry would cause, but THIS IS HAWAII, we can't afford to overlook the environment to make a quick buck. They are already doing it here and DLNR can't keep up with enforcement- and you want to put an officer at the Ferry terminal, put him on the road enforcing. We have enough problems with invasive species already, they are bound to spread to other islands in no time- it is not the right thing to do. I've seen jellyfish in the harbor that I know came from ballast water from barges- cause we don't have them locally.

Speaking of, the harbor is trashed and has been neglected for years before '06 earthquake. The dock is in worse shape then shown, and I know there's a meeting tomorrow about it- interesting timing if you ask me. Still, it shows a lack of priority with the appropriate parties. There is no Danger signage, barriers or even attempts to clean/clear dangerous damaging debris. Somebody's going to get sued - it's easy money to get injured on the damaged dock.

Who will pay when the environment and our way of life decays? Not the Oahu, Maui, Kauai people- US, the people of Hawaii Island and our unfortunate, often disregarded ecological treasure we call HOME.

Keoni Walters
Box 1741
Honoka'a, HI 96727
808 775-1491



LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF AQUATIC RESOURCES
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

January 2, 2007

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
DEPUTY DIRECTOR - LAND

DEAN NAKANO
ACTING 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

Dear Volunteer Angler,

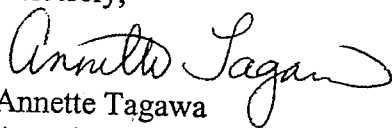
Thank you very much for all the time and effort you've put in as a volunteer angler for DAR's Ulua Tagging Project. Along with 2000 anglers statewide, you have shown that Hawaii's fishermen care very much about their fishery resources and are more than willing to help take better care of our ulua and papio fishery by gathering the information necessary for DAR to better manage these species for now and future generations. Because of all of our volunteer anglers' combined efforts, in only 6 short years, you've managed to help us gather a lifetime worth of data and information, some of which was previously unknown about Hawaii's ulua and papio resources. It is anglers like you that have made this one of the most successful volunteer angler-based tagging projects ever.

As of 2005 the Ulua Tagging Project has accumulated enough tag and recapture data to begin work on assessing the omilu (*Caranx melampygius*) populations. With the current level of volunteer effort, it has been determined that by the end of 2007, there should be enough tag and recapture data collected to assess the white ulua/papio (*Caranx ignobilis*) populations also. The stock assessments for these two species will assist DAR with updating its management regimen for the ulua and papio fishery.

We will continue to distribute tagging kits until December 31, 2007 in order to obtain the amount of data necessary to conduct a stock assessment for the white ulua/papio species. At this time DAR will no longer be acquiring any new volunteer anglers for the project. Tags will continue to be distributed on a limited basis to those anglers that already possess a tagging kit. All further tag and recapture efforts will be refocused toward helping us to monitor the ulua and papio fishery as we update management strategies for these species. We will continue to collect and process whatever tag and recapture data comes in after 2007 and honor all recaptures that are reported.

We truly appreciate all the aloha and generous support you've given to the Ulua Tagging Project and for your unique and valuable insight on Hawaii's ulua and papio fishery. We hope to use all the knowledge and information gained from this project to enhance our understanding on the biology of the ulua and papio species which will assist DAR in better managing the ulua and papio fishery for everyone. Again, thank you for participating as a volunteer angler and we hope that we can work with you again in some capacity on another future project.

Sincerely,


Annette Tagawa
Aquatic Biologist

used

NO POSTAGE NECESSARY

| DATE | TAG NO. | SPECIES | FORK LENGTH | TIME | LOCATION CAUGHT/ |
|---------|---------|----------------------|-------------|--------|------------------------------|
| 3/01/07 | P35966 | Muraechi pupa Fly | 12.0 | 303 pm | Hapuna Beach North side |
| 3/01/07 | P35967 | omilol " Fly " | 11.5 | 334 pm | Mauna Kea Beach South end |
| " | P35968 | Omilo " Fly " | 6.75 | 352 pm | " " |
| " | P35969 | omilo " Fly " | 7.75 | 424 pm | Mauna Kea Beach North end |
| " | P35970 | " " | 7.0 | 436 pm | " " " |

239-12/1/05

+ 118 3/1/07

357 357 from 10/17/0
3.5 yrs

Please check here to request more tags. Quantity _____

Recaptured 7/6/07 8.25 436 pm " " "

Please record information and return by mail when all tags have been used

NO POSTAGE NECESSARY

| DATE | TAG NO. | SPECIES | FORK LENGTH | TIME | LOCATION CAUGHT/ |
|-------------------------------|---------|----------------------|-------------|--------|-----------------------|
| 3/1/07 | P35971 | Muraechi pupa Fly | 13.0 | 624 pm | Hapuna Beach North |
| 3/6/07 | P35972 | omilol " Fly " | 25.0 | 503 pm | Hapuna Beach North |
| P35973 DNA sampled | | | | | |
| P35974 | | | | | |
| P35975 | | | | | |

359

Please check here to request more tags. Quantity _____

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF AQUATIC RESOURCES
1151 PUNCHBOWL STREET, ROOM 330
HONOLULU, HAWAII 96813

ALLAN A. SMITH
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
DEPUTY DIRECTOR - LAND

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

May 17, 2007

Dear Keoni Walters

Thank you for your participation in the Aquatic Resources' "Ulua Tagging Project". Fishermen's support and concern is essential to the success of this project. The information gathered through this project will help improve and strengthen resources for future generations to enjoy.

All fishermen who participate in this program whether tagging or in recovery of fish will be given information pertaining to that particular fish. Periodic recaps of the project will be published in our "Ulua Tagging" newsletter available at various sporting goods stores or published in the Hawaii Fishing News. In the near future we plan to establish a web site in conjunction with the DLNR web page.

Tagging information for Tag No. **P35943**

Species: **omilu**

| Release Date | Release Location | Fork Length Tagged | Growth Inches | Days Free | Miles Traveled | Tagged By |
|--------------|-----------------------|--------------------|---------------|-----------|----------------|---------------|
| 7/7/2006 | Mauna Kea Beach South | 9.5 | 2.25 | 305 | < 1 | Keoni Walters |

***Award Item**

L T-shirt

| Recovery Date | Recovery Location | Fork Length Recovered |
|---------------|-------------------|-----------------------|
| 5/8/2007 | Mauna Kea - South | 11.75 |

We would like to award to you with the above mentioned item as a token of our appreciation for your participation. Again thank you for your time and effort on this project. If you should have any questions or would like more information, please feel free to call Annette Tagawa or Clay Tam at (808) 587-0593 with the Division of Aquatic Resources' "Ulua Tagging Project". Have a great fishing season!

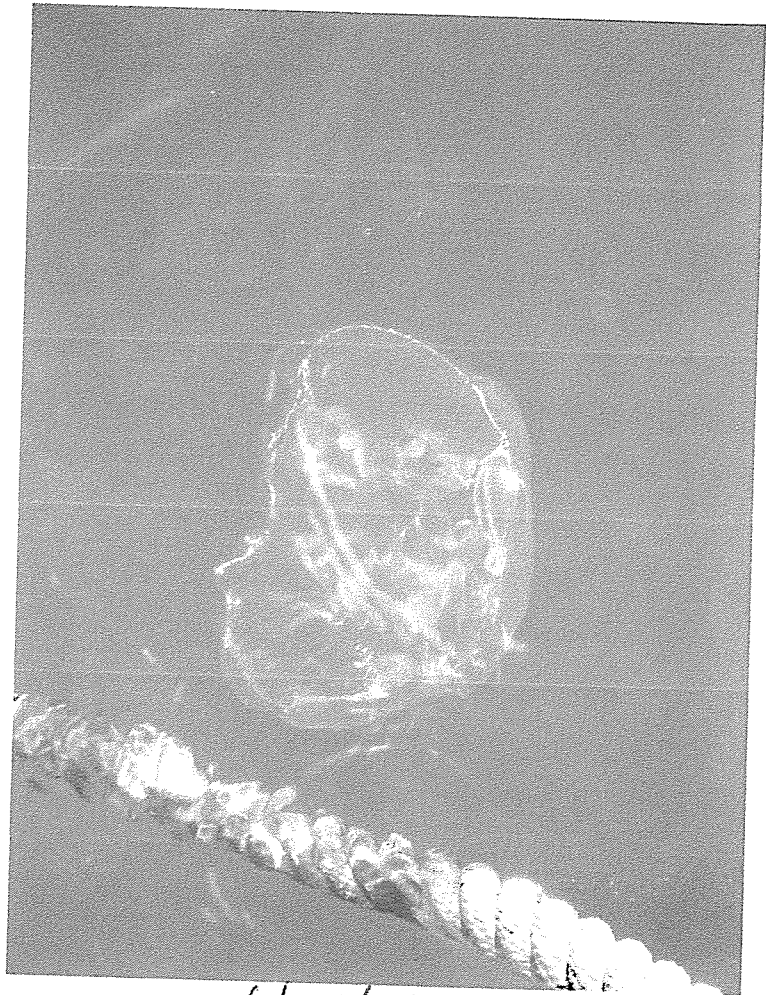
Sincerely,

A handwritten signature in cursive script that reads "Annette Tagawa".

Annette Tagawa
Ulua Tagging Project Coordinator



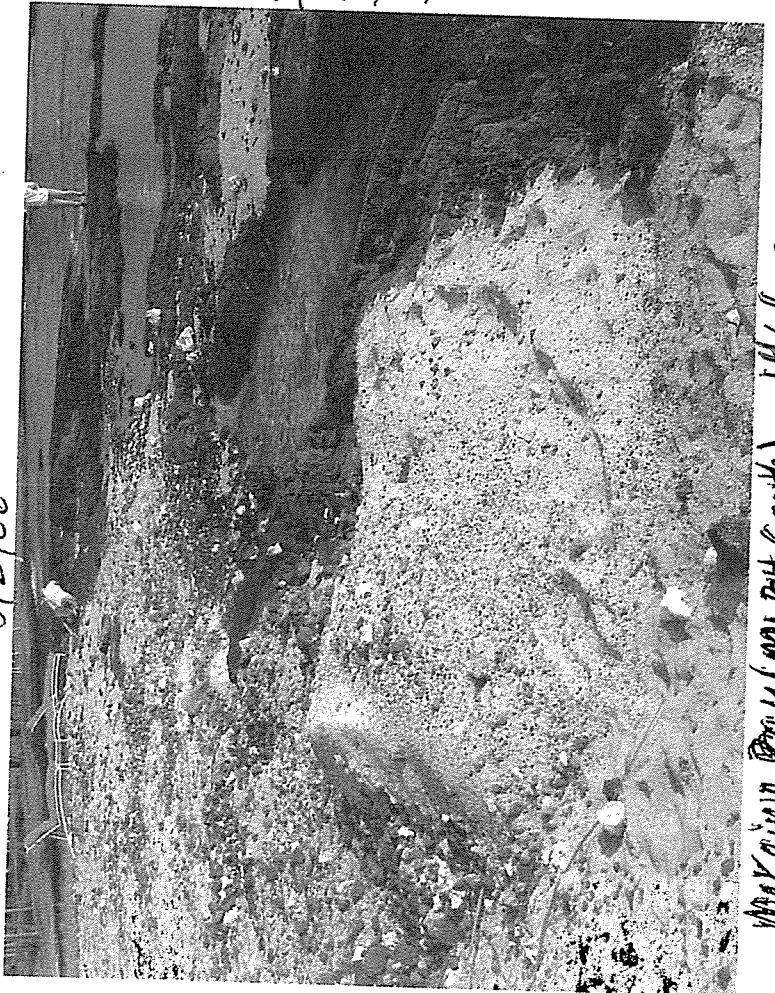
3/15/07



6/25/07



MLBH North 5/2/06



Makaiwa Bay (MLBH South) 4/16/07

GARY ORTON
77-6219 KAUMALUMALU DR.
HOLUALOA HI 96725
(808) 322-7978 (home)
(808) 938-9889 (cell)
orton1066@aol.com

October 23, 2007

Via email: testimony@capitol.hawaii.gov
Hawaii State Senate
Committee On Judiciary and Labor
Attn: Senator Brian T. Taniguchi, Chair
Senator Clayton Hee, Vice Chair
Legislative Public Access Room

Re: Testimony of Gary Orton
Superferry Bill
Island of Hawai'i (10/23/07)

Honorable Senators:

My name is Gary Orton. I have been a resident of the Island of Hawai'i for seven years, and am a part of the canoe paddling community, which makes extensive use of the Kawaehai harbor area. I practiced law in California for 30 years, was involved in state-wide transportation planning as a local elected official, and am familiar with environmental litigation.

First, I oppose this bill because the backward process of approving ferry service before preparing an EIS makes the EIS process a farce. To put it another way, the bill correctly states that the purpose of an EIS is to enlighten the decision-makers. (HB No. ____, sect. 8, subdiv. (b), [p. 20].) After the governor approves the ferry service, no more decisions will be needed; thus, no need for an EIS.

Secondly, I oppose this bill because it violates the doctrine of separation of powers. The bill purports to reserve to the legislature "the sole right" to review the adequacy of any conditions imposed by the governor in approving ferry service and to impose its own conditions. (HB No. ____, sect. 4, subdiv. (c), [pg. 14].) A legislative veto of an administrative action is not permitted in our form of government. (*Immigration and Naturalization Service v. Chadha*, 462 U.S. 919 (1983).) Also, by giving itself "the sole right" of review, the legislature attempts to strip the judicial branch of its traditional oversight role. All of this is on top of the specter that this bill casts in its attempt to overrule a final judgment of the supreme court. (See *Plaut v. Spendthrift Farm, Inc.*, 514 U.S. 211 (1995).)

Such concentration of legislative, executive, and judicial powers into the legislative branch is something Thomas Jefferson called "elective despotism." He called for novel approach: divide and balance government powers among several bodies, so that no one body could transcend its

Hawaii State Senate
Committee on Judiciary and Labor
October 23, 2007
Page 2

legal limits without being checked and restrained by the others.¹ Our state constitution is based on these precepts. Please honor them by not adopting this bill and respecting the Hawai'i Supreme Court's decision and its role of reviewing and correcting any further abuses of discretion in the other branches.

Sincerely,

Gary Orton

¹ Jefferson, Thomas, "Notes on the State of Virginia," quoted by James Madison in Federalist Paper No. 48.

To: Members, Hawaii State Senate

October 23, 2007

From: Jerry F. Halverson, 78-7206 Puuloa Road, Kailua-Kona, HI 96740, 808.322.4907

Re: Superferry Issue

I want to thank the State Senate and the Members thereof for taking this extraordinary step to hear directly from Hawaii County residents concerning this very important matter. It is certainly appreciated, and we hope that it will be useful to the Senate in making its decision. As I read the press, the e-mail and the blogs, the opponents of the Superferry predicate their opposition on four main issues:

1. The spread of invasive species: the damage that the Superferry would do pales into insignificance compared to the potential damage daily created by existing modes of transport. For example: Matson Navigation Company departs Oakland, CA for and arrives in Hawaii four times each week; it's ships depart Portland, OR and arrive in Hawaii one day each week; it's ships depart Seattle, WA and arrive in Hawaii one day each week, and it's ships depart the Long Beach/LA Harbor and arrive in Hawaii two days each week. These ships also go to and dock at each of the six main islands on a regular schedule to deliver their freight. One of these ships also travel to Shanghai, China, Nimbo, China, Guam, Yap, Palau, most of Micronesia and to the Marshall Islands and returns to dock in Hawaii. I brought a car here to the Big Island that had traveled over most of Europe, then across the United States, then all around Southern California, and the only inspection Matson did was to inventory any scratches or dents in order to avoid damage arguments and to ensure that I had only a quarter tank of gas, or less. Young Bros. visits all islands twice each week, except Lanai and Molokai, which it visits once each week, and it has twelve scheduled visits to Honolulu. Cruise ships arrive at anchor here in Kailua Bay two to three times each week and actually dock at the other main islands. The major foreign and domestic airlines arrive here from countries all over the Pacific Rim, from many places in the U.S., and some planes are also used on the transatlantic routes. Many privately owned boats of every description travel daily among the main islands.

Therefore, whatever invasive species that the Superferry might transport is comparatively insignificant. It doesn't do to argue that one more carrier with any amount of foreign species is too many. The real answer to that kind of argument is to require cleaning and inspecting of all of the above carriers.

2. As to damage to Hawaiian culture, I have read nothing specific from anyone, but I will leave the response to that issue to Auntie Maile Mauhili.

3. Will create excessive traffic. The measurers proposed by the Superferry would appear to diminish this possibility substantially, and, if unforeseen traffic problems develop, I am sure that each County can easily remedy whatever problem that may arise.

4. Will harm the whales. I am not an expert, nor am I informed beyond what the proponents and the opponents have to say, most of which seems to be speculation, so I will leave that to someone else.

Finally, we need to point out that regardless of the validity, or lack thereof, of the various expressed concerns, the Superferry will be a net benefit to the people of Hawaii for all the reasons that you have heretofore heard and read. In this connection, I need also to point out that, as President of Moku O Hawaii Outrigger Canoe Racing Association, the island-wide canoe racing association, and Vice President of Kai 'Opua Canoe Club, our young people will benefit by enabling them to transport their Koa canoes to races and events on the other islands, a need that is currently being denied due to the cost (over \$1,600.00 round trip). Hawaiian outrigger canoe racing is the State's team sport, and its fulfillment is significantly being denied because of the cost of transport. Thank you for considering our views.

Superferry, EIS, Whales, and Pollution

10/22/07, by R.L. Frost MS (Environmental Health)
77-6473 Princess Keelikolani Dr., Kona, Hi. 96740

Whales are intelligent. They come here for safety reasons. To birth babies away from speedboats and great sharks. They may decide once the ferry is running, to get away from the speed, noise, and pollution. Once they leave, after they decide what is safe for their babies, IT'S TOO LATE.

Remember Jet Ski's? Not until people and animals suffered was some regulation started. Maui didn't stop the downhill bike tours until the damage could not be ignored. GMO crops are similar, we'll have to wait to count the damage. The most dangerous bio-weapons in the world are coming to Oahu.

I was part of the Mirex disaster. Working at the UH Environmental Center I was given the job of co-ordinating data. Scientists from Pineapple Companies with help from some UH and EPA PhD's used an outlawed pesticide to kill ants. They convinced some people to go around environmental regulations, they would monitor carefully small organisms in streambeds to insure no Mirex escaped the fields. They applied it dissolved in kerosene on corn cob bits. Turned out kerosene wet corn cob floats and went into Pearl Harbor. No streambed Mirex, but now found in human breast milk on Oahu and Lanai.

The lesson is repeated again and again. The EIS process was setup to examine Impacts, and bring in experts before damage occurs.

SPEED KILLS

In the papers yesterday was NOAA, the National Oceanographic and Atmospheric Administration, who wants to slow all shipping in an area between Savannah Georgia and New York City from Nov. 1 to April 30, to 10 knots or less! TO PROTECT THE RIGHT WHALES! The article is appended.

They are slowing ships to protect whales, and our politicians and business community are speeding up a monster "jet ski" that goes faster than 40?

Pollution

Air pollution will be a problem. This ship burns a lot of fuel to move at that speed. That means a lot of exhaust. No catalytic converter here, and probably burns low quality bunker oil. Nobody regulates exhaust from ships. The ferrys will park near shore (notice that big cruise ships stay offshore and leave in offshore morning winds), when trades fail, this ship exhaust will settle on someone. It settles on the ocean too. How much Carbon Monoxide will it emit per minute? Who will it affect?

Water pollution will be more sneaky. New bottom paints for ships shed small particles of pesticide to kill anything trying to live on the hull. The ship sheds toxics into an unregulated ocean environment to save maintenance money. Now in your harbor.

Noise a problem? The water carries sound strongly. The Porpoise will know first.

WASHINGTON — Sixteen months ago, a federal agency proposed slowing ships in certain East Coast waters to 10 knots or less during parts of the year to save the North Atlantic right whale, one of the world's most endangered marine mammals, from extinction.

Nine months later, officials at the National Oceanographic and Atmospheric Administration said the situation was so dire that the loss of one more pregnant female might be the death knell for the species, whose surviving population numbers fewer than 400.

Today, however, the rule remains the subject of intense debate among senior White House officials, and the toll keeps rising: Since NOAA published the proposed rule, researchers have found three of the whales dead from ship strikes, and another two suffering from propeller wounds.

The question of how best to protect right whales — which got their name as the "right whale" to kill in the heyday of whaling because they floated after being harpooned — has proved vexing to regulators, since attempts to protect them have economic consequences for powerful political constituencies, including international shipping interests and Maine lobstermen.

Equally important, administration officials have yet to be convinced that slowing ships as they cross paths with the migrating whales is an effective way to protect the imperiled species.

A number of agencies have expressed concern about the rule and the impact of the rule," said a participant in the deliberations, who asked not to be identified because he was not authorized to comment on internal discussions. "Everyone wants to make sure if we impose these restrictions, that we are actually improving the chances of the right whale to survive."

The slow pace of federal action on the NOAA proposal, however, has triggered suspicions among advocates that political interests are blocking a regulation that the scientific evidence amply justifies.

"It looks like an economic decision, not a scientific decision," said Scott Kraus, vice president for research at the New England Aquarium in Boston. "The science behind this rule is airtight."

EXTINCTION FEARS

In March, shortly after the Office of Management and Budget started reviewing the ship strike rule, NOAA published its assessment that the "potential bio-



Economic concern over ship-strike rule causing delay in implementation

Marine Wildlife Conservation

A 2-year-old female right whale off Cape Cod shows apparent wounds from being hit by a vessel. Scientists want ships to slow down in East Coast waters to save the marine mammals from extinction.

logical removal" the species could tolerate — the number of animals it could afford to lose to an untimely death — was "zero."

Experts say it is far from certain that one more death will doom the species to extinction, but they emphasize that a single ship strike can have a ripple effect through the population because adult females, who can potentially give birth to five or more calves during their lifetime, are disproportionately likely to be hit because they stick closer to shore.

"Every time you have a mortality, you're bringing the possibility of extinction to fruition," said Vicki Cornish, who directs marine wildlife conservation at the Ocean Conservancy, an advocacy group.

The administration has taken other steps to protect right whales. In July, it slightly shifted shipping lanes that lead into Boston Harbor through the Stellwagen Bank National Marine Sanctuary, the country's only whale feeding sanctuary, after scientists determined that whales there were traveling close to the surface and crossing paths with vessels. This month, the government finalized a rule that bans lobstermen from using floating lines between traps because they sometimes entangle right whales.

After fierce lobbying by the lobstermen, however, the government exempted 71 percent of Maine's state waters, and several scientists said the rule is now not aggressive enough to prevent entanglements.

The proposed ship strike rule has proved more problematic. Since Feb. 20, the Office of Management and Budget has been analyzing the rule's economic impact, which NOAA officials estimated at \$116 million a year — less than four-hundredths of one percent of the \$300 billion East Coast shipping trade. The OMB extended its usual 90-day review another 30 days in May, but did not release the rule after that first extension expired.

OMB spokesman Sean Kevelighan declined to comment on the review beyond writing in an e-mail, "Sometimes because of a variety of issues, some rules take longer time than others."

Both the White House Office of Science and Technology Policy and the Council of Economic Advisers have scrutinized the data underlying the ship strike rule, sources said, and representatives of the White House have joined interagency talks on the matter.

PROPOSAL CRITICIZED

NOAA Administrator Conrad Lautenbacher said his agency is still responding to questions posed by the White House and other agencies.

"We're reaching the culmination of a very detailed and thorough process. ... This is an area where everyone wants to be very careful, and there's a lot of interest in it," he said, adding that the rule "has a significant effect both for the environment and the economy."

NOAA officials stand by their proposal, which took five years to

draft and involved an analysis of more than 100 policy options.

"We did our homework," said Greg Silber, coordinator of NOAA's large whale recovery activities. "Our mandate is to recover an endangered species, and that's what we're trying to do."

The World Shipping Council, however, has criticized NOAA's ship strike proposal — which affects ships at least 65 feet long and traveling within 30 nautical miles of ports between Savannah, Ga., and New York City, between Nov. 1 and April 30 — as ineffective and costly.

Outlining its objections in a May 3 letter to the OMB, the council noted that government vessels would be exempted despite having struck right whales several times in the past, and questioned whether smaller ships might pose an even greater danger to the animals than large container ships.

"The problem with the proposal is that the agency's own analysis provides virtually no basis to believe that the proposed speed reduction regulations will have the desired effect," wrote council vice president Donald O'Hare.

Sharon Young, marine issues field director for the Humane Society of the United States, disputed such protests.

"There is no easy, pain-free solution. But we're talking about the survival of one of the most beleaguered, emblematic animals in the country," Young said. "Everyone says, 'We want to save the whales,' but you have to do something about it."

Oct, 21, 2007
Happily Advertiser

SPEED KILLS
applies to whales also

OCTOBER 23, 2007

FROM: GEORGE A. WILKINS, KONA RESIDENT
TO: LEGISLATIVE COMMITTEE RE. INTERISLAND MARINE FERRY

SUBJ: TESTIMONY IN FAVOR OF MARINE FERRY

IN 1973/74, I SERVED AS CHAIRMAN OF GOVERNOR BURNS' TASK FORCE FOR "HAWAII AND THE SEA---1974". TWO OF OUR MOST PROMINENT RECOMMENDATIONS WERE IN FAVOR OF FERRY SYSTEMS; AN INTRAISSLAND SYSTEM FOR OAHU AND AN INTERISLAND SYSTEM TO CONNECT THE ISLANDS OF HAWAII. AS DESCRIBED IN MY ATTACHED EXCERPT FROM THAT REPORT, THESE SYSTEMS WERE REMARKABLY SIMILAR TO THE APPROACHES BEING ATTEMPTED TODAY.

OUR 1974 REPORT WAS PRESENTED TO THE GOVERNOR AT ABOUT THE SAME TIME THAT PACIFIC SEA TRANSPORTATION'S "JETFOIL" WAS BEGINNING SERVICE IN HAWAII. THAT VESSEL WAS CAPABLE OF SPEEDS TO 45 KNOTS (MORE THAN 50 MILES PER HOUR). I REMEMBER NO CRY OF OPPOSITION TO SUCH SPEEDS. NEITHER WAS THERE OPPOSITION ON THE BASES OF INTERISLAND SHIPMENTS OF "NOXIOUS CRITTERS", OR OF OVERCROWDING OF HARBORS AND HIGHWAYS.

WE SPECIFICALLY RECOMMENDED THAT THE INTERISLAND SYSTEM SHOULD START "SMALL", AND THAT IT SHOULD BE ALLOWED TO INCREASE IN SIZE AND SCOPE ONLY WITH EXPERIENCE AND GROWING PUBLIC SUPPORT.

IN ALL OF THESE FEATURES, WE WERE REMARKABLY LIKE THE FERRY SYSTEM NOW BEING PROPOSED TO THE LEGISLATURE.. MY ONLY CONCERN IS THAT SUCH A NEEDED APPROACH TOOK 33 YEARS TO EVOLVE.

PLEASE PASS THE LEGISLATION THAT WILL EXPEDITE THE BEGINNING OF THIS NEW INTERISLAND MARINE FERRY. IF YOU FAIL IN THIS ENDEAVOR, IT MAY TAKE MORE THAN ANOTHER 33 YEARS BEFORE THE PEOPLE OF HAWAII HAVE ANOTHER CHANCE TO EXPERIENCE SAFE, RATIONAL, SPEEDY AND SIMULTANEOUS INTERISLAND TRANSPORT OF PEOPLE AND THEIR GOODS.

MAHALO,


GEORGE A. WILKINS

HAWAII AND THE SEA – 1974

Prepared for the Governor's Advisory Committee on Science and Technology

Published by the
STATE OF HAWAII

DEPARTMENT OF PLANNING



AND ECONOMIC DEVELOPMENT



offshore terminal and suitable environmental safeguards are met, plants of this type could be located on any of our islands.

- The ocean manganese industry seems certain to come to Hawaii, although the time and magnitude of its coming is not yet known. This industry, and the supporting industries it will require, are major candidates for location on a Neighbor Island.
- The Big Island should be a "best" (perhaps only) site for a geothermal/solar/ocean energy complex and the hydrogen export industry it could support.

A number of other examples are readily found where industry is economically ripe for location or relocation on the Neighbor Islands. But creation or installation of these industries cannot precede the transportation system which must sustain them. This is especially true for the truck farmer, whose natural market will continue for the indefinite future to be located on Oahu. The Neighbor Island farmer must have access to an efficient transportation system which can help reduce the number of commercial interfaces between him and the consumer. Presently, he must operate remotely from that consumer, separated by the shipper, jobber, wholesaler and retailer. Often he must ship produce by consignment to the Honolulu wholesaler, where it is placed in competition with mainland produce already purchased and owned by the wholesaler. Understandably, in such cases, the local produce is given a lower sales priority and may suffer severe wastage or deterioration.

As a goal, the Neighbor Island truck farmer should be able, individually or as part of a cooperative, to take his own product to the market and deal directly, if he so desires, with the consumer. Understanding that other fundamental changes in farming technique are necessary, we believe that a comprehensive inter-island transportation system will help achieve this goal.

INTER-ISLAND MARINE TRANSPORTATION

Hawaii is unique among the fifty states in that it is an archipelago, a small group of land masses separated from the continents and isolated from each other by broad expanses of open ocean. The economic, commercial and cultural integration of our islands must take place with only two alternative inter-island links—the airplane or marine transportation.

Two other states, Washington and Alaska, have environments which pose analogous problems. Both have a geography which interposes broad stretches of water between and among their population and industrial centers. While they do have the alternative of building roadbeds around the water barriers, both have responded directly to the challenge through the construction and operation of thriving marine transportation systems. The multi-purpose ships of these systems carry foot traffic, cargo, automobiles, buses and trucks, and do so at a fair profit. Hawaii, on the other hand, has at present only a barge system in operation.

This has not always been the case. Regularly scheduled service among the islands began in the 1850's with the steamships CONSTITUTION and AKAMAI. Between 1877 and 1949, as many as a dozen steamships operated in inter-island service. World War II curtailed inter-island surface traffic. The postwar impact of inexpensive air service, with low cost surplus aircraft, subsidized rates and short travel times, finally resulted in the discontinuation in 1949 of commercial steamship service among the islands.

Two abortive attempts have been made to reestablish this service. In 1950, Hilo Navigation Company attempted to operate a surplus ship from the now-defunct Inter-Island Steam Navigation Company. Service was terminated in 1952. In 1958 and 1959, Hawaiian Water Transportation Corporation operated four converted patrol

designed to carry passengers and vehicles. Their slower and rougher ride and their cargo scheduling emphasis, probably, would not allow them to compete freely with the hydrofoil for passengers or with a more conventional ferry ship for auto/passenger traffic.

Boeing 929 Jetfoil

Pacific Sea Transportation, Ltd. expects to have the first of these crafts operating in Hawaii by late 1974. Two additional units are on order and should arrive early in 1975.

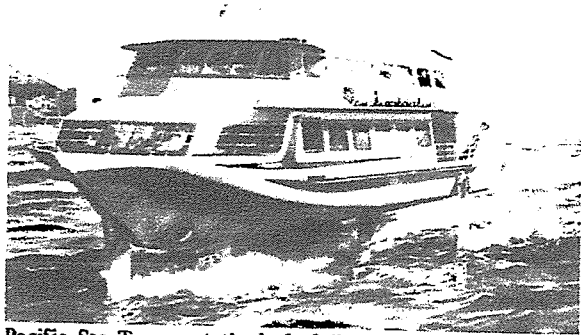
Advantages expected for the jetfoil include high speed (45 knots) and a smooth ride in moderate seas. The jetfoil will carry passengers and their hand baggage, but no heavier cargo. Present plans call for travel between Oahu and Maui, Kauai and Hawaii. If traffic conditions warrant, Molokai and Lanai could be added to the trip schedule.

Hulten Ferry

Under the leadership of Senator John Hulten, Hawaiian Inter-Island Ferry System, Ltd. plans to operate two conventional ship-type ferries, each having approximately 6,000-ton displacement. The ships will be equipped with roll stabilization devices that should provide a comfortable ride under most weather conditions. Without major harbor improvements, Senator Hulten's ships cannot provide service to Molokai, Lanai or the leeward side of Maui. They will be designed to carry automobiles and trucks.



Hulten Ferry concept offers roll-on/roll-off capability.



Pacific Sea Transportation's Jetfoils are under construction and planned for passenger service in 1974.

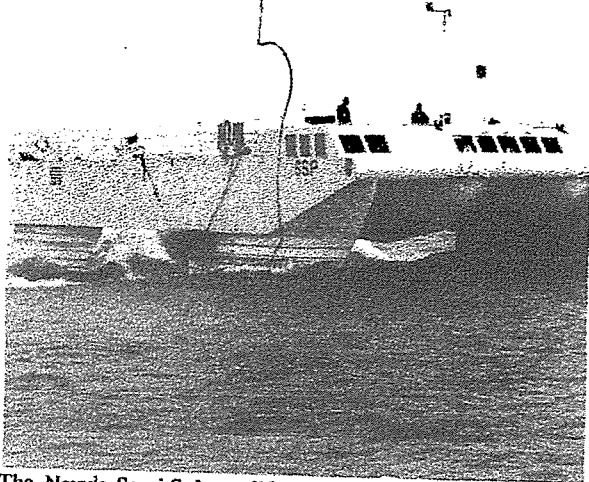
Semi-Submersible Ship (SSS)

The semi-submersible ship is being developed by the U. S. Navy as a potential replacement for conventional monohull ships in the 200 to 10,000 ton displacement range. Stability at all speeds is gained through the use of fully submerged buoyancy hulls. This approach also reduces wave drag, allowing a higher speed-to-power ratio.

A 190-ton seagoing model, designed by the Naval Undersea Center's Hawaii Laboratory, has been built at the Coast Guard shipyard in Baltimore, Maryland. This craft is presently undergoing sea trials, the results of which should be available early in 1974.

House Bill 1518, introduced in the 1973 legislative session, but not yet passed, would build a copy of the Navy model for demonstration in Hawaii and at the 1975 Okinawa Marine Fair. The primary advantages of the ship concept include: (1) a high degree of stability in heavy seas, (2) the ability to use relatively unprotected harbors, (3) a box-type

superstructure for more efficient packing of cargo and (4) a design based on simple cylinders and box frames which might allow

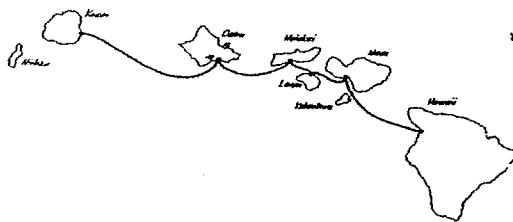


The Navy's Semi-Submersible Ship (SSS) should be closely monitored for the unique solutions it offers in high speed, rough water operation.

the ship to be built in Hawaii. Its primary disadvantage is the current lack of verified data on performance in high seas.

Federal Sponsorship

An important new factor entered the picture this year when the President signed Public Law 93-87, the Federal Aid to Highways Act of 1973. This law specifically grants to Hawaii the right to apply for Federal support for an inter-island ferry system. Until



Proposed inter-island route would provide daily service to each island.

this year, such funds could not be used for any system whose ships crossed international waters. (All of the channels between Hawaii's islands are wider than six miles and therefore contain a section of international waters.)

The new law makes a state-owned ferry system, including highway approaches and terminals, eligible for Federal sponsorship of 70 percent of its design and construction cost. If the ships are privately owned, only the access roads are eligible for Federal support.

Elements Of An "Ideal" Marine Transport System

Here, "ideal" is defined as a best working compromise among (1) where we are today, (2) the marine transportation system we believe the State needs and (3) those private and government resources which should be available to close the gap. The general characteristics which are desirable for all ships of the system include:

- (At least) those ships carrying passengers should offer a comfortable ride in Hawaiian waters, e.g., in the 8 to 12-foot waves of a fully developed Sea State Five.
- The system should allow stops at least once a day at each of Hawaii's six major islands. This minimum service should be guaranteed so users can count on its long-term continuance. On the same basis, runs should be scheduled to connect the Neighbor Islands.
- The combination of ship speed and scheduling should allow daylight service (12 hours maximum) between Oahu and any Neighbor Island.
- Fares must be set to take into account the needs of the low-income citizen and the small businessman.
- The total system must be able to accommodate cargo, foot passengers and roll-on/roll-off vehicles.
- It would be highly desirable if the design of each ship allowed it to be built in Hawaii, to retain funds within the State and to foster a local shipbuilding industry.

We believe that a close approximation of this "ideal" system can be put together if it is based on three primary marine transport components.

Primarily Cargo Ships. This need can be met by the present tug/barge system (suitably expanded), or, preferably, the planned Young Brothers barge ship. It would be used primarily for bulk and nonperishable cargos and need not operate on a daily schedule.

Primarily Passenger Ships. This type is exemplified by Pacific Sea Transportation's Jetfoil and should offer an exciting scenic ride among the Hawaiian Islands. While its greatest appeal will be for the tourist, most Islanders will probably make at least one trip just for the experience. The greatest value of the Jetfoil may lie in the fact that, in the relatively near future, it will entice many Hawaii residents and tourists into making a trip to sea.

Ferry Ships. These ships would have a hybrid nature; able to carry passengers as well as roll-on/roll-off vehicles from automobiles to trucks. Key ship features would include a comfortable ride in Hawaiian waters, moderately high speed (perhaps 25 knots), rapid turnaround in port and the ability to operate out of at least one port on every major island. As is the case in Washington, ships of this type would support primarily the passenger-with-automobile and the trucker carrying perishable or high value cargo.

We note that the first two of these three ship systems are either well established or are well underway with private funding. We believe that the third system named, the ferry ship, is a critically-needed addition to Hawaii's marine transportation capability, and the State should move rapidly to develop plans and obtain Federal sponsorship for this element. If private enterprise can convincingly demonstrate its ability to create and operate the ferry ship component of the system, the State should give whatever assistance it can; but the State should not delay planning the

establishment of the complete inter-island transportation system.

Recommendation

The Governor should appoint a Hawaii State Transportation Committee, similar in function to the Oahu Transportation Policy Committee, to assist the Department of Transportation in planning a total State transportation system.

With the assistance of the Committee, the Department of Transportation should quickly develop, and put into action, a master plan for inter-island marine transportation, including ship types, schedules and harbor support facilities. This plan should take into account current industry commitments, Public Utilities Commission authorities already granted, Coast Guard licensing options, the 1973 Federal Aid Highway Bill and possible new State/industry partnerships in order to provide the citizens of Hawaii the best possible marine transportation system to meet present and future needs.

Based on the best available information, the Department of Transportation should prepare and substantiate, for submission to the 1974 Legislature, a bill to authorize and appropriate the State's share of the cost of a Federally-sponsored inter-island ferry system, including the cost of design and construction of both ships and shore facilities.

Because of the unique potential of the semi-submersible ship as a ferry ship component of the inter-island transportation system, the Department of Transportation should closely monitor and evaluate results obtained by the Navy during sea trials of the 190-ton model of that ship.

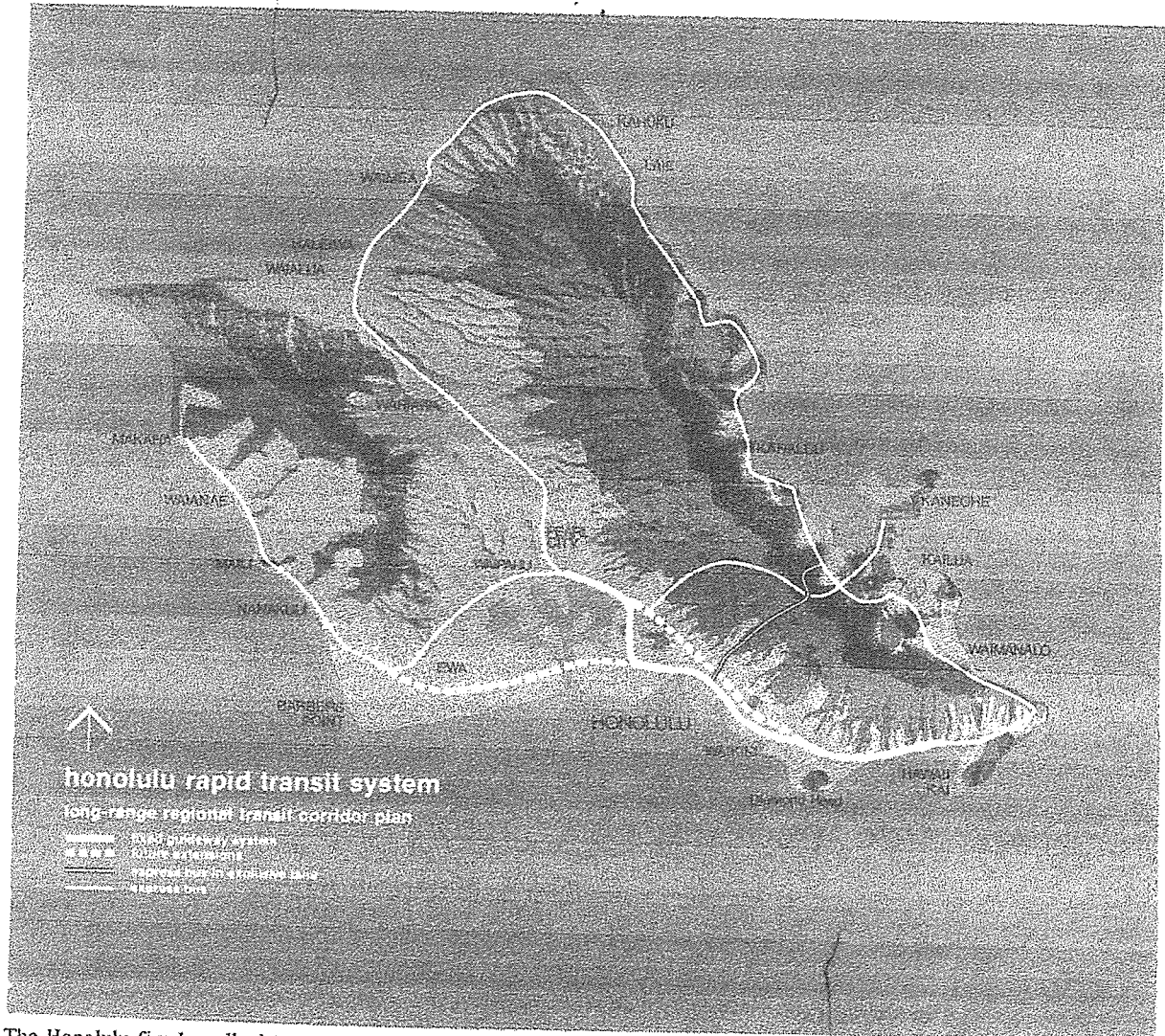
INTRA-ISLAND MARINE RAPID TRANSIT

The State of Hawaii and the City and County of Honolulu are both deeply involved in a transportation debate which will have

profound impact on the citizens of this State for many decades. At stake is a rapid transit system for Honolulu, specifically the arterial route which is planned for operation between the Pearl Harbor area and Koko Head. Alternatives include a fixed rail system, expanded busing with special highway lanes

bounds. At the same time, there are factors we have not seen publicized in past debates; factors which involve marine transportation and, therefore, State responsibility. We think these factors must be considered:

1. Urban Honolulu, at least that portion



The Honolulu fixed-roadbed transportation concept entails the dedication of many acres of valuable real estate; yet the City's shape and geographic setting is ideal for a unique marine rapid transit system that would link up with shoreside bus terminals.

for rapid transit and a water-borne transportation system.

We recognize that the issue is complex, that it goes deeper than the technical background we can bring to bear and we may be trespassing beyond our assigned political

directly influenced by all proposed forms of the rapid transit system, is a strip city. In a 25-mile corridor between Hawaii Kai and Pearl City, it is never more than 5 miles wide, and in many places is much narrower.

2. All proposed transit systems would run

- along this corridor.
3. The proposed fixed-rail transit system, like the Lunalilo Freeway, will form a permanent wall the length of this narrow corridor. Like that freeway, it could have a degrading impact on population and housing trends in urban Honolulu.
 4. The proposed fixed-rail system will have an estimated construction cost (1974 dollars) of \$1,000,000,000. Of this amount, a minimum of \$500,000,000 is estimated to obtain rights-of-way and build the roadbed. (San Francisco's experience with the BART system would lead us to double or triple these figures.)
 5. If a marine rapid transit system were built as an alternative to the fixed-rail system, the roadbed would be free with an essentially unlimited number of lanes available. Almost all funds expended could be invested in people movers.
 6. Additional costs would primarily involve terminal facilities and improvement of ocean access channels. The only major dredging requirement would be for the channel to Hawaii Kai and could be included in the boat harbor already authorized by the Federal River and Harbor Act of 1965.
 7. The marine rapid transit system would operate parallel to the shoreline, but well makai of established surfing zones. Its acoustic and visual impact on the shoreline and land would be minimal and it would transit the reef only through well established channels.
 8. The marine rapid transit system could be installed one section or route at a time. Its flexibility would allow reallocation of vehicles as needed.
 9. It seems likely that a marine rapid transit system able to compete in passenger capacity with the fixed-rail system could be built for 10 percent to 20 percent of the latter's cost. All systems should have equal access to Federal mass transit support, although the uniqueness and environmental compatibility of the marine system might give it an advantage.

We are not recommending that only a marine rapid transit system be built. We are, however, suggesting that the marine system could take up such a large fraction of the total transit load that the remainder could readily be handled by conventional buses. It must be emphasized that our recommendation does not touch the question of trans-Koolau transit, since it is highly doubtful if marine transport around the island can compete for passengers with a direct cross-island route.

For the marine rapid transit system to work, it must be closely integrated with bus routes and schedules ashore. This problem was described to us as one of the most serious yet unsolved at the Seattle terminus of the Washington State Ferry System. (Nearly a million passengers a year are put ashore on the Seattle waterfront, then must walk three uphill blocks to the nearest bus stop.) Cooperation between State and City and County governments will be required to ensure that bus and ferry stopping points and times are closely coordinated and a bus system is developed to connect homes to the marine terminals.

We believe that the hydrofoil, or perhaps the semi-submersible ship (190-ton class), would work well in this marine rapid transit system. During off-peak hours, the boats might be operated on short runs to other islands or on short round trips around Oahu under charter as excursion craft. As an initial test of the system, we suggest that a marine "bus" be operated between Hawaii Kai and downtown Honolulu to alleviate the traffic burden that exists on Kalaniana'ole Highway.

Recommendation

The Department of Transportation should, in close cooperation with appropriate offices of the City and County of Honolulu, private industry and the Oahu Transportation Policy Committee, prepare a design, cost and operating plan for the marine craft, terminals, access channels and intersystem connections necessary to provide an integrated

GOVERNOR'S/ADVISORY COMMITTEE ON SCIENCE AND TECHNOLOGY

February 11, 1974

The Honorable George R. Ariyoshi
Acting Governor of Hawaii
State Capitol
Honolulu, Hawaii 96813

Dear Sir:

Your Advisory Committee on Science and Technology is pleased to transmit to you through the Department of Planning and Economic Development a report entitled, "Hawaii and the Sea-1974" for your review and consideration. The fourteen "Most Critical Recommendations" are reviewed in the Summary Chapter 2 with cost estimates and action agencies indicated for each recommendation.

This report is an updating of the very valuable and widely distributed report, "Hawaii and the Sea, A Plan for State Action", published in 1969. It reviews the important actions taken by the State in response to recommendations made in 1969, emphasizes areas of urgent concern such as the environment and population growth, explores new economic opportunities such as manganese nodule processing and takes into consideration in making recommendations the current fiscal atmosphere of the State and Nation.

This revision of Hawaii and the Sea also represents a further extension of the State's comprehensive planning process. It follows broad goals established in our General Plan Revision documents and suggests pragmatic economic development options for both the public and private sector. It recognizes that marine development can not and must not proceed without environmental safeguards and long range planning perspective, and plans are meaningless without a developmental or community enhancement purpose. The Department of Planning and Economic Development thus urged the Governor's Advisory Committee on Science and Technology to set up a task force, with departmental planning and technical assistance, to undertake the study. At a meeting in January 1973, the Committee approved this recommendation, and George Wilkins of the Naval Undersea Center's Hawaii Laboratory was appointed Task Force Chairman.

The Task Force members listed in the Introduction included State, Federal, University and industry representatives and were supported by many professionals from all segments of the Hawaii community. Of special importance was the participation and inputs of other State agencies, particularly the Department of Land and Natural Resources, and Department of Transportation. The Task Force worked on a voluntary basis with staff support from the Economic Development Division and the Center for Science Policy and Technology Assessment, both part of the State Department of Planning and Economic Development.

While individual chapters were prepared by subgroups, the Task Force as a whole reviewed all the material and discussed and rewrote many sections so that the output represents the consensus of the entire Task Force. The Task Force members have requested that *Hawaii and the Sea-1974* be dedicated to Scott McLeod who made valuable contributions to the report and whose untimely death came during the preparation of the final draft.

At a meeting on December 19, 1973 your Advisory Committee approved the report and the recommendations.

The contributors are to be commended on the long hours and extra effort that went into completing this report on schedule. We wish to express special appreciation to Chairman George Wilkins and Vice Chairman Jack Harmon for their leadership of the Task Force and for their contributions to both the organization and content of the report.

Your Advisory Committee takes pleasure in submitting this study to you, and we feel strongly that the ideas and recommendations put forward will assist you in your continuing efforts to further marine affairs in the State.

Sincerely,



LOUIS G. NICKELL, Chairman
Governor's Advisory Committee on
Science and Technology




SHELLEY M. MARK, Director
Department of Planning and
Economic Development

Committee Members

Mr. Wilson Cannon
Dr. John P. Craven
Dr. Ramon de la Peña
Mr. James F. Gary
Dr. Eugene M. Grabbe
Mr. Douglas S. Guild
MGen. Edmond H. Leavey, USA (Ret.)
Dr. Shelley M. Mark
Dr. Fujio Matsuda

Dr. Louis G. Nickell, Chairman
RAdm. Adrian H. Perry, USN (Ret.)
Mr. Taylor A. Pryor
Mr. Lloyd Sadamoto
Dr. Albert Q. Y. Tom
Mr. George Wheaton
Dr. George P. Woollard
RAdm. E. Alvey Wright, USN (Ret.)
Mr. Ricki Yasui



October 23, 2007

To: The Hawaii State Legislators

I am a North Kohala resident, and I am unable to attend your meeting today in Kona, regarding your plans for the Superferry docking at Kawaihae. I am writing to express my concern about the following points.

First of all I would like to know why, at this tenuous point in this project's future, you are meeting in Kona, and not in Kawaihae, Waimea or North Kohala, where these plans will have their strongest impact.

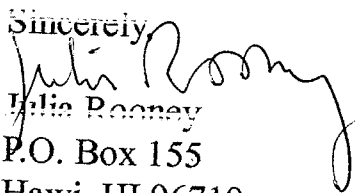
Many North Kohala residents heard after the fact about a meeting held in Waimea. How was that meeting publicized? Many of us in Kohala are unaware of any other attempts to communicate with us. How have these plans come so far, without discussing with us how they will impact our lives?

You don't appear concerned about how the Superferry will change our communities, both in the short and long term. Certainly there are people who will welcome the chance to travel back and forth to Honolulu with their cars. But what about traffic jams in Kawaihae? What about the marginal condition of our beach parks just up the road from the harbor? It seems we are about to become a suburb of Honolulu. Are we ready for that? As far as I know there is only one public restroom all of North Kohala. It does not look like you are interested in addressing these issues.

Most importantly, I would like to know how the Superferry will affect the humpback whales and other marine life in the area. I would like to hear from scientist and marine professionals who study the whales off our coast. Rumor has it, and I'm sorry but we have little else to go on at this point, they plan to station a person at the bow of each of your ships to keep lookout for whales. I hope you have more to offer than that, because even the casual observer of these creatures knows this approach would be inadequate to protect them.

I hope you will adequately address these issues before the Superferry comes to our community.

Sincerely,


Julia Rooney

P.O. Box 155

Hawi, HI 96719

808-884-5557

COMMENTS ON SPECIAL SUPERFERRY LEGISLATIVE SESSION

For hearing Tuesday, October 23, 2007 3 PM Kealakehe High School, Kona
Cory Harden, PO Box 10265, Hilo, Hawai'i 96721 mh@interpac.net 808-968-8965

IMPEACHMENT & INVESTIGATION

We should not be talking about singling out Superferry for a special law.

We should be talking about impeachment of Governor Lingle, and investigation of government officials at all levels for--

- having the Coast Guard and police to back up Superferry when it sailed into Kaua'i just after the court decision that it needed an EA, which is required before a project starts
- spending years preparing a Superferry launch with no EA, despite citizen opposition and pending court cases
- allowing the "Mahalo" cruises to launch, again with no EA

SUPPORT?

How much real support is there for Superferry with no EA?

Do supporters feel strongly enough to face Coast Guard weapons from a surfboard in Nawiliwili Harbor? To risk being maced and hauled off to prison? To sit for hours in hearings?

Or just strongly enough to answer the phone if a poll-taker happens to call? And copy and send an e-mail?

Star-Bulletin/ SMS survey

Supposedly showed support for Superferry with no EA

But it had a large margin of error-- 8 percentage points for island-by-island numbers.

Kaua'i and Maui, where Superferry plans to come first, seem the most concerned.

O'ahu, which stands to gain most and lose least, seems least concerned.

64% of people statewide said Superferry should run while the EA is done. But close to half the people on Maui and Kaua'i said no. About one-third said no on Hawai'i Island; about one-fifth on O'ahu.

A Superferry executive is a voting member of the oversight task force. Isn't this the classic fox in the henhouse?

MORE PILIKIA?

The Superferry bill is a baling-wire-and-chewing gum "fix" that threatens time-tested, hard-won protections, for the environment and for citizens' rights.

And it just takes Superferry out of the frying pan and dumps it into the fire.

Protestors will probably confront a new launch. We risk injuries and disruption.

There may be challenges re--

- separation of powers principle --legislature cannot change the outcome of a past court case--only law for future cases

- legality of new Coast Guard rules for Nawiliwili Harbor

- Endangered Species Act

- Marine Mammals Protection Act

- freedom of speech and assembly

- shoreline access

- implementation rules for this bill

- pending petition to revoke Superferry's Federal loan guarantees for lack of EA

- whether the Maritime Administration and Environmental Protection Agency fulfilled their responsibilities

It's a dangerous precedent--overriding a court decision, and all relevant State and County measures, to benefit one corporation, and one special class

Hawai'i's environment and economy could suffer permanent damage from--
overriding a court decision reached after considering weeks of expert testimony

- killing of endangered whales

- invasive species that threaten agriculture and tourism

- plundering of ohia trees, hapu`u ferns, native rock and other natural resources

- overuse of natural and built-up areas

PRIORITIES?

We're calling a special legislative session
at taxpayer expense

- stripping away hard-won County and State protections for our environment

- risking whale deaths and invasive species and resource plundering

- canceling the Governor's foreign trip

TESTIMONY OF ROB PARSONS, HAIKU, MAUI HAWAII

RE: OPPOSED TO DRAFT LEGISLATION AND SPECIAL SESSION FOR
SUPERFERRY BAILOUT

3pm October 22, 2007, Baldwin High School Auditorium, Wailuku, Maui, Hawaii

Honorable Legislators:

Hundreds of dedicated Maui community leaders, elected officials, business people, paddlers, and environmentalists spent the last three years striving to uphold the integrity of Hawaii environmental law. Now, in the blink of an eye, Governor Lingle would have you dismantle all that we worked so hard to achieve.

Passing this “special legislation” would be an enormous error in judgment, may be unconstitutional, and would likely backfire in continuing divisiveness and civil disobedience. Please, let the corporate welfare end now.

I served as Maui County Environmental Coordinator from 2003 until 2007 as an assistant to Mayor Alan Arakawa. In September, 2004, I reviewed the Draft EA for Kahului Harbor Improvements. In official comments, Mayor Arakawa called for a full EIS, citing omission or inadequate discussion on traffic, invasive species, whale strikes and noise pollution, transport of illegal goods, lack of pre-consultation, and failure to discuss Hawaii Superferry itself.

At the November, 2004 P.U.C. meeting, a standing room only crowd was nearly unanimous in calling for an EIS.

Time and again, Hawaii Superferry has been on the fast track with their fast ferry, asking for special treatment in order to make financing deadlines. As I said three years ago, “haste makes waste”. If they had listened to us back then we wouldn’t all be in this melodrama today.

Apparently the Hawaii and Maui Chambers of Commerce and the Governor herself didn’t read the memo that, “Our environment is our economy”. Instead, they view economy and big corporate investment as sacrosanct, and are willing to brush aside what Judge Cardoza ruled; “the possibility of irreparable injury with respect to environmental impacts of Hawaii Superferry operations on natural resources, protected species, increased introduction of invasive species, and causing social and cultural impacts”.

Hawaii Superferry is the “tarbaby” of the Lingle administration, a royal mess earned through arrogance and ongoing denial. Please, do the right thing and steer clear of having it be your kuleana as well. Please abide by our existing laws and don’t grant any special favors to reward Hawaii Superferry for their deception and poor business practices.
MAHALO.



mkmasunaga@aol.com
10/23/2007 09:38 AM

To testimony@capitol.hawaii.gov
cc
bcc
Subject From Margaret Masunaga, Claudia Chang, and Valerie
Corcoran of Kona re: SUPPORT of Superferry

TESTIMONY IN SUPPORT OF THE SUPERFERRY

To whom it may concern:

We are voters in Kona who SUPPORT the Superferry on the Big Island.

We would like to have the opportunity to ride the Superferry from West Hawaii. We believe the future success of the Superferry will be dictated by the market forces of how many people pay for and ride the Superferry. We want to have this opportunity to do so in Jan. 2009.

We are apprehensive about showing up at the public hearing at Kealakehe High School on 10/23/07 because of the opponents of the Superferry. In addition, we are working class citizens or students and cannot show up at 3 p.m. in Kailua-Kona (we would have to drive from Kealakekua in the TRAFFIC as well.)

We, however, want to let the legislatures to know we SUPPORT the Superferry. Should you have any questions, please do not hesitate to contact us.

Thank you for listening and allowing us to email testimony to you.

Sincerely,

Margaret Masunaga
Colette Masunaga (16 yr old student at Konawaena High School)
P. O. Box 345
Kealakekua, HI 96750
808 345-4349 cell
808 328-2521 home
mkmasunaga@aol.com

Valerie Corcoran
P. O. Box 2355
Kealakekua, HI 96750

Claudia S. Chang
P. O. Box 1519
Kealakekua, HI 96750

Memo to: Andy Smith, Governor's Liason for East and West Hawaii

FAX NO. (808) 327-4952

RE : Testimony In Favor of Hawaii Superferry Operating in Hawaii

October 23, 2007 Public Hearing in Kona

From: Daniel Tomita, 95 Paulele Street, Hilo, Hawaii 96720 PH. (808) 959-7763

I am in favor of allowing the Hawaii Superferry to operate in Hawaii without first requiring an EIS study for the following reasons:

1. We did not require the owner to provide an EIS two years ago when he first began planning to bring the Superferry to Hawaii and we should not do so now. He has spent hundreds of millions of dollars in building the two ships, building the docking areas on Kauai, Maui and the Big Island, hiring hundreds of workers to staff the operation and advertising the start of operation for months and to require him to do so now would be a slap in the face and a breach of good faith. If he is unable to do business in Hawaii, already losing thousands of dollars every week because of this delay, it would signal to future investors and businesses that the political climate in Hawaii is unreliable and cannot be trusted.
2. The protests and concerns for the environment should have been voiced much earlier than just a few days before the Superferry began operations. The concerns could have been addressed years ago and a more workable solution agreed upon by all parties involved. "The squeaky wheel gets the grease" rewards people who talk the loudest or the longest. The owner of the Superferry has done everything he promised he would do to bring his business to Hawaii. We should reward him by allowing him to operate here NOW, not months or years from now.
3. The owner has assured the State of Hawaii that he will do everything within his ability to protect the environment, whales, sea turtles, etc. Let's give him a chance to prove that he will do what he has promised to do. He has already done everything he said he would do and proven his commitment to our state's future prosperity. The longer we wait and make him go through additional "hoops" like this EIS will drive the nail in the coffin of his leaving Hawaii and never returning. We should NOT let this happen.
4. I am appalled that some senators are making the Superferry a partisan issue. They are like "ambulance chasing lawyers" looking to politicize rather than compromise. If the Superferry continues operating, we should praise this joint venture of how well government and business can work together for a better future for Hawaii and its citizens. We need to expand our economy with diversity in business and be less dependent on the military and tourism. For over 50 years, we have agreed that we must create a business-friendly climate for businesses to flourish and profit in Hawaii. Our governor and legislators should stand tall and proud that the Superferry represents a new beginning toward becoming a more business-friendly Hawaii. Don't degenerate into partisan politics and point fingers at our governor for doing the right thing. Stand with her and see this through, working out the kinks, guidelines of operation and dealing with concerns. However, allow the Superferry to sail again! NOW!

Testimony: Super Ferry
October 23, 2007

Senators and Representatives:

Every State-Wide poll that has been taken regarding the Super Ferry has shown that the people of this State want the Super Ferry. In fact, had you not received so many people asking you to help the Supper Ferry you would not be here today! You were elected to represent the voice of the people, not just the monopolies of this state or the special interest groups.

It is wrong to apply a law to a single vessel and not to every vessel. Does this legislature really want to require every new cruise ship, freight ship or inter-island tug boat to do a Environmental Assessment before they can operate? Law must be applied equally or there is no justice at all!

It is also wrong to allow monopolies to control inter-island shipping and transportation. This state has protected a few at the expense of the people. Will the Super Ferry be the next business to be run out to protect the few and rob the people?

This legislature welcomed the Super Ferry when they first approached the State. You provided funds for the necessary dock improvements. If you had concerns about the environment then you had an obligation to address it at that time. This legislature could have made the Environmental Assessment a requirement for the funding, but you chose not to.

The action that has been taken against the Super Ferry is the greatest threat to our economic future that has ever been presented. If the Super Ferry is stopped no company will risk investing here again. Hawaii already has the reputation as the most unfriendly business state. Why make it worse?

Reasonable precautions that do not add to the cost of people using the Ferry is acceptable. It is reasonable to require cars to be washed off before they leave an island. Not that this is required when cars are placed in a container and shipped island to island. If you hand cuff the Ferry with excessive requirements then it will fail and the results will be then same as if you did nothing!

The people have an opportunity with the Super Ferry to go to other islands to buy or sell goods, to visit family without paying for the combined burden of car rentals and airfare. The economic benefits are enormous, including greater competition so we can pay less for big ticket items and expanded markets for our farmers and other businesses.

Those that initially hindered the operation of the Super Ferry by placing boats and surfers in front of it showed no regard for the people on the Ferry or themselves. These were criminal acts that could be defined as terrorism and those people should be treated as such.

I ask you to support the Super Ferry.

I ask you to support the will of the people who placed you in office.

Regards,
David Myrick
Resident of Kailua-Kona, HI

Superferry Informational Briefing Testimony

To: Senator Brian Taniguchi, Chair
and members of the information briefing panel

My name is Rick Gaffney, I was born and raised on Oahu and for the better part of the 60 years I have lived in this State, I have been actively involved in our boating and ocean recreation industries, and have served on numerous local, state and federal governmental and non-governmental organizations seeking to assure the conservation and protection of our unique marine resources.

I have several points I'd like this panel and any special session of the legislature to carefully consider:

1) Hawaii's environmental law (HRS Chapter 343) was passed into existence after long and detailed legislative deliberation and consideration, it has been challenged and reviewed many times, and it has stood the test of time and served our unique natural resources well. I believe that it is patently absurd that you are considering tinkering with this important body of law, in haste, during a brief special session of the legislature. Regular legislative session is two months away, and regular session allows the time for adequate investigation of the issues, expert input and public deliberation.

2) After weeks of expert and scientific testimony, far more expert input than you have received in your informational briefings, or can possibly receive during a special legislative session, the State court on Maui held that Hawaii's environmental law applies to the Superferry. Our basic democratic principle of checks and balances has worked, it is that simple. It is inappropriate for the legislature to overturn this specific court decision.

3) Having grown up on Oahu, fishing and diving thousands of hours off virtually every shoreline, and having lived, fished and dived on Maui for 15 years and on the Big Island for over 20 years, I know well the difference in the productivity of Oahu's waters, and those of the neighbor islands. Many of us who live on the neighbor islands have taken action to protect our precious marine resources. Groups on Kaua'i, Maui, Moloka'i and here in West Hawaii have fought for and won the right to contribute to the management of our marine resources, before our waters become like those of Oahu, depauperate, over-harvested, virtual wastelands.

While we are concerned about the inter-island transportation of invasive species the advent of Superferry service will undoubtedly precipitate, what concerns us more is the impact of the spear fishermen, aquarium fish collectors, opihi pickers, trollers and bottom fishermen, each of whom is a human invasive species, if they load their trucks, boats, spear guns, tanks, coolers, throw nets and fishing gear onto the Superferry, in order to plunder our more productive waters.

We fear this in part because we know that our DOCARE conservation enforcement officers are understaffed and under equipped, but even worse, they don't even have the right to check closed coolers for illegal catches. If you want to fix something legislatively, fix that. Give our enforcement officers the right to search closed containers for prohibited catches.

We also fear this invasion of our waters because the largest fishing tournament on the neighbor islands, the Wee Guys Tournament here in Kona, currently draws around 130 boats, while the largest fishing tournament on Oahu draws twice that many. Science tells us that many species we fish for are already harvested at or above their maximum sustainable yield. Our waters cannot sustain the fleet of fishing boats the Superferry can deliver to our harbors daily, it can barely sustain the fleet that is based on the neighbor islands right now.

In conclusion, I'd like to say that a special session of the legislature to deal with the Superferry issue is a bad idea, and until the legislature enacts laws enhancing the ability of our conservation enforcement officers to protect of our natural resources, and begins to stand behind the community based management efforts of many neighbor island communities like ours, it is inappropriate to pass legislation to enable the Superferry to operate without the comprehensive environment impact statement that the Maui court has ruled to be requirement under current State law.

Thank you for your consideration of my testimony,

Rick Gaffney
73-1062 Ahikawa Street
Kailua-Kona, HI 96740
808 325-5000
captrick@aloha.net

ALEXANDER MUNSTER
66-1239 Ahuli Circle
Kamuela, HI 96743

October 23rd 2007

SPECIAL SESSION SUPER FERRY HEARING

Thoreau The best government is that which governs least

Bullet points: Timing of hearing makes it impossible for everyone to show up as we don't work for the state.

ACCOUNTABILITY:

We are all accountable to the laws of the land. To change the rules to get the outcome one would like sends the message that we can all do what we like. Or it sends the message that you and the special interest lobbying groups will do as you like.

Gov. Lingle and the Super ferry special interest group are accountable and will be held accountable

To quote Thoreau "Any fool can make a rule and any fool will mind it."

Best Wishes and Aloha,

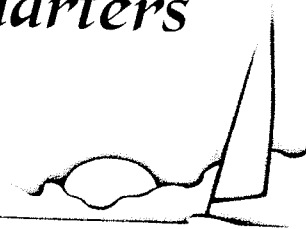
Alexander Munster

Maile Charters

Alex Munster

808.960.4395

alex@adventuresailing.com



Toll-Free: 800.726.SAIL

P.O. Box 44335 Kamuela, HI 96743

Fax: 808.882.1820

www.adventuresailing.com

TESTIMONY Regarding the Hawaii SuperFerry.

From: Thomas H. Daniel, Ph.D.
73-1036 Ahikawa Street
Kailua-Kona, HI 96740
Phone: 808-325-7323
Cell: 808-989-0171
E-mail: tomdaniel@hawaii.rr.com

Presented To: Neighbor Island Legislative Hearing on the Hawaii Superferry, Kealahou High School, October 23, 2007, 3:00PM

My name is Tom Daniel. I have a PhD in oceanography from UH Manoa and I worked for the state for 21 years as technical director of the Natural Energy Laboratory of Hawaii at Keahole Point.

I think it would be great for Hawaii to have something like the super ferry, and I think that, if done properly, it could be an environmentally benign addition to our state's transportation system. I have worked on many projects which successfully provided needed services to the people of Hawaii while conforming to the environmental laws, and I believe that, with due diligence (and probably some extra expenditures), an inter-island ferry could be developed in conformance with those laws.

Although I understand that the super ferry raises legitimate concerns and I definitely recognize the need for delineation and study of the issues regarding vehicle traffic and invasive species proliferation, I don't have much expertise in these areas.

I have, however, worked for many years on various aspects, both military and civilian, of sonar and underwater sound, and I continue that work as a reviewer of advanced proposals for the National Defense Center of Excellence in the Ocean Sciences, located at Keahole Point. I know from this work that, at the present state of the art, detection of marine mammals from a fast moving platform such as the super ferry cannot be done reliably and quickly enough to provide the information needed for collision avoidance maneuvers. I was, therefore, dismayed when super ferry proponents initially said that they would purchase a collision avoidance sonar that would eliminate the problem. It was clear to me, however, that the law required that they do an environmental assessment, which would clarify the issue and point out the need for either development of a new sonar system (which may or may not be possible) or development of some other means of avoiding collisions with humpbacks or other important marine organisms.

A well-done environmental assessment for this type of project might include, for example, a determination of the maximum speeds that would be allowed for given levels of detection capability. It's possible that avoidance maneuvers are not required for vessels moving less than some speed, though empirical evidence from previous collisions indicates that some type of detection and avoidance should probably be required for most large vessels. The fact that previous inter-island transportation systems have not been

required to perform environmental assessments of this and other issues makes it all the more important that any new system, especially one which cites the advantages of its high speed vessels, must be required to perform the appropriate assessment.

Unfortunately, our Governor chose, over vocal objections from many citizens and legislators, to disregard the law and grant the super ferry an illegal exemption to the critical environmental laws that have been carefully developed over the past few decades to protect our environment. As required by the law, the Supreme Court has found the Governor's exemption to be illegal.

It is inappropriate to blame the super ferry promoters for the current situation. The blame rests squarely on Governor Lingle and her administration for granting the promoters a clearly illegal exemption to state law. As many of us pointed out several years ago, the development plan for the super ferry should have included at the very least an environmental assessment that would have allowed a legal determination of whether further steps were required to comply with HRS 343. Yes, it would have cost a significant amount, but that is part of the price of progress – a necessary and legally required contribution toward environmental preservation. If it had been factored into the cost of the project from the beginning, the developers might have had to accept a slightly smaller return on their investment, but it wouldn't have stopped the development any more than it has stopped any of the other successful businesses that have complied with Hawaii's environmental laws.

So, what do we do now?

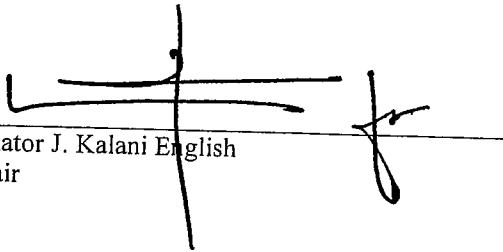
Because I believe that the ferry system can probably be designed and constrained so as to make it environmentally acceptable, I think it would be unfortunate to allow the Governor's ill-considered action to kill the project completely. There is no question that the developers will bear an increased cost because of the delays caused by the Governor's actions, but I hope that the legislature can devise some ways to reduce that additional financial burden while allowing the project to proceed.

I hope that the legislature will find a solution to this impasse that will allow the super ferry project to proceed without endangering our environment. Constraints on operations, such as reduced speed, additional inspections and disinfections to ensure control of invasive species, and/or limitations on the number of vehicles allowed per trip should be developed which will allow environmentally safe operation during the period while the required environmental assessment is developed.

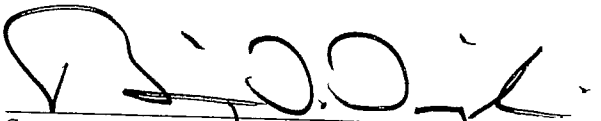
Whatever solution the legislature proposes – and any solution will be a compromise that may or may not be acceptable to the developer – it **MUST NOT** in any way weaken the environmental protections set forth in existing state and federal law. It must be made very clear that there can be **NO** exemptions to the law and that any concessions made to allow the super ferry to operate are one-time exceptions made to promote the near term public good in spite of the illegal actions of the Governor.

If you require special assistance or auxiliary aids or services to participate in the public hearing process (i.e., sign or foreign language interpreter or wheelchair accessibility), please contact the committee clerk 24 hours prior to the hearing so arrangements can be made.

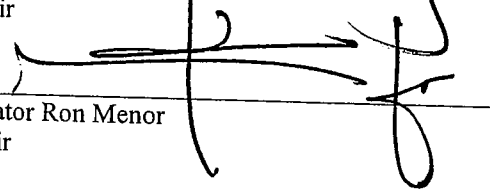
FOR FURTHER INFORMATION, PLEASE CALL THE COMMITTEE CLERK AT 586-6460.



Senator J. Kalani English
Chair




Senator Brian T. Taniguchi
Chair



Senator Ron Menor
Chair

OCT. 23, 2007

I APPROVE OF THE SUPER FERRY. IT WILL BE ANOTHER MODE OF TRANSPORTATION AVAILABLE TO ALL OF US. IT SHOULD KEEP THE INTER ISLAND TRAVEL COST REASONABLE AND ECONOMICAL. FOR ME, BORN AND RAISED IN HAWAII, IT WILL OPEN THE WAY TO UNITING HAWAII. I LIVE HERE IN KONA, I HAVE FAMILY ON OAHU AND MAUI. I WANT THE OPPORTUNITY TO TRAVEL FREELY FROM ISLAND TO ISLAND WITH MY VEHICLE. THE SUPER FERRY IS A MODE OF TRANSPORTATION THAT IS LONG OVERDUE. THANK YOU.


BONNIE DYKES



COMMITTEE ON JUDICIARY AND LABOR

Senator Brian T. Taniguchi, Chair

Senator Clayton Hee, Vice Chair

COMMITTEE ON TRANSPORTATION AND INTERNATIONAL AFFAIRS

Senator J. Kalani English, Chair

Senator Mike Gabbard, Vice Chair

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Ron Menor, Chair

Senator Gary L. Hooser, Vice Chair

NOTICE OF INFORMATIONAL BRIEFING

DATE:

Tuesday, October 23, 2007

TIME:

3:00 p.m.

PLACE:

Kealakehe High School Cafeteria
74-5000 Puohulihuli Street
Kailua-Kona, HI

Aloha Senators Taniguchi, English, and Menor:

I am opposed to the proposed legislation allowing the SuperFerry to operate in state waters and use state harbor facilities until an Environmental Assessment and Environmental Impact Statement are completed. The courts have ruled on this matter and it is your responsibility to uphold the laws of the State of Hawaii and not to circumvent them for special interests.

Thank you,

Peter Hain
73-1066A Ahikawa Street
Kailua Kona, HI 96740
808-325-5855

Mark G Jernigan
Box 4801
Kailua-Kona, Hawaii 96745
Home 329-6092 Cell 938-2280 email jernigan@aloha.net

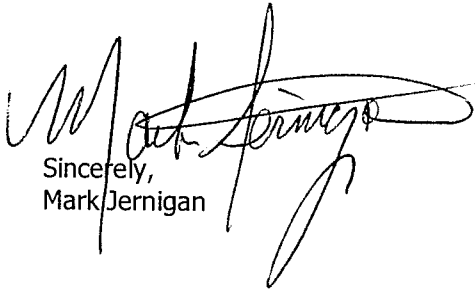
Tuesday, October 23, 2007

IN SUPPORT
OF LEGISLATIVE ACTION TO OPERATE FERRY DURING EIS

Thank you for coming to hear this matter in Kona.

I support legislative action to enable the ferry to operate during the EIS.

We urgently need alternative transportation between the Islands.


Sincerely,
Mark Jernigan

Testimony

DATE: Tuesday, October 23, 2007
TIME: 3:00 p.m.
PLACE: Kealakehe High School Cafeteria
74-5000 Puohulihuli Street
Kailua-Kona, HI

Please do not proceed with this legislation.

Page 6 (1) "Due ... critical importance of the inter-island ferry service industry to the people of our state".
A SuperFerry is not critically important to the people of our state. Look around, the people of the state are getting on just fine without it. It may be critical to a poorly managed company that ignored the law and failed properly fund itself, but that is simply not the State's concern.

SECTION 3(4) "...a required public convenience and necessity".

The ferry is not a necessity, and there is no basis for this statement.

SECTION 3(6) "...shall not be subject to or require any county permits or approvals". Who wrote this stuff, SuperFerry lawyers?

SECTION 4(a) "...in the Governor's judgment".
This is the same person who ignored the EIS law and county council requests for an EIS. This is the same person who tried to intimidate the citizens of Kauai. The Governor has demonstrated unsuitability for this task.

The current situation is a mess, but it is an illusion to think the Legislature can come up with a quick fix; especially if the fix is "let the Governor deal with it". Don't be misled by the special interest into believing there is a need for a knee-jerk reaction such as this bill.

Sometimes we need the courage to recognize our limitations and do nothing.

Robert Flatt
PO Box 1034
Captain Cook
HI 96704

Aloha! I am hoping to express my opinion about the Superferry, but I am unable to attend this much needed public forum.

My family and I oppose the Superferry until an adequate Environmental Impact Study occurs. It is important to identify all possible environmental concerns + put systems in place to address these concerns BEFORE the Superferry starts ~~the~~ doing business in our Islands.

We must stop our habit of placing business concerns in front of environmental concerns. I am also shocked at the Lingle administration for mis-spending our tax dollars + then using that mis-spending to promote ~~more~~ further mis-spending.

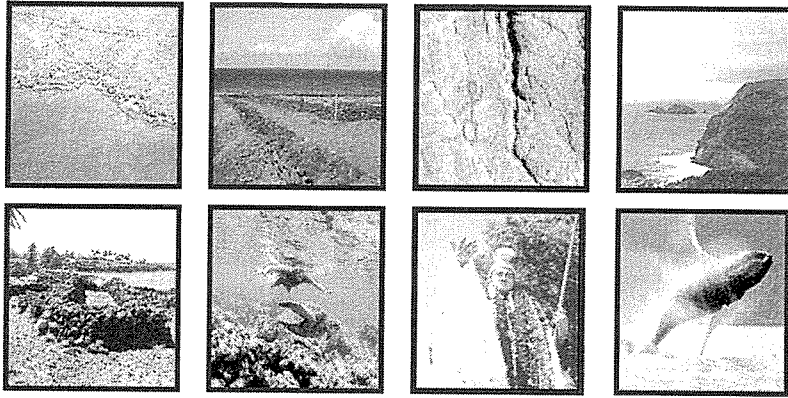
Thanks for coming to our Island.
I appreciate your time.

- KRISTA Donaldson
75-5789 Makanae Pl.
Kailua-Kona, HI 96740

bigislandhko@gmail.com

9292

Preserving the Kohala Coast



October 22, 2007

RE: Require an EIS *before* any Possible Superferry Service

Aloha,

The five Kohala nonprofits and organizations signing this letter represent nearly 400 families in Kohala. We strongly urge you to require an Environmental Impact Statement (EIS) *before* any possible Superferry service.

We strongly urge you *not* to circumvent the law and not waste taxpayers' dollars through a special legislative session.

Regardless of whether you believe the Superferry is good or bad for the Islands, the Superferry must be required to follow the important, established legal process. The public must be given the opportunity to review and comment on all the consequences and benefits of the Superferry *before* any service.

The Hawaii County Council passed a resolution calling for an EIS. Please listen to the outer Islands. Please do the legal and ethical thing and require an EIS before any potential service.

Thank you for your time.

Aloha,

Stephanie Naihe Laxton
Maikai'i Kamakani 'O Kohala

Mike Isaacs
Kohala Historic and Cultural Preservation Group

Kanoa Withington
Kamakani 'O Kohala Ohana

Fred Cachola
Malama Na Wahi Pana O Kohala

Gail Byrne
Malama Kohala Kahakai

Toni Withington
Hui Lihikai

TESTIMONY FOR ALLOWING SUPERFERRY TO OPERATE

October 23, 2007

To: Senator Colleen Hanabusa and Committee

From: Marian W. Wilkins, John Reiner, and Michele Wilkins - Kona Residents

We believe the Super Ferry should be allowed to operate but with a strict time limit for submitting a complete EIS. They were given bad advice by the State and should be given some allowance for taking that bad advice.

Concerns by many opposed to the ferry are legitimate but can be mitigated by strict enforcement of the laws now on the books. The problem is that the state has never hired the number of enforcement officers that are needed right now. That must be rectified. We suggest that the legislature take some part in making sure the State lives up to its duties to make sure that fishery, gathering and other environmental laws are truly enforced. Perhaps much of the opposition is simply a vote of "no confidence" in our State's and our County's ability to respond to the needs and the wishes of the citizens of Hawaii.

As to highway congestion, that is another area that has been long neglected by the State. All these things should have been dealt with long ago. But, we need the ferry system. Again, we think it is the duty of the State (legislature included) to see that our highways are upgraded to a safe level. It's time to recognize that the neighbor islands now experience traffic jams and the roads are unsafe. And surely, with technology, there must be a way to alert whales that the ferry is approaching. We don't think observers will be able to see them in time.

As to camping and parks, both the State and Counties need to provide more and upgrade existing camp grounds. Many of our parks are not kept up and we already don't have enough campgrounds or parks. However, after outlining existing problems, We don't think the ferry should be punished for our own governments' (County and State) seeming inability to live up to its duties. Maybe with the ferry system the State and Counties will be forced to do the jobs they should have been doing for years. Some of you may be old enough to remember the old state slogan that said we want "quality tourism". We think it's time we think of what our own citizens need and want—not just the "right kind of tourist", meaning the well-to-do. The ferry system will be a right step in that direction. It will help farmers, businesses and many others.

J.D. Reiner *Michele Wilkins*
Marian W. Wilkins

Testimony on Special Legislation
"HB HMS 2007-4999"

By
Michael Buchal

COMMITTEE ON JUDICIARY AND LABOR

Senator Brian T. Taniguchi, Chair
Senator Clayton Hee, Vice Chair

COMMITTEE ON TRANSPORTATION AND INTERNATIONAL AFFAIRS

Senator J. Kalani English, Chair
Senator Mike Gabbard, Vice Chair

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Ron Menor, Chair
Senator Gary L. Hooser, Vice Chair

DATE: Tuesday, October 23, 2007

TIME: 3:00 p.m.

PLACE: Kealakehe High School Cafeteria
74-5000 Puohulihuli Street
Kailua-Kona, HI 96740

Aloha Senators:

Thank you for the opportunity to speak. I am opposed to allowing the SuperFerry to operate in state waters and use state harbor facilities until an Environmental Assessment and/or Environmental Impact Statement are completed. The court has ruled on this matter and it is your responsibility to uphold the laws for the benefit of the people of the State of Hawaii, not to circumvent them for special interests.

The current impasse on SuperFerry operations is yet another example of our local government not following its own rules, and of private interests deciding that it is easier to ask forgiveness than to obtain permission. This proposed Bill generates unnecessary legislation as an attempt to "fix" a situation of the governments own making to the detriment of the public interest. The State should have worked with the principals to ensure they were following the law long ago.

It is ludicrous to acknowledge the many potential dangers and negative impacts of operating a fast ferry system, but to then allow it to operate while "conditions" are developed and imposed. The State should not play Russian Roulette with the public good and the environment. Don't put the public interests and the environment at risk in your haste to allow SuperFerry operations. The damage done by proceeding in this manner will be irreversible.

If the Legislature defies the public will and the court's decision and is determined to exempt the Superferry (and others) from established law through the proposed legislation, the Committees must recognize the proposed legislation is insufficient to provide the type of protection needed and circumvents public participation.

1) In Section 4, the Governor is allowed to impose operating conditions and protocols. What are these protocols and conditions? Are they sufficient or are they a rubber stamp to get the Superferry operating? **The operating conditions and protocols must be defined and reviewed before voting on this bill. The public should be allowed to comment on the conditions as they would an EA or EIS. Why is the Governor blocking public review?**

2) How will the Governor determine and set these conditions? **The legislature should mandate that conditions be set with participation of all Divisions in Government having expertise and not simply DOT.** As an example, what conditions will be imposed to prevent the over-exploitation of marine resources on the neighbor islands? Boats trailered from Oahu will dramatically increase fishing pressure on the neighbor islands as well as overload the existing harbor facilities. DAR must be consulted and allowed to create conditions to prevent exploitation and damage to neighbor island resources from this **unprecedented change in access.**

I urge the Senators not to vote in favor of the Bill. While it proposes to forward the public interest it plainly does not. Please enforce our laws and protect Hawaii and the interests of the public. The process of environmental review and approval exists to engage the public and protect the public good. The public is not served by eliminating the process and giving the Governor the ability to rubber stamp projects.

Thank you for the opportunity to speak.



United States Department of the Interior

NATIONAL PARK SERVICE
Kaloko-Honokohau National Historical Park
73-4786 Kanalani St., Suite 14
Kailua-Kona, HI 96740

IN REPLY REFER TO:

October 23, 2007

Testimony of Kaloko-Honokohau National Historical Park

RE: Twenty-Fourth Legislature, second special session relating to Large Capacity Ferry Vessel Company.

Aloha Senators,

Thank you for this opportunity to provide comments to you today. Kaloko-Honokohau National Historical Park ~~is~~ is opposed to the action being considered by the State of Hawaii Legislature on Wednesday, October 24, 2007, which electively circumvents the environmental review process under Chapter 343, Hawaii Revised Statutes. The purpose of Chapter 343 is to establish a system of environmental review that ensures environmental concerns are given appropriate consideration in decision making along with economic and technical considerations. Public participation during the review process is paramount, and benefits all parties involved and society as a whole. The proposed legislation before you provides for "conditions and protocols to be set by the governor by executive order." These conditions and protocols will also not allow for public participation in the process. Locally and nationally significant cultural and natural resources are at risk in this instance. Please do not preempt this very important environmental review process. Thank you for this opportunity to comment.

I Danby Anne Armstrong put forward
my vote in opposition / not in favor / of the
Hawaii Superferry running without an Environmental
impact study. What will we do if the study
says that the ferry has a negative impact. Then
will we stop it. Please protect us all by
insisting on a study, prior to allowing the
Superferry to run in our islands.

Mahalo

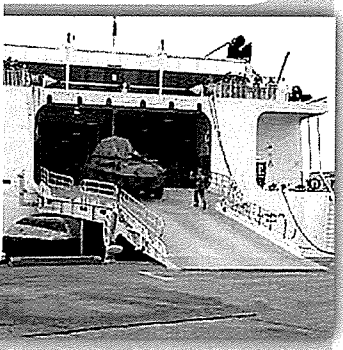
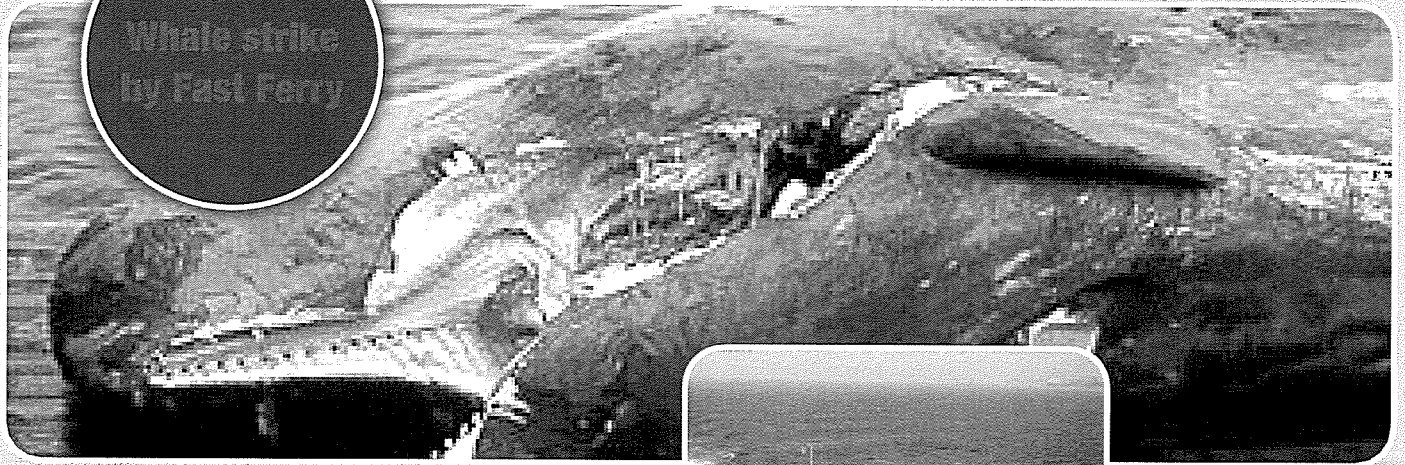
Danby Armstrong
(808) 937-3933
P.O. Box 44-666
Kamuela HI 96743

Let's not spread the POISON DUST with the Superferry

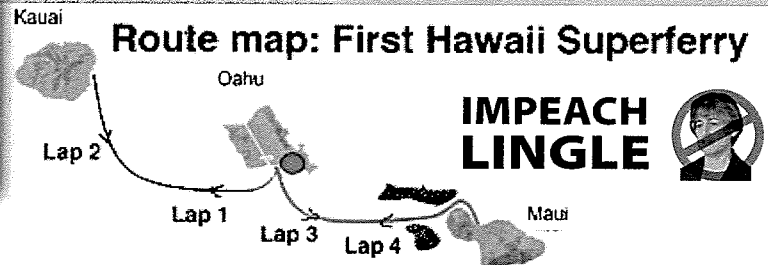
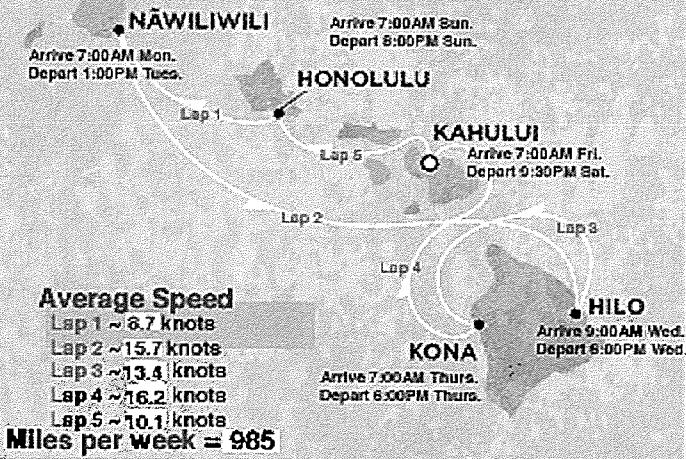
HawaiiBeat.com

SUPERFERRY

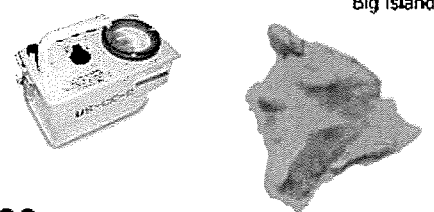
Whale strike
by Fast Ferry



Route Map - "Pride of Aloha"



Average speed
 Lap 1 - 37.4 knots
 Lap 2 - 37.4 knots
 Lap 3 - 34.8 knots
 Lap 4 - 34.8 knots



Miles per week = 3500

ARE YOU READY FOR THE TRUTH? [HTTP://ANGELSFORTRUTH.COM/BLOG](http://ANGELSFORTRUTH.COM/BLOG)

Depleted Uranium contamination **WORLDWIDE!** 4.5 Billion Years!!!

DU GENOCIDE



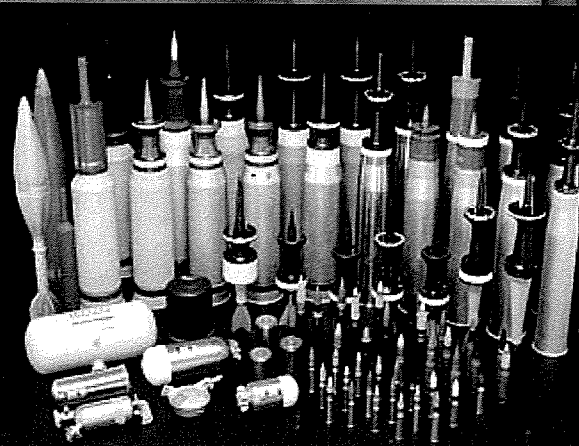
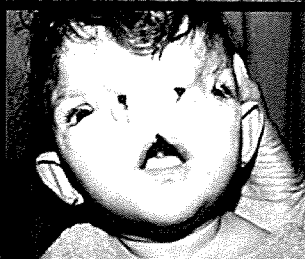
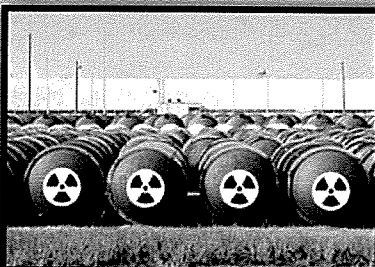
**DU DNA
Damage**

DEPLETED URANIUM SHELLS

form **RADIOACTIVE DUST** on impact
CONTAMINATING AIR, FOOD and WATER
CHILDREN are born **TERRIBLY DEFORMED!**
Others **DIE** of **LEUKAEMIA**

Last Gulf War we used
350 tonnes

This time we used
1-2,000 tonnes



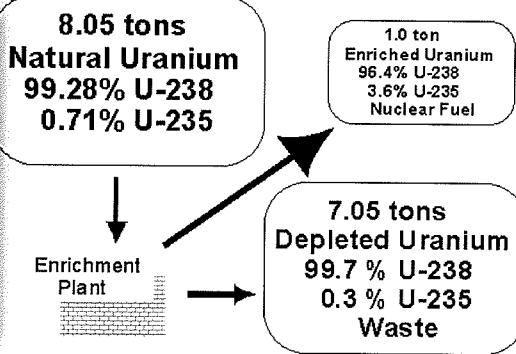
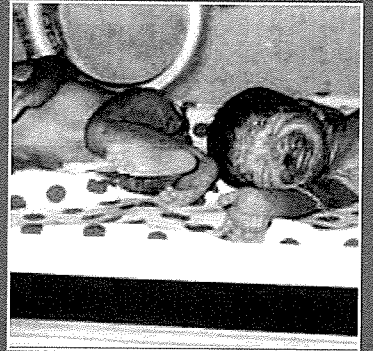
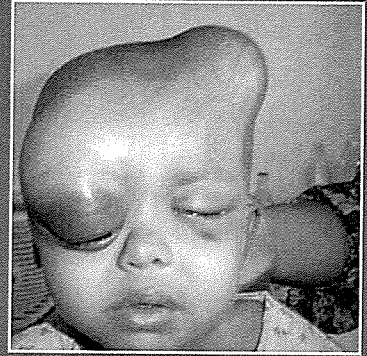
Here are some examples of the effects of Depleted Uranium. To learn more about DU, visit:
<http://www.cadu.org.uk/index.htm>

ARE YOU READY FOR THE TRUTH?

[HTTP://ANGELSFORTRUTH.COM/BLOG](http://ANGELSFORTRUTH.COM/BLOG)



4.5 BILLION YRS



DU contamination CONFIRMED on Hawaii Military Bases

HAWAII?

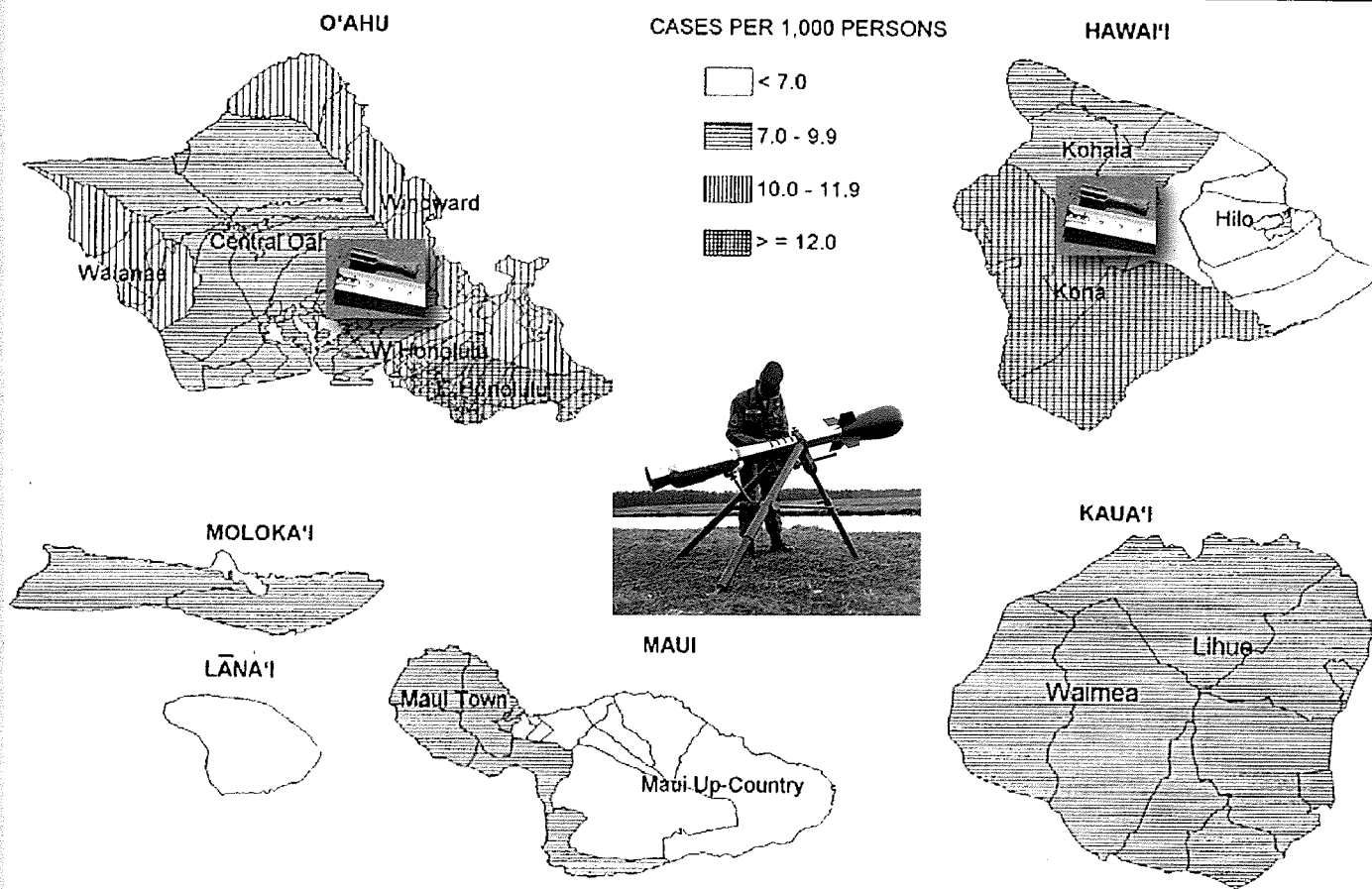


THE LOWDOWN ON DEPLETED URANIUM IN HAWAII



PROTECT HAWAII'S CHILDREN
PUSH FOR A NUCLEAR FREE HAWAII
STOP THE MILITARY - NAVY BUILDUP
CLEAN-UP THE CONTAMINATED SITES

MAP 1. NUMBER OF MALIGNANT NEOPLASMS PER 1,000 PERSONS BY GEOGRAPHIC AREA (SELECTED ISLAND) 1989 - 1992



ARE YOU READY FOR THE TRUTH? [HTTP://ANGELSFORTRUTH.COM/BLOG](http://ANGELSFORTRUTH.COM/BLOG)

Let's not spread the **POISON DUST** -

<http://video.google.com/videoplay?docid=1195685067942344966&q>



**CITIZENS
STOP SUPER-
FERRY**

HawaiiBeat.com

PROTECT THE 'AINA

PROTECT HAWAII

<http://www.protecthawaii.ws/>

No DU HAWAII

<http://www.noduhawaii.com/index.html>

Lee Tepley

<http://web.mac.com/leetepley/Site/Introduction.html>

DMZ HAWAII

<http://www.dmzhawaii.org>

Poisonous

Legacy -

warning, graphic

http://www.bushflash.com/pl_1_o.html

Resurrecting Liberty -
Depleted Uranium

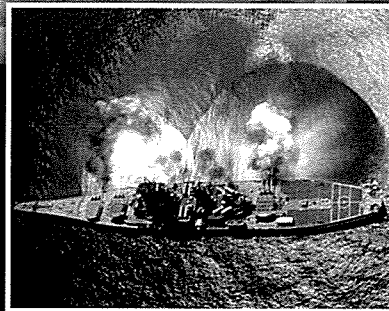
<http://www.resurrectingliberty.com/Depleted%20Uranium.html>

Island Breath

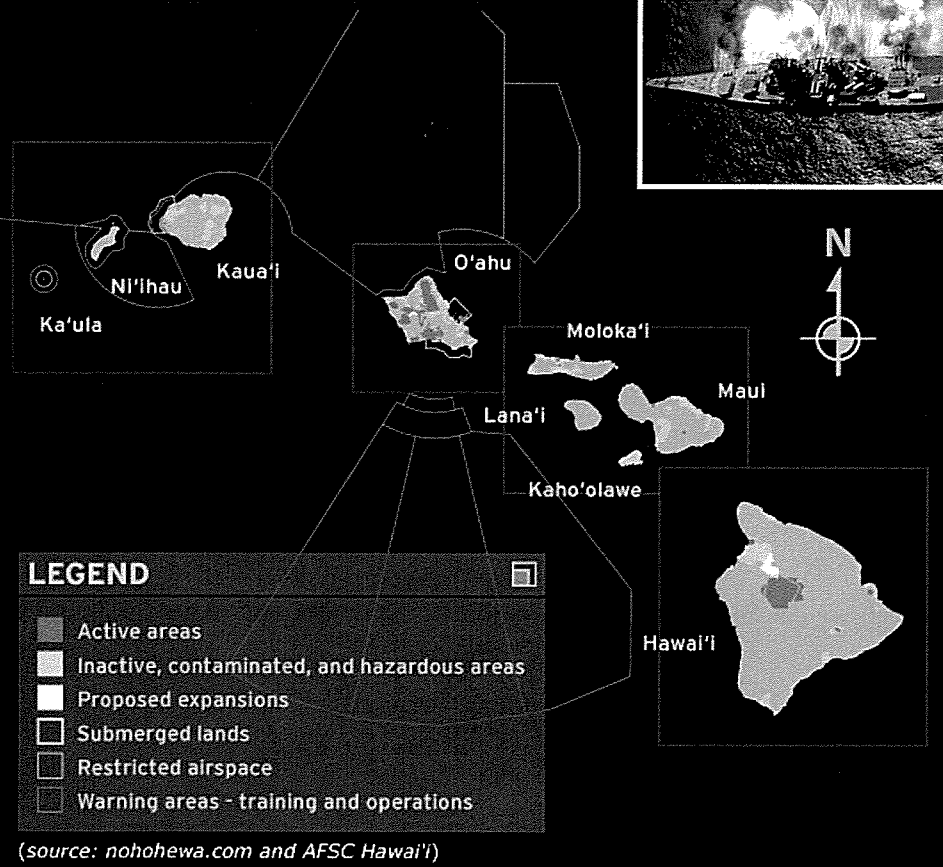
<http://homepage.mac.com/juanwilson/islandbreath/body.html>

Find this pdf at
HawaiiBeat

<http://HawaiiBeat.com/SDU.pdf>



Military-Occupied Hawai'i



ARE YOU READY FOR THE TRUTH?

[HTTP://ANGELSFORTRUTH.COM/BLOG](http://ANGELSFORTRUTH.COM/BLOG)

ADMITTED CONTAMINATION IN HAWAII



NO DU POISON



**DUST AT PTA
TRAINING AREA**

2nd LT. LYNN TERRY ON THE ISLAND OF MOLOKAI DURING 'OPERATION DULL KNIFE'. NOTICE THE RED SOIL COVERS EVERYTHING.

Known Illnesses - DEPLETED URANIUM (DU) PARTICLES

GENERAL:

*abnormal metabolism of semen:
contains amine & ammonium
alkaline acute autoimmune
symptoms (lung-, liver-, kidney
failure)
acute myeloid leukemia (deadly
within days or weeks)*

*acute immune depression
acute respiratory failure Balkan-
syndrome
blood in stool
bone cancer
brain tumors
burning semen
burning sensations
chronic fatigue
chronic kidney & liver disorders
chronic myeloid leukemia
chronic respiratory infections
colon cancer
diarrhea
digestive problems
general fatigue
glandular carcinoma
Gulfwar-syndrome
headaches*

*heart attack
high blood pressure
high frequency of micturition
Hodgkin lymphoma immunity
loss and general infections*



<http://ontosd.homestead.com/Lt1.html>
**FIRING A GROUND MOUNTED
106mm RECOILLESS RIFLE AT PO-
HAKULOA IN THE FALL OF 1964.**

ARE YOU READY FOR THE TRUTH? [HTTP://ANGELSFORTRUTH.COM/BLOG](http://ANGELSFORTRUTH.COM/BLOG)

insomnia
 involuntary movements
 joint & leg pain
 joint pain
 kidney failures
 leukemia
 liver carcinoma
 loss of memory
 low blood oxygen saturation
 (low HbO2)
 low lung volume

lung cancer
 lymph cancer
 lymphoma
 melanoma
 multiple myeloma
 myeloma
 muscle pain
 non-Hodgkin lymphoma
 other malignancies
 pancreas carcinoma
 petit & grand mal fits
 respiratory ailments
 shortness of breath
 skin cancer
 skin damage: sweat glands with
 trapped du-particles
 skin infections
 skin spotting
 stiffening of fingers
 thyroid cancer
 unable to walk

CHILDREN

alimentary disorders
 asthma
 bladder & sphincter paralysis
 blindness
 complete range of known and
 unknown Congenital Defects
 deafness
 dyspraxia
 headache
 kidney disease



3. An Iraqi baby with congenital hydrocephalus, central nerve defects and other deformities.

leukemia
 lymphoma
 malformations of legs, arms,
 toes & fingers
 respiratory disorders
 stillbirth
 neural tube defects

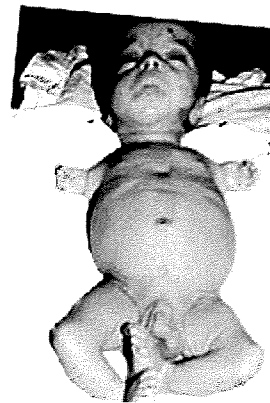
FEMALE

abdominal pain
 breast cancer
 breast cancer very young (20)
 cervix cancer
 headaches
 incontinence
 joint pain
 lung cancer at 20 - nonsmoker
 menstrual pain
 miscarriages
 nausea
 ovarian cancer
 paralysis of digestive system
 thyroid problems
 uterus cancer

MALE

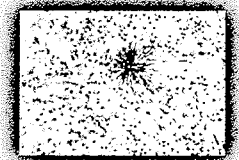
{acute} headache
 acute myeloid leukemia
 arthritis
 avoiding people
 breathing problems {stridor}
 chemical sensitivity

4. Deformation of the limbs and genitals. This is the son of an American Gulf War veteran.



There is now overwhelming evidence linking an increase in congenital deformities and cancers to the use of depleted uranium munitions.

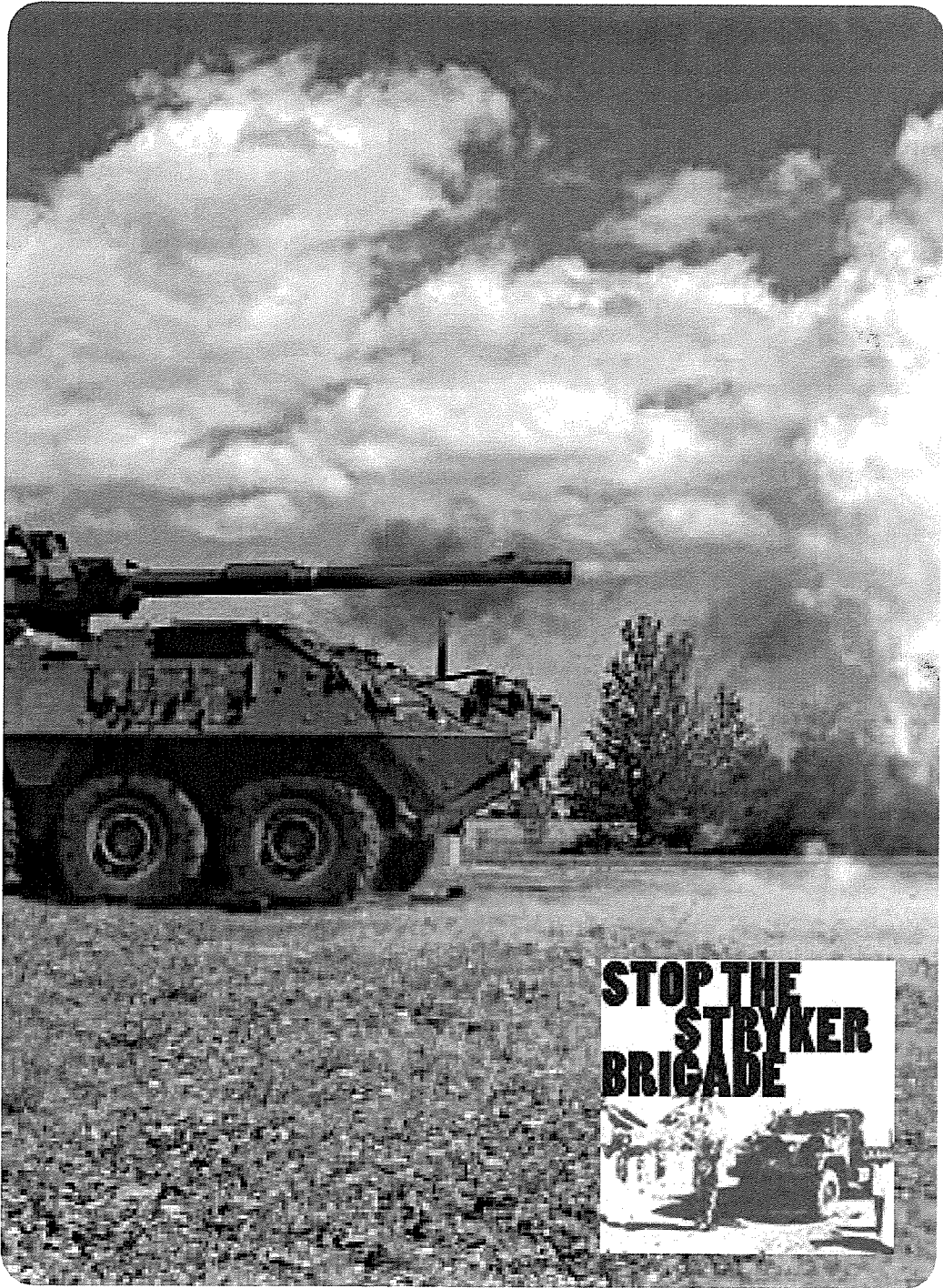
chronic myeloid leukemia
 gastrointestinal disorder
 hip- and leg pain
 joint pain
 lung cancer at young age
 lymphoma
 skin cancer
 skin eruptions
 stomach pain
 suicide
 testicular cancer
 unable to walk



| From Kabul | Population | % affected |
|--|--------------------|------------|
| Afghanistan | 29,928,987 | 100% |
| Iran | 68,017,860 | 100% |
| Pakistan | 162,419,946 | 100% |
| India (Northwest) | 321,298,067 | 30% |
| Tajikistan | 7,163,506 | 100% |
| Uzbekistan | 26,851,195 | 100% |
| Azerbaijan | 7,911,974 | 100% |
| Armenia | 2,982,904 | 100% |
| Kuwait | 2,335,648 | 100% |
| Bahrain | 688,345 | 100% |
| Qatar | 863,051 | 100% |
| Georgia | 4,677,401 | 100% |
| Nepal | 13,838,274 | 50% |
| Total | 648,977,157 | |
| From Baghdad | | |
| Saudi Arabia | 26,417,599 | 100% |
| Turkey | 69,660,559 | 100% |
| Syria | 18,448,752 | 100% |
| Jordan | 5,759,732 | 100% |
| Lebanon | 3,826,018 | 100% |
| Egypt | 77,505,756 | 100% |
| Cyprus | 780,133 | 100% |
| Israel | 6,276,883 | 100% |
| Total | 208,675,432 | |
| Grand total | 857,652,589 | |
| Source: Population data from CIA fact book | | |
| Estimates of July 2005, CIA Fact book | | |

PROTECT THE 'AIAA

DON'T TURN HAWAII INTO A MILITARY POLICE STATE



Strykers destroy sacred sites and disrupt Native Hawaiian cultural practices. The Army failed to do a survey of cultural sites, in violation of agreements. Cultural sites

that turned out to be far more extensive than previously reported, have already been damaged, like the recently rediscovered Hale'au'au Heiau.

DMZ Hawaii

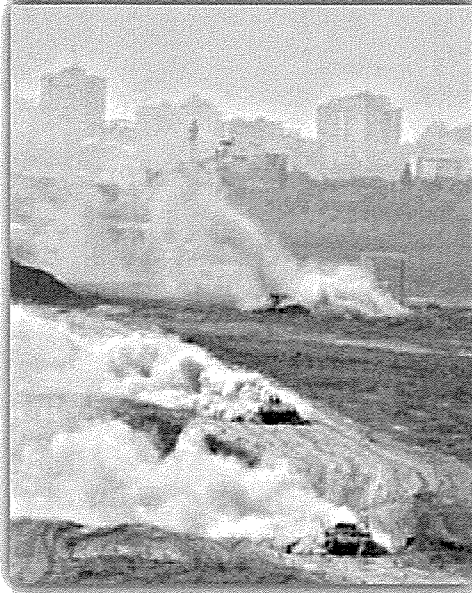
ARE YOU READY FOR THE TRUTH? [HTTP://ANGELSFORTRUTH.COM/BLOG](http://ANGELSFORTRUTH.COM/BLOG)

STRYKER'S SPREAD DU DUST



**Deadline
Oct. 30th**

TAKE ACTION NOW!!!



www.mauipeace.org,

1) First, click on and sign this petition to the military - <http://www.thepetitionsite.com/2/help-save-hawaii>

This petition requests the US Military to cease further actions destructive to public health, wildlife, and environment on the beautiful Hawaiian Islands, as well as demands complete restoration of all contaminated areas, as well as the testing and treatment of all citizens adversely affected.

2) Then, by the Oct. 30 deadline, send an email to the Army, at [PublicComments\(at\)ec.apgea.army.mil](mailto:PublicComments(at)ec.apgea.army.mil) to comment on their Draft Environmental Impact Statement (DEIS) found at **Environmental Impact Statement of the 2/25th Stryker Brigade Combat Team**. Here are some talking points, but be

as brief or as detailed as you want. We urge careful accuracy and politeness for maximum impact.

ADDITIONAL INFORMATION:

In the Stryker Draft Environmental Impact Statement, (EIS) Forty-five separate locations showed Gamma levels higher than normal. This Environmental Impact Statement is in violation of the required Army EIS protocol.

Strykers contaminate the land forever and endanger our health and safety: 25% more live ammunition into our environment, more unexploded bombs and more

toxics like RDX, HMX, TNT, Arsenic and Lead. Strykers will kick up more than 13.4 million pounds of dust per year which can disperse toxics like radioactive

Depleted Uranium, which was recently discovered in Wahiawa (and PTA) despite the Army's assurances that it was never used in Hawai'i. DMZ Hawaii

ARE YOU READY FOR THE TRUTH? [HTTP://ANGELSFORTRUTH.COM/BLOG](http://ANGELSFORTRUTH.COM/BLOG)

We request, therefore, an amended EIS be released to the public on the World Wide Web showing the exact locations of the Forty-five areas mentioned in the Stryker Draft EIS where Gamma levels were higher than background levels, as well as the proper required information for all Environmental Impact Statements, namely: the qualifications of the operator, the make, model, and specifications of all radiation monitoring used, the aircraft make and model used, and the Isotopes detected.

• **All live-fire test areas used throughout Hawaii must be tested for the presence of environmental radiation, with interested members of the general public permitted to be present at all such tests, with all results and details concerning these tests made available to the general public on the World Wide Web.**

• **With regard to the 2/25th Stryker Brigade Combat Team Draft Environmental Statement, we maintain that the Stryker Brigade must NOT be stationed in Hawaii for the following reasons:**

• **(a) Vehicles traveling off-road will cause the radioactive materials to become airborne.**

• **(b) Stryker vehicles, as well as other combat vehicles used overseas in the Middle East that return to Hawaii, will be contaminated with radioactive Uranium, which will spread the radioactive contamination in Hawaii.**

• **(c) As stated in the Draft EIS, the permanent positioning of the 2/25th Stryker Brigade**

Combat Team in Hawaii will have a significant impact on soil erosion, water resources, wildfire management, cultural and spiritual resources, land use and resources, hazardous materials and waste, noxious weeds, threatened and endangered plant and animal species, noise, and air quality.

• **(d) The state's tourism industry would suffer more with increased militarization, adversely impacting upon land, and creating further environmental destruction, as well as continued degradation and contamination of the Hawaiian Islands.**

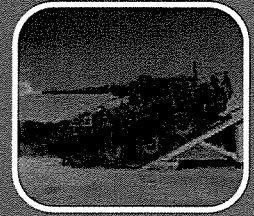
• **(e) Military chemical toxics and hazardous contaminants have already adversely affected Hawaiians public health. Additional military presence would only further compound the current public health situation.**

• **For additional resources, visit: [Protect Hawaii](#) and [Demilitarize Hawaii](#)**

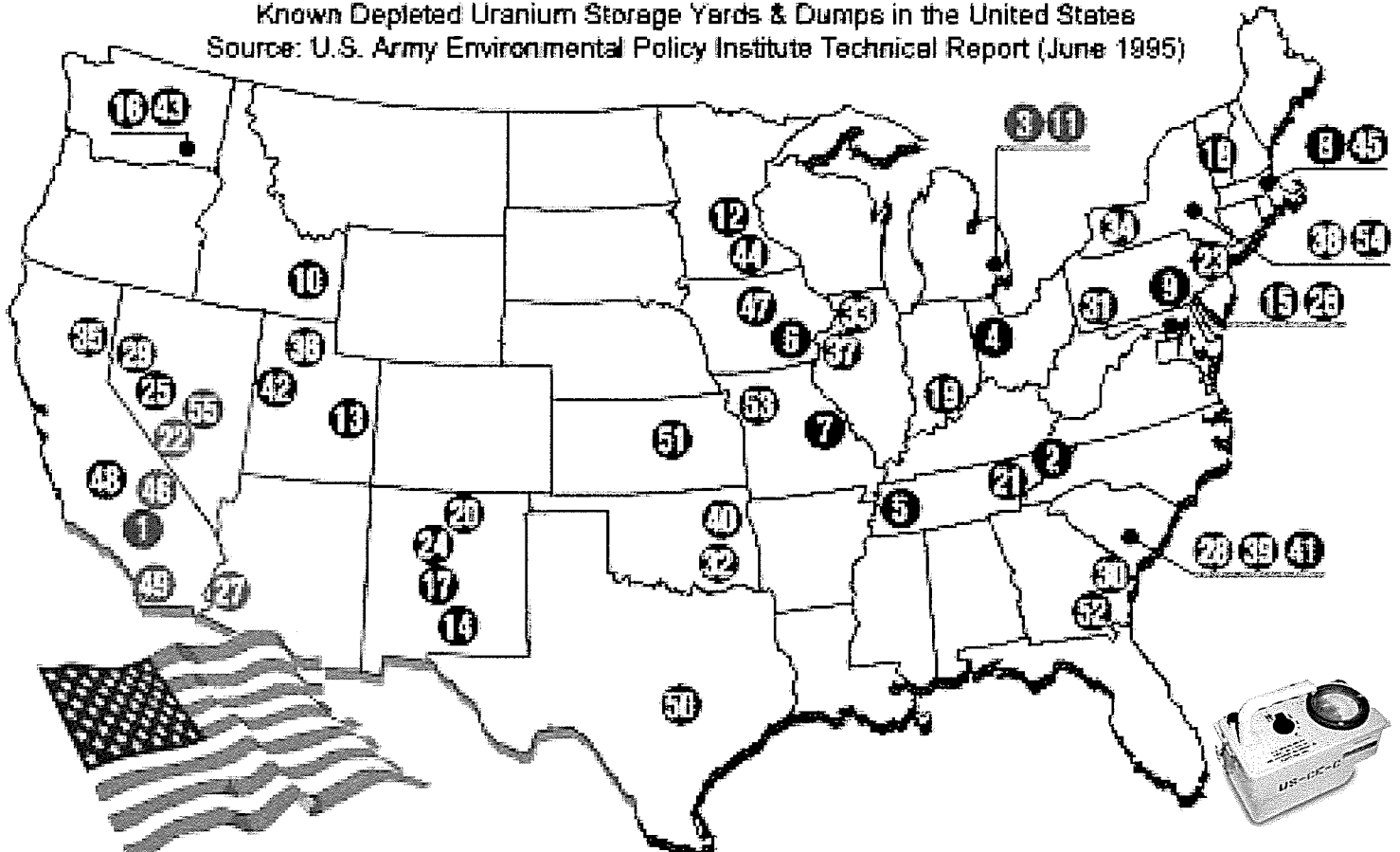


**URANIUM IS A DEAL BREAKER.
URANIUM IS A LOSE-LOSE GAME.
THERE IS NO WAY TO WIN.**

-- BOB NICHOLS



Known Depleted Uranium Storage Yards & Dumps in the United States
Source: U.S. Army Environmental Policy Institute Technical Report (June 1995)



SAVE THE WORLD'S CHILDREN - STOP DU

ARE YOU READY FOR THE TRUTH? [HTTP://ANGELSFORTRUTH.COM/BLOG](http://ANGELSFORTRUTH.COM/BLOG)

Navy turns HAWAII waters into WAR ZONE! Trains with Live BOMBS! SONAR!

DU IN FISH?

NAVY WAR TRAINING LIVE FIRING IN AIR & OCEAN

Lethal Sounds: Deadly Sonar Harms Whales

<http://www.youtube.com/watch?v=uQi8nqNtF5Y>

Most Important..

Take Action Here:

<http://www.govsupport.us/navynep ahawaii/publicComments.aspx>

<http://www.honoluluadvertiser.com/apps/pbcs.dll/article?AID=20070727/NEWS01/07270362/1001/NEWS01#top>

Navy seeking blanket OK for sonar in Hawaii

By William Cole

The Navy is releasing an environmental study today that it hopes will lead to a blanket authorization for sonar training around Hawai'i and do away with the need for case-by-case applications for permits from a federal regulatory agency that monitors harm to whales.

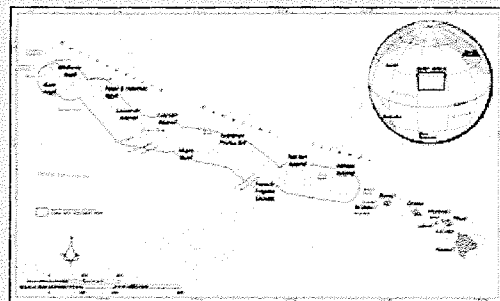
The ambitious study calls for increased training and testing over 2.3 million square nautical miles around Hawai'i to include anti-submarine warfare sonar, as well as testing on micro-satellite launches, laser-directed energy and hypersonic vehicles capable of speeds in excess of Mach 4 (around 3,000 mph).

The environmental impact statement — now in draft form at about 1,700 pages — also lays the groundwork for what the Navy hopes will be a more efficient way of complying with the

Marine Mammal Protection Act in the use of active, or "pinging," sonar. *continued at link*

War Declared On Hawaii

http://www.opednews.com/articles/genera_cathy_ga_070912_war_declared_on_hawa.htm



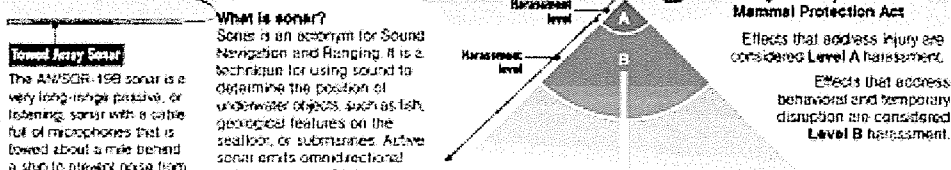
RIMPAC WAR GAMES TO BEGIN IN JUNE

This summer's run of the Pacific war games, scheduled from June 26 to about July 28 off Hawai'i, are expected to be the first test of a new Navy threshold for sonar "harassment" of marine mammals, and as a result of legal pressure from environmental groups could represent the first time in 35 years the Navy has sought permits from the National Marine Fisheries Service for sonar use.



LENGTH: 557 feet
BEAM: 56 feet
SPEED: 30 knots
DRAFT: 32.2 feet
DISPLACEMENT: 9,695 tons
ACCOMMODATIONS: 409

The Pearl Harbor-based cruiser USS Port Royal is equipped with the AN/SQS-53C sonar — the most advanced surface ship anti-submarine warfare sonar in the Navy. The same sonar has been blamed for a 2000 mass stranding of whales in the Bahamas.



Potential effects as categorized by the Marine Mammal Protection Act

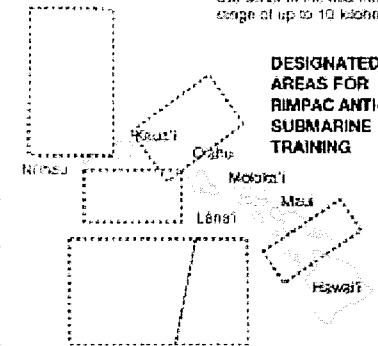
Effects that address injury are considered Level A harassment.
Effects that address behavioral and temporary disruption are considered Level B harassment.

Towed Array Sonar

The AN/SQR-199 sonar is a very long-range passive, or listening, sonar with a cable full of microphones that is towed about a mile behind a ship to prevent noise from the ship interfering with the noise of an enemy submarine or ship.

What is sonar?

Sonar is an acronym for Sound Navigation and Ranging. It is a technique for using sound to determine the position of underwater objects, such as fish, geological features on the seafloor, or submarines. Active sonar emits omnidirectional pulses, or "pings." Information is derived from the bounceback wave. Technical sonars used in Rimpac to detect submarines use sonar in the mid-frequency range of up to 10 kilohertz.



DESIGNATED AREAS FOR RIMPAC ANTI-SUBMARINE TRAINING

NOISE LEVELS UNDERWATER

The speed of sound in water is about five times faster than in air. While sounds can be heard hundreds, and even thousands, of miles from point of origin, from falling on the surface of the ocean can be heard more than 1.2 miles deep.

| SOURCE | DECIBEL LEVEL | CONDITIONS |
|-----------------------------------|---------------|---|
| Undersea earthquake | 272 | Magnitude 4.0 |
| Seafloor volcano eruption | 255+ | Massive steam explosions |
| Lightning strike on water surface | 250 | During storms at sea |
| Navy acoustic testing | 190 | Navy's proposed harassment level |
| Supertanker | 190 | Length 1,116 feet, speed 20 knots |
| Humpback whale | 180 | Average levels, fluke and flipper slaps |
| Open ocean ambient noise | 74 to 100 | Estimate taken from offshore central California sea |

Sources: Ocean Acoustic Observations Atlantic; Source Test; Federation of American Scientists; NOAA; U.S. Navy and Woods Hole Oceanographic Institution. Reporting by WILLIAM COLE. Edited by MARTHA P. HERNANDEZ. The Honolulu Advertiser.

ARE YOU READY FOR THE TRUTH? [HTTP://ANGELSFORTRUTH.COM/BLOG](http://ANGELSFORTRUTH.COM/BLOG)

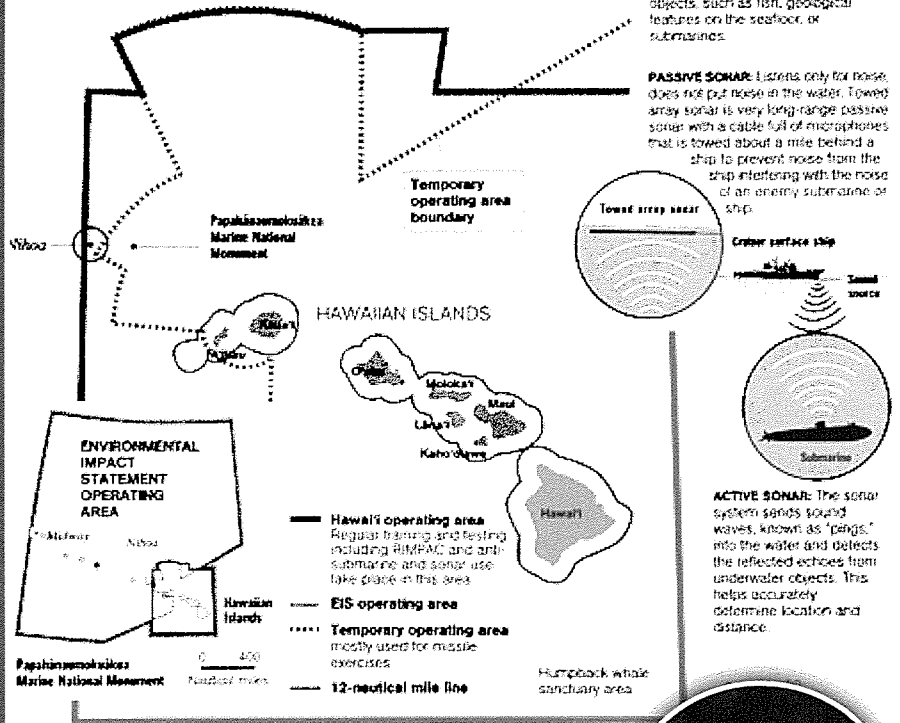
SECRET NAVY FIRING RANGE

- **Bombing**
- **Underwater Detonations**
- **MID-Frequency Active Tactical Sonar (5000 hrs)**
- **Chemical Laser Weapons**
- **Electronic Warfare**
- **more....**

All in our Marine National Monument and around our Islands.

DEATH TO WHALES, MONK SEALS, and DU FOR ALL!

HAWAII RANGE COMPLEX



Source: Federation of American Scientists, U.S. Navy



Entire Environmental Impact Statement:

<http://www.govsupport.us/navynepahawaii/EIS.aspx>

http://www.govsupport.us/navynepahawaii/Docs/Vol2_Part3of9_HRC_DEIS_JULY07_sec4_2.pdf

The prohibitions required by the Presidential Proclamation establishing the 7 Papahānaumokuākea Marine National Monument do not apply to activities and exercises of the 8 Armed Forces. The Proclamation does require that all activities and exercises of the 9 Armed Forces shall be carried out in a manner that avoids, to the extent practicable and consistent with 10 operational requirements, adverse impacts on monument resources and qualities. Current 11 Navy activities associated with the Monument are missile defense operations.

http://www.govsupport.us/navynepahawaii/Docs/Vol1_Part11of11_sec_3_7HRC_DEIS_JULY07.pdf

The Hawaiian Islands Humpback Whale National Marine Sanctuary (HIHWNMS) (Figure 14 3.3.1.1.1-2) is one of fourteen established sanctuaries under the National Marine Sanctuaries 15 Act. It was established in 1992 by the Hawaiian Islands National Marine Sanctuary Act, Title II, 16 subtitle C of the Oceans Act of 1992. At inception of the HIHWNMS and through the *Hawaiian 17 Islands Humpback Whale National Marine Sanctuary Final Environmental Impact Statement 18 /Management Plan* (February 1997) and implementing regulations (15 Code of Federal 19 Regulations §922.180), certain military activities were identified as exempt from the interagency 20 consultation requirements and the prohibited activities designated under the National Marine 21 Sanctuaries Act.

Executive Summary of Environmental Impact Statement:

http://www.govsupport.us/navynepahawaii/Docs/Vol1_Part1of11_cover_thru_execsum_HRC_DEIS_JULY07_R1.pdf



Marya Mann, Ph. D.
75-5919 Alii Drive I-22 ~Kailua Kona, HI 96740
Phone: 808-345-0050 ~ FAX: 808-217-9687

Testimony on the SuperFerry

Date: October 23, 2007

Aloha, Friends!

A million sounds, encouragements, demands from everywhere call us to our destiny. At least one truth that we in Hawai'i totally share is that we have responsibility to live as Kama'aina, "children of the land."

We are called to give back to the land, to offer ourselves as the voices of the pervasive power of Spirit that has given us so much.

We are given oceans and stellar blue waves for swimming.

We are given sunshine, food and materials for shelter.

We are given friendships and the ongoing hope that the world is basically good and our place in it is assured at every level.

The one thing Spirit asks of us is that we are wise caretakers of our heritage, our environment. The most basic heritage of all is our parents, our brothers and sisters and children, our lovers and friends, the animals, the plants, the mountains, the seas, the planet, and the whole galaxy.

With the SuperFerry, all environmental and health protections, at every level, are being ignored.

The whales would be killed because these boats are blind to them. "Whale strikes" are simply unacceptable.

The 350-foot long, high-speed, multi-million-dollar catamarans would bring a furious infestation of cars, traffic,

invasive insects, bugs, drugs, weapons, and no doubt illegal aliens to our shores.

The land would suffer, because the SuperFerry will carry radioactive-uranium-drenched Strykers -- hundreds of high-powered tanks that carry and sustain wars and generations of birth defects to farther shores.

The Big Island would take the next step toward becoming Miami. There would be a surge of cars – 300 on any one ferry – and we would need to build bigger highways. Who's going to pay for that?

Island traffic would start to look like Honolulu on the evening news. More pollution, more development, the spread of invasive species like the Coqui frog, overfishing. Does anybody really believe this would help our economy?

In Hawaii, the environment IS the economy. Preserving the environment makes both spiritual and economic sense, because we are called to care for our resources is a wise way.

We cannot let the state legislature led by the Republican renegade governor Linda Lingle overwhelm us. We are the caretakers of the land, Kama'aina rebels of Hawai'i, in solidarity with the Seaweed rebels of Kauai.

People power can prevail! Environmental protection has been set in place for good reason, and the SuperFerry is not, I repeat is NOT, a good enough reason to start operating now. Whether the continued development of the SuperFerry was based on bureaucratic error or corporate-legislative collusion doesn't matter so much as being very clear that operation of the SuperFerry without an thorough Environmental Impact Statement and Mitigation plan.

Live in Aloha. Support people over profits!

Big Beautiful Blessings,

Marya Mann, Ph. D.
Author ~ Creativity Consultant
PSYCH-K Facilitator

A handwritten signature in black ink, appearing to read 'Marya', with a large, elegant flourish at the end.

WHY I VOTE NO ON THE SUPERFERRY BILL:

- It overturns the unanimous Hawaii Supreme Court decision.
 - It overturns Judge Cardoza's decision indicating potential irreparable harm; he heard 22 days of testimony.
 - It leaves it to Governor Lingle to create the superferry's operating conditions,
- BUT** - It offers **NO** specific protections for marine animals.
- It creates **NO** specific safeguards to protect each island from invasive alien species.
 - It makes **NO** provision to mitigate traffic and harbor congestion.
 - It neglects to protect residents from inter-island crime and drug shipments.
 - It leaves us vulnerable to theft of natural and cultural resources.
- (Unfortunately, to-date Governor Lingle has frustrated all efforts to get any mitigation measures.)
- It allows the superferry to operate free of HRS 343, the Environmental Protection Act.
 - It sets up a potentially stacked, 13 month "oversight committee" with **NO** enforcement capability.
 - It denies the County any ability to regulate the superferry.
 - It sets a precedent that our courts may be over-ruled by legislators meeting in a "special session" while the public is given only 2 minutes to comment.

.....
I DO NOT SUPPORT A SPECIAL SESSION TO PASS THE SUPERFERRY BILL.

IF YOU PASS THIS BILL I ASK THAT YOU INCLUDE MAUI TOMORROW'S
29 CONDITIONS.

MAHALO, with the additional condition of NO RADIOACTIVE STRYKERS ALLOWED ON FERRY.



Superferry Operating Conditions

Submitted to the Legislature on Behalf of Maui Tomorrow

We strongly oppose operation of Hawaii Superferry during the time it takes to prepare an EA or an EIS. Such operations violate unambiguous Hawai'i law. Maui Circuit Court Judge Joseph E. Cardoza correctly found that such operations caused the possibility of irreparable harm to marine mammals and an increased rate of alien species introductions.

Evidence received during the hearings made it obvious that the Hawaii Superferry project "may" have a significant effect on the environment and, as such, a full EIS is required. Legislative recognition of this inevitability is no real concession to environmentalists.

We urge the Legislature not to pass this unconstitutional special legislation benefiting a single business, depriving us of vested Constitutional rights and violating the separation of powers by overruling a judicial decision.

If the Legislature has already decided (a) to convene a special session and (b) to allow Hawaii Superferry to operate while an EA or EIS is being prepared, it would be irresponsible of us to abandon the protection of the environment to the same administration that has been dedicated for many years to minimizing legitimate concerns about the Superferry project.

We are compelled to recommend conditions of operation to be imposed by the Legislature, not because we agree that the Superferry can operate (we do not) or because we agree with the proposed legislation or its purposes (we do not),

but because it is now necessary to protect Hawai'i from the impacts of the improvident actions of the Lingle Administration and the Legislature if they were to allow the Hawaii Superferry to operate, even after a month long trial amply demonstrated that this would be unlawful and would cause irreparable harm in multiple fashions.

Based on one month of daily testimony from highly qualified experts, the consensus of prevailing expert opinion was that the following mitigation measures are absolutely required to minimize to some responsible degree the possibility of irreparable harm caused by Hawaii Superferry operations during the time it takes to prepare an EA or EIS:

CONDITIONS OF OPERATION

Protection on Marine Mammals and Turtles

1. Hawaii Superferry vessels shall travel in routes that are in waters that are in excess of 1000 fathoms.
2. If Hawaii Superferry vessels travel in a route that is in any part in waters less than 1000 fathoms, its vessels shall travel at the NOAA recommended speed of no more than 13 knots. The 13 knot limitation shall be inclusive of the first 10 miles of exists and entrances to Honolulu, Kahului and Nawiliwili harbors. At all times, regardless of fathom depth, the ferry shall travel at lesser speeds than provided above as determined by the Captain to provide safe passage to passengers and to minimize strikes of whales.
3. Should a Hawaii Superferry vessel strike a marine mammal, a written report of such strike shall be immediately transmitted to NOAA and any other agencies responsible for monitoring and regulating strikes.
4. Hawaii Superferry shall immediately apply for and receive from NOAA an incidental take permit and in engage in Section 7 consultation with NOAA regarding the impacts of its ferry operations on protected marine mammals.

Protection Against Introduction of Alien Species

5. Hawaii Superferry shall conduct thorough undercarriage washes of all vehicles during embarkation at all ports to help dislodge seeds, insects, and animals. Such undercarriage wash systems shall include appropriate debris traps and filters.
6. Hawaii Superferry shall utilize sufficient vacuum stations to vacuum the floors of all vehicles during embarkation. An Appropriate filter system to trap and contain all debris shall be employed.
7. Hawaii Superferry shall not permit the transport of plants or plant propagative materials.
8. Hawaii Superferry shall secure and pay for all costs to have a dog handler team present at all harbors to conduct inspections of all vehicles at the time of embarkation. These dogs will be utilized to prevent the inter-island transmission primarily of invasive species and secondarily, of drugs.
9. Hawaii Superferry shall inspect (a) the trunks of all cars, (b) the beds of all pickup trucks, (c) the engine compartments of all vehicles and (d) the interiors of all vehicles, items such as coolers, boxes, trunks and luggage shall be opened and inspected.
10. agricultural inspections shall not be conducted on a random basis. Every vehicle and passenger shall be inspected or screened.
11. Hawaii Superferry shall not permit the transport of fishing nets.
12. Hawaii Superferry shall conduct, publish and disseminate a risk assessment within three months of operation to further assess potential impacts and better identify potential mitigation options.
13. Hawaii Superferry shall post signage at all harbors about invasive species. Specific information about invasive species shall be disseminated during the ticketing process on Hawaii Superferry's website. Said signage and information shall have been reviewed and approved by a representative of the Maui Invasive Species Committee.

Protection of Customary Native Hawaiian Practices

14. Passengers, upon checking in at a harbor, shall declare whether they intend to camp at any destination island. Hawaii Superferry shall disseminate to all passengers who have declared their intent to camp written rules and procedures for camping on the destination island.
15. Passengers shall only camp at Federal, State and County campgrounds at destination islands, and then only if they can demonstrate upon checking in that they have obtained in advance permits to camp at those campgrounds.

16. Passengers shall not be permitted to transport to another island cultural or natural resources or products from the ocean, from the shoreline or from the inlands of another island, unless the can demonstrate through a written receipt that the have purchased these items from a legitimate commercial establishment.
17. Should Hawaii Superferry, through the inspection process, discover an attempt to transport natural resources to another island, this transport shall be disallowed and Hawaii Superferry shall immediately notify local DLNR DOCAR officials.

Agricultural Inspections

18. There shall be two (2) qualified Department of Agriculture agricultural inspectors present and participating in agricultural inspections at all times of embarkation and disembarkation at each port. The DOA inspectors shall supervise all HSF screeners.
19. Hawaii Superferry , as an impact fee, shall pa all costs of the agricultural inspectors required in the foregoing paragraph.
20. The State Department of Transportation, in conjunction with the Governor, the State Legislature, and the Department of Agriculture shall forthwith allocate positions and funds for the additional agricultural positions necessary to staff the inspection personnel set forth in paragraph 18 above.
21. Hawaii Superferry shall post a bond in the amount of \$40,000,000.00 to reimburse the State for the balance of the funds due, in the event that the Hawaii Superferry does not operate or refuses to follow mitigation measures required b the EIS.

Permission to Operate Applies Only to the Alakai

22. The permission to operate in this Bill is limited solely to the operation of the Alakai and shall not extend to any other vessel or vessels operated b Hawaii Superferry. The "no action" provisions of Chapter 343 shall be fully applicable to all other Superferry vessels, except for the Alakai.

Time Limits

23. Hawaii Superferry shall not be able to utilize the lack of a time deadline in HRS Chapter 343 for the completion of the EIS as a means to keep operating for whatever period of time it may take to prepare an EIS. The Alakai shall not be entitled to operate after the expiration of the last day of the fifteenth (15th) month after the date of the adoption of this legislation.
24. These conditions of operation shall, however, be applicable to any and all Hawaii Superferries irrespective of whether they operate before or after the preparation of the EIS.

Verification of Compliance

25. Designated representatives of Plaintiff groups shall be entitled to verify Hawaii Department of Transportation's and Hawaii Superferry's compliance with all the foregoing.
26. In order to accomplish the foregoing, the designated representatives of Plaintiffs in Sierra Club et. al. v. HDOT: Civil No. 05-1-0114(3) shall be granted access to all State lands granted at all ports to Hawaii Superferry for its operations

Enforcement of Conditions

27. The foregoing conditions of operation may be enforced by the Attorney General of the State of Hawai'i and by Plaintiffs in Sierra Club et .al. v. HDOT: Civil No. 05-1-0114(3).
28. These conditions may be enforced in any Circuit Court in the State of Hawaii and the prevailing party shall be entitled to the reimbursement of reasonable attorney's fees and costs.
29. An allowable remedy in any such enforcement action shall be the cessation of Hawali Superferry operations until and unless compliance is achieved with the foregoing conditions.



Pahualikoakaawaloa

Kūlana Huli Honua
Foundation of the Search for Wisdom
a Non-Profit, 501-C3 Organization

Mikahala Roy, Executive Director

Special Hawaii State Legislative Committee Convened to Hear Public Testimony
Hawaii Superferry
Kealakehe High School Cafetorium

October 23, 2007

Distinguished Committee Members:

Aloha Kakou. I am Mikahala Roy, President of Kūlana Huli Honua a Hawaii pae 'aina and Hawaii Island non-profit organization based at Kamakahonu, Kona Hawaii. Our organization is formed to guide the life and care of Ahu'ena Heiau and the greater Kamakahonu while we advocate for other sacred sites throughout Hawaii. We educate by practice of culture, language and heritage associated with the lands especially of Kona and Hawaii island and, upon those lands, we also promote the creation of land-based archives.

Our work is based in relationships with 'Oiwī and others who have long lived here and many who've recently relocated to the Hawaiian Islands. Statistics report that there is a diaspora rate nearing 50% of 'Oiwī from their homeland to live their lives elsewhere. It becomes very important for 'Oiwī who originate from families who are familiar to these lands to educate those who move here about the very sensitive and delicate nature and history of our lands.

Sacred sites and environmentally precious places on Hawaii Island are being inundated by great numbers from the cruise ships who treat Hawaii as a kind of Disneyland; a place that is here for their "pleasure"; a place that would not thrive without them. Our lands are places for healing and for this reason humans would do well to respect all of Hawaii as one would respect "recovery" after a prolonged illness – as one would respect cool, clean water after an unexpected sojourn in a desert. Inundation of the lands and lack of adequate enforcement to protect these lands loom as huge issues here. If these are huge existing issues now, how can our populations say the lands can endure more, unchecked visitations by residents of other islands? "Visitations" on vehicles unattended by 'Oiwī who know the lands equate to "intrusions" and "threats" to the land and to indigenous and endemic species of life. National historic landmarks are being trashed spiritually by community planning that follows the U.S. continental designs that show no respect for the unique inherent history and nature of Hawaii.

The Hawaii State government here is called to honor environmental laws of this truly unique place. Do not take actions that will cause your constituencies to be against you but be the example of just practices enforceable by law. Do not allow the Superferry to operate with it's present serious and dangerous environmentally and culturally threatening practices.

'O Wau No I Ke Aloha,

L. Mikahala Roy, President

Aloha My Name is Greg Colden and I own Kokoleka Lani Farms and am a partner in Kona Natural Soap Company here on the Big Island.

I am a small business owner who makes a value added product from my farm in Holualoa. I am a proponent of the Hawaii Superferry for the benefit of myself, my partner and other business owners, manufacturers and farmers on the Big Island.

Kokoleka Lani Farms grows principally cacao (chocolate), coffee and pineapples for sale. We also grow papayas, mangos, four types of bananas and tropical flowers for our own use.

As an owner of a 5 acre farm in Holualoa, I am sensitive to the environment as many who are opposed to the Superferry. When I purchased my farm four years ago, my partner and I reclaimed what was previously part of a rock quarry which had approximately 3 acres of land which was considered unusable. With great dedication, we transformed the unplanted acreage with an additional 1800 cacao and coffee trees which are flourishing today.

There may some valid environmental concerns raised by opponents of the Superferry but I believe those can be mitigated while the operation continues. We are the only industrialized archipelago in the world without a ferry system.

What does the ferry system mean to my business you may wonder? Currently, Kona Natural Soap Company and

Kokoleka Lani Farms can only afford to do one trade show per year on Oahu. The "Made In Hawaii Festival" is the most important trade show for our company.

Each year we must pack up inventory and displays, take them to the airport 2 days prior to the show, retrieve them in Oahu, set up at the Blaisdell and ship it back after the show is over. This means all production and distribution is shut down for about one week for preparation and return, not to mention the huge expense of shipping product and displays, airfare for myself and my partner, rental car and the worry that our products out of our control may be damaged or lost.

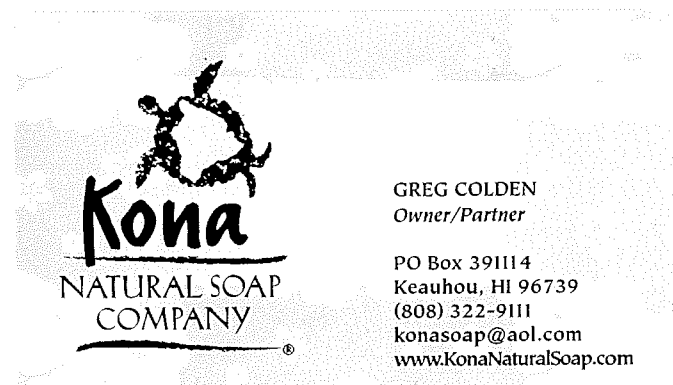
With the Hawaii Superferry coming to the Big Island, we can visit Oahu more frequently by loading up our station wagon, shorting our preparation time and economically showcasing our products to a larger population base. I believe more small manufacturing and agriculture businesses from the outer islands can benefit this way as well.

I urge you to pass the bill enabling the Hawaii Superferry to resume serve while whatever Environmental reports are performed.

Let's not let the Hawaii Superferry sail away never to return leaving us with few transportation options.

Mahalo – Greg Colden
www.KonaNaturalSoap.com

Page 2 of 2



WHY I VOTE NO ON THE SUPERFERRY BILL:

- It overturns the unanimous Hawaii Supreme Court decision.
- It overturns Judge Cardoza's decision indicating potential irreparable harm; he heard 22 days of testimony.
- It leaves it to Governor Lingle to create the superferry's operating conditions,
BUT - It offers NO specific protections for marine animals.
 - It creates NO specific safeguards to protect each island from invasive alien species.
 - It makes NO provision to mitigate traffic and harbor congestion.
 - It neglects to protect residents from inter-island crime and drug shipments.
 - It leaves us vulnerable to theft of natural and cultural resources.(Unfortunately, to-date Governor Lingle has frustrated all efforts to get any mitigation measures.)
- It allows the superferry to operate free of HRS 343, the Environmental Protection Act.
- It sets up a potentially stacked, 13 month "oversight committee" with NO enforcement capability.
- It denies the County any ability to regulate the superferry.
- It sets a precedent that our courts may be over-ruled by legislators meeting in a "special session" while the public is given only 2 minutes to comment.

.....
I DO NOT SUPPORT A SPECIAL SESSION TO PASS THE SUPERFERRY BILL.

IF YOU PASS THIS BILL I ASK THAT YOU INCLUDE MAUI TOMORROW'S
29 CONDITIONS
MAHALO, with the additional condition of NO RADIOACTIVE STRYKERS ALLOWED ON FERRY.

Shannon Rudolph
P.O. 243
HOLUALOA, HI. 96725

Superferry Operating Conditions

Submitted to the Legislature on Behalf of Maui Tomorrow

We strongly oppose operation of Hawaii Superferry during the time it takes to prepare an EA or an EIS. Such operations violate unambiguous Hawai'i law. Maui Circuit Court Judge Joseph E. Cardoza correctly found that such operations caused the possibility of irreparable harm to marine mammals and an increased rate of alien species introductions.

Evidence received during the hearings made it obvious that the Hawaii Superferry project "may" have a significant effect on the environment and, as such, a full EIS is required. Legislative recognition of this inevitability is no real concession to environmentalists.

We urge the Legislature not to pass this unconstitutional special legislation benefiting a single business, depriving us of vested Constitutional rights and violating the separation of powers by overruling a judicial decision.

If the Legislature has already decided (a) to convene a special session and (b) to allow Hawaii Superferry to operate while an EA or EIS is being prepared, it would be irresponsible of us to abandon the protection of the environment to the same administration that has been dedicated for many years to minimizing legitimate concerns about the Superferry project.

We are compelled to recommend conditions of operation to be imposed by the Legislature, not because we agree that the Superferry can operate (we do not) or because we agree with the proposed legislation or its purposes (we do not),

testimony against superferry

1 message

shannon rudolph <shannonkona@gmail.com>
To: shannon rudolph <shannonkona@gmail.com>

Tue, Oct 23, 2007 at 2:08 PM

Aloha Senators,

Mahalo for coming to the Big Island, we really do welcome you.

Neighbor Islanders know that we are sadly out-numbered by O'ahu legislators; its not a very fair system in cases like this but it has always been this way.

We know we will pour our hearts out to you for justice and you will go back to O'ahu and pass the superferry bill. No one is fooled, here. Its like Honolulu is "The Kremlin" and the Neighbor Islands are Outer Booniestan.

To me, this debacle mostly comes down to how this company got special treatment, which should be investigated. How can a company and our highest officials be allowed to break our laws, ignore our judges, and now make our legislators accomplices to their crimes? How was this allowed to happen? How can you LET it happen?

All neighbor island infrastructure is maxed out, suffering from decades of neglect by the state. We know we can not handle the additional influx; we know exactly what to expect if you pass this bill....
more traffic, more crime, more homelessness, more over-burdened infrastructure, no rental housing, road rage, and dead whales. Thanks a bunch.

I want to make sure you know of a couple of the things you and your constituents will be getting in return... I thought about putting "fire ants" on your chairs but didn't want you to call the coast guard on me!

Very sorry to say it, but like the fools who brought in the mongoose to kill the rat; this legislature will be remembered and cursed for bringing the tiny Coqui frog to O'ahu, but MOST of all, for unleashing the very real possibility of spreading deadly radioactive uranium dust, statewide, by transporting contaminated Strykers on the ferry. (how do you "wash off" DU?)

I ask that you take home one of the little visuals that I gave you; the green side represents the frogs, the other side represents the nuclear contamination of Hawaii

Again, a sincere mahalo for coming down.
Shannon Rudolph
P.O. 243 Holualoa, Hi. 96725

(one minute of Coqui frog recording)

but because it is now necessary to protect Hawai'i from the impacts of the improvident actions of the Lingle Administration and the Legislature if they were to allow the Hawaii Superferry to operate, even after a month long trial amply demonstrated that this would be unlawful and would cause irreparable harm in multiple fashions.

Based on one month of daily testimony from highly qualified experts, the consensus of prevailing expert opinion was that the following mitigation measures are absolutely required to minimize to some responsible degree the possibility of irreparable harm caused by Hawaii Superferry operations during the time it takes to prepare an EA or EIS:

CONDITIONS OF OPERATION

Protection on Marine Mammals and Turtles

1. Hawaii Superferry vessels shall travel in routes that are in waters that are in excess of 1000 fathoms.
2. If Hawaii Superferry vessels travel in a route that is in any part in waters less than 1000 fathoms, its vessels shall travel at the NOAA recommended speed of no more than 13 knots. The 13 knot limitation shall be inclusive of the first 10 miles of exists and entrances to Honolulu, Kahului and Nawiliwili harbors. At all times, regardless of fathom depth, the ferry shall travel at lesser speeds than provided above as determined by the Captain to provide safe passage to passengers and to minimize strikes of whales.
3. Should a Hawaii Superferry vessel strike a marine mammal, a written report of such strike shall be immediately transmitted to NOAA and any other agencies responsible for monitoring and regulating strikes.
4. Hawaii Superferry shall immediately apply for and receive from NOAA an incidental take permit and in engage in Section 7 consultation with NOAA regarding the impacts of its ferry operations on protected marine mammals.

Protection Against Introduction of Alien Species

5. Hawaii Superferry shall conduct thorough undercarriage washes of all vehicles during embarkation at all ports to help dislodge seeds, insects, and animals. Such undercarriage wash systems shall include appropriate debris traps and filters.
6. Hawaii Superferry shall utilize sufficient vacuum stations to vacuum the floors of all vehicles during embarkation. An appropriate filter system to trap and contain all debris shall be employed.
7. Hawaii Superferry shall not permit the transport of plants or plant propagative materials.
8. Hawaii Superferry shall secure and pay for all costs to have a dog handler team present at all harbors to conduct inspections of all vehicles at the time of embarkation. These dogs will be utilized to prevent the inter-island transmission primarily of invasive species and secondarily, of drugs.
9. Hawaii Superferry shall inspect (a) the trunks of all cars, (b) the beds of all pickup trucks, (c) the engine compartments of all vehicles and (d) the interiors of all vehicles, items such as coolers, boxes, trunks and luggage shall be opened and inspected.
10. agricultural inspections shall not be conducted on a random basis. Every vehicle and passenger shall be inspected or screened.
11. Hawaii Superferry shall not permit the transport of fishing nets.
12. Hawaii Superferry shall conduct, publish and disseminate a risk assessment within three months of operation to further assess potential impacts and better identify potential mitigation options.
13. Hawaii Superferry shall post signage at all harbors about invasive species, Specific information about invasive species shall be disseminated during the ticketing process on Hawaii Superferry's website. Said signage and information shall have been reviewed and approved by a representative of the Maui Invasive Species Committee.

Protection of Customary Native Hawaiian Practices

14. Passengers, upon checking in at a harbor, shall declare whether they intend to camp at any destination island. Hawaii Superferry shall disseminate to all passengers who have declared their intent to camp written rules and procedures for camping on the destination island.
15. Passengers shall only camp at Federal, State and County campgrounds at destination islands, and then only if they can demonstrate upon checking in that they have obtained in advance permits to camp at those campgrounds.

16. Passengers shall not be permitted to transport to another island cultural or natural resources or products from the ocean, from the shoreline or from the inlands of another island, unless the can demonstrate through a written receipt that the have purchased these items from a legitimate commercial establishment.
17. Should Hawaii Superferry, through the inspection process, discover an attempt to transport natural resources to another island, this transport shall be disallowed and Hawaii Superferry shall immediately notify local DLNR DOCAR officials.

Agricultural Inspections

18. There shall be two (2) qualified Department of Agriculture agricultural inspectors present and participating in agricultural inspections at all times of embarkation and disembarkation at each port. The DOA inspectors shall supervise all HSF screeners.
19. Hawaii Superferry , as an impact fee, shall pa all costs of the agricultural inspectors required in the foregoing paragraph.
20. The State Department of Transportation, in conjunction with the Governor, the State Legislature, and the Department of Agriculture shall forthwith allocate positions and funds for the additional agricultural positions necessary to staff the inspection personnel set forth in paragraph 18 above.
21. Hawaii Superferry shall post a bond in the amount of \$40,000,000.00 to reimburse the State for the balance of the funds due, in the event that the Hawaii Superferry does not operate or refuses to follow mitigation measures required b the EIS.

Permission to Operate Applies Only to the Alakai

22. The permission to operate in this Bill is limited solely to the operation of the Alakai and shall not extend to any other vessel or vessels operated b Hawaii Superferry. The "no action" provisions of Chapter 343 shall be fully applicable to all other Superferry vessels, except for the Alakai.

Time Limits

23. Hawaii Superferry shall not be able to utilize the lack of a time deadline in HRS Chapter 343 for the completion of the EIS as a means to keep operating for whatever period of time it may take to prepare an EIS. The Alakai shall not be entitled to operate after the expiration of the last day of the fifteenth (15th) month after the date of the adoption of this legislation.
24. These conditions of operation shall, however, be applicable to any and all Hawaii Superferries irrespective of whether they operate before or after the preparation of the EIS.

Verification of Compliance

25. Designated representatives of Plaintiff groups shall be entitled to verify Hawaii Department of Transportation's and Hawaii Superferry's compliance with all the foregoing.
26. In order to accomplish the foregoing, the designated representatives of Plaintiffs in Sierra Club et. al. v. HDOT: Civil No. 05-1-0114(3) shall be granted access to all State lands granted at all ports to Hawaii Superferry for its operations

Enforcement of Conditions

27. The foregoing conditions of operation may be enforced by the Attorney General of the State of Hawai'i and by Plaintiffs in Sierra Club et .al. v. HDOT: Civil No. 05-1-0114(3).
28. These conditions may be enforced in any Circuit Court in the State of Hawaii and the prevailing party shall be entitled to the reimbursement of reasonable attorney's fees and costs.
29. An allowable remedy in any such enforcement action shall be the cessation of Hawaii Superferry operations until and unless compliance is achieved with the foregoing conditions.

TESTIMONY FOR ALLOWING SUPERFERRY TO OPERATE

October 23, 2007

To: Senator Colleen Hanabusa and Committee
From: Marian W. Wilkins, John Reiner, and Michele Wilkins - Kona Residents

We believe the Super Ferry should be allowed to operate but with a strict time limit for submitting a complete EIS. They were given bad advice by the State and should be given some allowance for taking that bad advice.

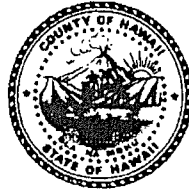
Concerns by many opposed to the ferry are legitimate but can be mitigated by strict enforcement of the laws now on the books. The problem is that the state has never hired the number of enforcement officers that are needed right now. That must be rectified. We suggest that the legislature take some part in making sure the State lives up to its duties to make sure that fishery, gathering and other environmental laws are truly enforced. Perhaps much of the opposition is simply a vote of "no confidence" in our State's and our County's ability to respond to the needs and the wishes of the citizens of Hawaii.

As to highway congestion, that is another area that has been long neglected by the State. All these things should have been dealt with long ago. But, we need the ferry system. Again, we think it is the duty of the State (legislature included) to see that our highways are upgraded to a safe level. It's time to recognize that the neighbor islands now experience traffic jams and the roads are unsafe. And surely, with technology, there must be a way to alert whales that the ferry is approaching. We don't think observers will be able to see them in time.

As to camping and parks, both the State and Counties need to provide more and upgrade existing camp grounds. Many of our parks are not kept up and we already don't have enough campgrounds or parks. However, after outlining existing problems, We don't think the ferry should be punished for our own governments' (County and State) seeming inability to live up to its duties. Maybe with the ferry system the State and Counties will be forced to do the jobs they should have been doing for years. Some of you may be old enough to remember the old state slogan that said we want "quality tourism". We think it's time we think of what our own citizens need and want—not just the "right kind of tourist", meaning the well-to-do. The ferry system will be a right step in that direction. It will help farmers, businesses and many others.

J.D. Reiner Michele Wilkins
Marian W. Wilkins

COUNTY OF HAWAI'I



STATE OF HAWAI'I

RESOLUTION NO. 68 05

RESOLUTION REQUESTING THE PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT FOR THE PROPOSED STATEWIDE HAWAI'I SUPERFERRY PROJECT

WHEREAS, the Hawai'i Superferry, in association with Austal USA, is proposing to provide roundtrip ferry services daily between the islands of Hawai'i, Kaua'i, Maui and O'ahu, commencing in 2007; and

WHEREAS, this service will provide Hawai'i with the world's newest and largest passenger vehicle catamaran, connecting the islands with a new "H4 highway" which could transform our communities, positively and/or negatively; and

WHEREAS, Hawai'i Superferry intends to provide an efficient, environmentally friendly, state-of-the-art ferry service for passengers and vehicles between the islands at approximately half the price of flying; and

WHEREAS, this system could expand the transportation infrastructure and economy by lowering the cost of travel and shipment of goods and agricultural products; and

WHEREAS, this Council supports the Superferry project in order to bring us closer to families, friends and events on other islands; and

WHEREAS, over forty million dollars of public funds are being used to facilitate the development of the Superferry; and

WHEREAS, chapter 343 of Hawai'i Revised Statutes requires the preparation of an environmental assessment or an environmental impact statement for actions that propose to use state funds or state lands prior to decision-making; and

WHEREAS, the public utilities commission rendered its decision on the Superferry without the benefit of an environmental assessment or an environmental impact statement; and

WHEREAS, the state department of transportation has exempted the Hawai'i Superferry from the required environmental review; and

WHEREAS, the Hawai'i administrative rule §11-200-8 provides that all exemptions are inapplicable when the cumulative impact of planned successive actions in the same place, over time, is significant, or when an action that is normally insignificant in its impact on the environment may be significant in a particularly sensitive environment; and

WHEREAS, the Superferry project may affect not only marine life, but also infrastructure on land, including highway and harbor capacity; and

WHEREAS, an environmental impact statement would help the County and the State plan to address issues such as restroom facilities and parking at Kawaihae, road capacity coming to and leaving Kawaihae, and the spread of invasive alien species; and

WHEREAS, an environmental impact statement also addresses economic issues; and

WHEREAS, an environmental impact statement can discuss the experience of similar projects in other locations; and

WHEREAS, a similar superferry running between Toronto, Ontario and Rochester, New York ran for only eighty days until crippling debt forced it into a foreclosure sale; and

WHEREAS, it is not the Council's intent to delay or stop the Superferry, but rather to ensure that all the possible impacts of the Superferry are addressed prior to its arrival in order to protect Hawaii's people and its environment; and

WHEREAS, the Lingle administration has championed the principle of deference to home rule; and


WHEREAS, the counties of Maui and Kaua'i have called for an environmental impact statement on the Superferry project.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF HAWAII that the County Council requests that the State department of transportation prepare an environmental impact statement prior to the commencement of the Hawai'i Superferry operation.

BE IT FINALLY RESOLVED that copies of this resolution be transmitted by the County Clerk to the Honorable Linda Lingle, the department of transportation, the Congressional delegation, the Speaker of the State House and the President of the State Senate; and the County Councils of Honolulu, Kaua'i and O'ahu.

Dated at _____, Hawai'i this _____ day of _____, 2005.

Introduced by:


COUNCIL MEMBER

COUNTY COUNCIL
County of Hawai'i
Hilo, Hawai'i

I hereby certify that the foregoing RESOLUTION was by the vote indicated to the right hereof adopted by the COUNCIL of the County of Hawai'i on _____

ATTEST:

COUNTY CLERK CHAIRMAN & PRESIDING OFFICER

ROLL CALL VOTE

| | AYES | NOES | ABS | EX |
|----------|------|------|-----|----|
| ARAKAKI | | | | |
| HIGA | | | | |
| HOFFMANN | | | | |
| HOLSCHUH | | | | |
| IKEDA | | | | |
| ISBELL | | | | |
| JACOBSON | | | | |
| PILAGO | | | | |
| SAFARIK | | | | |
| | | | | |

Reference: C-189/PC

RESOLUTION NO. **68 05**

October 18, 2007

Superferry Folly

To override two court decisions, both the State Supreme and lower court, and hold a special session of the State Legislature to cater to arrogant SF (Superferry) owners, and an uncaring State Government who REFUSED to protect our 'aina and ocean by requiring that the law be followed with an EIS (Environmental Impact Statement), is a crime! Yet Kaua'i people who felt "backed against the wall" by the cavalier attitude of SF and the State going against the Supreme Court ruling are being chastised and accused of lacking the Aloha Spirit for their practice of Aloha 'Aina and for protecting their 'aina and homes on Kaua'i. How hollow and meaningless this makes our traditional Hawaiian value system (Aloha 'Aina) which is touted in the State 2050 Sustainability Plan.

One wonders how the decision to ignore an EIS for Superferry was made ONLY within the Department of Transportation without consultation with the Attorney General or Governor Lingle while the issue was in court. Is this a cover-up?

The Governor's proposed "Unified Command" threatens protesters with a Coast Guard flotilla -- this smacks of police state tactics. Those citizens who question and protest these proceedings are further intimidated with the threat of child endangerment charges should their surfer teenager end up as apart of the protest.

This SF gang and Governor Lingle will apparently go to any legal and extra legal lengths to undermine Judge Cardoza and the State Supreme Court's prudent rulings.

There are those of us on the neighbor islands who believe the phrase "Keep the Country, Country" is not just an idle phrase on a bumper sticker. We don't want the urbanization, concrete jungle and freeway traffic jams of 'Oahu. Nor do we want our natural resources pillaged like the three truck loads of river pohaku from 'Iao on Maui almost transported by SF to 'Oahu. A proper and thorough EIS from the beginning would have addressed these issues and others that are sure to arise, and we would not be a divided citizenry on the Superferry issue as we are today.

The legislature is about to foolishly convene a special session to bail out SF and the Governor, both of whom ignore the law written over 30 years ago (possibly before the Governor moved here from the Mainland) to protect our environment. A Superferry CEO has already stated they will not go slower than 37 knots (over 40 mph) which is twice as



Ali'i Nui Mō'ī Edmund Keli'i Silva, Jr.
E malama i ka mana'o'i'o

Declaration

Be it known that I, Edmund Keli'i Silva, Jr. King of the Kingdom of Hawai'i hereby declare that the entire archipelago and surrounding seas of the archipelago belong to the Kingdom of Hawai'i. That all peoples throughout the world are served notice that Hawai'i is an independent sovereign nation ordained and sustained by the Hand and Might of a Just God in our Heavenly Father.

Document Signed by: His Royal Majesty on September 25, 2007

ORDER TO CEASE AND DESIST

WHEREAS, the Kingdom of Hawai'i is restored, and

WHEREAS, the process of restoring the Kingdom government is not yet complete, and

WHEREAS, the King can still act in the interest of the public peace and tranquility and has a responsibility to do so, and

WHEREAS, on August 23, 2007 (Gregorian Calendar), the Hawai'i Supreme Court issued an order in *The Sierra Club v. The Department of Transportation* requiring the State of Hawai'i to prepare an environmental assessment for the operation of the Hawai'i Superferry, and

Royal Chambers, Ka Pu'uhonua O Na Wahi Pana O Hawai'i Nei
1760 Mahani Loop Honolulu, Hawai'i 96819
hmkingdomofhawaii@gmail.com

WHEREAS, on August 31, 2007, the Hawai'i Supreme Court issued its final ruling on the merits and applied the law to the facts in that case to rule as follows:

"Therefore, based on this record, we can only conclude that DOT's determination that the improvements to Kahului Harbor are exempt from the requirements of HEPA was erroneous as a matter of law. The exemption being invalid, the EA requirement of HRS § 343-5 is applicable. This issue being dispositive, we need not consider Appellants' other arguments." and

WHEREAS, the ruling and the statute cited require the State of Hawai'i to prepare an environmental assessment before any further operation of the Hawai'i Superferry, and

WHEREAS, that ruling created great public controversy, and
WHEREAS, some high officials in the caretaker government chose not to accept the final court ruling, and

WHEREAS, said officials sought to continue operations of the Hawai'i Superferry, despite the law and the ruling of the Supreme Court, and

WHEREAS, that attempt to continue operation of the Hawai'i Superferry outside the law led to widespread citizen opposition, particularly on the Island of Kaua'i, and

WHEREAS, those public officials acting outside the law to continue operations of the Hawai'i Superferry responded to citizen opposition by threatening the use of force, including deadly force, and threatening criminal prosecution, imprisonment, and monetary fines, and

WHEREAS, citizen opposition simply grew stronger, creating the potential for a bloody confrontation between law enforcement personnel under orders to act outside the law and citizens seeking to enforce the law, and

WHEREAS, said illegal activities and their legal implications are detailed in the legal memorandum prepared at my direction by the Chief Justice of the Kingdom Supreme Court and attached hereto, and

WHEREAS, those public officials operating outside the law then redirected their efforts towards convincing the State Legislature to pass a law reopening the Supreme Court decision and altering that decision legislatively to find that the Hawai'i Superferry can continue to operate while the required environmental analyses are done, and

WHEREAS, such legislation would clearly be unconstitutional within the established governmental structure of the occupying government because such legislation would violate the separation of powers mandated by the United States Constitution, and

WHEREAS, the unconstitutional nature of such legislation is clearly set forth in the legal memorandum prepared at my direction by the Chief Justice of the Kingdom Supreme Court and attached hereto, and

WHEREAS, the illegal pursuit of continued operation of the Hawai'i Superferry has created turmoil, dissension, and even threat of bodily injury,

NOW, THEREFORE BE IT ORDERED, that all persons cease and desist any further actions in violation of the Hawai'i Constitution, the State of Hawai'i laws, and the United States Constitution, as the laws and Constitutions in use until such time as the restored Kingdom government can enforce its own laws and Constitution.

This Cease and Desist Order is general in application and specifically directed to the State of Hawai'i Governor; the State of Hawai'i Attorney General; the Director of the State of Hawai'i Department of Transportation; The Hawai'i Superferry, Inc.; the United States Department of Homeland Security; the United States Coast Guard; and all other public officials cooperating in the illegal conspiracy to continue operations of the Hawai'i Superferry and acting within the sovereign Kingdom of Hawai'i.

This Cease and Desist Order is also directed to those members of the Legislature who are wasting public resources on, and unnecessarily requiring citizens to waste their time and resources to participate in, an unconstitutional effort to pass a law to undo a final judgment of the Hawai'i Judiciary.

I have appointed special officers of the Kingdom to serve this Order on the identified parties and directed the publication and other distribution of this Order and the attached memorandum to the identified parties and the people.

I have distributed this Order to the media and request its publication.

As soon as all parties are in compliance with this Cease and Desist Order:

1. I request the State Legislature, in its capacity as Surrogate Legislature for the Kingdom Legislature *in absentia*, to pass legislation along the following lines:

A. Subject to those identified in this section fulfilling the steps set forth in Sections B and C below, subject to the passage of the bill proposed in Section 2 below, and subject to any exceptions by people refusing to accept the compensation offered in Section 2 below (see Section 2C), the Legislature grants immunity from civil suit and criminal prosecution under state laws for all actions taken in furtherance of the illegal conspiracy to continue operations of the Hawai'i Superferry after the August 23, 2007 Hawai'i Supreme Court ruling in *The Sierra Club v. The Department of Transportation* to the following:

- (1). Governor Linda Lingle
- (2). Director of Department of Transportation Barry Fukunaga.
- (3). Attorney General Mark Bennett,
- (4). Assistant Attorney General Lisa Ginosi
- (5). Interim Chairwoman of the Department of Land and Natural Resources Laura Thielen
- (6) Kaua'i Mayor Bryan Baptiste
- (7) Rear Admiral Sally Brice-O'Hara, United States Coast Guard
- (8) Previously Acting Kaua'i Police Chief Clayton Arinaga
- (9) All law enforcement personnel who engaged in arrests, seizing property, or otherwise participating in the events of August 26 and 27, 2007 in Nawiliwili Harbor, Island of Kaua'i
- (10) All other persons participating in the Unified Command or otherwise in the ongoing illegal

effort to permit the Hawai'i Superferry to operate after the Hawai'i Supreme Court decision in *The Sierra Club v. The Department of Transportation* case.

B. All persons identified in Section A will gather together on the Island of Kaua'i to offer their apologies to the people they wronged by cooperating in the illegal effort to continue the operations of the Hawai'i Superferry after the decision referenced in Section A.1.(10) above. Such an apology will include participation in a formal ho'oponopono process to heal the wounds inflicted by the Hawai'i Superferry episode.

C. All persons identified in Section B above shall then gather on the Island of Maui and apologize to the people they wronged and engage in a ho'oponopono process to heal the wounds inflicted by the Superferry episode.

D. All persons identified in Section A shall sign an open letter to the people of Hawai'i offering their apologies for all the wrongs committed during the Superferry episode to be submitted to the newspapers of every island for publication.

Whether those persons identified in Section A, particularly those in high positions, shall retain their positions is a matter for the Legislature to examine and which, I respectfully suggest, should be conditioned on their complete and unreserved cooperation in a legislative inquiry into the entire Superferry episode, including and not limited to the conspiracy to violate the law that occurred after the Supreme Court decision referenced in Section 1.A.(10) above.

Such decisions should also be tempered by the fact that most of the

members of the Legislature remained mute while these acts occurred.

2. I request the State Legislature, in its capacity as Surrogate Legislature for the Kingdom of Hawai'i Legislature *in absentia* to pass legislation to appropriate the following:


A. The sum of \$100,000 to each of the fourteen people arrested on August 26 and 27, 2007 while trying to enforce the law in Nawiliwili Harbor, Island of Kaua'i by preventing the illegal entrance of the Hawai'i Superferry.

B. The sum of \$50,000 to every other person, who provides proof by two affidavits of witnesses, that they entered the waters of Nawiliwili Harbor on August 26 and/or 27 to participate in the effort to enforce the law by preventing the entrance of the Hawai'i Superferry.

C. That these sums be paid conditioned on those receiving them waiving their right to file civil and/or criminal suits against those who may have violated their civil rights or otherwise committed a civil or criminal offense against them during the illegal efforts to continue the operations of the Hawai'i Superferry referenced above.

D. Those who decline the offer of compensation shall retain their right to pursue legal remedies against those responsible for any civil tort or criminal act committed against them.

So Ordered and signed this 17th day of October in the year 2007 (Gregorian Calendar).



Ali'i Nui Mō'i Edmund Keli'i Silva, Jr.

IN THE SUPREME COURT
OF THE KINGDOM OF HAWAII

IN THE MATTER OF
THE SIERRA CLUB V.
THE HAWAII DEPARTMENT OF TRANSPORTATION

PROTOCOL

All matters currently addressed by this Court are addressed with the full understanding that this Court has yet to be completed as part of the restoration process. In its incomplete status, the Court cannot issue binding opinions. Nor can the Court issue enforceable opinions.

The only capacity of the Court at this time is to issue advisory opinions.

Given the limitations of time and resources, the Court currently provides advisory opinions only at the request of the Ali'i Nui Mō'i.

ISSUE BEFORE THE COURT

In the interest of public health and safety and of domestic peace and tranquility, the Ali'i Nui Mō'i ordered this Court to provide an advisory opinion on an expedited basis regarding the following question:

Under Hawai'i Revised Statutes § 343-5 and in light of the decision in *The Sierra Club v. The Hawai'i Department of Transportation*, can the Hawai'i Department of Transportation permit the Hawai'i Superferry to use the harbor improvements, funded by the State and necessary for Superferry's operation, prior to the State of Hawai'i completing and the Governor or Department of Transportation accepting a final environmental assessment addressing the potential environmental impacts of Superferry's operations?

This court responded to His Majesty's order by preparing an advisory opinion dated October 7, 2007. That opinion accompanied the King's Order of Performance delivered to the Hawai'i Supreme Court on October 9, 2007.

As a follow up to that opinion, this Court herein provides a legal analysis of the continuing turmoil and the root of that turmoil to be found in the deliberate and willful disobedience of public officials rejecting the final ruling of the Hawai'i Supreme Court in the *Sierra Club* case.

On August 26 and 27, 2007, when people entered the waters of Nawiliwili Harbor to enforce the law by blocking the entrance of Superferry, the response from Federal and State law enforcement included arrests. See Exhibits 1 and 2 hereto. Law enforcement actions also included the use of mace and physical force, causing injury to those seeking to enforce the law. See Exhibits 3-4 attached hereto.

The official actions taken to continue operations of the Hawai'i Superferry, after the Supreme Court ruling, constituted actions outside the authority of the public officials involved and constituted both illegal actions and actions taken in furtherance of a conspiracy to violate the law.

The events of August 26 and 27 in Nawiliwili Harbor, Island of Kaua'i, include the following civil torts and/or criminal offenses:

Encouraging and facilitating the illegal operation of the Hawai'i Superferry, after the Supreme Court ruled that an environmental assessment was required, constituted malfeasance in office or official misconduct on the part of the Governor and the Director of the Department of Transportation.

The agreement between the Governor, the Director of the Department of Transportation, and the management/directors of Hawai'i Superferry, Inc. to continue operations of the Superferry illegally, after the Supreme Court ruled that an environmental assessment is required, constituted a conspiracy.

Even though State and Federal officials in the highest positions of responsibility were not present on August 26 and 27, to the extent those officials acted to create and/or facilitate the situation, those officials are accessories to the events on those dates.

On August 26 and 27, law enforcement officials arrested numerous people trying to prevent the implementation of the illegal conspiracy to continue Superferry operations. Exhibits 1 and 2 hereto. All those arrests were false arrests.

The people arrested on August 26 and 27 were falsely imprisoned.

Anyone participating in the Superferry enterprise who took from another person their boat, surfboard, boogie board, or other possession without their consent is guilty of theft. www.YouTube.com (search "Kaua'i police arresting surfers !" – 3 ½ minute video showing arrests and seizure of boogie and surf boards).

The actions of law enforcement in seizing the property of people in the Nawiliwili Harbor area on August 26 and 27 took place with the implicit use of deadly force. Such actions constituted robbery.

In the course of aiding and abetting Superferry in violating the law, law enforcement personnel arrested, and detained against their will, citizens trying to enforce the law. Such actions constituted kidnapping.

To the extent the County Prosecutor pursued or continues to pursue prosecution of those arrested, rather than those participating in the illegal conspiracy, the County Prosecutor is engaged in, or is engaging in, obstruction of justice.

The Coast Guard boat that de-tarped and manned its large caliber machine gun in Nawiliwili Harbor committed an assault on those within range.

When the Governor then created the Unified Command to continue the illegal operation, all participants in the Unified Command joined the conspiracy.

HRS §707-716 Terroristic threatening in the first degree. (1) A person commits the offense of terroristic threatening in the first degree if the person commits terroristic threatening:

- (a) By threatening another person on more than one occasion for the same or a similar purpose;
- (b) By threats made in a common scheme against different persons;

(c) Against a public servant arising out of the performance of the public servant's official duties. For the purposes of this paragraph, "public servant" includes but is not limited to an educational worker. "Educational worker" has the same meaning as defined in section 707-711; or

(d) With the use of a dangerous instrument.

(2) Terroristic threatening in the first degree is a class C felony. [L 1979, c 184, pt of §1(2); am L 1989, c 131, §1; gen ch 1992; am L 2006, c 230, §31]

The press conference held by the Governor, the Coast Guard, and Superferry announcing the plan to return to Nawiliwili Harbor constituted an act of official terroristic threatening. Exhibit 5 hereto.

To the extent that the Attorney General cooperated with the Superferry illegal enterprise and/or failed to prosecute the government officials cooperating in that enterprise, the Attorney General is guilty of obstruction of justice. Exhibit 5 (Attorney General participated in press conference threatening arrest and prosecution of citizen law enforcers)

The release of the statement of offenses and punishments aimed at those intending to enforce the law in Nawiliwili Harbor was the second act of official terroristic threatening. Exhibit 6 hereto. That second act triggers Section (a) of the State statute.

The Governor going to Kaua'i to again threaten people with arrest and prosecution is a third act of official terroristic threatening, reinforcing the application of Section (a) of the State statute. Exhibit 7 hereto.

The official threats made against hundreds of people to further the Superferry enterprise triggered Section (b) of the State statute.

The people trying to enforce the law in the face of official lawlessness assumed a position as “public servants.” The threats directed at these public servants triggers Section (c) of the State statute.

To threaten to arrest, prosecute, imprison and fine people acting in harmony with the law in order to further violations of law constitutes official terroristic threatening.

The inclusion of law enforcement personnel in the Unified Command added use of deadly weapons to enforce the threats, triggering section (d) of the statute.

The conspiracy to intimidate, arrest, prosecute, imprison, and fine the people trying to enforce the law against the illegal operation of Superferry constitutes a civil rights conspiracy with both state and private actors.

Upon remand, the trial court in the *Sierra Club* case at issue, issued a ruling granting a permanent injunction preventing any further operation of the Hawai'i Superferry until such time as the environmental assessment ordered by the Hawai'i Supreme Court is “legally concluded.” Order Granting Plaintiffs' Motion to Enforce Judgment Requiring Environmental

Assessment by Prohibiting Implementation of Hawai'i Superferry Project, for Temporary, Preliminary, and Permanent Injunction, Civil No. 05-1-0114(3), (2nd Cir Haw.), October 9, 2007 at 7. The Order also invalidated the Harbors Operating Agreement as it relates to Mau'i between the State of Hawai'i and Hawai'i Superferry, Inc. Id.

This order confirmed again that HRS § 343-5 requires completion and acceptance of a required EA prior to any implementation of the action proposed.

In response to this order, the Governor and other supporters of the Hawai'i Superferry have mounted an extensive campaign to have the Legislature hold a special session for purposes of amending the law to permit the Hawai'i Superferry to continue operating.

Opponents of Superferry operating prior to completion of an EA or an environmental impact statement (EIS) are mounting a campaign to prevent passage of such legislation.

The turmoil is extraordinary.

Email systems at the Capitol are breaking down or becoming useless to the legislators as automatically generated emails and genuine citizen expression pour into the legislative offices.

Print media outlets are swamped with letters to the editor and opinion editorials.

The General Manager of a broadcast company with seven radio stations in Hawai'i began broadcasting his message criticizing the State Senate and calling upon the people to demand a special session of the Legislature to pass legislation allowing Superferry to operate. The message ran multiple times each hour.

One Senator is already calling for hearings on the outer islands prior to the passage of any legislation. Such hearings are certain to be highly contentious, given the expressions of opposition to Superferry to date from the outer islands.

Legislators are struggling with proposed legislation that can protect the environment while allowing Superferry to be operated profitably.

These and other manifestations of the controversy continue to heat the political atmosphere. The community is definitely in the midst of an interbranch conflict between the courts and the Governor allied with some legislators.

This conflict emanates from a profound misunderstanding of the United States and Hawaiian Constitutions. In both Constitutions, the separation of powers between the Executive, Legislative, and Judicial

Branches is a fundamental principle that defines the proper and legal operations of the government.

The Supreme Court ruling in the *Sierra Club* case constituted a final judgment with respect to the bar on continued operation of Superferry. The trial court, on remand, simply enforced the Supreme Court's order by entering a permanent injunction preventing Superferry from using the harbor improvements in the Mau'i harbor and invalidated the harbor use agreement as that agreement applies to Maui harbor.¹

The Legislature cannot constitutionally pass legislation that alters that final judgment.

The key issue here is the constitutional separation of powers. This issue is discussed in depth regarding the ability of a legislative body to overturn a judicial decision in *Plaut v. Spendthrift Farm, Inc. (93-1121)*, 514 U.S. 211, 115 S. Ct. 1447, 131 L. Ed. 2d 328 (1995). The essential holding in this United States Supreme Court case is that a legislature cannot pass a law altering a final judgment of a court because to do so would violate the separation of powers between the legislative and judicial branches.

This holding turns on whether the judgment is final.

¹ While the court in Mau'i acted within the court's limited jurisdiction, the Supreme Court decision is of statewide applicability.

Our decisions to date have identified two types of legislation that require federal courts to exercise the judicial power in a manner that Article III forbids. The first appears in *United States v. Klein*, 13 Wall. 128 (1872), where we refused to give effect to a statute that was said "[t]o prescribe rules of decision to the Judicial Department of the government in **cases pending** before it." *Id.*, at 146. Whatever the precise scope of *Klein*, however, later decisions have made clear that **its prohibition does not take hold when Congress "amend[s] applicable law."** *Robertson v. Seattle Audubon Society*, 503 U.S. 429, 441 (1992).

Plaut, supra at 218 (emphasis added).

Thus Congress can amend a law and affect a case in which the legal issue addressed by the law is still pending. The case cited above and being discussed publicly, *Robertson v. Seattle Audubon Soc'y* (90-1596), 503 U.S. 429 (1992), is just such a case of the law changing while a case is pending.

After a final decision, however,

[i]t is, of course, retroactive legislation, that is, legislation that prescribes **what the law was at an earlier time, when the act whose effect is controlled by the legislation occurred--**in this case, the filing of the initial Rule 10b-5 action in the District Court. When retroactive legislation requires its own application in a case **already finally adjudicated**, it does no more and no less than **"reverse a determination once made, in a particular case."**

Ibid. at 226 (emphasis added) citing The Federalist No. 81 at 545.

Having achieved finality, however, a judicial decision becomes the last word of the judicial department with regard to a particular case or controversy, and **Congress may not declare by retroactive**

legislation that the law applicable to that very case was something other than what the courts said it was. Finality of a legal judgment is determined by statute, just as entitlement to a government benefit is a statutory creation; but that no more deprives the former of its constitutional significance for separation of powers analysis than it deprives the latter of its significance for due process purposes. See, e.g., *Cleveland Bd. of Ed. v. Loudermill*, 470 U.S. 532 (1985); *Meachum v. Fano*, 427 U.S. 215 (1976).

Ibid at 227(emphasis added).

The separation of powers violation here, if there is any, consists of depriving judicial judgments of the conclusive effect that they had when they were announced, not of acting in a manner--viz., with particular rather than general effect--that is unusual (though, we must note, not impossible) for a legislature. To be sure, a general statute such as this one may reduce the perception that legislative interference with judicial judgments was prompted by individual favoritism; but it is legislative interference with judicial judgments nonetheless. **Not favoritism, nor even corruption, but power is the object of the separation of powers prohibition. The prohibition is violated when an individual final judgment is legislatively rescinded for even the very best of reasons, such as the legislature's genuine conviction (supported by all the law professors in the land) that the judgment was wrong; and it is violated 40 times over when 40 final judgments are legislatively dissolved.**

Ibid. at 228-229.

[T]he doctrine of separation of powers is a *structural safeguard* rather than a remedy to be applied only when specific harm, or risk of specific harm, can be identified. In its major features (of which the conclusiveness of judicial judgments is assuredly one) it is a prophylactic device, establishing high walls and clear distinctions because low walls and vague distinctions will not be judicially defensible in the heat of interbranch conflict.

Ibid. at 239.

Article III establishes a "judicial department" with the "province and duty . . . to say what the law is" in particular cases and controversies. *Marbury v. Madison*, 1 Cranch 137, 177 (1803). The record of history shows that the Framers crafted this charter of the judicial department with an expressed understanding that it gives the Federal Judiciary the power, not merely to rule on cases, but to *decide* them, subject to review only by superior courts in the Article III hierarchy—with an understanding, in short, that "a judgment conclusively resolves the case" because "a 'judicial Power' is one to render dispositive judgments." Easterbrook, *Presidential Review*, 40 Case W. Res. L. Rev. 905, 926 (1990). By retroactively commanding the federal courts to reopen final judgments, Congress has violated this fundamental principle.

Ibid at 218-219

The Hawai'i Supreme Court's *Sierra Club* decision, in light of the clear mandate and plain wording of the statutory "condition precedent" requirement, decided the matter and left the trial court to enforce that decision.

The trial court granted the plaintiffs' motion to "enforce" the final judgment of the Supreme Court and entered an injunction.

Whatever the Hawai'i Superferry lawyers may think that they are appealing in the Maui case, they are not appealing the original Supreme Court ruling. They are only appealing the specific enforcement of that ruling imposed by the trial court, which is not an appeal on the merits. As far as the merits, the case is closed and the judgment is final.

If legislation is passed to allow operations of Superferry while an EA or EIS is being prepared, that legislation must somehow lift the injunction. That would require reopening the judicial decision. The Legislature would then be exercising judicial power. *Plaut* is directly on point that such a reopening of a final decision is an impermissible violation of the separation of powers.

The necessary assertion of the separation of powers would begin the process of restoring the public peace and stopping the interbranch conflict.

Separation of powers, a distinctively American political doctrine, profits from the advice authored by a distinctively American poet:
Good fences make good neighbors.

Ibid. at 240.

The provisions of the Hawai'i Constitution create the same separation of powers as the United States Constitution. See Addendum below.

The legislative power of the Hawai'i Legislature extends to all rightful subjects of legislation not inconsistent with this constitution or the Constitution of the United States.

Article VI, Section 1, Hawai'i Constitution.

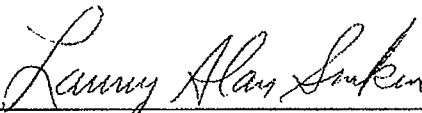
For the Hawai'i Legislature, overturning a final judicial ruling is not a rightful subject of legislation consistent with the Hawaiian or United States Constitutions.

CONCLUSION

The political leadership of the State violated the public trust, abused their power, and violated the law by attempting to continue the operation of the Hawai'i Superferry after the Supreme Court's Sierra Club decision.

Now that same leadership is asking legislators to act outside their constitutional power to reopen a final judicial judgment and reach a different result.

The Legislature can legitimately refuse to include in any special session legislative proposals that are clearly unconstitutional.



LANNY ALAN SINKIN
CHIEF JUSTICE

DATED: October 16, 2007

For publication²

² Upon completion of this Court and establishment of a reporting system, the advisory opinions issued during the interim period between initial restoration (September 25, 2007) and full restoration will be published.

Addendum
Constitution of the United States
compared to
Constitution of Hawai'i
re: Separation of Powers

LEGISLATIVE POWER

United States Constitution

Article I.

Section 1

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Hawai'i Constitution

Article III

THE LEGISLATURE

LEGISLATIVE POWER

Section 1. The legislative power of the State shall be vested in a legislature, which shall consist of two houses, a senate and a house of representatives. Such power shall extend to all rightful subjects of legislation not inconsistent with this constitution or the Constitution of the United States.

EXECUTIVE POWER

United States Constitution

Article II.

Section 1

The executive Power shall be vested in a President of the United States of America.

Hawai'i Constitution

ARTICLE V

THE EXECUTIVE

ESTABLISHMENT OF THE EXECUTIVE

Section 1. The executive power of the State shall be vested in a governor.

JUDICIAL POWER

United States Constitution

Article 3.

Section 1

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.

Hawai'i Constitution

ARTICLE VI

THE JUDICIARY

JUDICIAL POWER

Section 1. The judicial power of the State shall be vested in one supreme court, one intermediate appellate court, circuit courts, district courts and in such other courts as the legislature may from time to time establish.

The several courts shall have original and appellate jurisdiction as provided by law and shall establish time limits for disposition of cases in accordance with their rules. [Ren and am Const Con 1978 and election Nov 7, 1978]

EXHIBITS TO OPINION
DATED OCTOBER 16, 2007

| EXHIBIT NUMBER | CONTENTS |
|----------------|---|
| 1 | The Garden Island – Article re: arrests and official violence |
| 2 | The Garden Island – Article re: arrests, and official threats and violence |
| 3 | Declaration of Fabienne Christe re: witness to official violence |
| 4 | Declaration of Ka’iulani Edens re: witness to official violence |
| 5 | Honolulu Advertiser – Article re: Governor announcing Unified Command with Coast Guard security zone and return to Kaua’i |
| 6 | Government publications re: consequences of entering security zone without permission |
| 7 | Honolulu Advertiser re: people’s response to Governor’s trip to Kaua’i |



Posted: Tuesday, Aug 28, 2007 - 10:33:39 pm HST

Action unites many

by Nathan Eagle - THE GARDEN ISLAND

When outrigger canoe club paddler Leigh Drachman entered the water Monday, she never expected an evening practice would turn into a “wonderful opportunity” to join hundreds of Kaua‘i residents protesting the Hawaii Superferry at Nawiliwili Harbor.

The 34-year-old Kapa‘a local joined a diverse group united under a common cause — preventing the new inter-island “Alakai” from operating until the state conducts an environmental assessment.

But not all Kaua‘i residents there supported the protests Sunday and Monday evenings. Some were simply curious bystanders and others were there to greet family members arriving from O‘ahu.

As Kapa‘a resident Sharon Verity waited in a line of cars stuck on the narrow jetty road Sunday, she said some of the protesters treated her and her family rudely and hopes for more respectful demonstrations in the future.

Jimmy Trujillo, the spokesman for Hui-R, a coalition of community members united against the Alakai, said he hopes to work with Superferry officials to devise a plan to return to Kaua‘i to pick up stranded O‘ahu residents.

“We’re all living on this island together and we know there’s people on that boat that have friends and relatives here,” he said. “We don’t want to make enemies, we just want to make it right. I would be a fan of the ferry if I knew it was safe, affordable, efficient and if we all had a say. People do want an alternative to air flights for inter-

island travel.”

Fourteen women and a coach in three canoes paddled out in unison with a men’s team to reinforce more than 40 surfers, swimmers and boogie boarders who had formed a human blockade to stave off the 350-foot catamaran.

“It was so wonderful when we saw the canoes — so reassuring,” said 31-year-old Kaua‘i surfer Mehana Vaughan. “To see them there in a traditional Hawaiian vessel, making turns in front of the ferry ... it was moving.”

“When we saw the people on canoes do what they do every afternoon, I was moved to tears,” Trujillo said. “It was a powerful statement ... growing the resistance using peaceful, non-violent tactics.”

Vaughan said she felt inspired to support the Superferry protesters after witnessing their efforts Sunday evening when the Alakai made its maiden voyage to Kaua‘i.

“I’ve been sick about the Superferry all summer ... it just didn’t feel like Kaua‘i had been listened to,” Vaughan said. “The culture of Kaua‘i is you take care before taking. It’s about living within our limits as an island ... and taking care of our impacts.”

Backed by more than 400 sign-waving, drum-beating, chant-singing protesters on the jetty road, the flotilla in the water ranged from a 12-year-old student to a 55-year-old businessman and included organic farmers and fishermen.

“It was so exciting to see the spirit of Kaua‘i,” surfer Andrea Noelani Brower said. “The experience of being in the water was very powerful with the moon rising and the canoes and the surfers and the protesters silhouetted against the background.”

The protesters were mixed ethnicities, political

backgrounds and economic levels, new residents and locals who have lived on Kaua‘i for generations, the 22-year-old lifelong Kaua‘i resident said.

“The community has been so lacking in our ability to communicate what we’re frustrated with. The Superferry may be the symbol of larger issues,” Brower said. “I really hope that Kaua‘i uses this energy to talk about what we want to see happen with affordable housing, development, too much tourism and other alternative visions.”

The surfers suffered thirst and hunger as they battled the cold after the sun set, but some residents swam out bottled water to help, Vaughan said.

“We were singing, laughing, looking out for one another and feeling supported by the island,” she said. “There was a growing camaraderie.”

This spirit developed as multiple local, state and federal law enforcement vessels tried to deter the protesters. The U.S. Coast Guard reportedly arrested some, but was ultimately unable to break up the group.

The Alakai abandoned its effort to dock after protesters stalled it for around three hours. The ferry was scheduled to arrive at 6 p.m. with passengers from O‘ahu, and then depart for Honolulu at 7 p.m.

“We knew the Superferry’s strategy was to wait us out,” Vaughan said. “We were determined to finish together and decided when it turned to leave to wait and watch it till the lights were gone ... then stay 10 minutes after and go in together.”

Many swimmers and surfers were greeted on shore by Kaua‘i Police Department officers and masked SWAT team members.

“I didn’t realize how scary that point was building to be,”

Vaughan said.

“The cops were lined up to arrest anyone that was wet,”
Brower said.

KPD arrests 11

Kaua‘i Police Department Lt. Dan Miyamoto said police arrested seven adults and four juveniles on misdemeanor charges Monday evening during the second day of protests against the Hawaii Superferry at Nawiliwili Harbor.

The adults arrested were: Mathew Hamm, 25, obstructing and disorderly conduct; Gilbert Nieto, 49, obstructing and disorderly conduct; Alan Zebe, 36, obstructing and disorderly conduct; Kana Kirkpatrick, 22, obstructing, disorderly conduct and criminal trespass second degree; Shane Valiere, 21, obstructing, disorderly conduct and criminal trespass first degree; Steven Valiere, 55, obstructing; and Robert Pa, 46, disorderly conduct.

A local businessman, who spoke on condition of anonymity, said he suffered from a pepper spray attack Sunday evening by a Kaua‘i Police Department officer, but the department could not confirm the incident.

“It was excruciating pain and I couldn’t see for an hour — very scary,” he said.

Unconfirmed reports claim officers maced protestors attempting to deflate a tire on a vehicle and causing other damage.

These 11 arrests are in addition to three Kaua‘i residents who were arrested during the protest Sunday evening.

“These are not terrorists. These are our dads, brothers and sisters demonstrating their rights to free speech and to assemble,” Trujillo said. “This should not be impeded by corporate interests ... especially at the expense of public

safety and public interest.”

Several protesters wished to extend their aloha to the U.S. Coast Guard and Kaua‘i Police Department for doing their jobs well and keeping the demonstration as safe as possible.

“There were a lot of angry police officers making snide remarks and being tough with women, but also a lot of very respectful police officers who I don’t think wanted to be there,” Brower said.

Miyamoto said all have posted bail, but could not provide more specific details.

People for the Preservation of Kaua‘i spokesman Rich Hoepfner said he helped bail the protesters out until 2 a.m.

He added that the environmental group plans to dedicate its efforts now to legal action to stop the Superferry with a permanent injunction until the environmental review is completed.

Environmentalists are concerned the Alakai will endanger marine life, create traffic jams, spread invasive species and negatively impact the community.

• Nathan Eagle, staff writer, can be reached at 245-3681 (ext. 224) or neagle@kauaipubco.com.



Posted: Tuesday, Aug 28, 2007 - 10:25:36 am HST

Superferry turned back - Protesters form floating human chain in harbor

by Nathan Eagle - THE GARDEN ISLAND

The Hawaii Superferry found no port in a storm last night, turning back to O'ahu about 9 p.m. after dozens clogged the entry to Nawiliwili Harbor while hundreds shouted from shore.

Sailing in the face of court orders, the Hawai'i Superferry returned to Kaua'i last night with another load of passengers and cars traveling from Honolulu to Nawiliwili Harbor on discounted \$5 fares.

"They wouldn't offer \$5 fares if it were pono," said protester Jeri DiPietro of Koloa.

Close to 1,000 Kaua'i residents — waving "Bury the Ferry" signs and shouting "Go home" — lined the narrow jetty road that leads to the 350-foot "Alakai's" designated boarding zone.

Despite an added local, state and federal law enforcement presence in and out of the water, more than 60 surfers, swimmers, kayakers and outrigger canoe paddlers again delayed the inter-island catamaran from docking by its 6 p.m. scheduled arrival time.

Backed by a few Kaua'i Police Department boats, U.S. Coast Guard officers in multiple vessels — including an 85-foot cutter — threatened arrest through loud speakers as they tried to clear a path through the human wall.

It was unclear at press time how many protesters law enforcement officers took into custody.

Four KPD cruisers and officers controlled the intersection to the jetty road, preventing protesters from repeating Sunday's vehicle blockade that further stalled the unloading of Superferry passengers and cars arriving on the Alakai's first official service run here.

Kaua'i Police Department officers Sunday arrested three local residents on misdemeanor charges and the U.S. Coast Guard forcefully cleared at least 20 surfers and swimmers blocking the vessel from docking.

"They herded them like goats," said Koohan Paik of Kilauea.

KPD Capt. Scott Yagihara said police charged Justin Wood, 22, of Kapa'a, on suspicion of disorderly conduct; Bomun Bockchung, 28, Kilauea, on suspicion of harassment, disobedience to police officers and obstructing government operations; and Randy Wolfshagen, 49, Kekaha, on suspicion of obstructing government operations and criminal trespass in the second degree.

Temporary restraining order granted

Joseph Cardoza, Second Circuit Court judge for Maui, yesterday granted three environmental groups' request to stop the Superferry from using Maui's Kahului Harbor.

The judge issued a temporary restraining order hours after the Alakai successfully made its second daily run to Maui. The order, in effect until Sept. 6, does not apply to ports on O'ahu or Kaua'i.

But People for the Preservation of Kaua'i spokesman Rich Hoepfner said plans are underway to file for a similar injunction in Kaua'i court today.

"I'm so impressed with all the people that have turned

out,” he said, noting there has been coast-to-coast media coverage.

The Hawai‘i Supreme Court unanimously ruled Thursday that the state Department of Transportation erred in its decision to exempt the Superferry from an environmental review of \$40 million in state-funded harbor improvements.

Attorney Isaac Hall — representing Maui Tomorrow, the Kahului Harbor Coalition and the Sierra Club — is seeking a permanent injunction to ground the Alakai in Honolulu during the Department of Transportation’s environmental review.

The Superferry is violating state law by operating prior to an environmental assessment, Hall said.

“Everybody across the state sees that the law is clear,” he said.

“This review should have been done years ago,” Sierra Club’s Hawai‘i Chapter Director Jeff Mikulina said. “There’s a potential for serious environmental and community harm. ... You have to look before you leap.”

Paik said she filmed much of the protest Sunday, which started around 3 p.m. at Nawiliwili Park and ended sometime after 10 p.m. when the Alakai sailed back to O‘ahu.

There were 20 police cruisers, seven SWAT members and 1,000 protesters there then, she said.

Witnesses said they saw police use Mace on two residents Sunday.

The Kaua‘i Police Department at press time could not confirm or deny these incidents or others reported.

“I’m shocked that the owners of the Superferry decided

to ignore the Supreme Court's decision," Kaua'i County Councilwoman JoAnn Yukimura said.

When an entity like the Superferry is refusing to follow the law and law enforcement agencies like the U.S. Coast Guard are brought in to protect the Superferry, Yukimura said, "it distorts the framework of law and order in our community."

The councilwoman said she blames Superferry officials and the Department of Transportation for creating unsafe conditions by allowing the situation to happen and not following the law.

The Kaua'i County Council unanimously approved a resolution on Jan. 26, 2005, requesting an environmental impact statement be prepared prior to the Superferry starting service.

"If the Superferry had spent the last year and a half doing an EIS instead of pushing its way through, we all would be better off," Yukimura said.

Lanny Sinkin (Tx.B # 18438675)
P.O. Box 944
Hilo, Hawai'i 96721
ph: (808) 936-4428
email: lanny.sinkin@gmail.com
Attorney for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII**

| | | |
|------------------------|---|----------------------|
| MEGAN WONG, et al., |) | |
| Plaintiffs |) | |
| v. |) | Civil No. CV07-00484 |
| GEORGE W. BUSH, et al. |) | |
| Defendants |) | |
| _____ |) | |

DECLARATION OF FABIENNE CHRISTE

I, Fabienne Christe, declare under penalty of perjury, that the following statements are true and correct:

1. I reside on the Island of Kaua'i, Islands of Hawai'i.
2. I participated in the non-violent, First Amendment protected protest against the illegal entry of the superferry into Nawiliwili Harbor on August 26.
3. I am concerned about the impact of the ferry and its passengers on the water, on animal health and well being, and on island life and lifestyle, safety and security.
4. On August 26, I stood on the dock and at the gate and observed the Coast Guard was violent and very rough to the surfers.

Exhibit 3

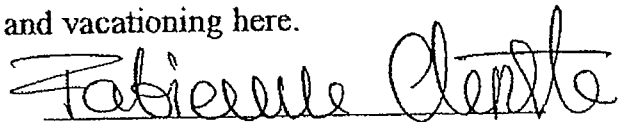
5. The Coast Guard forcibly took several surfboards away.
6. The Coast Guard boat circled around the group of 12 surfers.
7. As the Superferry came in, the Coast guard quickly drove their boat up to one surfer and threatened him.
8. At the harbor gate, the police shot mace in the faces of two demonstrators.
9. An ambulance arrived and took care of the men.
10. What I observed overall was serious violent energy directed against peaceful protest.
11. The message seemed to be: "If you don't do what I want, I will bring in the military to protect this business."
12. I have observed, since the events of August 26, that the attitudes and actions of the Coast Guard have had a strong impact on the people.
13. The common view is that the Superferry and its supposed rights are protected, while the resident of Kaua'i and their rights, guests who use the harbor, and the natural environment and lifestyle for rest, health improvements, and recreation are not.
14. The animals who live in Hawai'i or visit out waters for part of the year are not protected from the Superferry's trip from Oahu to the Kaua'i harbor and back.

15. The animals must rely upon us to protect them because they have no voice.

16. We are not voting on this issue and therefore we residents and the animals and environment have no voice.

17. We should have the freedom to communicate our concerns and the needs of the island and not be bullied or railroaded into accepting something that has the potential of harming all of us.

18. Environmental impact studies should be conducted for the health and wellbeing of all the beings residing and vacationing here.


Fabienne Christie

Dated: Sept. 22, 2007

Lanny Sinkin (Tx.B # 18438675)
P.O. Box 944
Hilo, Hawai'i 96721
ph: (808) 936-4428
email: lanny.sinkin@gmail.com
Attorney for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII**

MEGAN WONG, et al.,)
 Plaintiffs)
 v.)
GEORGE W. BUSH, et al.)
 Defendants)
_____) Civil No. CV07-00484

DECLARATION OF KA'TULANI EDENS

I, KA'TULANI EDENS, declare under penalty of perjury, that the following statements are true and correct:

1. I resides on the Island of Kaua'i, Island of Hawai'i.
2. I am an indigenous person from the Island of Kaua'i.
3. My family has been on Kaua'i for at least 10 generations.
4. I have the world's only all sovereignty music show at KKCR in Hanalei.
5. I have fought for Sovereignty and been involved in many protests.
6. I was on the sea wall on August 27th.
7. At about 1630, I picked up my Hawaiian Flag, and asked another person to walk in through the barricaded jetty road, also carrying a Hawaiian Flag.
8. As I approached the Gate there were 4 armed officers, all with their hands

Exhibit 4

on their gun straps, as if they were going to pull their weapons for any slight movement!

9. The officers were scary.

10. I took a deep breath, told the kid with me to be quiet and follow me, and approached the Police.

11. They were at the time herding Rich Hoepner and his wife out of the gate, threatening to arrest them.

12. As I approached with the flags, the officers said things like, "Come'on, Ka'iulani, you know we can't let you in."

13. I said loudly, "I am NOT under the Jurisdiction of the U.S. step aside!" and held my breath.

14. They stepped aside!!

15. We walked in.

16. At some point I turned around and saw a few hundred people had followed me in.

17. The cops were on their radios, asking "What should we do?"

18. As the protest went on I was on the wall; stayed in the same place most of the night.

19. The violence I witnessed has caused horrible Post Traumatic Stress Disorder.

20. I've had to double up on my meds under my doctor's orders, as well as take something to help me sleep.
21. I have nightmares about the kids I saw being run over in the water, about law enforcement hunting people in the ocean.
22. I was almost maced by an overzealous rookie when I objected to his handling of an arrestee.
23. This policeman slammed the guy against the wall as hard as he could, although the surfer WAS NOT RESISTING!
24. The violent images will never leave my memory.
25. I can only hope they fade over time, and with therapy.
26. As a human being my sense of well being, and freedom is gone.
27. I cannot trust Government nor law enforcement ever again.
28. As a Native Hawaiian, a Polynesian, I feel extremely violated as if I am being raped over and over (and I speak from actual experience).
29. My gathering rights (PASH) are being stripped away by the same government who "gave" us those rights.
30. My stress is so bad I can barely leave my home.
31. I am extremely depressed about the desecration of our island.

Ka'iulani Edens Huff 10/2/07
KA_IULANI EDENS

Exhibit H

Declaration of Ka'iulani Edens

3

Posted on: Thursday, September 13, 2007

Ferry can resume Kauai route Sept. 26

By Derrick DePledge and JOAN CONROW
Advertiser Staff Writers

Gov. Linda Lingle yesterday issued a firm warning to protesters on Kaua'i, saying they would be arrested and prosecuted if they break the law and disrupt the Hawaii Superferry during its expected return to Nawiliwili Harbor in two weeks.

Federal, state and local authorities have cleared the Superferry to resume service between O'ahu and Kaua'i starting Sept. 26. The Alakai will be temporarily restricted to operating during the day instead of the original evening arrival and departure schedule at Nawiliwili Harbor, until authorities decide it is safe.

The daytime restriction could pose conflicts for space with other harbor users, such as cruise ships, but is intended to better protect public safety if protesters again choose to go into the water and block the ferry.

Lingle, state Attorney General Mark Bennett and Coast Guard Rear Adm. Sally Brice-O'Hara cautioned protesters that the state and federal response would be much swifter and sweeping than when protesters first delayed and halted the ferry last month.

"It's not our desire or preference to arrest or prosecute people, but no one should mistake the restraint that was shown initially as a lack of resolve on our part to make certain that vessel is allowed to travel safely and that we protect public safety overall," the governor said at an afternoon news conference at the state Capitol.

DETECTING PROTESTERS

The Coast Guard has used an emergency rule to create a federal security zone at the harbor to protect the Alakai, along with a designated protest area off Kalapaki Beach. The security zone is in effect for one hour prior to the ferry's arrival and 10 minutes after the ferry's departure. A separate federal security zone exists 100 yards around the ferry.

The state also will set up barricades and other crowd-control measures around the harbor to deter protesters, including closing off portions of a public-access road along the jetty.



Protesters greeted the Hawaii Superferry upon its approach Aug. 26 to Kaua'i's Nawiliwili Harbor. If protesters disrupt Superferry operations again — the Alakai is set to return to Kaua'i Sept. 26 — officials warn that the response will be much swifter and sweeping than last month.

DENNIS FUJIMOTO | The Garden Island

Brice-O'Hara said the Coast Guard was caught by surprise by the protests last month.

"None of us were prepared for that level of passion and determination to halt the Superferry's transit," she said. "Absolutely, that was not something that we were expecting and we were very measured in our response. These weren't terrorists, but quite honestly, the Coast Guard is used to reaching in the water and pulling the hand of someone who desperately wants to be rescued.

"Now we have people who want to make a statement."

Lingle said she plans to visit Kaua'i before Sept. 26 for public talks on the Superferry's return.

The Lingle administration believes the state Supreme Court's ruling requiring an environmental assessment for the Superferry only applies to Kahului Harbor on Maui and that the ferry has a legal right to go to Kaua'i.

A Maui court has issued a temporary restraining order against the Superferry for Kahului Harbor and is hearing arguments about whether it should be allowed to resume service to Maui while the state conducts the environmental assessment.

A Kaua'i court has denied a temporary restraining order for Nawiliwili Harbor and has scheduled a Monday hearing date on whether ferry service can proceed during the environmental review, which will involve all four harbors that the Superferry plans to serve.

Court rulings on Maui or Kaua'i over the next two weeks could influence the Sept. 26 target date for ferry service to Kaua'i.

'HEAR OUR VOICE'

On Kaua'i yesterday afternoon, about 75 people gathered for a rally at the historic County Building, where the County Council was meeting, and later engaged the governor's liaison and Mayor Brian Baptiste.

Andrea Brower, who was born and raised on Kaua'i and who had joined protesters in the water to blockade the Alakai, said young people like her "don't feel represented by government. We will get in the water again. It's the young people, and we ask you to hear our voice."

Some on the County Council, which had passed a nonbinding resolution in January 2005 calling for an environmental review of the Superferry, said they were disappointed by Lingle's announcement. "I'm very disappointed about the decision because I don't think the courts have announced whether the Superferry is a legitimate operation or not," said Councilwoman JoAnn Yukimura.

Yukimura addressed the rally, saying: "I want to thank you all for your concern about the island. Kaua'i has always shown itself to be a separate kingdom. I want to ask you all to really take personal responsibility for your actions and to do things without violence and to do things with respect for everyone."

Councilman Tim Bynum said he had called on Superferry not to return to Kaua'i until the legal disputes are clarified.

"I'm disappointed the governor's statement focuses on the rights of the Superferry," he said, "but doesn't say anything about the outstanding legal action."

Bynum also urged the group "to be really cognizant of the image we portray and this time around, make sure the world sees us acting in a calm and dignified manner."

Baptiste, who had participated in Lingle's news conference by telephone, told the group that there are people from the business community and others on Kaua'i who support the Superferry. "Believe it or not, there are other people who want the Superferry," the mayor said.

PUBLIC SAFETY 'NO. 1'

Lingle described the collaboration between federal, state and local authorities on the Superferry as a "unified command." The Republican governor, who had campaigned on making the Islands more friendly to business, also made it clear that authorities, not the Superferry, set the date for a return to Kaua'i.

"The unified command made this decision, Superferry was informed of it (Tuesday)," Lingle said. "There was no option. We didn't ask them their opinion of it. I think it's fair to say they would prefer to go earlier. Every day they don't go it costs them money. But as I told you in the beginning, our No. 1 priority was public safety, and that was a date that we collectively felt comfortable with."

Superferry likely would be unable to offer service to both Maui and Kaua'i during daylight hours, so that restriction would have to be reviewed if the Maui court rules in Superferry's favor. Superferry also likely would have to evaluate its financial status if either court determines that ferry service should be halted during the environmental review.

"We're just monitoring what's happening on Kaua'i and Maui and will make a decision as we go along," said John Garibaldi, Superferry's chief executive officer.

Lingle said at her news conference that the Superferry may not survive in the Islands if it has to wait an estimated eight months for an environmental assessment — or longer if the findings are challenged — before operating again. The review could also lead the state to require a full environmental impact statement, which could take a few years.

"Superferry will be out of business by then," Lingle said. "I don't think there's anybody who doubts that. And I don't think a majority of people in the state want to see that happen."

Meanwhile, Bennett, the attorney general, said he has spoken with state Senate President Colleen Hanabusa, D-21st (Nanakuli, Makaha), about the possibility of a special session of the state Legislature on the Superferry.

Lawmakers could consider a bill allowing the ferry to resume service while the state does the environmental review, essentially bypassing the courts.

SPECIAL SESSION?

Senate leaders have been discussing a special session privately, but mostly in the context of how they would respond if Lingle were to use her powers and call them back. State House and Senate leaders have so far not been inclined to come back for the Superferry on their own.

A special session to help the Superferry could be politically explosive. The House refused to hear a Senate bill last session that Neighbor Island senators believed would have allowed the Superferry to launch while an environmental review on harbors was being done. House leaders would have to explain why that option should be given now, especially after it was fought by both Superferry and the state during session.

Many environmentalists may also object since they had to turn to the courts after failing to get the Lingle administration and the Legislature to order an environmental review.

A special session for the Superferry also may be a precedent for other developers who want to avoid unfavorable court decisions. Lawmakers were criticized in 2006 for a bill that was seen as helping the developers of the Hokuli'a luxury home project on the Big Island, which had been halted in court by environmentalists. But Hokuli'a developers and environmentalists settled the lawsuit during session and the bill died.

Some lawmakers believe the Legislature should help the Superferry after approving \$40 million in harbor improvements for the project.

"If the courts rule that they can't do it, then there should be a special session," said state Sen. Will Espero, D-20th (Ewa Beach, Waipahu). "I support the Superferry."

Advertiser staff writer Christie Wilson contributed to this report.

Reach Derrick DePledge at ddepledge@honoluluadvertiser.com.

© COPYRIGHT 2007 The Honolulu Advertiser, a division of Gannett Co. Inc.
All materials contained on this site are protected by United States copyright law and may not be reproduced, distributed, transmitted, displayed, published or broadcast without the prior written permission of The Honolulu Advertiser. You may not alter or remove any trademark, copyright or other notice from copies of the content.



SUMMARY OF STATE LAW CONSEQUENCES

POSSIBLE CRIMINAL CHARGES: Below is a non-exhaustive list of state criminal offenses that can be charged if committed at the Nawiliwili Harbor, along with the applicable penalties:

Assault Against a Law Enforcement Officer: Any person who intentionally, knowingly, or recklessly causes bodily injury to a law enforcement officer while the officer is engaged in the performance of official duties. Penalties start at mandatory 30 days in jail and may go up to 5 years in prison and/or a fine of \$10,000, if a weapon was used.

Assault: Any person who intentionally, knowingly or recklessly causes bodily injury to another person. Penalties start at possible maximums of one year in jail and/or a fine of \$2,000 and may go up to 10 years in prison and/or a fine of \$25,000, depending on the severity of the injuries caused and whether a weapon was used.

Obstructing Government Operations: Any person who intentionally obstructs, impairs, or hinders the performance of a governmental function by using or threatening to use violence, force, or physical interference or obstacle. Penalties are up to one year in jail and/or \$2,000 in fines.

Disorderly conduct: Any person, with intent to cause physical inconvenience or alarm to a member of the public, engages in violent or tumultuous behavior, makes unreasonable noise, makes a gesture or utters abusive language so as to provoke a violent response, or creates a hazardous or physically offensive condition. Penalties range from up to a \$1,000 fine and may be up to 30 days in jail and/or a \$1,000 fine if the person persists in his conduct after a reasonable warning or the conduct is committed with an intent to cause substantial harm or serious inconvenience.

Terroristic Threatening: Any person who, with the intent to terrorize, threatens by word or conduct to cause bodily injury to another person, serious damage to the property of another, or to commit a felony. Penalties start at possible maximums of one year in jail and/or a fine of \$2,000 and may go up to a maximum of five years and/or a fine of \$10,000, depending on whether a weapon was used and whether a government employee was threatened.

Trespass: Any person who knowingly enters or remains unlawfully upon a premises. The penalty is up to a \$1,000 fine.

Criminal Property Damage: Any person who intentionally damages the property of another. Penalties range from up to 30 days and/or a fine of \$1,000, up to five years in prison and/or a fine of \$10,000, depending on the extent of the damage, along with restitution for the damages caused.

Failure to disperse: Failure on the part of six or more people, who are disorderly, to disperse after an order from a peace officer. The penalties are up to one year in jail and/or a fine of \$2,000.

Harassment: Any person, who with the intent to harass, annoy, or alarm another person, touches another person in an offensive manner, or insults, taunts or challenges another person in a manner likely to provoke an immediate violent response or would cause the other person to reasonably believe that bodily injury or damage to property may result. The penalties are up to 30 days in jail and/or a fine of \$1,000.

Hindering Prosecution: Any person who, with the intent to hinder the apprehension or prosecution of another, prevents or obstructs by means of force, deception, or intimidation, anyone from performing an act that might aid in the apprehension or prosecution of such person. The penalties are up to one year in jail and/or a fine of \$2,000.

Endangering The Welfare of a Minor: Any person who, being a parent, guardian, or other person whether or not charged with the care or custody of a minor, knowingly endangers the minor's physical or mental welfare by violating or interfering with any legal duty of care or protection owed such minor. The penalties are up to one year in jail and/or a fine of \$2,000.

Obstructing: Any person, who having no legal privilege to do so, knowingly or recklessly obstructs any highway or public passage, whether alone or with others. The penalty is a fine of up to \$1,000.

Refusal to Provide Ingress or Egress: Any person who is directed to move by a law enforcement officer so as to provide and maintain a free and unobstructed passageway for persons and vehicles going into or out of any public or private place, and refuses to move. The penalties may be up to six months in jail and/or a fine of \$200.

POSSIBLE INVESTIGATION INTO THREATENED HARM TO A CHILD

If your conduct places a child into a dangerous situation, such as placing a child in a Coast Guard Security Zone or in the course of a vessel, the Department of Human Services could investigate you for such conduct, including pursuant to Hawaii Revised Statutes Chapter 587, the Child Protection Act.

Exhibit 6



Summary of Consequences For Violation Of USCG Security Zone Nawiliwili Harbor in Kaua'i, Hawai'i


Violation of the Security Zone may result
in any or all of the following CONSEQUENCES:

- **Federal Criminal Prosecution For (non-exhaustive list):**
 - *Failure to comply with orders related to the security zone:* Any person who knowingly fails to comply with any regulation or rule issued or order given related to the security zone, or knowingly obstructs or interferes with the enforcement of the security zone may be punished by imprisonment for up to 10 years and may, at the discretion of the court, be fined up to \$10,000.
 - *Knowing violation of the security zone and or injuring an enforcement officer:* Any person who willfully and knowingly violates the security zone commits a class D felony and any person who, in the willful and knowing violation of the security zone uses a dangerous weapon, or engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce the zone commits a class C felony.
 - *Failure to heave to or forcibly interfering with a law enforcement action authorized by any Federal law:* 18 U.S.C. § 2237 makes it a felony for a master, operator or person in charge of a vessel to knowingly fail to obey an order by authorized Federal law enforcement officers to heave to the vessel and/or to forcibly resist, oppose, prevent, impede, intimidate, or interfere with a boarding or other law enforcement action authorized by any Federal law or to resist a lawful arrest. Any person who intentionally violates this section shall be fined under this title or imprisoned for not more than 5 years, or both.
 - *Destruction of, or Interference with, Vessels or Maritime Facilities:* 18 U.S.C. § 2291 makes it a felony to interfere by force or violence with the operation of any maritime facility if such action is likely to endanger the safety of any vessel in navigation. Any person who knowingly violates this section shall be shall be fined under this title or imprisoned not more than 20 years, or both. Whoever knowingly and intentionally imparts or conveys any threat to do an act which would violate § 2291, with an apparent determination and will to carry the threat into execution, shall be fined under this title or imprisoned not more than 5 years, or both, and is liable for all costs incurred as a result of such threat.
- **Federal Seizure of Property for Civil and/or Criminal Forfeiture:** Any vessel, including surfboards, kayaks, and canoes, that is used in violation of the security zone may be immediately seized and forfeited and/or may be seized in an action commenced in a U.S. District Court to collect any issued civil penalty that is not paid.
- **Federal Civil Penalties:** Any person who violates the security zone may be liable for a civil penalty of up to \$32,500. Each day of a continuing violation constitutes a separate violation.
- **Immediate Arrest for Any Outstanding Wants or Warrants.**

Exhibit 6

Posted on: Friday, September 21, 2007

Governor heckled over Hawaii Superferry

 Photo gallery: [Gov. Lingle faces tough crowd](#)

- [Honolulu planning for transit ripple effects](#)
- [Maui hearing's focus: whales, invasive species](#)

 StoryChat: [Comment on this story](#)

By [Derrick DePledge](#)
Advertiser Staff Writer

LIHU'E, Kaua'i — Gov. Linda Lingle tried to calm tensions over the Hawaii Superferry at a raucous public meeting last night where she was interrupted by boos, hecklers and scattered profanities.

Most of the people in the standing-room-only crowd of more than 1,100 at the Kaua'i War Memorial were opposed to the Superferry and predicted more protests when the ferry returns Wednesday.

A smaller group that included several Superferry employees and their families showed support for the ferry.

"EIS, EIS, EIS," the crowd stood and chanted at the start of the meeting. Along with Lingle, Barry Fukunaga, director of the state Department of Transportation, and Coast Guard Rear Adm. Sally Brice O'Hara were also interrupted and booed.

Many speakers said the state should wait until courts on Maui and Kaua'i act on legal challenges to the Superferry before authorizing resumed service to Nawiliwili Harbor. "We call on you, we count on you to choose life and righteousness," said Kaua'i County Councilwoman JoAnn Yukimura.

Lingle drew more boos when she said the decision to allow the Superferry to return to Kaua'i has already been made, and she just wanted to hear residents' concerns about a planned federal security zone at the harbor and other issues.

"My answers may not be the ones you want to hear and I accept that," Lingle told the crowd.



People gather in front of the County Building in Lihue on Kaua'i yesterday before a meeting at the War Memorial Convention Center with Gov. Linda Lingle, members of her administration and Coast Guard officials.

JOAQUIN SIOPACK | The Honolulu Advertiser

BARRAGE OF CRITICISM

With Lingle standing behind a podium on stage, speaker after speaker criticized all aspects of the Superferry — from the state's initial policy decision to exempt the Superferry from an environmental assessment to broader accusations that the administration appeared to be favoring corporate interests over the people of the island.

Andrea Brower of Anahola asked the governor if she feels justified in threatening protesters with arrest and prosecution for standing up to the ferry. Brower's question received a rousing ovation.

Lingle replied: "It is our hope and our desire than no one faces a penalty because no one breaks the law."

State Senate Majority Leader Gary Hooser, D-7th (Kaua'i, Ni'ihau), said he hoped the Republican governor heard the message that people shared throughout the night. He said most Kauaians aren't necessarily opposed to the Superferry, but want an environmental assessment first.

"I was not surprised by the emotion. It's a very emotional time. The people of Kaua'i feel like nobody's listening to them," he said. "So when the governor finally comes over and listens, there's a lot of passion."

Hooser said he hopes the Coast Guard and the state delays resuming service next week. "It would be very poor judgment on their part to force the issue," he said. "I would encourage them to wait for the Kaua'i and Maui courts to decide one way or the other." Before the meeting, dozens of people gathered outside the nearby County Building. And many spoke of using the right words and tone to get their message to the governor. Many people are cognizant of how the protests have been perceived on the other islands.

'BAD NEIGHBORS'

Many are also concerned about how the Superferry fight has divided some people here. Barbara Elmore, who is retired and lives in Lihu'e, said she believes she is among the few people who support the Superferry.

"It makes us look like bad neighbors," she said of the protests.

Elmore also said the reaction to the Superferry is symbolic of a deeper sentiment in the community about how life here is changing. "I think people here are fed up with development," she said.

Michelle Fields, a Realtor who lives in Puhī, said she wants more assurances from Superferry executives that they are going to thoroughly inspect vehicles before voyages. She said she is worried that a lack of screening could lead to transport of illegal drugs, invasive species and even ecoterrorism.

"I want to know that the cars that are coming over on the ferry are properly screened," she said. "Each of our islands has a delicate ecosystem."

Dennis Chun, who teaches Hawaiian studies at Kaua'i Community College, said he disagreed with how Lingle has handled objections from Kaua'i. "It's Big Brother telling Little Brother what to do. To me, that approach just creates more conflict," he said.

But Chun also believes the issue goes beyond an environmental assessment. "It's about where people here see the island now and the direction it's going to go in the future," he said.

LINGLE NOT OFFENDED

The meeting lasted 3 1/2 hours and Lingle stayed afterward and talked personally to people who didn't have a chance to speak at the meeting.

She told reporters later she was not offended by the intensity of the crowd. "But the passion is very intense," she said, "and what I wanted to try to communicate tonight is this issue of knowingly violating the law is just unnecessary, because there are clearly ways to protest, legal ways to make your point.

"One man said to me tonight: 'But you wouldn't have come tonight if we hadn't jumped into the water.'

"And I told him, 'You're probably right, because of my concern for safety.'

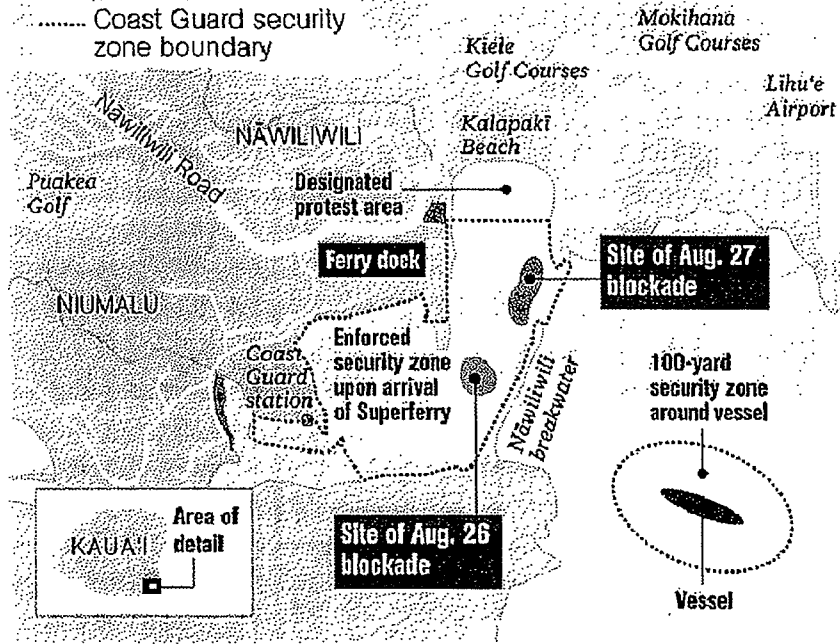
"And that is what brought me here tonight."

The Associated Press contributed to this report.

Reach Derrick DePledge at ddepledge@honoluluadvertiser.com.

...

HAWAII SUPERFERRY SECURITY ZONES



Source: U.S. Coast Guard

The Honolulu Advertiser

Back

© COPYRIGHT 2007 The Honolulu Advertiser, a division of Gannett Co. Inc.

All materials contained on this site are protected by United States copyright law and may not be reproduced, distributed, transmitted, displayed, published or broadcast without the prior written permission of The Honolulu Advertiser. You may not alter or remove any trademark, copyright or other notice from copies of the content.

Aloha,

October 23, 2007

I want to thank our honorable members of the Legislature for offering these hearings re: the Super Ferry on the outer Islands.

I am opposed to having a special session convened to "save" the Super Ferry from having to undergo an Environmental Assessment prior to its operation.

The law has been clear on what triggers an Environmental Assessment. That this information was ignored should not result in a default position of, "We'll fix it with a special session and legislation."

We live in a society of laws not of the personal whims of "rulers". We elect individuals to positions of power for a temporary time period, we do not have rulers.

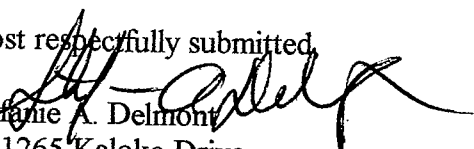
We live in an avowedly Capitalist society which praises and rewards, economically, those who have the "better idea" and bring it to the public (current example the Ipod). We also have laws to protect the public from the untoward consequences of these better ideas. In this situation the better idea is a company that follows the law while providing services to the public. If a Ferry service is so obviously beneficial, Super or not, then there is nothing to stop another group from bringing ferry service to our state. In fact, some of the tax incentives given to high tech companies and assorted entertainment companies to operate in Hawaii could be utilized to encourage a local consortium to put together a ferry project geared specifically to Hawaii's needs , concerns and requirements – including of course, appropriate EAs and EIRs.

The Super Ferry was born of the Federal government's desire to keep American ship building going through subsidies and other economic support to those utilizing an American shipyard – not through a desire to help Hawaii. The Super Ferry was nourished with Hawaii State funds – which were used to upgrade harbors to accommodate the Super Ferry. None of these funds were used to enable Kauai, Maui and Hawaii Island to handle the increased traffic and potential environmental damage of so many additional vehicles and people on the roads each day.

As a citizen and farmer on the Big Island I am very concerned about the very real probability of invasive species arriving here, along with large numbers of people and their vehicles on roads that cannot handle what we have now in terms of people and vehicles.

I thank you for listening to my opinion and am proud to be a real part of participatory democracy where the peoples voices are heard and responded to.

Most respectfully submitted,



Stefanie A. Delmont
73-1265 Kaloko Drive
Kailua-Kona HI 96740
808 329 8446
bluejourney@aol.com



mkmasunaga@aol.com
10/23/2007 09:38 AM

To testimony@capitol.hawaii.gov
cc
bcc
Subject From Margaret Masunaga, Claudia Chang, and Valerie
Corcoran of Kona re: SUPPORT of Superferry

TESTIMONY IN SUPPORT OF THE SUPERFERRY

To whom it may concern:

We are voters in Kona who SUPPORT the Superferry on the Big Island.

We would like to have the opportunity to ride the Superferry from West Hawaii. We believe the future success of the Superferry will be dictated by the market forces of how many people pay for and ride the Superferry. We want to have this opportunity to do so in Jan. 2009.

We are apprehensive about showing up at the public hearing at Kealakehe High School on 10/23/07 because of the opponents of the Superferry. In addition, we are working class citizens or students and cannot show up at 3 p.m. in Kailua-Kona (we would have to drive from Kealakekua in the TRAFFIC as well.)

We, however, want to let the legislatures to know we SUPPORT the Superferry. Should you have any questions, please do not hesitate to contact us.

Thank you for listening and allowing us to email testimony to you.

Sincerely,

Margaret Masunaga
Colette Masunaga (16 yr old student at Konawaena High School)
P. O. Box 345
Kealakekua, HI 96750
808 345-4349 cell
808 328-2521 home
mkmasunaga@aol.com

Valerie Corcoran
P. O. Box 2355
Kealakekua, HI 96750

Claudia S. Chang
P. O. Box 1519
Kealakekua, HI 96750

Memo to: Andy Smith, Governor's Liason for East and West Hawaii
FAX NO. (808) 327-4952

RE : Testimony In Favor of Hawaii Superferry Operating in Hawaii
October 23, 2007 Public Hearing in Kona

From: Daniel Tomita, 95 Paulele Street, Hilo, Hawaii 96720 PH. (808) 959-7763

I am in favor of allowing the Hawaii Superferry to operate in Hawaii without first requiring an EIS study for the following reasons:

1. We did not require the owner to provide an EIS two years ago when he first began planning to bring the Superferry to Hawaii and we should not do so now. He has spent hundreds of millions of dollars in building the two ships, building the docking areas on Kauai, Maui and the Big Island, hiring hundreds of workers to staff the operation and advertising the start of operation for months and to require him to do so now would be a slap in the face and a breach of good faith. If he is unable to do business in Hawaii, already losing thousands of dollars every week because of this delay, it would signal to future investors and businesses that the political climate in Hawaii is unreliable and cannot be trusted.
2. The protests and concerns for the environment should have been voiced much earlier than just a few days before the Superferry began operations. The concerns could have been addressed years ago and a more workable solution agreed upon by all parties involved. "The squeaky wheel gets the grease" rewards people who talk the loudest or the longest. The owner of the Superferry has done everything he promised he would do to bring his business to Hawaii. We should reward him by allowing him to operate here NOW, not months or years from now.
3. The owner has assured the State of Hawaii that he will do everything within his ability to protect the environment, whales, sea turtles, etc. Let's give him a chance to prove that he will do what he has promised to do. He has already done everything he said he would do and proven his commitment to our state's future prosperity. The longer we wait and make him go through additional "hoops" like this EIS will drive the nail in the coffin of his leaving Hawaii and never returning. We should NOT let this happen.
4. I am appalled that some senators are making the Superferry a partisan issue. They are like "ambulance chasing lawyers" looking to politicize rather than compromise. If the Superferry continues operating, we should praise this joint venture of how well government and business can work together for a better future for Hawaii and its citizens. We need to expand our economy with diversity in business and be less dependent on the military and tourism. For over 50 years, we have agreed that we must create a business-friendly climate for businesses to flourish and profit in Hawaii. Our governor and legislators should stand tall and proud that the Superferry represents a new beginning toward becoming a more business-friendly Hawaii. Don't degenerate into partisan politics and point fingers at our governor for doing the right thing. Stand with her and see this through, working out the kinks, guidelines of operation and dealing with concerns. However, allow the Superferry to sail again! NOW!

Testimony: Super Ferry
October 23, 2007

Senators and Representatives:

Every State-Wide poll that has been taken regarding the Super Ferry has shown that the people of this State want the Super Ferry. In fact, had you not received so many people asking you to help the Super Ferry you would not be here today! You were elected to represent the voice of the people, not just the monopolies of this state or the special interest groups.

It is wrong to apply a law to a single vessel and not to every vessel. Does this legislature really want to require every new cruise ship, freight ship or inter-island tug boat to do a Environmental Assessment before they can operate? Law must be applied equally or there is no justice at all!

It is also wrong to allow monopolies to control inter-island shipping and transportation. This state has protected a few at the expense of the people. Will the Super Ferry be the next business to be run out to protect the few and rob the people?

This legislature welcomed the Super Ferry when they first approached the State. You provided funds for the necessary dock improvements. If you had concerns about the environment then you had an obligation to address it at that time. This legislature could have made the Environmental Assessment a requirement for the funding, but you chose not to.

The action that has been taken against the Super Ferry is the greatest threat to our economic future that has ever been presented. If the Super Ferry is stopped no company will risk investing here again. Hawaii already has the reputation as the most unfriendly business state. Why make it worse?

Reasonable precautions that do not add to the cost of people using the Ferry is acceptable. It is reasonable to require cars to be washed off before they leave an island. Not that this is required when cars are placed in a container and shipped island to island. If you hand cuff the Ferry with excessive requirements then it will fail and the results will be then same as if you did nothing!

The people have an opportunity with the Super Ferry to go to other islands to buy or sell goods, to visit family without paying for the combined burden of car rentals and airfare. The economic benefits are enormous, including greater competition so we can pay less for big ticket items and expanded markets for our farmers and other businesses.

Those that initially hindered the operation of the Super Ferry by placing boats and surfers in front of it showed no regard for the people on the Ferry or themselves. These were criminal acts that could be defined as terrorism and those people should be treated as such.

I ask you to support the Super Ferry.

I ask you to support the will of the people who placed you in office.

Regards,
David Myrick
Resident of Kailua-Kona, HI

October 18, 2007

Superferry Folly

To override two court decisions, both the State Supreme and lower court, and hold a special session of the State Legislature to cater to arrogant SF (Superferry) owners, and an uncaring State Government who REFUSED to protect our 'aina and ocean by requiring that the law be followed with an EIS (Environmental Impact Statement), is a crime! Yet Kaua'i people who felt "backed against the wall" by the cavalier attitude of SF and the State going against the Supreme Court ruling are being chastised and accused of lacking the Aloha Spirit for their practice of Aloha 'Aina and for protecting their 'aina and homes on Kaua'i. How hollow and meaningless this makes our traditional Hawaiian value system (Aloha 'Aina) which is touted in the State 2050 Sustainability Plan.

One wonders how the decision to ignore an EIS for Superferry was made ONLY within the Department of Transportation without consultation with the Attorney General or Governor Lingle while the issue was in court. Is this a cover-up?

The Governor's proposed "Unified Command" threatens protesters with a Coast Guard flotilla -- this smacks of police state tactics. Those citizens who question and protest these proceedings are further intimidated with the threat of child endangerment charges should their surfer teenager end up as apart of the protest.

This SF gang and Governor Lingle will apparently go to any legal and extra legal lengths to undermine Judge Cardoza and the State Supreme Court's prudent rulings.

There are those of us on the neighbor islands who believe the phrase "Keep the Country, Country" is not just an idle phrase on a bumper sticker. We don't want the urbanization, concrete jungle and freeway traffic jams of 'Oahu. Nor do we want our natural resources pillaged like the three truck loads of river pohaku from 'Iao on Maui almost transported by SF to 'Oahu. A proper and thorough EIS from the beginning would have addressed these issues and others that are sure to arise, and we would not be a divided citizenry on the Superferry issue as we are today.

The legislature is about to foolishly convene a special session to bail out SF and the Governor, both of whom ignore the law written over 30 years ago (possibly before the Governor moved here from the Mainland) to protect our environment. A Superferry CEO has already stated they will not go slower than 37 knots (over 40 mph) which is twice as

Aloha Kenekoa, Aloha Kakou,

Welcome Senators, Mahalo A Nui Loa, Thank you very much, for including and giving the Big Island a chance to voice our mana'o (opinions), and concerns., on the Ala Kai, Superferry.

My name is Aunty Maile Mauhili, Kupuna of Hawaiian Ancestry, from Keaukaha, Hilo, A 2 ½ hr. drive to Kona and made it a point not to miss this public hearing..

My kuleana (business) here is to speak in behalf of my ohana, friends, canoe clubs and much more, we are in support (kokua) of the AlaKai, Wa'apa, Superferry. We know the hurdles the AlaKai –superferry must meet, while waiting, we want to see it sail. We humbly ask this body (Senators) to let it sail. Mahalo Ke Akua.

This is the best for the economy, jobs for people on each island, especially for our kamali'i (children) , mo'opuna, grandchildren., cheaper traveling cost for people, businesses, farmers, nursery flower growers and many more, make it a reality for the people who need and wants it.

The controversy on the superferry has created a monster, by the protestors, lawyers, environmentalist and those in favor not to see the AlaKai , superferry work. May I ask WHY? Hearing from many, the lawyers don't want the superferry here because they have their own agenda, yea we can see that, a special interest, I scratch your back, deal,we are not sleeping, we up , Maka'ala. If the AlaKai superferry stays, Younging Brothers HECO, got a competitor and this no look too good for the business. We need the superferry, Wa'apa, AlaKai, cheaper to send my Koa and non-Koa canoes to the outer islands, Stopped sending my canoes off island, borrow from sister canoe clubs . Watching the protestors on Kauai and Maui is nasty (pilau), majority of them is not local, Not of our kind, a few is in there, followers, just like the overthrow of our precious Queen Liliuokalani, I'm not racist or a hypocrite, I'm a Native Hawaiian, fighting for what is better for all ethnic people, regardless of who you are, and what you are. *Program*

My mana'o (opinion) on the four controversy , Kohola Whales, Invasive Species, Hawaiian culture, and Traffic.

Whales-Kohola-What harm the AlaKai superferry to the whales, is it speed, no propellers, other boats are more dangerous to the whales, the worst is people, inquisitive and abusive, maha'oi and niele, they are more intelligent akamai than you lawyers environmentalists , protestors, leave them alone, they are kapu, sacred, aumakua's, Protectors of the sea. Rest a sure the AlaKai superferry is not a threat to our aumakua. The superferry can be an ocean classroom for our kamali'i children going on excursions Study about the kai, island cliffs and valleys and much more for them to learn. Nahe ~~nahe~~, wonderful. *Maikai*

Hawaiian culture- How is the superferry damaging to the culture, people is the abusers. How insulting ~~reading~~ the restored Hawaiian kingdom ~~and~~ alii nui moi, big king king

Emund Silva.. What a joke, ho'opunipuni, lie, do you think we acknowledge you as an alii, never, we speak for ourselves and not by you. This is damaging to my Hawaiian culture, not the superferry. Maui and Kauai people thinks other island people going to their islands to ai'hue they worldly goods . so blame the superferry, get a life.

Invasive Species—It's all here coqui frogs, miconia, goss, even that unidentified snake found under the Kuhio Pier, they all came by Matson, HECO barge, passenger ships, even planes, this is the big deal, not the superferry, Maka'ala wake up, we are.

Traffic—what a laugh, what traffic is the superferry going to create, its here,

To the lawyers, environmentalist, Sierra Club, to whom it may concern, stop the accusations, threats, unfair tactics, disrespect. We have choices and the superferry is high on the list. Respect. ~~let us all~~ Ka Po'e Lahui, people of Hawaii, Senators, special friends, Ho'opono, MAKE EVERYTHING RIGHT. For Hawaii Nei.

Mahalo A Nui Loa, for your patience and Aloha, Aloha Ke Akua, Mahalo Ke Akua

Me Ke Aloha Pumehana,
Aunty Maile Mauhili

October 18, 2007

Superferry Folly

To override two court decisions, both the State Supreme and lower court, and hold a special session of the State Legislature to cater to arrogant SF (Superferry) owners, and an uncaring State Government who REFUSED to protect our 'aina and ocean by requiring that the law be followed with an EIS (Environmental Impact Statement), is a crime! Yet Kaua'i people who felt "backed against the wall" by the cavalier attitude of SF and the State going against the Supreme Court ruling are being chastised and accused of lacking the Aloha Spirit for their practice of Aloha 'Aina and for protecting their 'aina and homes on Kaua'i. How hollow and meaningless this makes our traditional Hawaiian value system (Aloha 'Aina) which is touted in the State 2050 Sustainability Plan.

One wonders how the decision to ignore an EIS for Superferry was made ONLY within the Department of Transportation without consultation with the Attorney General or Governor Lingle while the issue was in court. Is this a cover-up?

The Governor's proposed "Unified Command" threatens protesters with a Coast Guard flotilla -- this smacks of police state tactics. Those citizens who question and protest these proceedings are further intimidated with the threat of child endangerment charges should their surfer teenager end up as apart of the protest.

This SF gang and Governor Lingle will apparently go to any legal and extra legal lengths to undermine Judge Cardoza and the State Supreme Court's prudent rulings.

There are those of us on the neighbor islands who believe the phrase "Keep the Country, Country" is not just an idle phrase on a bumper sticker. We don't want the urbanization, concrete jungle and freeway traffic jams of 'Oahu. Nor do we want our natural resources pillaged like the three truck loads of river pohaku from 'Iao on Maui almost transported by SF to 'Oahu. A proper and thorough EIS from the beginning would have addressed these issues and others that are sure to arise, and we would not be a divided citizenry on the Superferry issue as we are today.

The legislature is about to foolishly convene a special session to bail out SF and the Governor, both of whom ignore the law written over 30 years ago (possibly before the Governor moved here from the Mainland) to protect our environment. A Superferry CEO has already stated they will not go slower then 37 knots (over 40 mph) which is twice as

My name is Kathleen Kuikahi, I am a 31 year resident of Kailua Kona, I am married to a native Hawaiian.

Over the years of raising children here and being involved with youth activities, I have spent countless hours fundraising to pay for off island trips, part of those funds are used to rent vehicles to transport the youth to various parts of the islands.

I also was involved with canoe racing and when our teams qualified to go to states we always had to borrow canoes as our club did not have the funds to ship our canoe plus rent vehicles.

The SuperFerry would solve this situation by allowing us to take our own vehicles, canoes, and sports equipment etc without the fear of it not making the barge schedule. And by saving monies by taking our own vehicles and not renting vehicles as usually we need vans and vans are hard to find that seat more than 5 people and luggage.

I know farmers and small business owners who would love to be able to expand their market to outer islands but the cost of flying, shipping and renting vehicles make it extremely costly and so they only do business here on Hawaii

The cost of flying verses riding the SuperFerry most likely will be close to the same, but to be able to take our own vehicles would be greatly helpful. Plus it gives us an opportunity to sail on the ocean.

We used to have the Hydro foil that went In-between Island; I never got the chance to ride it.

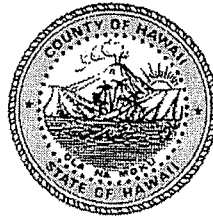
When I first arrived here we only had 1 traffic light, and one shopping center. To do major shopping we drove to Hilo. Over time major businesses (Costco, Walmart, Kmart, Lowe's, and Home Depot) have moved in to the West Hawaii area, each had the protesters grumbling about the negative impact it would cause West Hawaii. We now can shop here in our own area and Hilo comes to Kona side to shop now.

Please consider our side when you make your final decisions, we are the silent majority who needs it.

I thank you for your time and for coming to West Hawaii to hear our side too. I hope that everyone here providing testimony lives and works here and did not fly in to our area to protest.

Mahalo & Aloha

Harry Kim
Mayor



Dixie Kaetsu
Managing Director

Barbara Kossow
Deputy Managing Director

County of Hawai'i

891 Ululani Street • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 961-6553
KONA: 75-5706 Kuakini Highway, Suite 103 • Kailua-Kona, Hawai'i 96740
(808) 329-5226 • Fax (808) 326-5663

October 23, 2007

The Honorable Brian T. Taniguchi, Chair, and Members
Senate Committee on Judiciary and Labor

The Honorable J. Kalani English, Chair, and Members
Senate Committee on Transportation and International Affairs

The Honorable Ron Menor, Chair, and Members
Senate Committee on Energy and Environment

SUBJECT: Informational Briefing - Testimony Related to the Superferry
October 23, 2007 at Kealakehe High School

Dear Chair Taniguchi, Chair English, Chair Menor, and Committee Members:

I would like to express a deep gratitude to this committee for trying to resolve a very difficult situation. Along with this, I feel personal sadness and disappointment that we are in a situation that has caused the polarization of people in this state, resulting even in confrontations of hostility and unwillingness to listen. In a personal conversation held with Mayor Bryan Baptiste this morning, it was discussed that without doubt, our greatest sadness about what has been happening regarding the Superferry is the unwillingness of people to listen and of behavior none should have to accept. It is in this context that you are truly thanked for conducting statewide meetings. It is in this context that we thank all those involved for conducting themselves in a manner we all should use in voicing positions of differences, and this is of listening and talking.

On the issue of the Superferry, I believe that because of problems of past and limited means for the transportation of people and goods between the islands, many of Hawai'i wished for and dreamt of a time when alternatives of travel between the islands would become possible. Visions in my past even included fantasies of bridges between the islands. This was especially at a time when ocean transportation alternatives were not deemed practical due to problems of distance, time, rough seas, and technology. Many in Hawai'i have lived through past proposals of ferries, and an equal number of disappointments when paper proposals did not materialize for various reasons. Many of Hawaii's people still reacted with some skepticism when the present Superferry proposal was presented, fearing it was just another proposal. I do not believe I exaggerate when I tell of the joy of so many when this Superferry proposal proved a reality with the presence of a real boat. This was so very obvious when the Superferry was taken to neighbor islands for a show and tell. Now, because of the failure of

October 23, 2007

Page 2

complying with the EA/EIS requirements and other concerns, there is a risk that this Superferry service will not become a reality.

It is ironic to note that of all the projects that I have come across during my term as Mayor and even at Civil Defense, this is the one project that from the onset I felt was not for the tourist, not for the rich, but truly for the benefit of Hawai'i's people. It is of irony that believing this, this project is the one that is caught up in cries of "bad for Hawai'i's environment and lifestyle."

I do believe that alternate means of transportation between the islands are needed and good for Hawai'i's people. I do believe that Hawai'i's people should be provided alternate means of transportation within the state, as is available in all other states and most countries. I do believe that it is the responsibility of government to pursue this. Perhaps a very strong personal feeling of this belief is due to vivid memories of problems of past due to reliance on a single means of transportation. For our island State of Hawai'i, this reliance on a single means of transportation for people and some commerce should not be.

It is also known how difficult it must be to try to resolve the situation, especially in light of the necessity of overriding the courts, and the strong sentiments expressed by many questioning the wisdom of the legislature resolving this issue.

In light of these concerns, two points are emphasized here. First, it is believed that the entire EA/EIS statutory requirement enacted by the legislature in the 1970s does not meet its intent, and at a better time, a review should be made on how to make it better to achieve its goals. It is believed that there are not many who deal with environmental assessments and environmental impact statements who would not agree that some changes need to be made to the process to make it better able to protect the environment, and address social and cultural issues as it was intended to do. Second, I find myself in a true dilemma because on the one hand, I strongly support the Superferry and have a firm belief this is good for Hawai'i. On the other hand, it is realized that if special legislation is passed to allow it to operate while the EA/EIS is under preparation, the perception will be that of politics overriding the legal process.

However, it is with the strongest conviction that a ferry system would be beneficial for the lifestyle of the majority of this state that I hope the Legislature, in its wisdom, can find a way of addressing the reasonable concerns of endangerment to the environment and allow the ferry to operate. I must say here of the taste of bitterness that I feel in asking for this, but the bitterness of the loss of an alternate transportation for Hawai'i's people is even greater.

Thank you for listening, and thank you for trying to bring this very difficult situation to an acceptable resolution.

Aloha,

Harry Kim
MAYOR

(Aloha)

My name is Monic Figueroa
& I'm a student of West Hawaii
Explorations Academy ~~AND~~ AND

The EIS should be conducted before
the supper ferry is allowed to operate
NOT During Operations

If allowed to run before conducting an
EIS its going to be too late and the damage
will have already been done

An environment study will give the supper
ferry greater Li-gi-ta-ma-cy
Without Environmental precautions
It will take years to re-pair the damage
made.

NO Where on earth can we find a
marine eco-system like the one found
here in hawaiian islands
making money isnt worth ruiening
what we have left of the environment

SPEECH OF SPEECHNESS

My name is Ian Kirse, from West Hawaii Explorations Academy (waka for short). I hope I won't be long. First off, I hope you guys don't follow by the rule of a Money Talks, I am here to testify that the EIS should

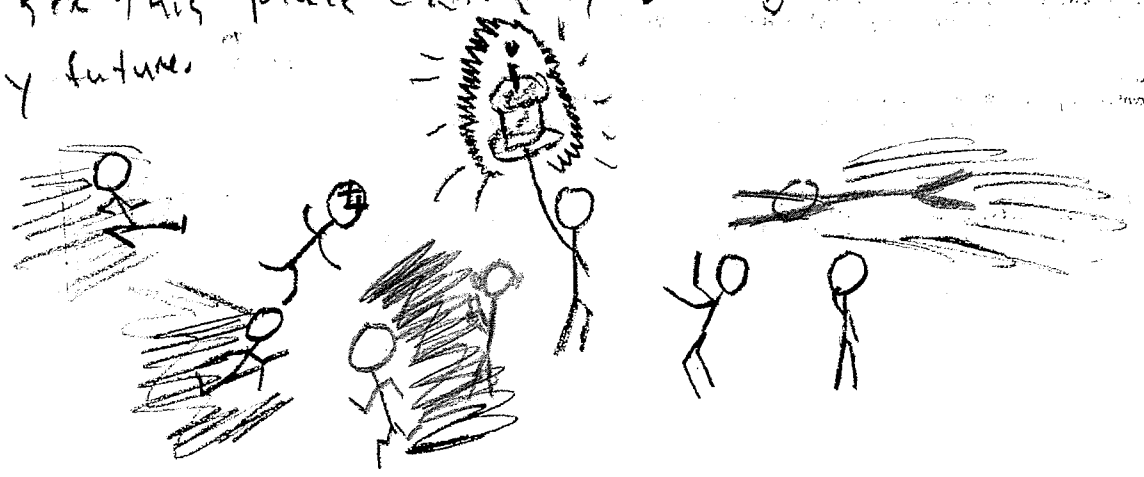
to EIS
and
have done
operations

be done before operations. We have made MANY mistakes here what with always and I even ALWAYS introducing new things which we never take into consideration how much it may impact our fragile environment.

Now lets just think about this for a second we already have a system of translocation and whatnot which is good enough already. Take into consideration that this system may will introduce other organisms such as coqui frogs.

~~_____~~ I believe
~~_____~~ The EIS
should be done before operations as it is best to determine the damage before it happens.

Think about the future, I don't want to see this place extremely damaged in my future.



Ben Duke

Resident Hailua-Kona, HI

The purpose of an EIS is to study potential environmental impacts before a project begins. I believe the Ninth Circuit decision should be upheld. It will set a dangerous precedent to exempt one project from this process. The financial concerns of one company should not outweigh the government's commitment to protecting the environment of Hawaii. If the ^{superior} financial concerns must be addressed, the state and the company should ~~also~~ negotiate a deferment of federal loans while the impact study is being conducted. Let's not forget ~~the impact~~ that Hawaii's natural ^{beauty} resources and natural resources are its greatest asset.

Ben Duke

Superferry

My name is Daniel Starson, I'm a 30 yr resident of Kona. I am for the Super ferry, and feel that the ferry should be able to operate while the EIS is being done.

The arguments against the Ferry system are bogus:

Invasive Species - Any invasive species can travel inter island now by barge, jetliner, or ocean liner.

Also we get hundreds of containers a day from the West Coast & Asia that are not checked for invasive anything.

Whales - the whales are only here for about $2\frac{1}{2}$ to 3 months out of the year and they mostly hang out in the shallows around Lahaina, and the North & South Kohala Coasts.

The ferry can easily slow down as it approaches these waters.

Traffic - Opponents claim so many people are going to come here from Oahu, well a lot of people from here are going to go there as well, it should balance out. There will probably be some congestion when the ferry comes in, that's just the way it is at any ferry station around the world.

— over

Anything the ferry offers is already available to Hawaii now - By air or barge service, except for local people to be able to go interisland by boat which is a more relaxed pace than taking a jet.

You can pack your car & all your belongings up now and ship them anywhere in the state by using Young Bros. and that includes invasive species of any kind.

The ferry is more environmentally friendly than jets. A boat does not require tons of horsepower to get it up in the air and keep it there.

~~So~~ If there was ever an emergency with air travel we have nothing to fall back on! A ferry service makes sense. I've talked to a lot of people around town who don't have time to come to these meetings and most of them can't understand what the problem is with having a ferry system - they mostly think it is a good idea.

A lot of the people testifying go from one meeting to another to make it seem like a lot of people are against it, but most working class people are for it, but they can't or won't testify because they have a job or a life. A lot of Top dollars have been spent on this - lets make it happen
David Stanson

Informational Briefing regarding the hearing on October 24, 2007 of a Senate Bill permitting the operation of an inter-island ferry service in the State of Hawaii while an environmental impact statement is being conducted.

I am disappointed in our State for apparently entering into an illegal contract with the Superferry.

The Senate bill that will be introduced tomorrow is a further effort to bypass the legal process

The Superferry must submit ^{to} ~~to~~ ^{the} EA/EIS process and not do business until that process is complete.

Stephanie Amick
83-5594 Middle Keel Road
Captain Cook, HI 96704
samick@hawaii.rr.com

Testimony in person at the Informational Briefing in Kona, October 23, 2007

ALOHA SENATORS:

I am Dr. Michael Hyson, RESEARCH
DIRECTOR OF THE SIRIUS INSTITUTE,
A DOLPHIN + WHALE + SPACE
RESEARCH CONSORTIUM ~~OPERATING~~
RESIDENT ON HAWAII FOR SOME 17 YEARS.

THE WHALES + DOLPHINS -

THE CETACEA ARE THE ~~OLDEST~~ MOST
INTELLIGENT BEINGS ON THE PLANET -
THE OLDEST ~~AND~~ INDIGENOUS CULTURES
ON EARTH - "PEOPLE OF THE SEA" -

WHAT WE CALL "THE CETACEAN COMMONWEALTH,"

A

→ I AM HERE TO SPEAK ^{ON THEIR BEHALF,} ~~FOR THEM.~~

THE SUPERFERRY IS LETHAL TO WHALES
OR ANYTHING ELSE IN ITS WAY AT ANY
SPEED ABOVE 13 KNOTS -

THE SUPERFERRY ENDANGERS THE
WHALES - KILLING ~~MOTHERS~~ FATHERS
MOTHERS, BABIES, SISTERS, BROTHERS +
COUSINS IN THE WHALE PODS - AS SUCH
WE OPPOSE THE SUPERFERRY - IT
WILL KILL WHALES - ~~ALREADY ENDANGERING~~
AND LOVED BY MANY OF US - SOME 90%
OF THE AMERICAN PEOPLE SUPPORT THEIR
PROTECTION - AND THOUSANDS VISIT TO

SEE THEM —

PLEASE, WE ASK, SUPPORT THE
RULE OF LAW — KEEP THE FERRY
IN PORT — IF IT RUNS, IT
WILL KILL WHALES AT 45 KNOTS.

STOP THIS DOUBLE-HULLED,
DOUBLE-KNIFE-LETHAL "WHALE
QUISINART."

ALTERNATIVES EXIST: THE BEST
IS A CROSS BETWEEN AN AIRCRAFT
AND A BOAT CALLED "WING IN GROUND
EFFECT" WHICH CAN TRANSPORT
LARGE CARGOS AT ABOUT 20 FOOT
ALTITUDES — ABOVE THE WATER
AT ABOUT $\frac{1}{5}$ THE COST OF
AIRCRAFT & WOULD SERVE HAWAII'S
NEEDS SAFELY.

A

One DAY, IN THE NEAR FUTURE,
THE CETACEA WILL BE FULL MEMBERS
OF A JOINT CETACEA-HUMAN
CULTURE — WITH FULL OBJECTIVE
COMMUNICATION, SO THEY WILL

~~FOR~~
SPEAK FOR THEMSELVES.

TODAY, IN THE MEANTIME,
I AM HERE TO SPEAK ON THEIR
BEHALF...

Thank you for Listening to the people of ~~Kona, Hilo, Waimea~~

Donna Goodale 325-1472
73-4503 Kohonoiki Rd. Kailua-Kona HI 96740
~~Lived here for over 20~~

The Island of Hawaii

I am ~~biologist~~ ^{Science} Teacher

I work w/ mid sch. students

I ^{recently} ~~in~~ coordinated a group of students ^{that} followed the process of law
* Over 2 1/2 years ^{has} passed a law in the County of Hawaii

~~What would you be telling the children of Hawaii if you didn't follow the law?
My position is that our system has failed both the
people & the Super Ferry by not following the course of law~~

I am NOT in favor of the ferry @ this time

1. EIS should have been required 2 yrs ago - it ~~was~~ ^{was} not
fair to the Super Ferry to shut them down 2 days before
they started service

But

2. The EIS is law & should be ~~done~~ correctly

3. Very concerned about the islands resources.

~~IF~~ we had laws + Enforcement of these laws in place to preserve
& sustain ^{the capacity to} those resources for the future, ^{then} I would welcome the address
laws, regulation & enforcement in place to preserve natural
resources at this time

Please follow the course of law

Do the EIS

* Set up regulation & enforcement to sustain ~~all~~
the natural resources of this state

~~What would you be telling the children if you are a lawbreaker then follow it
while it is in effect.~~

102210