

**TESTIMONY**  
**HB 1961, HD1**

LINDA LINGLE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
LAURA H. THIELEN  
Chairperson**

**Before the Senate Committees on  
WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS  
and  
ECONOMIC DEVELOPMENT AND TECHNOLOGY**

**Monday, March 15, 2010  
2:45 PM  
State Capitol, Conference Room 229**

**In consideration of  
HOUSE BILL 1961, HOUSE DRAFT 1  
RELATING TO THE KAHOO LAWE REHABILITATION TRUST FUND**

House Bill 1961, House Draft 1 would impose a surcharge of \$1 for every customer of an ocean recreation business that operates in or around Molokini Islet, and deposit said funds into the Kahoolawe Rehabilitation Trust Fund. The Department of Land and Natural Resources (Department) opposes this bill.

The existing snorkel/dive tours that use Molokini have already been asked to accept increased costs to their businesses through department permit conditions to reduce damage to coral resources there. Given the state of Hawaii's economy, it would be unfair to ask these businesses to shoulder an additional fee on visitors this year.

The Department believes that any future fees for Molokini visitors should be used to protect the resources of Molokini and coral resources in the State.

**LAURA H. THIELEN**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**RUSSELL Y. TSUJI**  
FIRST DEPUTY

**KEN C. KAWAHARA**  
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



*KŪKULU KE EA A KANALOA*

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

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

### COMMISSION MEMBERS

NOA EMMETT ALULI, M.D.  
*Chairperson*  
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*Vice-Chair*  
MILTON M. ARAKAWA, A.I.C.P.  
COLETTE Y. MACHADO  
LAURA H. THIELEN  
AMBER NĀMAKA WHITEHEAD

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

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

### **Before the Senate Committees on WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS and ECONOMIC DEVELOPMENT AND TECHNOLOGY**

**Monday, March 15, 2010  
2:45 PM  
State Capitol, Conference Room 229**

### **In consideration of HOUSE BILL 1961, HOUSE DRAFT 1 RELATING TO THE KAHO'OLAWE REHABILITATION TRUST FUND**

House Bill 1961, House Draft 1 would impose a \$1 surcharge on each customer who participates in an ocean recreational activity or tour in the Molokini Shoal Marine Life Conservation District and direct the collected surcharges to the Kaho'olawe Rehabilitation Trust Fund. The Kaho'olawe Island Reserve Commission (KIRC) supports this measure that would provide permanent state statutory funding for the restoration of Kaho'olawe.

KIRC's only permanent funding source is the Trust Fund, established in 1994 when federal monies were appropriated for the clean-up of unexploded ordnance. The Trust Fund was not created, nor was the principle ever substantial enough, to be a sustainable endowment where KIRC could operate solely from its interest. Over the past several years, KIRC has received funding through state and federal grants, donations, access permit fees and boater registration, but has had no other permanent source of funds beyond the Trust Fund in the past 16 years.

Even with dramatic cuts to operating expenses and personnel costs – projected Fiscal Year 2010 expenditures total \$3.49 million – the Trust Fund will be depleted within the next four years. KIRC would, therefore, respectfully request that the bill take effect no later than July 1, 2011.

If KIRC were to be the beneficiary of a Molokini fee, KIRC would provide some type of service to justify the fee: KIRC would be responsible for some degree of active regulation and preservation of Molokini.

The nexus between Kaho'olawe and Molokini is clear. There is a traditional relationship linking Kaho'olawe, Molokini and the Honua'ula district of Maui, a cultural tie that is found in oral histories and traditional Native Hawaiian stories. KIRC has provided support to Molokini conservation efforts, including unexploded ordnance removal and seabird banding and monitoring. Additionally, Molokini tour activities unquestionably benefit from KIRC's management of the Kaho'olawe Island Reserve and its marine resources – the restricted Reserve waters function as a sanctuary and nursery for all marine species, including listed species such as the green sea turtle, Hawaiian monk seal and humpback whale, as well as some of the healthiest fish populations in the main Hawaiian islands.



**HB 1961 HD 1**  
**RELATING TO THE KAHO'OLAWE REHABILITATION TRUST FUND**  
Senate Committee on Water, Land, Agriculture and Hawaiian Affairs  
Senate Committee on Economic Development and Technology

March 15, 2010

2:45 p.m.

Room: 229

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The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB 1961 HD 1, which would require ocean recreational activity Molokini tour operators to levy a minimal \$1 surcharge from each customer, to be deposited in the Kaho'olawe Rehabilitation Trust Fund.

OHA applauds the Legislature for this creative funding mechanism, proposed during harsh economic times. In every entrance and exit poll that has evaluated tourists' level of commitment to maintaining and improving the cultural and natural resources of Hawai'i, tourists overwhelmingly support surcharges and opportunities to learn more about the indigenous culture of this spectacular archipelago. They easily correlate environmental and cultural resources to part of the value they place on their visit here, because those elements are what keep them returning to our beautiful and spiritual home.

A one dollar charge per visitor to a tiny island that is in clear view of Kaho'olawe and which benefits directly from ocean resource preservation activities around Kaho'olawe seems like a reasonable request. Having the tour operators issue the charge, knowing that their businesses have benefited from the increased fish population that has developed because of decreased sedimentation and prohibitions against fishing around Kaho'olawe does not seem onerous.

In fact, it provides the tour operators with an opportunity to share more about the cultural, historic and natural aspects of Kaho'olawe during their boat trips to Molokini. For example, certain accounts tell of the demigod Maui trying to pull Kaho'olawe closer to Maui, using his magical fishhook – Mānaiakalani – from his canoe. In the process, the fishhook breaks and the part that falls into the sea becomes Molokini.

Kaho'olawe, a kinolau of Kanaloa, remains a piko of Hawaiian culture, while retaining visible scars from previous mismanagement. Kaho'olawe helped inspire the Hawaiian cultural renaissance and continues to be an integral educational center for traditional navigation, hula, natural resource management, etc. The Kaho'olawe Island Reserve Commission's current Strategic Plan clearly expresses the needs and values of this significant island, and the continued natural and cultural resource restoration goals described therein will continue to benefit residents and tourists alike. This bill's minimal proposed surcharge would help educate tourists and tour operators privileged enough to experience the splendor and wonder of marine life around Molokini, in the shadow of the cultural icon of Kaho'olawe.

Therefore, OHA urges the Committees to PASS HB1961 HD 1. Thank you for the opportunity to testify.

Your Committees previously considered Senate Bill 2460. This measure began as a similar bill to House Bill 1961— it imposed a \$5 per person fee on visitors to Molokini — but your Committees' amendments eliminated the statutory fee and then placed Molokini under KIRC's authority; included the Molokini Shoal Marine Life Conservation District in the definition of the Kaho'olawe Island Reserve; and authorized KIRC to establish fees and permits for Molokini by allowing commercial uses in the Reserve.

Regarding the amendments put forward in Senate Bill 2460, Senate Draft 1, KIRC has the capability to handle the management of Molokini in terms of resource management and patrols; however, this new responsibility could also become the "tail that wags the dog" and the true mission of restoring and healing Kaho'olawe could become secondary to the revenue-generating task of managing Molokini.

From a policy perspective, the management of Molokini does not fit within KIRC's mission. All of KIRC's broad policy documents – mission statement, vision statement, Strategic Plan – would have to be revised to include the responsibility for Molokini. Senate Bill 2460, Senate Draft 1 makes several amendments to HRS Chapter 6K, but additional amendments would be warranted to appropriately manage Molokini and adequately re-establish KIRC's powers and duties. Further, the nature of these management responsibilities could jeopardize the entire Trust Fund, thereby placing KIRC's duties at cross-purposes.

For these reasons, KIRC will be asking the appropriate House Committees not to move Senate Bill 2460, Senate Draft 1 forward, and KIRC asks your Senate Committees not to make the same amendments to House Bill 1961, House Draft 1.



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Pirates@CaptainZodiac.com

## TESTIMONY HB 1961HD 1

### COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

Senator Clayton Hee, Chair  
Senator Jill N. Tokuda, Vice Chair

### COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

### NOTICE OF HEARING

DATE: Monday March 15, 2010  
TIME: 2:45 P.M.  
PLACE: Conference Room 229  
State Capitol  
415 South Beretania Street

Presented By: **William J. Zabolski**, President Captain Zodiac Rafting Adventure

Subject: HB 1961HD1 Relating to the Kaho'olawe Rehabilitation Trust Fund

### **SPEAKING IN THE STRONGEST OPPOSITION**

**Chair Hee and Fukunaga, Vice Chair Tokuda and Baker, and Honorable Members of the Committee on Water, Land, Agriculture and Hawaiian Affairs and Committee on Economic Development and Technology**

Mr. Chairman,

This bill is an unfair imposition of a fee on a selected group. To once again tax the tourists to support "restoration" of an island that cannot be accessed by that group is an abuse of our visitor industry that we so heavily depend upon for our government's survival.

I also see a problem with enforcement of this law. How will you know if the tourist paid the surcharge? How will you know the name of the scofflaw and where they are when you initiate collection? How much does the government expect to spend on collecting one dollar (\$1.00)?



Why only Molokini visitors are charged this fee I just don't understand. This bill puts an undue burden on small businesses that are using and protecting the Molokini recreational area. They area already under duress from increased harbor, launching and user fees. I feel with them when we discuss what we are getting back in service for our fees. My harbor and launch ramps have not been improved and we send thousands of dollars each year to the DLNR for the "privilege" of being here.

Tourists are not represented in this discussion and this could be seen as taxation without representation. If Kaho'olawe needs more funds, then put into effect a fund raising project like so many non profits do. Ask for donations don't demand them. We are just picking the pocket of the very golden goose that provides the government with a majority of its funds.

Please reconsider this bill and find a better way to get these funds.

Mahalo,

*Bill*

Bill Zabolski

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, March 12, 2010 12:16 PM  
**To:** WTLTestimony  
**Cc:** cdfb1948@hotmail.com  
**Subject:** Testimony for HB1961 on 3/15/2010 2:45:00 PM

Testimony for WTL/EDT 3/15/2010 2:45:00 PM HB1961

Conference room: 229  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Don Burns  
Organization: Individual  
Address:  
Phone:  
E-mail: [cdfb1948@hotmail.com](mailto:cdfb1948@hotmail.com)  
Submitted on: 3/12/2010

Comments:  
This is not the way to clean up the island, KILL the bill. Don

March 12, 2010

# In Opposition to HB1961, HD1

Senate Committee on Water, Land, agriculture & Hawaiian Affairs  
and

The Senate Committee on Economic Development & Technology  
In Room 229 on Monday, 15 March 2010 at 1445

Chairs and Respected members of the Committees;

My name is Reg White. I have for the past 36 years earned my living in the ocean tourism section of our state's economy. This proposed law does not today directly affect my livelihood, however I do see it as the original case of "the camel's nose under the tent". There is no relationship between boating tours to Molokini crater and the need for funding to restore the island of Kahoolawe from years of federal government use. Tours to Molokini Crater have not, in any way, contributed to any need for restoration on Kahoolawe. This act therefore tries to establish a precedent to charge boat tours for any perceived financial need anywhere within the state of Hawaii, and that precedent will very truly affect the health of the industry in which I work.

There is \$15 million dollars sitting in the Kahoolawe restoration fund at present. This act shows no justification as to why more funding is required other than "we want it". To me, that is no justification to single out boat tours to Molokini Crater as the patsy from whom we will extract more monies for the fund. Please do not start this vicious precedent. If the fund truly needs funding, get it from all the taxpayers equally or take it from the people who are truly responsible for creating the need for funding in the first place.

Reg White  
Vp, project development  
Paradise Cruise, Ltd.  
1540 S. King St.  
Honolulu, HI 96826-1919  
808-222-9794  
RawcoHI@cs.com



March 15, 2010 2:45 PM Room #229

**TESTIMONY TO: WTL; EDT; WAM**  
**Senator Hee, Chair WTL**  
**Senator Fukunaga, Chair EDT**

**Subject: HB 1961 HD1 Relating to the Kaho'olawe Rehabilitation Trust Fund**

## **STRONGEST OPPOSITION to HB 1961**

### **Chairs Hee, Fukunaga, & Members of the Committees:**

My name is Melynda Dant, I am the Vice President of our third generation family snorkel business in Kona. We employ 40 full-time people that have families, pay taxes and vote.

All our **passenger counts are down significantly** in spite of the heavy discounting in the marketplace, yet **our operating costs keep going up**. The tourists are looking for the least expensive vacation possible. Every time we increase the cost to do our products, we lose business. The cost to do activities in Hawaii helps drive the decision whether or not to vacation in Hawaii. **The State should be helping our small businesses in any way it can, not trying to find other ways to make it hard for us to stay in business.**

The many small family businesses that earn their livelihood from a pristine and protected marine environment are already supporting various non profit and environmental organizations that help protect and preserve our natural resources. They are also trying to keep their staff employed and their businesses afloat.

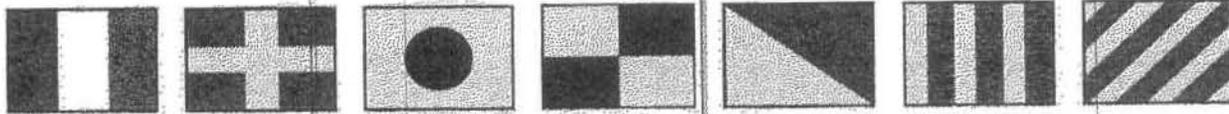
**Commercial boaters represent less than 3% of the total boats using harbor facilities yet produce close to 50% of all revenues derived from boater fees.**

This proposed law does not today directly affect my livelihood, however I am concerned of the precedent this would allow. There is no relationship between boating tours to Molokini crater and the need for funding to restore the island of Kahoolawe from years of federal government use. Tours to Molokini Crater have not, in any way, contributed to any need for restoration on Kahoolawe. This act therefore tries to establish a precedent to charge boat tours for any perceived financial need anywhere within the state of Hawaii, and that precedent will very truly affect the health of the industry in which I work.

We humbly ask you to **Please Kill HB 1961 HD1** before it Kills us.

Sincerely,  
Melynda Dant  
Vice President  
Fair Wind Cruises

# T R I L O G Y



## TESTIMONY HB 1961 HD1

March 15, 2010 2:45 PM Room #229

**TESTIMONY TO: WTL; EDT; WAM**  
**Senator Hee, Chair WTL**  
**Senator Fukunaga, Chair EDT**

Submitted by: **Randolph S. Coon**, President, Trilogy Excursions

**Subject: HB 1961 HD1** Relating to the Kaho'olawe Rehabilitation Trust Fund

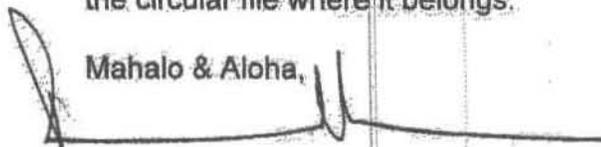
**Chairs Hee, Fukunaga, & Members of the Committees:**

I am Capt. Randolph S. Coon, President of Trilogy Excursions, Maui's oldest family owned and operated sailing company, and I am strongly opposed to **HB 1961 HD1** for a variety of reasons, not the least being the fundamental unfairness of the whole business!

I'm sure you will receive well documented testimony as to the financial impact this will have on our industry, but I don't know whether anyone has pointed out that this fee could represent 75-100 % of our meager profits! If you do the math this makes going to Molokini completely unprofitable and unsustainable. Talk about killing the 'Goose' with a bill that is a total Turkey!

Even if we were obscenely profitable, as many apparently think we are, the idea that one sector of our economy should be singled out to support a financial need in a totally unrelated segment of the economy is not only offensive, I believe it is unconstitutional. What's next? Assessing restaurants a fee to finance Special Education? How about a tax on Attorney's to help underwrite affordable housing? You get the point, and I hope you will see how pernicious this bill really is and put it back in the circular file where it belongs.

Mahalo & Aloha,



Randolph S. Coon  
 President/ Trilogy  
 Maui, HI

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, March 12, 2010 6:21 PM  
**To:** WTLTestimony  
**Cc:** erinann815@aol.com  
**Subject:** Testimony for HB1961 on 3/15/2010 2:45:00 PM

Testimony for WTL/EDT 3/15/2010 2:45:00 PM HB1961

Conference room: 229  
Testifier position: support  
Testifier will be present: No  
Submitted by: erin rutherford  
Organization: Individual  
Address:  
Phone:  
E-mail: [erinann815@aol.com](mailto:erinann815@aol.com)  
Submitted on: 3/12/2010

**Comments:**

I support this bill. we need to do whatever we can to protect this sacred island. if the visitors really want to see this island around for years to come then they need to pay the fees. otherwise, they won't be visiting years down the road when the island has become ruined, as it once was before.



Activities & Attractions Association of Hawaii  
PO Box 598, Makawao, Hawaii 96768  
(808)871-7947 Main (808)877-3104 Fax

**Testimony to the Joint Senate Committees on Water, Land, Agriculture and Hawaiian Affairs  
& Economic Development and Technology  
Monday, March 15, 2010, 2:45 p.m.  
Conference Room 229**

**RE: HOUSE BILL 1961 RELATING TO THE KAHO'OLAWA REHABILITATION TRUST FUND**

Chairs Hee & Fukunaga, Vice Chairs Tokuda & Baker and members of the joint committee;

Mahalo for this opportunity to testify, my name is Toni Marie Davis. For the last 12 years it has been my honor to serve the activity & attraction industry of Hawaii through my position as the Executive Director of the Activities & Attractions Association of Hawaii. Prior to this position, I was a part owner/manager with two charter boat business, which ran tours daily to Molokini. **A3H opposes HB1961.**

***Urge you HOLD this Bill in committee.*** Even though this charge is directly to passengers – it is an additional cost to these businesses. Visitor counts are down – visitor spending is even further down. This legislation negatively impacts those already being taxed an additional 3% harbor tax over 4% GET (7%). In addition to this, these Molokini vessels were just force feed new burdensome administrative rule from DLNR. The logistic of this proposal are not practical.

- Molokini is a weather dependent destination
  - Think of the administrative challenge, when as soon as you arrive, one needs to pull out due to unsafe conditions caused by swell or wind, which is common.
  - Payment is made with an outside sales agency by voucher, by credit card, etc...or does the boat actually wait to collect this from passengers after they go in the water? What if someone doesn't go "in" the water?
- This is not green, inefficient & making more "stupid" work – wasteful!
  - Think of the additional work – additional paper
  - Monitoring if a vessel visits Molokini or not – How many people?
  - How long in Molokini justifies a visit? # of passengers?
- Based on principle, should money from Molokini, whose vessels originate from such a dilapidated harbor facility (Maalaea), be provided to another resource? A resource which is off limits for only a select few? Seems wrong!



Activities & Attractions Association of Hawaii  
PO Box 598, Makawao, Hawaii 96768  
(808)871-7947 Main (808)877-3104 Fax

Kaho'olawe needs money for restoration....they should roll up their sleeves and work to create a positive solution –instead of riding on the shirt tails of others that have worked long and hard to build a successful business.

Kaho'olawe has beautiful pristine reefs along its shores teeming with fish and coral. Designate a use area, clear of undetonated bombs and install manta day use mooring to preserve the reef. Maui Reef Fund and/or Malama Kai (2 not for profit organizations that have worked with the DLNR and Army Core of Engineers) I would think they would gladly coordinate this effort at no cost. Many of the Molokini operators already donate their boats, equipment and labor to these efforts. Malama Kai has been involved in the over 200 day use moorings installed in the State.

Once a designated area is set, Molokini vessels can market this “only when weather permits” opportunity to visit Kaho'olawe. When possible, these vessels will visit and their customers will pay extra for this new opportunity. Why not make a Kaho'olawe representative board the vessels and collect. They could keep the .02 per person. At the same time, this would provide an opportunity for them to share the history and culture of the area.

Mahalo for the opportunity to submit testimony. If you have any questions, please contact me at (808)871-7947 ext. 112 or 1-800-398-9698 ext.112.

*Toni Marie Davis*

Toni Marie Davis/Executive Director  
Activities & Attractions Association of Hawaii

## TESTIMONY HB 1961 HD1

March 15, 2010 2:45 PM Room #229

**TESTIMONY TO: WTL; EDT; WAM**  
**Senator Hee, Chair WTL**  
**Senator Fukunaga, Chair EDT**

**Subject: HB 1961 HD1** Relating to the Kaho'olawe Rehabilitation Trust Fund

### **SPEAKING IN THE STRONGEST OPPOSITION to HB 1961**

**Chairs Hee, Fukunaga, & Members of the Committees:**

My name is Andrew Evans and I am writing to express my strongest possible opposition to HB1961 insomuch as the bill attempts to tax activities related to federally licensed vessels operating upon the waters of the United States.

In 1998 my company was unfortunate enough to have to bring suit in federal court against the State of Hawaii DLNR in an action that may relate to the bill you are contemplating today.

In Capt Andy's Sailing Inc vs. Johns, we complained that DLNR has decided to charge us a percentage of our gross revenues for "the privilege of operating upon the waters of the State of Hawaii" in an area designated as the NAPALI COAST OCEAN RECREATION AREA, and that such charge was in violation of the U.S. constitution.

The federal court agreed with us and Judge Mollway said: "the Court concludes that DOBOR's assessment of a 2 percent ORMA Fee against the Hula Kai is an impermissible tax in violation of the prohibition against tonnage duties.<sup>1</sup> In particular, the ORMA Fee fails because it does not relate to a specific service that confers a "readily perceptible" benefit to vessels operating in the Na Pali Coast ocean waters."

In response to this litigation the US congress passed the Maritime Transportation Security Act of 2002 where:

Section 4 of the Rivers and Harbors Appropriation Act of 1884 (33

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U.S.C. 5) was amended as follows:

(b) No taxes, tolls, operating charges, fees, or any other impositions whatever shall be levied upon or collected from any vessel or other water craft, or from its passengers or crew, by any non-Federal interest, if the vessel or water craft is operating on any navigable waters subject to the authority of the United States, or under the right to freedom of navigation on those waters, except for—

- (1) fees charged under section 208 of the Water Resources Development Act of 1986 (33 U.S.C. 2236); or
- (2) reasonable fees charged on a fair and equitable basis that—
  - (A) are used solely to pay the cost of a service to the vessel or water craft;
  - (B) enhance the safety and efficiency of interstate and foreign commerce; and
  - (C) do not impose more than a small burden on interstate or foreign commerce.

In other words, we believe that the State may charge a federally documented vessel a reasonable fee for a service provided, but they may not lay tax to a vessel to fund unrelated State projects.

While we too would like to find a stable source of funding for the KAHO'OLawe REHABILITATION TRUST FUND, laying tax to federally documented vessels unrelated to the need for restoration of Kaho'olawe is simply unconstitutional and in violation of Maritime Transportation Security Act of 2002.

We humbly ask you to **Kill HB 1961 HD1.**

Sincerely,

Andrew K. Evans  
Captain



## TESTIMONY HB 1961 HD1

March 15, 2010 2:45 PM Room #229

**TESTIMONY TO: WTL; EDT; WAM**  
**Senator Hee, Chair WTL**  
**Senator Fukunaga, Chair EDT**

Presented By: **James E. Coon**, President of the Ocean Tourism Coalition

**Subject: HB 1961 HD1** Relating to the Kaho'olawe Rehabilitation Trust Fund

## **SPEAKING IN THE STRONGEST OPPOSITION to HB 1961**

**Chairs Hee, Fukunaga, & Members of the Committees:**

I am Jim Coon, President of the Ocean Tourism Coalition (OTC), speaking with **STRONGEST OPPOSITION to HB 1961 HD1.**

The Ocean Tourism Coalition is the only state-wide organization that represents the more than 300 small family businesses that operate vessels out of the small boat harbors of the state. **There are 41 of these small family businesses** that operate tours to Molokini Shoals Marine Life Conservation District under permits issued by DAR/DLNR. Each one of these family business is **fighting for their very survival in this very difficult economic climate.** Tourists already are not spending as much to take tours like the ones offered to Molokini.

All our **passenger counts are down significantly** in spite of the heavy discounting in the marketplace, yet **our operating costs keep going up.** The tourists are looking for the least expensive vacation possible. Every time we increase the cost to do our products, we lose business. The cost to do activities in Hawaii helps drive the decision whether or not to vacation in Hawaii. We believe that the net loss to the State will actually far outweigh whatever revenue would be garnered from this plan. Also it places significant added burdens on our companies to collect, report, and administrate this onerous fee/surcharge. **The State should be helping our small businesses in any way it can, not trying to find other ways to make it hard for us to stay in business.**

**This is an administration and collection night mare.** As the bill is written, it appears that the tour operator has the expectation to collect the \$1 surcharge from the tourist. If somehow the tourist doesn't pay the operator, the Department will initiate collection action against the tourist. **How will this be enforced?** This is problematic. There are many ways payment could be overlooked. Many of the tourists make reservations on line or through an activity desk. It may be that the activity desk neglected to collect the surcharge, yet the tourist is liable for it. Or when booking on line somehow neglected to charge/collect the fee. Does the

State then send an outstanding bill to a family that accidentally didn't get charged? What about days that weather prevents boats from accessing Molokini, but the tourist has already been charged the fee? How does the tourist get refunded if the boat never got to Molokini? Does the State spend a dollar chasing or refunding a dime? To what purpose? Whatever money is collected will be spent on staffing

**It is unclear how large this net is cast.** It looks like the way the bill is currently written it might affect any ocean recreation business whether or not they go to Molokini. What about a company that has products that go to Molokini but also other ocean recreation products that do not go to Molokini? Are all the products of this company subject to the Molokini surcharge even if the tourist does not go to Molokini?

The many small family businesses that earn their livelihood from a pristine and protected marine environment are already supporting various non profit and environmental organizations that help protect and preserve our natural resources. They are also trying to keep their staff employed and their businesses afloat.

**Commercial boaters represent less than 3% of the total boats using harbor facilities yet produce close to 50% of all revenues derived from boater fees.** Commercial boaters recently supported successful legislation to have their commercial use fees raised by 50% with the promise that this would provide enough extra revenue for DOBOR to upgrade our harbors. On February 10, 2010 DLNR wrote a letter to all slip holders that our mooring fees were going to have a nearly 100% increase starting within the next two months. We do not want to see an additional draconian open ended fee system added on to our already strained resources to the point where it drives us out of business.

**We seriously doubt that it is even legal to charge one user group to fund a totally unrelated entity?** There is a Federal ruling that Boating fees have to accurately reflect the cost to provide the service. Where is the connection? There will almost certainly be a legal challenge raised if this misguided bill passes. What service is being provided to boaters here? Why single out this very small group of family businesses to shoulder this burden? The Molokini operators are already donating the equipment and staffing and materials to maintain the day use moorings at Molokini and are good stewards of the Molokini environment.

We applaud the effort that has gone into the Kaho'olawe restoration. We would support more Federal and State funding and participation. It should be clear that **our small family businesses are not the appropriate funding source.**

We humbly ask you to **Please Kill HB 1961 HD1** before it Kills us.

Sincerely,

James E. Coon, President OTC

# Frogman Charters

## TESTIMONY HB 1961

March , 2010 2:30 PM Room #229

Re: HB 1961, HD 1 - Relating to the Kaho'olawe  
Presented By: **Phillip Kasper**, President Frogman Charters

**Subject: SB 2460** Relating to the Kaho'olawe Rehabilitation Trust Fund

### **SPEAKING IN THE STRONGEST OPPOSITION**

**Chairs Hee, Fukunaga, & Kim; Members of the Committees:**

I am Phillip Kasper, President of the Frogman Charters speaking with **STRONGEST OPPOSITION to HB 1961.**

The world wide economic recession has had a devastating effect upon the family owned charter boat businesses that serve the Molokini Shoals Marine Life Conservation District. Business is down for all of the operators. The vessel "Prince Kuhio" which has operated out of Maalaea Harbor for over twenty years has shut down their business and has laid off all of their employees. You can visit Maalaea harbor on any day and see many of the commercial boats sitting in the harbor because they have not booked any passengers. We are all struggling in this very difficult environment. Revenues are down significantly and many of our costs, especially for fuel and employee health coverage keep going up. Our costs for slip fees have just been increased and unemployment insurance is set to increase dramatically. All of this is occurring while our revenues are going down. Yet we still employ a number of local people and we contribute significantly to the local economy and to the state tax base.

Adding an additional fee to our ticket price makes it harder for us to sell our tickets and puts us at a competitive disadvantage to all other tour operators in Hawaii. The administrative costs would add significantly to this burden.

A new \$5.00 fee per passenger would threaten our ability to continue in business and would certainly lead to the loss of many more jobs in our industry.

Although I support the rehabilitation of Kahoolawe, I do not feel that the rehabilitation effort is the singular obligation of our small group of businesses. Certainly the obligation to rehabilitate the island of Kahoolawe is a Federal issue because the damage to the

island was inflicted by the United States military. There simply is no direct relationship or even indirect relationship between the vessels that take tourists to the Molokini Shoals Marine Life Conservation District and the damage caused to the island of Kahoolawe. If the rehabilitation effort is to proceed it should be supported by everyone in the country, not just a few small family owned charter boats from Maalaea Harbor.

I would also like to speak to the economic realities of the proposed fee. I studied economics at the University of California at Santa Barbara and received a degree in business economics before I got into the snorkeling business so I would like to share what I believe may be some of the unintended consequences of the imposition of fees on the sale of snorkel cruise tickets.

When a fee is imposed on the sale of an item the price of that item will go up. And when the price of an item, in this case the price of a boat cruise ticket, goes up you can expect that the number of tickets sold will go down. This is basic microeconomics and this conclusion is not in dispute among economists.

Since you can expect ticket sales to go down as the result of the imposition of the fee then you can also expect the amount of general excise tax collected from ticket sales to go down. Since snorkel cruise ticket purchases represent discretionary spending, according to economic principals, a small increase in the price of the ticket will trigger and substantial decrease in the sales of the tickets. We in the boating business are very aware of this reality. So it is important to understand that it is quite likely that for every dollar collected in fees, the state could see a reduction in general excise tax collections of two dollars or even more. And the situation is actually worse than that: when visitors decide to forego doing an activity because the price is too high, then the money spent on the sale of tickets is lost to the economy of Hawaii forever.

So the unintended consequences of the imposition of fees on ticket sales can have far reaching consequences and a negative impact on the collection of general excise tax revenue. The economy in general will suffer from a reduction in visitor spending.

The burden that this bill will place on my business will lead to layoffs and unemployment for my personnel and that is if we are able to survive at all.

I oppose the passage of this bill in the strongest terms.

Thank you  
Phillip Kasper  
President  
Frogman Charters

Frogman Charters  
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808-667-0990

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**From:** Jeff Strahn [jstrahn@mauidiveshop.com]  
**Sent:** Sunday, March 14, 2010 8:57 AM  
**To:** WTLTestimony  
**Subject:** HB 1961 HD1  
**Attachments:** image002.jpg

To whom it may concern,

I am very much opposed to this bill. This is yet another tax on the marine tourism industry at a time when the economy is already very fragile. Please do not pass this bill.

Thanks,



Jeff Strahn  
Maui Dive Shop  
1455 South Kihei Rd.  
Kihei, HI 96753  
808-270-9813  
[jeff@mauidiveshop.com](mailto:jeff@mauidiveshop.com)

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 14, 2010 9:46 AM  
**To:** WTLTestimony  
**Cc:** chris@northshoreexplorers.com  
**Subject:** Testimony for HB1961 on 3/15/2010 2:45:00 PM

Testimony for WTL/EDT 3/15/2010 2:45:00 PM HB1961

Conference room: 229  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Chris Quarre  
Organization: Individual  
Address: 111 Kupalaiki Loop Kihei, HI 96753  
Phone: 8087570011  
E-mail: [chris@northshoreexplorers.com](mailto:chris@northshoreexplorers.com)  
Submitted on: 3/14/2010

**Comments:**

While I fully understand the county's current need and desire to find funding anywhere that it can, continuing to go after, hurt, small businesses is not the answer. The boating, scuba, snorkel etc. industry already pays more than its fair share of fees with boat ramp, permit and license fees.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 14, 2010 9:56 AM  
**To:** WTLTestimony  
**Cc:** stevedives@maui.net  
**Subject:** Testimony for HB1961 on 3/15/2010 2:45:00 PM

Testimony for WTL/EDT 3/15/2010 2:45:00 PM HB1961

Conference room: 229  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Stephen C Juarez  
Organization: Individual  
Address: 1223 Front Lahaina, HI  
Phone: 808-661-7333  
E-mail: [stevedives@maui.net](mailto:stevedives@maui.net)  
Submitted on: 3/14/2010

**Comments:**

HB1961 HD1 is not the appropriate method to fund the Kaho'olawe Rehabilitation Trust Fund.  
The bill is badly flawed in so many areas.  
We ask you to please not pass HB1961HD1.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 14, 2010 4:03 PM  
**To:** WTLTestimony  
**Cc:** edrob@maui.net  
**Subject:** Testimony for HB1961 on 3/15/2010 2:45:00 PM

Testimony for WTL/EDT 3/15/2010 2:45:00 PM HB1961

Conference room: 229  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Edward A Robinson  
Organization: Kihei Scuba Services, Inc.  
Address: PO Box 616 Kihei, HI 96753  
Phone: 808-875-0364  
E-mail: [edrob@maui.net](mailto:edrob@maui.net)  
Submitted on: 3/14/2010

**Comments:**

I am speaking for myself and fifteen local residents that we employ. We are totally opposed to charging our customers a fee that is to be used to support a location they do not have access to.

For over twenty years our company had used Kahoolawe as one of our premier dive destinations when divers had access to this natural resource. Now it is no longer available for diving and cannot be approached within two miles!

There is no correlation between visiting Molokini and paying to restore Kahoolawe. This bill represents is a breach of public trust in an attempt to force a small percentage of the public to pay for a service or cause they gain no benefit from.

Furthermore my understanding is that KIRC already has as much as fifteen million dollars of public money in a reserved fund. If this is true then it is hard to see a need for collecting new funds for Kahoolawe.

If I am wrong and there is a real need to generate new funds for projects at Kahoolawe then the burden should be spread throughout the general public and not a select few.

HB1961 is not the appropriate method to fund the Kahoolawe Rehabilitation Trust Fund. This bill is poorly thought-out and badly flawed.

We humbly request you do not pass HB1961.  
Thank You,

Edward A. Robinson  
President  
Kihei Scuba Services, Inc.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 14, 2010 7:04 PM  
**To:** WTLTestimony  
**Cc:** robinson@maui.net  
**Subject:** Testimony for HB1961 on 3/15/2010 2:45:00 PM

Testimony for WTL/EDT 3/15/2010 2:45:00 PM HB1961

Conference room: 229  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Jill Koplitz  
Organization: Individual  
Address: 50 Koki Street Kihei, HI  
Phone: 808-879-3584  
E-mail: [robinson@maui.net](mailto:robinson@maui.net)  
Submitted on: 3/14/2010

Comments:

**TESTIMONY**  
**HB 1961, HD1**  
**(END)**