State of Hawai'i DEPARTMENT OF LAND AND NATURAL RESOURCES Division of Boating and Ocean Recreation Honolulu, Hawai'i

April 28, 2017

Board of Land and Natural Resources State of Hawai'i Honolulu, Hawai'i

Hawai'i

Administrative Enforcement Action for:

- 1. Violation of Hawaii Administrative Rules, Section 13-231-51: Business Activities, and Section 13-256-3: Commercial Use Permit or Catamaran Registration Certificate Requirements, Against Ho'okupu Fish Company, LLC, Mr. Henry K. Pomroy, and Mr. William Akira Gushiken Fujimoto for Engaging in Illegal Commercial Operations on state ocean waters from the Pohoiki Boat Ramp, Hawai'i Island Without a Commercial Use Permit;
- 2. Request for authorization to hold a contested case hearing and for the Chairperson to select a Hearing Officer; and
- 3. Request for a Consolidation of Any and All Contested Cases Resulting from this Action or Other Related Actions.

SUMMARY:

This submittal requests that the Board of Land and Natural Resources find that Hoʻokupu Fish Company, LLC ("Hoʻokupu LLC"), Mr. Henry K. Pomroy, and Mr. William Akira Gushiken Fujimoto engaged in commercial activity from a State boating facility (Pohoiki Launch Ramp, Hawaii Island) and on state ocean waters without the permits required by applicable Hawaii Administrative Rule (HAR) provisions.

This submittal replaces and incorporates a previous submittal covering one of the violations addressed herein. A request for a contested case hearing has already been made. Division of Boating and Ocean Recreation (DOBOR) staff anticipates a request for contested case hearing as to this submittal. The persons and entities are entitled to a contested case. DOBOR staff therefore also requests that the Board approve a contested case hearing and authorize the Chairperson to select and appoint a Hearing Officer. All issues regarding this matter should be heard in one proceeding for convenience and efficiency.

Against Ho'okupu Fish Company, LLC,

Mr. Henry K. Pomroy, and

Mr. William Akira Gushiken Fujimoto for

Violation of Hawaii Administrative Rules §§ 13-231-51

And 13-256-3

Against:

Violations:

Mr. Henry K. Pomroy

Managing Member of Ho'okupu Fish Company, LLC

Dates of Incidents: August 6, 2016 – March 22, 2017
Location of Incidents: Pohoiki Boat Launching Ramp, H

Pohoiki Boat Launching Ramp, Hawai'i Island, and state ocean

waters adjacent thereto.

1. Six (6) counts of engaging in business or commercial activity at a small boat harbor or other small boat facility without prior written approval or agreement in violation of HAR § 13-231-51: Business Activities. Maximum fine - \$5,000 per violation.

2. Six (6) counts of illegal commercial operation on state ocean waters without a commercial use permit from the Department in violation of HAR § 13-256-3. Maximum fine - \$5,000 per violation

violation.

Recommended Fine:

Dates of Incidents:

Sixty Thousand Dollars (\$60,000.00)

Against:

Violations:

Mr. William Akira Gushiken Fujimoto

Managing Member of Ho'okupu Fish Company, LLC

August 6, 2016 – March 22, 2017

Location of Incidents: Pohoiki Boat Launching Ramp, Hawai'i Island, and state ocean

waters adjacent thereto.

1. Two (2) counts of Engaging in business or commercial activity at a small boat harbor or other small boat facility without prior written approval or agreement in violation of HAR § 13-231-51: Business Activities. Maximum fine - \$5,000 per violation.

2. Two (2) counts of illegal commercial operation on state ocean waters without a commercial use permit from the Department in violation of HAR § 13-256-3. Maximum fine - \$5,000 per violation.

Recommended Fine:

Dates of Incidents:

Location of Incidents:

Twenty Thousand Dollars (\$20,000.00)

Against:

Ho'okupu Fish Company, LLC

A Domestic Limited Liability Company

August 6, 2016 – March 22, 2017

Pohoiki Boat Launching Ramp, Hawai'i Island, and state ocean

waters adjacent thereto.

1. Six (6) counts of Engaging in business or commercial activity at a small boat harbor or other small boat facility without prior written approval or agreement in violation of HAR § 13-231-51: Business Activities. Maximum fine - \$5,000 per violation.

2. Six (6) counts of illegal commercial operation on state ocean waters without a commercial use permit from the Department

Violations:

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in violation of HAR § 13-256-3. Maximum fine - \$5,000 per

violation.

Recommended Fine: Sixty Thousand Dollars (\$60,000.00)

DISCUSSION:

And 13-256-3

In the February 24, 2017 Board meeting, as Item J-2 of the agenda DOBOR brought a civil enforcement action before the Board of Land and Natural Resources (the "Board") against Mr. Henry K. Pomroy for illegal commercial operations from the Pohoiki Boat Launching Ramp and lands adjacent thereto without a commercial permit. Prior to the matter being heard at the February 24, 2017 Board meeting, a request for a contested case hearing was made by Steven Strauss, Attorney and managing member of Ho'okupu Fish Company, LLC, on behalf of Mr. Pomroy. A Petition for a Contested Case Hearing application was received on March 6, 2017, within ten days of the Board action date. In light of the request for a contested case, DOBOR reviewed its evidence, consulted with the Department of the Attorney General regarding application of administrative penalties, and determined that all alleged violations should be brought to the Board in a comprehensive enforcement action against all the involved parties.

Ho'okupu Fish Company, LLC, Mr. Pomroy, and Mr. Fujimoto have been observed by Division of Conservation and Resources Enforcement (DOCARE) officers repeatedly engaging in illegal commercial activity from the Pohoiki Boat Launching Ramp and state ocean waters adjacent thereto. Prior to being cited, Mr. Pomroy was notified both verbally and in writing that his commercial activities required a commercial use permit for the area. A cease and desist letter was sent to Mr. Pomroy on September 14, 2016 by William Taylor, DOBOR Hawai'i District Manager, and is attached hereto as **Exhibit "A"**. As exemplified by the factual background below, Mr. Pomroy and Mr. Fujimoto are co-owners of the M/V Ho'okupu as well as managing members of Ho'okupu LLC. Despite Mr. Pomroy being given notice that commercial operations from the Pohoiki Boat Ramp are subject to permitting regulations, Ho'okupu LLC, Mr. Pomroy, and Mr. Fujimoto all chose to repeatedly conduct illegal commercial activity from the Pohoiki Boat Launching Ramp.

The permits issued under HAR § 13-231-51 are separate types of permits from those issued under HAR § 13-256-3. HAR § 13-231-51 concerns the use of state small boat harbors and small boat facilities for engaging in commercial activity. HAR § 13-256-3 concerns the use of state ocean waters for engaging in commercial activity.

FACTUAL BACKGROUND:

Mr. Pomroy and Mr. Fujimoto co-own the vessel M/V Hoʻokupu, which is the vessel that has been utilized by Mr. Pomroy and Mr. Fujimoto to run commercial lava boat tours that are the basis of the alleged violations. The M/V Hoʻokupu is registered as a recreational vessel and has no attendant commercial permits. (see certificate of number attached as **Exhibit "B"**). Mr.

Pomroy and Mr. Fujimoto have been documented and observed operating (Mr. Pomroy) and trailering (Mr. Fujimoto) the M/V Ho'okupu at Pohoiki in violation of HAR § 13-231-51 and HAR § 13-256-3.

Ho'okupu Fish Company, LLC ("Ho'okupu LLC") is a domestic limited liability company registered with the State of Hawaii. Ho'okupu LLC is a member managed company that is managed by Mr. Strauss, Mr. Pomroy, and Mr. Fujimoto (see Exhibit "C"). Ho'okupu LLC is named in this action because Mr. Pomroy and Mr. Fujimoto have been documented running tours on the M/V Ho'okupu and claiming that the moneys collected from passengers are for membership in Ho'okupu LLC (see DOCARE Report 17-0328-HA, Page 4 attached hereto as Exhibit "E"). Ho'okupu LLC has no commercial vessel registered with the Department nor does it hold any commercial permits for use of State boating facilities or state ocean waters.

The following timeline is presented to summarize the incidents that took place starting on August 16, 2016, pertaining to the alleged violations of HAR §§ 13-231-51 and 13-256-3 by Ho'okupu LLC, Mr. Pomroy, and Mr. Fujimoto in which Ho'okupu LLC, Mr. Pomroy and Mr. Fujimoto were witnessed and/or cited for illegally conducting commercial operations from the Pohoiki Boat Launching Ramp and on state ocean waters without a valid permit from the Department.

August 16, 2016: Ho'okupu LLC and Mr. Pomroy¹ are documented by DOCARE conducting commercial operations from the Pohoiki Boat Launching Ramp under the name "Ho'okupu Fish Company, LLC," using trailered recreational vessel M/V Ho'okupu without a valid commercial use permit issued by the department. DOCARE Investigation Report #17-0111-HA is attached hereto as Exhibit "D". This is the first alleged violation of HAR §§ 13-231-51 and 13-256-3 for Ho'okupu LLC and Mr. Pomroy.

September 14, 2016: Based on reports from DOCARE officers and a determination that the trailered vessel M/V Ho'okupu, operated by Mr. Pomroy, was conducting commercial operations, a Cease & Desist Commercial Operations letter, dated September 14, 2016, is issued by DOCARE, on behalf of DOBOR, to the owners of Ho'okupu LLC. The Cease & Desist letter, attached hereto as Exhibit "A", was sent via certified USPS mail with proof of delivery.

October 27, 2016: Ho'okupu LLC and Mr. Pomroy are documented by DOCARE conducting commercial vessel operations from the Pohoiki Boat Launching Ramp under the name "Ho'okupu Fish Company, LLC," using trailered recreational vessel M/V Ho'okupu, without a valid commercial use permit issued by the Department. Two passengers admitted to paying one hundred fifty dollars (\$150) each to view the lava flow from the M/V Ho'okupu. On this date, Mr. Pomroy is issued a citation by DOCARE for violation of HAR § 13-244-15.5(a), failure to have a

¹ DOCARE officers positively identified Mr. Pomroy as the violator by his social security number and Hawai'i driver's license. DOCARE investigation reports, which include witness statements and photographic evidence of Mr. Pomroy's unlawful activity, are attached hereto as **Exhibits "D"** through **"H"**, and **Exhibit "J"**.

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Violation of Hawaii Administrative Rules §§ 13-231-51

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Boating Safety Course Certificate of Completion, and is issued a verbal warning for violation of HAR \$ 13-241-10. Expired Certificate of Numbers. DOCARE Investigation Reports # 17-0328-HA and

§ 13-241-10, Expired Certificate of Numbers. DOCARE Investigation Reports # 17-0328-HA and #17-0329-HA are attached hereto as Exhibits "E" and "F", respectively. This is the second alleged violation of HAR §§ 13-231-51 and 13-256-3 for Ho'okupu LLC and Mr. Pomroy.

<u>December 28, 2016</u>: Ho'okupu LLC and Mr. Pomroy are documented by DOCARE conducting commercial vessel operations from the Pohoiki Boat Launching Ramp using the trailered recreational vessel M/V Ho'okupu, without a valid commercial use permit issued by the department. This is the third alleged violation of HAR §§ 13-231-51 and 13-256-3 for Ho'okupu LLC and Mr. Pomroy.

January 8, 2017: Ho'okupu LLC and Mr. Pomroy are documented by DOCARE conducting commercial operations from the Pohoiki Boat Launching Ramp under the name "Ho'okupu Fish Co./Lava Tours." Four passengers admitted to paying one hundred seventy-five dollars (\$175) each to view the lava flow from the recreational vessel M/V Ho'okupu. DOCARE Investigation Report #17-0602-HA is attached as **Exhibit "G"**. This is the fourth alleged violation of HAR §§ 13-231-51 and 13-256-3 for Ho'okupu LLC and Mr. Pomroy.

February 07, 2017: In a joint boarding with U.S. Coast Guard Law Enforcement Officers, Mr. Pomroy and Mr. Fujimoto² are documented by DOCARE conducting commercial operations from the Pohoiki Boat Launching Ramp under the name "Ho'okupu Fish Co./Lava Tours." Trailered recreational vessel M/V Ho'okupu is observed operating without a valid commercial use permit issued by the Department amounting to another documented violation of HAR § 13-231-51. Eight passengers, including two undercover U.S. Coast Guard officers, were interviewed and admitted to paying, or agreeing to pay, approximately one hundred seventy-five dollars (\$175) each to view the lava flow from the M/V Ho'okupu. Mr. Pomroy is documented as operating the M/V Ho'okupu in DOCARE report #17-0735-HA is attached hereto as Exhibit "H". Mr. Fujimoto is documented as operating the truck towing the trailered recreational vessel M/V Ho'okupu and is responsible for the launching and recovery of the M/V Ho'okupu as documented in DOCARE report #17-0736-HA, attached hereto as Exhibit "I". This is the fifth alleged violation of HAR §§ 13-231-51 and 13-256-3 for Ho'okupu LLC and Mr. Pomroy. This is the first alleged violation of HAR §§ 13-231-51 and 13-256-3 for Mr. Fujimoto.

<u>February 25, 2017</u>: The U.S. Coast Guard delivers to the managing members of Ho'okupu LLC (Mr. Strauss, Mr. Pomroy, and Mr. Fujimoto) a Captain of the Port Order requiring an immediate cease and desist of carriage of passengers for hire on board the M/V Ho'okupu until it can be

² DOCARE officers positively identified Mr. Fujimoto as the violator by his social security number and Hawaii driver's license. DOCARE investigation reports, which include witness statements and photographic evidence of his unlawful activity, are attached hereto as **Exhibits** "I" and "J".

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shown that the vessel is in compliance with all applicable federal laws and regulations and is being operated by a person licensed under federal law to carry passengers commercially. The Captain of the Port Order No. 17-10 is included in DOCARE report #17-0939-HA, attached hereto as **Exhibit "J"**.

March 20, 2017: Ho'okupu LLC, Mr. Pomroy, and Mr. Fujimoto are documented by witness statements provided to DOCARE conducting commercial vessel operations from the Pohoiki Boat Launching Ramp using the M/V Ho'okupu, without a valid commercial use permit issued by the Department, to conduct two morning lava boat tours (see DOCARE report #17-0939-HA, attached hereto as Exhibit "J"). This is the sixth alleged violation of HAR §§ 13-231-51 and 13-256-3 for Ho'okupu LLC and Mr. Pomroy. This is the second alleged violation of HAR §§ 13-231-51 and 13-256-3 for Mr. Fujimoto.

APPLICATION OF LAW AND RECOMMENDED FINE:

I. Applicable Hawaii Revised Statutes and Hawaii Administrative Rules:

Ho'okupu LLC, Mr. Pomroy, and Mr. Fujimoto are in violation of HAR § 13-231-51 regarding permissible business activities within State boating facilities and HAR § 13-256-3 regarding issuance of a commercial use permit for state ocean waters. Both types of commercial use permits would be required to conduct the type of commercial boat tours that Ho'okupu LLC, Mr. Pomroy, and Mr. Fujimoto have been documented undertaking.

A. Hawaii Administrative Rules § 13-231-51: Business Activities

HAR § 13-231-51 prohibits unpermitted commercial activity at any State boating facility without issuance of a use permit by the Department as follows:

No person shall engage in any business or commercial activity at any small boat harbor or other small boat facility without:

- (1) Prior written approval of the department; or
- (2) The proper execution of an agreement with the department.
- a. Ho'okupu LLC, Mr. Pomroy, and Mr. Fujimoto were engaged in "commercial activity" at the Pohoiki Boat Launching Ramp as defined under HAR § 13-230-8.

HAR § 13-230-8 defines "Commercial activity" as "the use of or activity for which compensation is received by any person for goods or services or both rendered to customers or participants in that use or activity. Display of merchandise or demanding or requesting gifts, money, or services, shall be considered a commercial activity." As documented by the attached DOCARE reports, on multiple occasions passengers on board the M/V Ho'okupu admitted that they had compensated Ho'okupu LLC via an online deposit through a tour booking company as

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well as a direct cash payment while on board the M/V Ho'okupu in return for the service of a boat tour to view the lava flow. This exchange of consideration for a service rendered falls under the HAR definition of "commercial activity."

Ho'okupu LLC, Mr. Pomroy, and Mr. Strauss have previously represented to DOBOR and DOCARE staff that the activities conducted on board the M/V Ho'okupu are not commercial because there is a "Conveyance of Membership Interest in Ho'okupu Fish Company, LLC" (hereinafter the "membership agreement"), which passengers sign to take the boat tour, and therefore the activity being conducted is a boat ride for "members" of Ho'okupu LLC. The membership agreement is documented in DOCARE report #17-0328-HA, pages 11 to 12, attached hereto as Exhibit "E". The validity of the membership agreement is questionable. in any event, however, it is indisputable that the excursion is booked through a tour company that advertises lava boat tours offered in exchange for consideration. The membership agreement is an invalid attempt to circumvent the commercial permitting requirements and does not exempt Ho'okupu LLC, Mr. Pomroy, or Mr. Fujimoto from the requirement of obtaining a commercial permit to conduct their activities.

Regardless of the final determination regarding the validity of the membership agreement, the membership agreement itself contains provisions for a passenger fee, which quite clearly advertise that the M/V Ho'okupu will carry passengers for hire. The advertisement therefore makes the M/V Ho'okupu a commercial vessel necessitating issuance of a commercial permit from the Department. HAR § 13-230-8 defines "Vessel carrying passengers for hire" as "any vessel which is used for the carriage of any person or persons for a valuable consideration whether directly or indirectly flowing to the owner, charterer, operator, agent, or any person who has a lien on the vessel." The definition of a "commercial vessel" in HAR § 13-231-54 explicitly references "vessels carrying passengers for hire" as follows: "Commercial vessel" as used in this subchapter means a vessel engaged in any trade or business including, but not limited to, carrying passengers for hire, charter fishing, bare boat (demise) or any type of charter maintenance, harvesting coral or similar resources, construction, towing, tow-boating, or other trade or business wherein the vessel is used in any manner to promote the venture, or is registered with the State or documented by the United States Coast Guard for commercial use." (emphasis added). The membership agreement signed by passengers on board the M/V Ho'okupu states that guests of the "member," such as a spouse and children, may pay a "passenger fee" to accompany the "member" on the boat ride. Even if the boat ride of a Ho'okupu LLC "member" is found to be a non-commercial activity, the "passenger fee" required from guests of the "member" is compensation for a commercial service rendered by Ho'okupu LLC, Mr. Pomroy, and Mr. Fujimoto.

b. Ho'okupu LLC, Mr. Pomroy, and Mr. Fujimoto did not obtain prior written approval from the Department or execute an agreement with the Department to conduct commercial activity at the Pohoiki Boat Launching Ramp.

As stated in the Factual Background above, Ho'okupu LLC, Mr. Pomroy, and Mr. Fujimoto do not have prior written approval from the Department nor have they properly executed an agreement with the Department to utilize the Pohoiki Boat Launching Ramp or state ocean waters to conduct commercial boat tours.

B. HAR § 13-256-3(a) Commercial Permit required for tours, watersports or instruction on state ocean waters.

Hawaii Administrative Rules § 13-256-3(a) requires a commercial use permit for state ocean waters as follows:

All operators of commercial vessels, water craft or water sports equipment shall apply for a commercial use permit or where applicable a catamaran registration certificate to be issued by the department, except for those operating out of a state commercial harbor or Kewalo Basin. The applicant for such permit shall comply with the applicable provisions stated in sections 13-231-50 to 13-231-70.

As previously discussed above, the M/V Ho'okupu, while registered as a recreational vessel, is operating as a commercial vessel. Separate from permission to use the Pohoiki Boat Launching Ramp, Ho'okupu LLC, Mr. Pomroy, and Mr. Fujimoto must also obtain a commercial use permit for commercial use of state ocean waters. Each instance of commercial activity by the M/V Ho'okupu is therefore also a violation of HAR § 13-256-3.

C. Other Relevant Rules.

HAR § 13-231-3(a)(6) <u>Use permits issuance</u>: "(a) "Use permit" as used in these rules means the authorization by the department to utilize state boating facilities, offshore mooring areas, offshore mooring, state ocean waters, and navigable streams, as evidenced by the fully executed "agreement" described in section 13-231-2. The department may issue the following types of use permits:

- (6) Commercial use permit. A use permit which authorizes the owner of a commercial vessel to engage in commercial activities as specified in the permit." (Parts 1-5, 7, and 8 omitted).
- HAR § 13-231-67(a) and (d)(20) <u>Limitation on commercial use permits issued for the use of state boat launching ramps:</u> "(a) State boat launching ramps were constructed for the primary purpose of providing access to the waters of the State for trailered boats... The owner of a trailered recreational vessel shall be required to obtain a commercial use permit and comply with all other rules of the department governing commercial vessel activities. (Subsections (b) and (c) omitted).
- (d) The maximum number of commercial use permits which may be issued for the use of the following launching ramps are:
 - (20) Pohoiki 4" (Parts 1-19, 21-24 omitted).

Ho'okupu LLC, Mr. Pomroy, and Mr. Fujimoto are restricted from obtaining a commercial use launch ramp permit for Pohoiki because commercial use of the launch ramp is limited by administrative rules. The Pohoiki Boat Launching Ramp is a busy area with swimmers in the water nearby in addition to other commercial and recreational users. Adherence to the rules and requirements of the Department is essential to maintaining order and providing for public safety. It is the duty of the Department to minimize user conflict as well as protect and preserve natural resources, and for this reason commercial activity is regulated and restricted on a statewide basis to allow for a balance between commercial and recreational interests. Ho'okupu LLC, Mr. Pomroy, and Mr. Fujimoto had full notice of the requirement to obtain a commercial use permit in order to utilize the Pohoiki Boat Launching Ramp and yet decided to conduct commercial activities in violation of these requirements on multiple occasions.

D. Administrative Penalties Authorized by Rule.

HAR § 13-230-4(b) provides that "the board is authorized to set, charge, and collect administrative fines and to recover administrative fees and costs, including attorney's fees and costs, or bring legal action to recover administration fines, fees and costs, including attorney's fees and costs, or payment for damages or for the cost to correct damages resulting from violation of subtitle 8 of title 12 or any rule adopted thereunder in accordance with section 200-14.5, Hawaii Revised Statutes. Each day or instance of violation shall constitute a separate offense."

HRS § 200-14.5(a) General administrative penalties, also affirms the Board's discretion to levy administrative fines: "Except as otherwise provided by law, the board is authorized to set, charge, and collect administrative fines and to recover administrative fees and costs, including attorney's fees and costs, or bring legal action to recover administrative fines and fees and costs, including attorney's fees and costs, or payment for damages or for the cost to correct damages resulting from a violation of subtitle 8 of title 12 or any rule adopted thereunder. Each day or instance of violation shall constitute a separate offense."

HRS § 200-14.5(c) sets the fine limits for all violations not involving pollution of the waters of the State as follows:

- II. For a first violation or a violation beyond five years of a previous violation, a fine of not more than \$5,000;
- III. For a second violation within five years of a previous violation, by a fine of not more than \$10,000; and
- IV. For a third or subsequent violation within five years of the last violation, by a fine of not more than \$15,000.
- II. Discussion and Recommended Fines.

A. Ho'okupu LLC, Mr. Pomroy, and Mr. Fujimoto's actions fall under HAR definitions and are therefore subject to administrative action.

Based on the definitions in DOBOR administrative rules, the persons and entity involved were clearly engaged in "commercial activity" when loading and unloading passengers at the Pohoiki Boat Launching Ramp. Additionally, witness statements taken by DOCARE officers further establish the unlawful operation of a vessel in a commercial capacity and acknowledge payment for the service of providing a tour, which clearly falls within the regulatory definitions of "business", "commercial activity", and "vessel carrying passengers for hire" as described above.

B. Ho'okupu LLC, Mr. Pomroy, and Mr. Fujimoto did not comply with HAR requirements and restrictions.

The persons and entity did not receive prior written approval from the Department nor did he execute an agreement with the department to operate commercially from the Pohoiki Boat Launching Ramp. DOCARE officers witnessed operation with passengers for hire without a valid commercial use permit at the Pohoiki Boat Launching Ramp on multiple occasions in violation of HAR § 13-231-51.

C. Criminal action against Ho'okupu LLC, Mr. Pomroy, and Mr. Fujimoto for violation of HAR § 13-231-51 and HAR § 13-256-3 does not preclude civil administrative action.

Mr. Pomroy was issued a citation for violation of HAR § 13-231-51. Those charges were dismissed by the county prosecutor without DOBOR's knowledge. HRS § 200-14.5(d) states that "Any criminal action against a person for any violation of subtitle 8 of title 12 or any rule adopted thereunder shall not preclude the State from pursuing civil legal action to recover administrative fines, fees and costs, or damages against that person. Any civil legal action to recover administrative fines, fees and costs, or damages for any violation of subtitle 8 of title 12 or any rule adopted thereunder shall not preclude the State from pursuing any appropriate criminal action against that person. All fines, fees and costs, or damages recovered by the department under this section shall be deposited in the boating special fund." Therefore, the non-defunct criminal matter does not preclude or influence the Board's ability to levy civil administrative fines.

D. Maximum fine authorized by Statute.

Pursuant to HAR § 13-230-4(b), "[e]ach day or instance of violation shall constitute a separate offense." As evidenced by the attached DOCARE reports and the Factual Backgrounds above, Ho'okupu LLC, Mr. Pomroy, and Mr. Fujimoto were observed and cited on multiple occasions for conducting unauthorized commercial activity in violation of HAR §§ 13-231-51 and 13-256-3. Because Ho'okupu LLC, Mr. Pomroy, and Mr. Fujimoto have not been previously convicted of a violation within the last five years, the fine amount for each violation will be set at a first

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violation amount of five thousand dollars (\$5,000.00) for each offense, pursuant to HRS § 200-14.5(c). Therefore, fines for each individual or entity named in this action are as follows:

Ho'okupu Fish Company,

LLC:

Six (6) offenses of HAR § 13-231-51 and Six (6) offenses of HAR § 13-256-3. Five Thousand

Dollars (\$5,000.00) penalty per offense for a total fine of Sixty Thousand Dollars (\$60,000.00)

Mr. Henry K. Pomroy:

Six (6) offenses of HAR § 13-231-51 and Six (6)

offenses of HAR § 13-256-3. Five Thousand Dollars (\$5,000.00) penalty per offense for a total

fine of Sixty Thousand Dollars (\$60,000.00)

Mr. William Akira Gushiken Fujimoto: Two (2) offenses of HAR § 13-231-51 and Two (2) offenses of HAR § 13-256-3. Five Thousand Dollars (\$5,000.00) penalty per offense for a total fine of Twenty Thousand Dollars (\$20,000.00)

DOBOR staff recommends that the maximum fine for Ho'okupu LLC, Mr. Pomroy, and Mr. Fujimoto's offenses, as set by HRS § 200-14.5(c), be levied at this time.

There are no mitigating factors that DOBOR staff believes would justify a lesser fine than the maximum fine for the alleged violations listed in this action. Ho'okupu LLC, Mr. Pomroy, and Mr. Fujimoto had full notice of the applicable regulations and chose to violate them on multiple occasions even after they were initially warned for unpermitted commercial activity. DOBOR believes that unless there are consequences for violating HRS and HAR provisions, people do not have an incentive to abide by the rules and directions of DOCARE and DOBOR. To send a strong message to other potential violators and curb present and future violations of the rules, DOBOR recommends that the Board issue the maximum penalty to Ho'okupu LLC, Mr. Pomroy, and Mr. Fujimoto.

RECOMMENDATIONS:

DOBOR respectfully requests that the Board:

1. Find that Ho'okupu Fish Company, LLC, Mr. Henry K. Pomroy, and Mr. William Akira Gushiken Fujimoto committed administrative violations of HAR § 13-231-51 and HAR § 13-256-3 as listed above.

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And 13-256-3

- 2. Impose a Sixty Thousand dollar (\$60,000.00) fine to Ho'okupu LLC, a Sixty Thousand dollar (\$60,000.00) fine to Mr. Pomroy, and a Twenty Thousand dollar (\$20,000.00) fine to Mr. Fujimoto, in accordance with HRS § 200-14.5(c) for violation of HAR § 13-231-51 and HAR § 13-256-3.
- 3. Impose an additional fine for administrative fees and costs, including attorneys' fees and costs.
- 4. Give notice to Ho'okupu LLC, Mr. Pomroy, and Mr. Fujimoto that any future violations of HAR § 13-231-51 and HAR § 13-256-3 involving State registered vessel M/V Ho'okupu, HA-9689-H, will result in the inability to register the M/V Ho'okupu for any use within the State.
- 5. Approve contested case hearings, if requested, resulting from this action or action J-2 of the February 24, 2017 Board meeting pertaining to Ho'okupu LLC, Mr. Pomroy, and Mr. Fujimoto with regard to the alleged violations, and authorize the Chairperson to select and appoint a Hearing Officer for such contested case hearings.
- 6. Approve consolidation of all contested case hearings, if any, resulting from this action or action J-2 of the February 24, 2017 Board meeting.

Respectfully submitted,

Edward R. Underwood

Administrator

Division of Boating and Ocean Recreation

APPROVED FOR SUBMITTAL

Suzanne D. Case

Chairperson

Board of Land and Natural Resources

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STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES DIVISION OF BOATING AND OCEAN RECREATION

HAWAII DISTRICT OFFICE 74-380 KEALAKEHE PARKWAY KAILUA-KONA, HAWAII 96740-2704

PHONE: (808) 327-3690

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GUZANNE D. CASE CHAIPPERSON BOARD OF LAND AND NATURAL PESOURCES COMMISSION ON WATER RESOURCE MANAGENER

KEKOA KALUHIWA

JEFFREY T. PEARSON

EDWARD UNDERWOOD
ADMINISTRATOR
DRVISION OF BOATING I OCEAN REDREATION

BOR-H 035.17

September 14, 2016

1694 Koele St. Hilo, HI 96720

Ho'okupu Fish Company

Dear Mr. Pomroy:

Henry K. Pomroy

SUBJECT: CEASE & DESIST COMMERCIAL OPERATIONS

According to reports, including an investigative report from the Division of Conservation and Resource Enforcement (DOCARE), state that the recreational vessel "Hookupu" HA 9689 H, has been conducting commercial operations.

Per, <u>Hawaii Administrative Rule (HAR) §13-231-54 Commercial vessel</u>; "Commercial vessel" as used in this subchapter means a vessel engaged in any trade or business including, but not limited to, carrying passengers for hire, charter fishing, bare boat (demise) or any type of charter maintenance, harvesting coral or similar resources, construction, towing, tow-boating, or other trade or business wherein the vessel is used in any manner to promote the venture, or is registered with the State or documented by the United States Coast Guard for commercial use.

This vessel has not been issued a commercial permit for these type of activity which is a violation of HAR \$13-231-3 Use permits; issuance. (a) "Use permit" as used in these rules means the authorization by the department to utilize state boating facilities, offshore mooring areas, offshore mooring, state ocean waters, and navigable streams, as evidenced by the fully executed "agreement" described in section 13-231-2. The department may issue the following types of use permits:

(6) Commercial use permit. A use permit which authorizes the owner of a commercial vessel to engage in commercial activities as specified in the permit

Per HAR \$13-231-51, "no person shall engage in any business or commercial activity at any small boat harbor or other small boat facility without:

- (1) Prior written approval of the department; or
- (2) The proper execution of an agreement with the department."

You are hereby notified to cease and desist offering commercial tours, as they are contrary to Hawaii Administrative Rule.

Failure to do so could result in fine(s), citation(s), forfeiture of equipment, and/or a legal action against you. We hope this action will not be necessary.

Sincerely,

William E. Taylor Hawaii District Manager

Cc: Administrator DOCARE Stephen Strauss

	lay.	
	SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
	Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print yourname and address on the reverse so that we can return the calcut you. Attach this card to the back of the malipiece, or on the complete permits. 1. Article Addressed to: Henry K. Pomroy Ho okupu Fish ?Company 1694 Koele Street	A Signature A Agent Addressee B Received by Printed Name) C. Date of Delivery D. Is delivery address different from item 17 If YES, enter delivery address below:
	Hilo, HI 96720 BOR-H 035.17	S. Service Type Continued Mail* Priority Mail Express* Registered Priority Mail Express* Registered Collect on Delivery 4. Restricted Delivery? (Extra Fee) Yes
S. Postal Service 104 ERTIFIED MAIL TO RECEIPT	2. Article Number (Transfer from service lebel) 7014 03	50 0000 4324 3989
	PS Form 3811, July 2013 Domestic Re	eturn Receipt
OFFICIAL US		
Postage \$,465		2
Constituti Fee 2 20 Boots	nerk	

VIL - RETURN RECEIPT REQUESTED

7014 0150 0000 4324 3989 BOR-H 035.17 Henry K. Pomroy

Henry K. Pomroy

Sirest Apr. No.: Ho'okupu Fish Co.
or PO Box No.
Chy, Sizes, 217-4 1694 Koele Street See Reverse for Instructions Hilo. PS Form 3800, August 2006

Return Receipt Fee (Endorsement Required)

Here

IMPORTANT! ALWAYS CARRY THIS CERTIFICATE ON VESSEL WHILE IN USE

STATE OF HAWAI'I CERTIFICATE OF NUMBER FOR UNDOCUMENTED VESSEL

		28	HULL IDENTIFICATIO	N NUMBER	1			
HA- 9689 H	9		TEN2500	3C01	0			
EXPIRATION DATE	TYPE VESSE	SLT WOD	LENGTH	HULL	FUEL.	PROP	ust	CO. OWNERS
7/2017	14	2012	25' 0"	13		-1	1	1

HENRY K POMROY BILL FUJIMOTO 1694 KOELE ST HILO, HI 96720

ALWAYS CARRY THIS CERTIFICATE ON VESSEL WHILE IN USE SEE REVERSE SIDE FOR IMPORTANT INSTRUCTIONS

SAFE BOATING IS NO ACCIDENT!



A VESSEL'S REGISTRATION CANNOT BE RENEWED/TRANSFERRED IF THERE ARE UNPAID FEES.

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DCCA State of Hawaii

Downloaded on March 17, 2017.

The information provided below is not a certification of good standing and does not constitute any other certification by the State. Website URL: http://hbe.ehawaii.gov/documents

Business Information

MASTER NAME HO'OKUPU FISH COMPANY, LLC

BUSINESS TYPE Domestic Limited Liability Company (LLC)

FILE NUMBER 159512 C5

STATUS Active

PLACE INCORPORATED Hawaii UNITED STATES

REGISTRATION DATE Aug 10, 2016
MAILING ADDRESS 1694 KOELE ST

HILO, Hawaii 96720 UNITED STATES

PARTNER TERMS AT-WILL MANAGED BY MEMBER(S)

AGENT NAME STEVEN D STRAUSS
AGENT ADDRESS 165 KEAWE ST STE 208
HILO, Hawaii 96720

UNITED STATES

Officers

NAME POMROY,HENRY K	OFFICE MEM	DATE Aug 10, 2016
FUJIMOTO, WILLIAM STRAUSS, STEVEN	MEM	Aug 10, 2016
317A033,31EVEN	MEM	Aug 10, 2016

INVESTIGATION #	District	Lead Invi	stigetor	Report Status	Key Report
17-111-HA	Puna	Dente, C	Craig	In Progress	[X] Yes [] No
Date/Time Reported	Location		Classification		Connecting Reports
08/20/2015 01 40PM	Pohoiki		OWNWB: COMMERCIAL ACT	TVITY	

ACTIVITIES NO STOLEN BOOMER	-	and the second second	A DESCRIPTION OF
CONTRACTOR OF THE PARTY OF	Pistovala	tio on trail	The second
ncident &	IKEUUI		

DOCARE 5 Rev E.G.)

A. COMPLAINT

Taken By:

Craig Denta

How Taken:

On Beat

Complainant:

Craig Dente

Home

Work

Cell

Phone:

Address:

Incident Summary

Description Commercial Activity

Suspect: Henry "Skosh" POMROY

Vehicle/Vessel HA 9598 H

Location:

Pohoiti

Location Notes:

Issue: Hale Beach Park Boat Washing Station

Occured From:

Reported Date/Time

08/18/2018 09:45AM

08/20/2016 01 40PM

Occured To:

B. REPORT CONTROL

Branch:

District

Puna

Hewaii

Lead investigator: Date Assigned:

Craig Dente

08/20/2016 01 52PM

ST. PARKS KONA DOBOR TAKE HILD PROSECUTOR KAMUELA PEDERAL HONOLULÜ HP **AQUATICS** OCOL DOFAW LAND DIV

C. NOTES/DISPOSITION/OTHER INFO

CLOSED - RECORD ONLY // FORWARD TO DOBOR

State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement ON 6 | District | Lead Investigator | Report Status | Key Report |

17-	-111-HA	Pune	D	lenie, Craig			In Progress			[X] Yas	[] No	,	
	o/Time Reported	Location		The second second	Scation	ICDICAL ACT	71.0.734			Connection	g Rep	orts	
08.	16/2016 09:45AM	Pohoiki	200	OWN	WB: COMM	IERICAL ACT	IVITY			<u> </u>			
In	vestigation R	lepart			·								-11-2
	OWNWB; COMM	IERICALA	CTIVITY						2. 50U On	nce Beat			
	3 COMPLANANTS HAD Craig Dente	AE.	·			4 SEX	5. RACE	6. AGE	7. BIRT	H DATE		I. OCCUPATIO	ж
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B/B	14 LOCATION OF INCID	ENT/INTERSE	CTING STREET			<u> </u>		15. DATE/TH 08/16/201			1	16. DATE/THAN B/16/2016	12.5
	17 TYPE Boat	10 YEAR 2012	19, MAKE Fiberulas	s Catamar	20 MODE		21 COLOR White	22.	LICENSE			23, LENGTH 25	24 STOLEN No
	25 REGISTERED OWNE			25. ADDRESS					27 HD	ME.	28. V	YORK	29 CELL
	Henry Pomroy										808	-935-8092	
ES	30 NOTES			' 						^		<u> </u>	
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5	29 REGISTERED OWNE	A		45 ADDRESS					41 HO	ME	42 V	УОЯК	4). CELL
	41.NOTES			<u>. </u>					<u> </u>				
	45 NAME	<u> </u>					47 RACE	48 AGE	1 44 000	TH DATE		OCCUPATI	- Pu
	Henry Pomroy					46.SEX Male	White	44 AGE	ay, core	INDATE	- 1'	fisherman	~"
	SI CATEGORY			12 ADGRESS	;				51 HO	ME	54,7	VORK	55 CELL
	Suspect						-				808	-935-8092	
щ	54 NAME			<u></u>		67 SEX	SE RACE	59 AGE	60. BIR	TH DATE	1	I OCCUPAT	ION
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PEOPLE	62 CATEGORY Business Partne	r		63 ADDRESS					64 NO	WE	92. 9	TURK	7
	67 NAME		·	<u> </u>		eq SEX	EN RACE	70 AGE	71 BGR	TH DATE	1	2 OCCUPAT	ON
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	78 SYHOPSIS	· · · · · · · · · · · · · · · · · · ·							<u> </u>	· · · · · · · · · · · · · · · · · · ·			
	While on duty as D	Boat Washi piki Boat Ra	ng Station, v amp, but did	who Identified	l himself a	s Henry PO	l was on patrol in Pu IMROY, who informa il for Poholki.						;
SYNOPSIS													
							1011	01 / A		033	eal.		
	78. REPORT WAITTEN	IY -//	9-1.	BADGE No.	es DATE/T	VETTIRW 314	SUPERVISOR APP	Y TIAL A	וען			APPROVED	84. BADGE Ho.
WRITER	Dente, Craig	0//				6 02:10FM				8 2	3 [b	19
WF	EJ. GENTUALIUM	U					J	- 1			•		

INVESTIGATION #	DISTRICT	LEAD INVESTIGATOR	KEY REPORT [X] Yes [] No
17-111-HA	Puna	Craig Dents	
DATE / TIME REPORTED	LOCATION	CLASSIFICATION	CONNECTING REPORT(S)
8/16/2016 9:45:00 AM	Pohoiki	OWNWB: COMMERICAL ACTIVITY	

Report Type: [x] Continuation of Report

[] Supplemental

[] Follow Up

Date/Time Written: 08-21-2016 / 1300 hrs Written By: Dente, Craig

Report

ASSIGNMENT

While on duty as DOCARE 637 on 08-16-2016 at approximately 0945 hrs, I was on patrol in Puna in my marked patrol vehicle, SHE 300. I pulled into the parking lot of Isaac Hale Beach Park at Poholki, near the Boat Washing Station, and observed a white boat on a trailer with one adult male washing the boat. I noticed that the trailer appeared to be buckling in the middle, so I made contact with the adult male.

SCENE

- . Time Element: Approximately 0945 hrs to 1000 hrs.
- Location: Isaac Hale Beach Park Boat Washing Station
- Weather: Clear and sunny, unrestricted visibility
- Vehicle Traffic / Foot Traffic / Bystanders: None

OBSERVED VESSEL ON TRAILER AT BOAT WASHING STATION AND CONTACTED OWNER

As I pulled into the parking lot of Isaac Hale Beach Park at Pohoiki, near the Boat Washing Station, I observed a white boat on a trailer with one person washing the boat. I noticed that the trailer appeared to be buckling in the middle, I made contact with this person by introducing myself as Officer Dente with DLNR Conservation Enforcement, The person identified himself as Henry "Skosh" POMROY, DOB

I observed that the vessel on the trailer was a white fiberglass power-driven catamaran, displaying numbering "HA 9689 H," with a valid registration decal, and twin Honda 150 HP outboard motors. See attached photo log. The trailer had a valid Ramp Use Decal. The trailer did not have a license plate attached, did not have a vehicle weight tax decal displayed, and did not have a safety check decal displayed, I asked POMROY if his trailer was safe to operate on the boat ramp and roadways. POMROY explained that the sag in the middle of the trailer was by design, and showed me the telescoping tongue of the trailer. I informed POMROY that he needs to get his trailer legal as soon as possible. I informed POMROY that I would not issue him a citation today, but I do intend to follow up with him soon, and expect that his trailer will be brought into compliance. POMROY acknowledged that he understood.

VESSEL OWNER DESCRIBED NATURE OF BUSINESS

During the course of my conversation with POMROY, he informed me that he had just started a new business, the "Ho'okupu Fish Company, LLC." POMROY stated that the company sells 0.001% shares of the company to interested investors, and as part of the contract, new investors are entitled to a complementary ride onboard his vessel, HA 9689 H, to a destination of their choice; with activities to include fishing and/or sightseeing. POMROY went further, saying that the vessel never gets underway without a licensed master onboard, and gave me the name of two licensed masters whom he said are always onboard during voyages: Keoni ERICKSON and Nathan KUROHARA. POMROY stated that the vessel typically operates out of Pohoiki, and that visits to the lava flow are popular with investors, but the vessel also takes some investors on fishing trips. POMROY stated that his main business partner at the "Ho'okupu Fish Company, LLC" is Mr. Stephen STRAUSS, and that any questions regarding the business should be directed to STRAUSS. POMROY offered me a sample "Conveyance of Membership Contract" for Ho'okupu Fish Company LLC, which I took and included as Exhibit 1.

(Continued on Next Page)

	1000		
Dente, Craig	1871	236	08-21-2016 / 1300 hrs
Officer	00	Badge No.	Date / Time

State of Hawaii	Department of L	and and Natural Resources	Division of Conservation and Resources Enforcement	ent
INVESTIGATION # 17-111-HA	DISTRICT Puna	LEAD INVESTIGATOR Craig Denia	KEY REPORT [X] Yes [] No	-
DATE / TIME REPORTED 8/16/2016 9:45 00 AM	LOCATION Poholki	CLASSIFICATION OWNWB COMMERICAL	CONNECTING REPORT(5)	-

Report (Continued)

INTERVIEWED BUSINESS PARTNER STEPHEN STRAUSS

On 08-20-2016 at approximately 1000 hrs, I conducted a telephone interview with Stephen STRAUSS of the "Ho'okupu Fish Company, LLC." STRAUSS informed me that the nature of the business is to promote awareness of sustainable fishing, where investors are invited on the vessel to participate in sustainable fishing practices. STRAUSS claimed that while on voyages, sometimes the vessel does go near popular sites, such as the lava flow. STRAUSS claimed that the company is not engaged in taking "Passengers for Hire" and is therefore not required to obtain a Commercial Use Permit under HAR 13-231-3(a)(6). STRAUSS claimed that the nature of the voyages of the "Ho'okupu Fich Company, LLC" are sometimes Commercial Fishing Voyages, and sometimes Recreational Voyages, depending on the desired activity of the investors. STRAUSS claimed that while the HA 9689 H is operating for the "Ho'okupu Fish Company, LLC," it is under lease by the company.

DISPOSITION

Based on the nature of the claims made by POMROY and STRAUSS, I recommend DOBOR make a determination on whether or not the activities of the "Ho'okupu Fish Company, LLC" require a Commercial Use Permit under HAR 13-231-3(a)(6), then notify the company and DOCARE of the determination.

CLOSED - RECORD ONLY // FORWARD TO DOBOR

100		
Dente, Craig /9/	236	08-21-2016 / 1300 hrs
Officer	Badge No.	Date / Time

INVESTIGATION # 17-111-HA

Puna

LEAD INVESTIGATOR Craig Dente

KEY REPORT [X] Yes []

DATE / TIME REPORTED 8/16/2016 9 45:00 AM LOCATION Pohoiki

CLASSIFICATION OWNWB COMMERICAL ACTIVITY

CONNECTING REPORT(S)

Report Description: Photo Log

Date/Time Taken: 08-16-2016 / 1000 hrs

Taken By: Dente, Craig

Scene: Isaac Hale Beach Park

Equipment: Olympus Digital Camera Weather Conditions: Sunny / Clear

Lighting: Daylight Focus: Auto

Depicts starboard side of HA 9689 H on trailer







Depicts HA 9689 H trailer, possibly buckling

Depicts stern of HA 9689 H on trailer





INVESTIGATION #	District	Lead Inv	estigator	Report Status	Key Report		70
17-111-HA	Puna	Dente, 0	Craig	In Progress		[X] Yes [] No	
Date/Time Reported	Location		Classification			Connecting Reports	1
08/18/2018 09:45AM	Poholki		DWNWB: COMMERICAL ACTIVITY			W	1

WARNINGS

Issuing Officer

Dente, Craig

Issue Data/Time 08/21/2016 12:40PM

Defendant

Partiroy, Henry (Suspect)

Notes

Observed trailer for HA9889H parked at Isaac Hale County Boach Park. Trailer did not have license plate, vehicle weight tax decal, nor

safety check decat. Warned owner to bring the trailer into compliance as soon as possible

Violation

Activity Code

HRS 248-7 NO LICENSE PLATE, OBSTRUCTED PLATES, ON CLEAN

1700 Small Boat Harbors

PLATES

HRS 249-2 DELINQUENT WEIGHT TAX

1700 Small Boat Herbors

HRS 286-25 NO/EXPIRED CERTIFICATE OF INSPECTION

1700 Small Boat Harbors

HA9889H (Fibergless Catamaran /

Yardbuilt)

REG # (HA-XXXX-XX) HA-9689-H

HULL ID TEN25003C010

DECAL# P11316

RAMP# P39514

STATUS

EXP. DATE (MM/YY) 07/16

PRINCIPAL OWNER CO-OWNER LIENHOLDER MORTGAGES VESSEL VESSEL MISC HULL NOTES

PRINCIPAL OWNER

BUSINESS

LAST NAME POMROY

DATE OF BIRTH (MM-DD-YYYY)

* CITIZENSHIP OF OWNER UNITED STATES

* FIRST NAME HENRY

CONTACT PHONE XXX-XXX-XXXX

MIDOLE NAME

LAST UPDATED: 09-22-2015 04:21:10 PM Loviann C Domingo

EMAIL

MAILING ADDRESS

- STREET1

- CITY HILO

STATE HAWAII . ZIP CODE 96720 PROVINCE

COUNTRY UNITED STATES

STREET ADDRESS

J SAME AS MAILING ADDRESS

* = REQUIRED





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CONVEYANCE OF MEMBERSHIP INTEREST IN HO'OKUPU FISH COMPANY, LLC, a Hawai'i Limited Liability Company

AGREEMENT effective	, 2016, between
HO'OKUPU FISH COMPANY, LLC, and	, Member

RECITALS

- 1. HO'OKUPU FISH COMPANY, LLC (also, "the Company") is a forprofit limited liability company registered and in good standing with the State of Hawai'i.
 The Company engages in sustainable fishing practices and vessel charter operations. Its
 current assets comprise intellectual property, including common law trademark, service
 mark and trade name rights in and to the name and mark "HO'OKUPU FISH
 COMPANY" and lessee rights in and to the powered catamaran ocean-going vessel
 "HO'OKUPU."
- 2. The Company desires to convey a 0.001% interest in the Company to Member.

TERMS AND DISCLOSURES

- 1. For valuable consideration received, the Company hereby conveys a 0.001% interest in the Company to Member.
- 2. The membership interest entitles Member to a single passage on the vessel "HO'OKUPU" and to certain member discounts and premiums that may be offered from time to time by the Company. Depending upon availability, Member may also book passage for Member's guests and minor children by payment to the Company of a guest fee at the guest fee rate in effect at the time of booking.
- 3. The membership interest in the Company conveyed by this Agreement is not intended as an investment security. The membership interest has no present cash value and no disbursements to members holding less than 10% interest in the Company are anticipated unless and until the Company is sold or liquidated resulting in net proceeds.

4. Copies of the Company's Articles of Organization and Operating Agreement are accessible as of September 1, 2016 on the Company's website, hookupufishcompany.com. To promote sustainability, Member waives delivery of paper copies of the Company's documents.

ENTIRE AGREEMENT/ GOVERNING LAW

5. This instrument is the entire Agreement between the parties and supersedes any prior or contemporaneous written or oral representations. No amendment or modification to this Agreement is effective unless it is made in writing and signed by both parties. This Agreement will be governed by and interpreted in accordance with the laws of the State of Hawai'i.

APPROVED AND AGREED

HO'OKUPU FISH COMPANY, L	LC
OHK Pin	Dated:
By Henry K. Pomroy	
Its Member-Manager	
Member	
	Dated:
Signature	
Printed Name:	

THE SECURITIES REPRESENTED BY THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") NOR REGISTERED NOR QUALIFIED UNDER ANY STATE SECURITIES LAWS. SUCH SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, DELIVERED AFTER SALE, TRANSFERRED, PLEDGED, OR HYPOTHECATED UNLESS QUALIFIED AND REGISTERED UNDER APPLICABLE STATE AND FEDERAL SECURITIES LAWS OR UNLESS, IN THE OPINION OF COUNSEL SATISFACTORY TO THE COMPANY, SUCH QUALIFICATION AND REGISTRATION IS NOT REQUIRED. ANY TRANSFER OF THE SECURITIES REPRESENTED BY THIS AGREEMENT IS FURTHER SUBJECT TO OTHER RESTRICTIONS, TERMS AND CONDITIONS WHICH ARE SET FORTH HEREIN.

INVESTIGATION # 17-0328-HA	Dietrict Puna	Leed invi Dente, C	-	Report Status In Progress	Key Report [X] Yes [] No
Deta/Time Reported 10/27/2016 07:50AM	Location Poholki		Classification SBH COMMERCIA	LACTIVITY	Connecting Reports 17-111-HA, 17-0129-HA

Incident & Report Control Form

DOCARE-5 (Rev. &C3)

A. COMPLAINT

Taken By: How Taken: Craig Dente

On Beat

Reported Date/Time

10/27/2016 07 50AM

Complainant:

Craig Dente

Home

Work

Cell

Phone:

Address:

Incident Summary

Description COMMERCIAL ACTIVITY

Suspect. Henry POMROY

Vehicle/Vessel Hookupu HA9689H

Location:

Poholki

Location Notes: Pohoiki Basin

Occurred From:

10/27/2018 07 50AM

Occured To:

B. REPORT CONTROL

Branch:

Hawai

District

Puna

Lead Investigator:

Craig Dente

Date Assigned:

10/27/2016 11 25AM

C. NOTES/DISPOSITION/OTHER INFO

CLOSED - RECORD ONLY // FORWARD TO DOBOR FOR POSSIBLE CIVIL PENALTIES

State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement INVESTIGATION # | District | Lead Investigator | Report States | Key Report |

17-0325-HA	Рипа		Dente Craig			In Pr	ogress			[X] Yes			
Octa/Time Reported Lecutions Classification 10/27/2015 07:50AM Pohoiki SBH COMMERCIAL ACTIVITY							Connectic 17-111-HJ	ng Reports L, 17-0325-HA					
Investigation	Report				TRUE !								
SBH COMMER	CIALACTIV	/ITY							2 50 On	URCE Beat			
3 COMPLAINANT'S NA Craig Dente	ME				4 SEX	5 R	ACE	6 ADE	7 B#F	TH DATE	8 OCCUP	ATION	\neg
9 ADDRESS					10 PLACE	EMPLOY	ED-SCHOOL ATT	ENDING	11 H	DIE	12 WORK	13 CELL	
14 LOCATION OF INCI Pohoiki Boat Rarr		CTING STREET	Г						77ME OCCU 2016 07.5			TIME REPORT	
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25 REGISTERED OWN	ER		26 ADDRE	ESS			·		27 H	OME	25 WORK	29 CELL	i.
Henry Pomroy							-				808-935-80	92	
S TUPE JI TYPE Truck	2005	11 MAKE Dodge		34 MODE PKUP	L		35 COLOR Grey		36 LICENSI	HA No.	37 LENGT		TOLEN
> REGISTERED OWN		Dogo	49 ADDRE						41 H	3ME	42 WORK	43 CEL1	
Henry Pomroy											808-935-80	92	5
44 NOTES													
49 NAME					46 SEX	47	RACE	48 AGE	49 81	STAO HTR	50 DCCU	PATION	
Henry Pomroy					Male	Wh	ite				lisherm		
SUSPECT			52 ADDRE	E35					13 HK	ME 3MC	84 WORK 808-935-80	4# CELL	
AA MALES					S7 SEE	54	RACE	30 AGE	80 BI	RTH DATE	er occus		
37d								ASSE					
C. 62 CATEGORY			81 ADDRE	255					84 HK	SHE.	65 WORK	86 CELL	·
47 NAME		-	<u> </u>	-	40.SEX	69.	RACE	70 AGE	71 81	RTH DATE	77 OCCU	PATION	
73 CATEGORY			74 ADDRE	233					75 H	ME	76 WORK	77 CELL	
78 SYNOPSIS			-						·				$\overline{}$
Observed suspection conducting community paying him \$150 Hookupu Fish Co	ercial opera each to view mpany LLC	tions, and r the lava fi in violation	nat in posse ow on HA9	ession of a C 689H When	Commercial confronted	Use F I with I	emit for Poho	iki Boat R 1, POMRO	tamp, Two	passeng d to sellin	ers admitted to g "shares" for		
TO REPORT WRITTEN Denie, Craig as DESPOSITION			DE BADGE No.		ME WRITTEN 6 01:31PM	346.	sur en indri Let		417	ED DAT	ETTOME APPROVE	19	GE No.

INVESTIGATION # DISTRICT LEAD INVESTIGATOR KEY REPORT 17-0328-HA Craig Dente Puna [X] Yes [] No DATE / TIME REPORTED LOCATION CLASSIFICATION CONNECTING REPORT(S) 10/27/2016 7 50 00 AM SBH: COMMERCIAL ACTIVITY **Poholki** 17-111-HA, 17-0329-HA Report Type: [x] Continuation of Report [] Supplemental [] Follow Up Dats/Time Written: 11-10-2016 / 1100 hrs Written By: Denle, Craig Report **ASSIGNMENT** White on duty as DOCARE 637 at approximately 0750 hrs on 10-27-2016, I observed Henry POMROY operating HA9689H, returning from sea, entering Pohoiki Basin with a total of 8 persons onboard. Seven of the persons were identified and interviewed, and two claimed to be passengers who paid money to be taken to view the lava flow, POMROY did not have a Commercial Use Permit for Poholki Boat Ramp and had previously been issued a Cease and Desist notice from DOBOR for commercial operations at Poholki (see attached Cease and Desist Letter and connecting 17-111-HA for details on Commercial Operations). **NOTIFICATION** At approximately 0457 hrs on 10-27-2016, I received a text message from an informant who wishes to remain anonymous, stating that POMROY was at the lava flow off Kalapana on HA9689H with multiple passengers onboard. At 0600 hrs on 10-27-2016, I checked in for duty, and shortly thereafter, I proceeded to Pohoiki Boat Ramp with Officer TAMURA. SCENE At approximately 0700 hrs on 10-27-2016, Officer TAMURA and I arrived at the Poholki Boat Ramp. I observed POMROY's pickup truck attached to boat trailer which was empty, parked at the bottom of Isaac Hale Beach Park. I parked my patrol vehicle near the boat ramp and awaited the return of HA9689H. The weather was clear and sunny. Ocean conditions outside of the Pohoiki Boat Basin were approximately 2-4 foot easterly wind waves. with a 3-5 foot long-period easterly ground swell. **OBSERVED HA9689H ENTERING POHOIKI BASIN** At approximately 0750 hrs, I observed HA9889H approaching Poholki Basin. As the vessel entered the vicinity of the Boat Ramp, I recognized the person manipulating the throttles and steering of HA9689H, piloting the vessel onto its boat trailer, as Henry POMROY. The vessel was then towed into the parking lot with POMROY and seven other persons aboard on its trailer. The person who was driving the pickup truck with the attached boat trailer was later identified as Bill FUJIMOTO, co-owner of HA9689H. **OBSERVED PASSENGERS ABOARD HA9689H** As the boat trailer came to a stop in the parking lot, I introduced myself and Officer TAMURA as Conservation and Resources Enforcement Officers with DLNR DOCARE. I informed POMROY that we needed to talk to him, and that my partner, Officer TAMURA needed to talk to the passengers. I then proceeded to interview POMROY, while Officer TAMURA interviewed the passengers (see Officer TAMURA's enclosed Supplemental Report). (Continued on Next Page) Dente, Craid 236 11-10-2016 / 1100 hrs

Dale / Time

Badge No.

INVESTIGATION # 17-0328-HA DISTRICT

LEAD INVESTIGATOR
Craig Dente

KEY REPORT

[X] Yes [] No

DATE / TIME REPORTED 10/27/2016 7 50 DO AM LOCATION Poholki CLASSIFICATION

SBH COMMERCIAL ACTIVITY

CONNECTING REPORT(8) 17-111-HA, 17-0329-HA

Report (Continued)

INVERVIEWED SUSPECT HENRY POMROY

I informed POMROY that I suspected that he was conducting Commercial Operations at Poholki Boat Ramp without a Commercial Use Permit. Before asking POMROY any questions about his activities, I conducted an Advice of Rights (see attached form). At that time, POMROY indicated that he understood his rights, and did not wish to answer questions or make a statement. POMROY also indicated that he did not wish to have a lawyer present.

CONDUCTED SAFETY INSPECTION OF HA9689H

After POMROY informed me that he did not wish to make a statement, I informed him that I would be conducting a safety inspection of his vessel. POMROY complied with the safety inspection. I found HA9689H to be in compliance with all safety requirements for a 25 foot recreational power driven vessel, with two exceptions: POMROY had an expired Certificate of Numbers, and POMROY did not have an Operator Safety Course Certificate of Completion or a suitable alternative (see connecting 17-0329-HA for details on safety inspection and enforcement action taken).

OFFICER TAMURA COMPLETED INTERVIEWING PASSANGERS

Immediately after I completed the safety inspection, Officer TAMURA informed me that two passengers stated to him that they paid POMROY money to take them onboard HA9689H to view the lava flow.

INFORMED POMROY OF VIOLATION

At approximately 0840 hrs, I informed POMROY that some of the passengers stated that they paid him money to go see the lava flow. At that point, without being questioned, POMROY made a spontaneous statement that he did collect money from some of the passengers, but it was for the "Hookupu Fish Company LLC." POMROY then furnished me with another copy of the "Hookupu Fish Company LLC" contract, which he had provided me on 08-16-2016 (see connecting 17-111-HA for more details).

I stated to POMROY that the Hookupu Fish Company LLC is a for-profit venture POMROY agreed. I then stated that his operations have therefore been deemed commercial activity by DOBOR. I reminded POMROY that DOBOR issued him a Cease and Desist notice, and despite that notice, he has continued to operate at Pohoiki without a Commercial Use Permit. I informed POMROY that I would be assembling a case for possible Civil Penalties, and forwarding it to DOBOR. I then warned POMROY that if he continues to conduct commercial operations at Pohoiki without a permit after this encounter, I will initiate a criminal case and take custody of his vessel. POMROY acknowledged that he understood, and stated that he would cease his activities with Hookupu Fish Company at Pohoiki until he is able to obtain a permit.

DISPOSITION

CLOSED - FORWARD TO DOBOR FOR POSSIBLE CIVIL PENALTIES

(End of Report)

Dente, Craig	18914
Officer	00

236 Badge No 11-10-2016 / 1100 hrs

Date / Time

KEY REPORT INVESTIGATION # DISTRICT LEAD INVESTIGATOR 17-0328-HA Puna Craig Dente [X] Yes [] No DATE / TIME REPORTED CONNECTING REPORT(S) CLASSIFICATION LOCATION 10/27/2016 7 50 00 AM SBH COMMERCIAL ACTIVITY Poholki Report Type: [] Continuation of Report [x] Supplemental [] Follow Up Dats/Time Written: 11-4-16/1700 Written By: Tamura, Ivan Report **ASSIGNMENT** On 10-27-16 at 0556 hours I receive a phone call from Officer Craig DENTE who informed me he had information that Henry POMROY may be operating an illegal lava tour involving commercial activity. I met with Officer DENTE and we proceeded down to the Poholki boat ramp. OFFICER'S OBSERVATIONS On 10-27-16 at approximately 0750 hours I observed a boat on the water coming in from the South. As the boat got closer to the harbor I was informed by Officer DENTE that the boat belonged to POMROY due to the fact that he knew the word HO'OKUPU is on the front. As the boat was coming in a Dodge truck was waiting with a trailer at the ramp. The truck plate with attached trailer was being driven by Bill FUJIMOTO who was later identified. License plate checks revealed both the truck and trailer is registered to Henry POMROY of As the boat reached the ramp area, I took a few photos of the people on the boat. It appeared there were eight people on the vessel including POMROY who I remembered from prior contacts. The Dodge truck pulling the trailer parked in the parking lot and the people on the vessel started exiting. I took a photograph of the occupants standing and using a ladder to get off the boat as POMROY was sitting on the railing. I then proceeded to make contact with people as they headed to their vehicles. **TOURIST CONTACTS** On 10-27-16 at approximately 0810 hours I contacted a husband and wife identified as They are further identified as, Upon speaking with the I was informed they went on EBAY and put down a \$50.00 deposit to book a tour with Henry POMROY. The relayed that on the morning of 10-27-16 they met POMROY who identified himself to them as "SKOSH" at approximately 0530 hours. The stated that the went on the tour and view lava and on the way back at the Poholiki ramp they gave POMROY \$300.00 for the tour, as it was agreed payment was \$150.00 per person. the payment was made in cash.

Tamura, Ivan

Officer

Badge No.

11-4-16/1700

Date / Time

INVESTIGATION II

DISTRICT

LEAD INVESTIGATOR

KEY REPORT

DATE / TIME REPORTED 10/27/2016 7 50 00 AM LOCATION Pohořkí Cralg Dente

CLASSIFICATION
SBH COMMERCIAL ACTIVITY

CONNECTING REPORT(S)

Report (Continued)

TOURIST CONTACTS CONT.

After speaking with the	I contacted four other tourist's who came off the vessel, they were identified as,

Upon speaking with all the Australian tourist, they stated they went on the tour to view lava and no of them paid any money for the trip.

Informed me his cousin who he communicates via facebook provided information of Henry POMROY. Stated the cousin told him to call POMROY and POMROY would be able to take he and his friends out to view the lava.

TRUCK/TRAILER OPERATOR

On 10-27-16 at approximately 0845 I contacted the operator of the Dodge truck registered to POMROY. He provided me with a Hawaii Drivers License and was identified as Bill FUJIMOTO, FUJIMOTO stated he met POMROY at his house on Koele Street in Hillo and assisted with launching and loading the vessel upon exit in Poholki.

PHOTOGRAPHS

Photographs were taken at the scene, for more information refer to the photographic record submitted.

DISPOSTION

In view of the Information in this investigation, I recommend a copy of this report be routed to Officer Craig DENTE for his review and final disposition.

ROUTE COPY OF REPORT TO OFFICER CRAIG DENTE #11-4-11/1730

INV. CONTINUING

- Olan OL		
Tamura, Ivan	251	11-4-16/1700
Officer	Badge No.	Date / Time

INVESTIGATION # 17-0328-HA

DATE / TIME REPORTED 10/27/2016 7 50 00 AM DISTRICT Puna

LOCATION Pohoiki LEAD INVESTIGATOR Craig Dente

CLASSIFICATION SBH COMMERCIAL ACTIVITY KEY REPORT
[X] Yes []
CONNECTING REPORT(5)

Report Description: Photo Record
Date/Time Taken: 10-27-16/0802-0806
Taken By: Tamura, Ivan
Scene: Pohoiki

Equipment: Digital Olympus Weather Conditions: Cloudy Lighting: Overcast Focus: Yes

Ho'okupu vessel coming in to exit Poholki ramp.



2 Vessel waiting for Trailer to exit water.



3 Female in white and male in blue jacket admitted to paying.



4 Vessel pulled out of water heading to parking lot.



Photographic Report Division of Conservation and Resources Enforcement

INVESTIGATION # 17-0328-HA

DATE / TIME REPORTED 10/27/2016 7 50 00 AM DISTRICT Puna

LOCATION Pohoiki LEAD INVESTIGATOR
Craig Dente

CLASSIFICATION SBH. COMMERCIAL ACTIVITY KEYREPORT [X] Yes []

CONNECTING REPORT(S)

5 People getting ready to exit vessel.

6 Closer view of vessel and truck, both registered to POMROY.



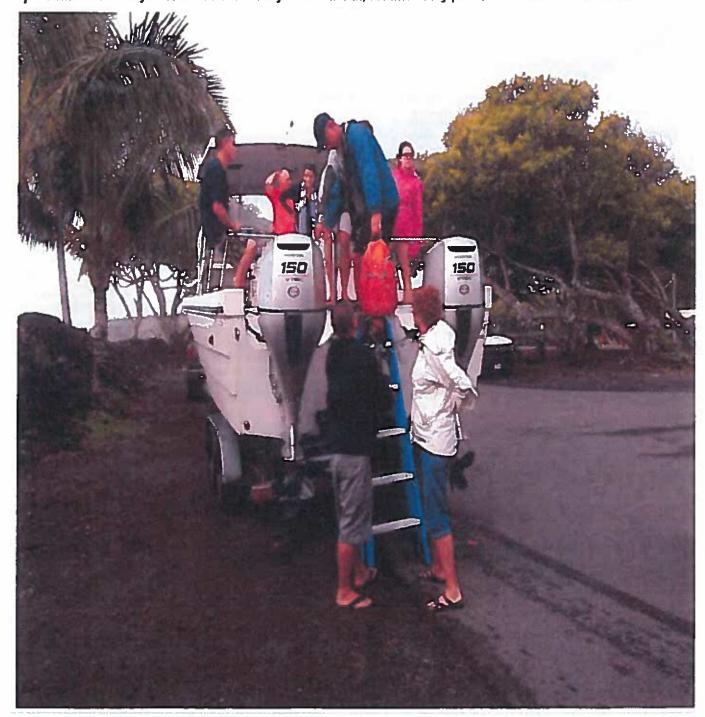
INVESTIGATION # 17-0328-HA

DATE / TIME REPORTED 10/27/2016 7 50 00 AM DISTRICT Pune

LOCATION Pohoiki LEAD INVESTIGATOR Craig Dente

CLASSIFICATION SBH COMMERCIAL ACTIVITY KEY REPORT
[X] YBS []
CONNECTING REPORT(S)

7 Female in white jacket and male in blue jacket with hat, admitted they paid \$150.00 each to view lava.



ADVICE OF RIGHTS

Report/Citation # 17-0328-4A

I am a Conservation Enforcement Officer. I want to inform you of your rights.

- 1. You have the right to remain silent. You do not have to answer any questions.
- 2. Anything you say may be used against you in a court of law.
- 3. You have the right to talk to a lawyer before we ask you any questions and to have him with you during questioning.
- 4. If you cannot afford a lawyer, one will be appointed for you before any questioning if you wish.
- 5. If you decide to answer the questions now without a lawyer present, you will still have the right to stop answering at any time and talk to a lawyer.

1	right to stop answeri	ng at any time and tall	c to a lawyer.		
The Adv	vice of Rights was ad	Iministered to HEN	RY POMRI)Y	
		92	Ву <u>С</u>	DENTE Onservation E	
POLIO	IKI BOAT KAN	MP	10-27-	2016	0802485
Location	1		Da	te	Time
	WAIVER OF	RIGHTS		In	itial
1. I	Do you understand th	ne rights that I have ju	st read to you?	Yes Y	No
2. I	Do you want a lawye	r now?		Yes	No.
3.	Are you willing to an	swer questions and m	ake a statement?	Yes	No 12
4. I	Do you want a lawye	r during this interview	?	Yes	No 2
TS),	11 Firm to	mill-	All	2-2	
Witness			Subject's Sign	nature	
10-2	7-2016	0805	8.05	AM	10-27-2016
Date		Time	Date		Time
Refused	to sign / /				
All the fo	oregoing was transla	ted into			
_					

CONVEYANCE OF MEMBERSHIP INTEREST IN HO'OKUPU FISH COMPANY, LLC, a Hawai'i Limited Liability Company

	AGREEMENT effective	, 2016, between			
HO'OKUPU	FISH COMPANY, LLC, and	, Member.			
					
RECITALS					
1.	HO'OKUPU FISH COMPANY, LLC	(also, "the Company") is a for-			

- 1. HO'OKUPU FISH COMPANY, LLC (also, "the Company") is a forprofit limited liability company registered and in good standing with the State of Hawai'i. The Company engages in sustainable fishing practices and vessel charter operations. Its current assets comprise intellectual property, including common law trademark, service mark and trade name rights in and to the name and mark "HO'OKUPU FISH COMPANY" and lessee rights in and to the powered catamaran ocean-going vessel "HO'OKUPU."
- 2. The Company desires to convey a 0.001% interest in the Company to Member.

TERMS AND DISCLOSURES

- 1. For valuable consideration received, the Company hereby conveys a 0.001% interest in the Company to Member.
- 2. The membership interest entitles Member to a single passage on the vessel "HO'OKUPU" and to certain member discounts and premiums that may be offered from time to time by the Company. Depending upon availability, Member may also book passage for Member's guests and minor children by payment to the Company of a guest fee at the guest fee rate in effect at the time of booking.
- 3. The membership interest in the Company conveyed by this Agreement is not intended as an investment security. The membership interest has no present cash value and no disbursements to members holding less than 10% interest in the Company are anticipated unless and until the Company is sold or liquidated resulting in net proceeds.

4. Copies of the Company's Articles of Organization and Operating Agreement are accessible as of September 1, 2016 on the Company's website, hookupufishcompany.com. To promote sustainability, Member waives delivery of paper copies of the Company's documents.

ENTIRE AGREEMENT/ GOVERNING LAW

5. This instrument is the entire Agreement between the parties and supersedes any prior or contemporaneous written or oral representations. No amendment or modification to this Agreement is effective unless it is made in writing and signed by both parties. This Agreement will be governed by and interpreted in accordance with the laws of the State of Hawai'i.

APPROVED AND AGREED

HO'OKUPU FISH COMPANY, LLC

	Dated:	
By Henry K. Pomroy		
Its Member-Manager		
Member		
	Dated:	
Signature		_
Printed Name:		

THE SECURITIES REPRESENTED BY THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") NOR REGISTERED NOR QUALIFIED UNDER ANY STATE SECURITIES LAWS. SUCH SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, DELIVERED AFTER SALE, TRANSFERRED, PLEDGED, OR HYPOTHECATED UNLESS QUALIFIED AND REGISTERED UNDER APPLICABLE STATE AND FEDERAL SECURITIES LAWS OR UNLESS, IN THE OPINION OF COUNSEL SATISFACTORY TO THE COMPANY, SUCH QUALIFICATION AND REGISTRATION IS NOT REQUIRED. ANY TRANSFER OF THE SECURITIES REPRESENTED BY THIS AGREEMENT IS FURTHER SUBJECT TO OTHER RESTRICTIONS, TERMS AND CONDITIONS WHICH ARE SET FORTH HEREIN.

Nov 4, 2016 1 22 04 PM

Printed By: H15DENTC from: DLNR02

Received Time:

13:20:34 11-04-16

Source ORI:

HI0020702

Summary:

M55L: TYP=5

View Message Details

DLNR02 00012 AT 13:20 11/04/2016

RX05M55L MRI-785537

Received Time:

13:20:34 11-04-16

Source ORI:

HILICOOOO

Summary:

M55L:

TYP=5

View Message Details

M55L/5/1

STATUS: A SPEC-PLT: EMBLEM: H25749 EXPIR-DATE: 07 17

PLATE: VIN: RO-NAME: POMROY HENRY

MAKE: HOMADE TYPE: BOAT

YR-MODEL: COLOR:

PHON-CODE: P560H COUNTY: H

RO-ADDRESS: LO-NM:

RO-CITY: HILO HI 96720 SF-EXP: 08 17 TCI-NO:

LO-ADDRESS:

LO-CITY:

1ST-SOLD: 00 00 00 DT-ISS: 08 29 16 TX-RT: F HVUC: TVB: BAD-CK: SP-VEH:

NET-WT: 02660 GVW: 000000 EXMPT: FUEL: ODOM:

ODOM-EXC: ODOM-DSC:

MO-TX: 12 TAX-COLL: 158.05 PENALTY-AMT: 0.00 PLT-EMB: 30.50 OT-PND:

LS-UDT: 08 30 16

PRI-PT: ELT KEY:

XRF-PT:

VO: MO: DUP-DT:

F1:MPL F2:MOT F3:MCP F5:MFC F6:MAC F7:MCMT F10:MNR F11:MVRN F12:MFEE

MRI 785538 IN: RX05M55L 546 AT 04NOV2016 13:20:34

OUT: DLNR02 6 AT 04NOV2016 13:20:34

Nov 4, 2016 1:22:13 PM

Printed By: H15DENTC from: DENRO2

Received Time:

13:39:50 11-03-16

Source ORI:

HIOLN0000

Summary: View Message Details

ADLB DRIVER LICENSE GENERAL ROOT INQUIRY

ADLB: OLN=

ZADLB1M

MED-REC=

PF REY

DATE 11/03/16 13:40 TERM RY01

P/L/U/T LICENSE L S

ACTIVE **ENDORS**

RSTR

LIC STATUS BIRTHDATE CLASS CDL CTY LIC EXPIRES 3 H

NAME POMROY, HENRY, K, 3RD

LAST NAME POMROY

SUFFIX 3RD

FIRST NAME HENRY

MIDDLE NAME K MAIL ADDRESS

HILO, HI

96720

HOME ADDRESS HEIGHT

WEIGHT

CARD DATE

HAIR

EYES

SEX М

ISSUE DATE 09/14/1989

11/18/2010

PF3:NAME INQUIRY PF21:NEXT SSN

22:HELP

7888 DRIVERS LICENSE NUMBER HAS AN OUTSTANDING VIOLATION.

MRI 759795 IN: RX01ADLB 354 AT 03NOV2016 13:39:50

OUT: DLNR02 3 AT 03NOV2016 13:39:50

Nov 4, 2016 1 21:05 PM

Printed By: H15DENTC from DUNR02

Received Time:

13:19:32 11-04-16

Source ORI:

HI0020702

Summary:

View Message Details

M55L: LIC TYP=1

DLNR02 00010 AT 13:19 11/04/2016

RXO5M55L MRI-785521

Received Time:

13:19:32 11-04-16

Source ORI:

HILICO000

Summary:

M55L: LIC= TYP#1

View Message Details

M55L/1 PLATE:

STATUS: A SPEC-PLT: EMBLEM:

EXPIR-DATE: 03 17

VIN: RO-NAME: POMROY HENRY MAKE: DODG TYPE: PKUP

YR-MODEL: 05 COLOR: G PHON-CODE: P560H COUNTY: H

RO-ADDRESS:

RO-CITY: HILO HI 96720 SF-EXP: 12 16 TCI-NO:

LO-NM: SAME LO-ADDRESS:

LO-CITY:

1ST-SOLD: 03 29 05 DT-ISS: 08 29 16 TX-RT: F HVUC: TVB:

BAD-CK: SP-VEH: 1

NET-WT: 06950 GVW: 000000 EXMPT: FUEL: D ODOM: 176616 ODOM-EXC: N ODOM-DSC: N

MO-TX: 00 TAX-COLL: 0.00 PENALTY-AMT: 0.00 PLT-EMB: .00 OT-PND: PRI-PT: 578HDR XRF-PT:

VO: N MO: N DUP-DT:

LS-UDT: 08 29 16

ELT KEY:

F1:MPL F2:MOT F3:MCP F5:MFC F6:MAC F7:MCMT F10:MNR F11:MVRN F12:MFEE

MRI 785522 IN: RX05M55L 544 AT 04NOV2016 13:19:32

OUT: DLNR02 4 AT 04NOV2016 13:19:32

DAVID Y. IGE



STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES DIVISION OF BOATING AND OCEAN RECREATION HAWAII DISTRICT OFFICE 74-380 KEALAKEHE PARKWAY KAILUA-KONA, HAWAII 96740-2704

PHONE (808) 327-3680

FACSIMILE: (808) 327-3693

BUZANNE D. CASE
CHAMPERION
DOADD LAYD NO NATURAL MEDITICS
COMMISSION ON WATER PERSONNEL MANAGEMENT

REKDA KALIHIWA

JEFFREY T. PEARSON DEPUTY DIRECTOR: WATER

EDWAJIÐ LRIÐERMOÐ ADAMSTRATUR HUTASKAR NOSON A KINTADB VID NOKENDA

BOR-H 035.17

September 14, 2016

Henry K. Pomroy Ho'okupu Fish Company

Dear Mr. Pomroy:

SUBJECT: CEASE & DESIST COMMERCIAL OPERATIONS

According to reports, including an investigative report from the Division of Conservation and Resource Enforcement (DOCARE), state that the recreational vessel "Hookupu" HA 9689 H, has been conducting commercial operations.

Per, <u>Hawaii Administrative Rule (HAR) §13-231-54 Commercial vessel</u>; "Commercial vessel" as used in this subchapter means a vessel engaged in any trade or business including, but not limited to, carrying passengers for hire, charter fishing, bare boat (demise) or any type of charter maintenance, harvesting coral or similar resources, construction, towing, tow-boating, or other trade or business wherein the vessel is used in any manner to promote the venture, or is registered with the State or documented by the United States Coast Guard for commercial use.

This vessel has not been issued a commercial permit for these type of activity which is a violation of HAR 613-231-3 Use permits; issuance. (a) "Use permit" as used in these rules means the authorization by the department to utilize state boating facilities, offshore mooring areas, offshore mooring, state ocean waters, and navigable streams, as evidenced by the fully executed "agreement" described in section 13-231-2. The department may issue the following types of use permits:

(6) Commercial use permit. A use permit which authorizes the owner of a commercial vessel to engage in commercial activities as specified in the permit

Per HAR §13-231-51, "no person shall engage in any business or commercial activity at any small boat harbor or other small boat facility without:

- (1) Prior written approval of the department; or
- (2) The proper execution of an agreement with the department."

You are hereby notified to cease and desist offering commercial tours, as they are contrary to Hawaii Administrative Rule.

Failure to do so could result in fine(s), citation(s), forfeiture of equipment, and/or a legal action against you. We hope this action will not be necessary.

Sincerely,

William E. Tay

Hawaii District Manager

Cc: A

Administrator

DOCARE Stephen Strauss

	ρ		
		\$9	

INVESTIGATION #	District Load inv		estigator	Report Status	Key Report
17-0329-HA	Puna	Dente, C	Craig	In Progress	[X] Yes [] No
Data/Time Reported	me Reported Location		Classification		Connecting Reports
10/27/2016 07:50AM	Poholki		OWNWB NO BOATING SAFETY COURSE		17-0328-HA

Incident & Report Control Form

DOCARE-S (Rev 5/03

A. COMPLAINT

Taken By: How Taken: Craig Dente

On Beat

Reported Dats/Time

10/27/2018 07 50AM

Complainant.

Craig Dente

Home

Work

Cell

Phone:

Address:

Incident Summary

Description No Souting Safety Course

Suspect: Henry POMROY

Vehicle/Vessel HOOKUPU (HA9689H)

Location:

Poholiki

Occurred From:

10/27/2016 07 50AM

Location Notes:

Occured To:

B. REPORT CONTROL

Branch:

Puna

District Lead Investigator:

Craig Denta

Date Assigned:

10/27/2016 02 17PM

C. NOTES/DISPOSITION/OTHER INFO

CLOSED - CITATION ISSUED (982425)

KONA	ST. PARKS
HILO	DOBOR
KAMUELA	PROSECUTOR (1.DL-1)
HONOLULU	FEDERAL
AQUATICS	HP
DOFAW	OCCL
LAND DIV	

Report Status

Lead Investigator

-	-0329-HA	Pune	10	Sente, Ci				In Pro	ogress			[X] Yes				1
	N27/2015 U7.50AM	Location Pohoiki			Cleselficat OWNWB		ERATOR SA	VFETY	COURSE			Connection 17-0326+	ng Re -IA	perta		
G	vestigation R	leport									200					1
	1 CLASSIFICATION OWNWB NO OF	PERATOR :	SAFETY CO	OURSE							_ 0	ovece n Beat				
	3 COMPLAINANT 9 NAM Craig Dente	ME					4. SEX	5 A	ACE	8 AGE	7. 8	ALM DATE		8 OCCUPATE	ON	
BASIC	9 ADDRESS						10 PLACES	EMPLOY	ED-SCHOOL ATTE	DIPPOR	11 1	IOME	15	WORK	13 CELL	1
09	14 LOCATION OF BICID Pohoiki Basin	ENT/HTERSE	CTING STREET	•							194E OCC 1016 07			18 DATE/TIM 10/27/2016	E REPORTED 07:50AM	
	17 TYPE Boat	18 YEAR 2012	ii MAKE Fiberglas	ss Cala		Yardbu			21 COLOR White		22 LICENS HA96	589H		23 LENGTH 25	24 STOLEN	1
	25 REGISTERED OWNE	A		26 AU	ORESS						37 1	1DME		WORK	29 CELL	
Si	Henry Pomroy 30 HOTES			<u> </u>									80	8-935-8092		
VEHICLES	31 TYPE	32 YEAR	13 WAKE		34	, MODE	L		34 COLOR		30 LICENS	E / HA No.		37 LENGTH	34 STOLE)	-
V	38 REGISTERED OWNE	R		40 AC	DRESS						41.1	HOME	47	WORK	4) CELL	+
	44 NOTES			<u> </u>												+
	45 HAME						46 SEX	47	RACE	48 AGE	49	URTH DATE		to OCCUPAT	non	\dashv
	Henry Pomroy						Male	Whi	ite					fisherman		
	ST CATEGORY			52 AC	CESRO						93	CHE		WORK	12 CELL	
	Suspect 36 NAME					<u>-</u> -	57 SEX	- 40.1	RACE	50 AGE	40.1	BIRTH DATE	1 80	8-935-8092	MOM	
되	30 ANDIC						37 SEA		nan c	37 702	-	JETIN DATE		0000741	1011	
PEOPL	62 CATEGORY			83 AC	DRESS		•	-			64	OME	65	WORK	eo CELL	1
	67 NAME						es SEX	89 1	RACE	70 AGE	71 1	SINTH DATE		72 OCCUPAT	NON	
	73 CATEGORY	· · · · · · · · · · · · · · · · · · ·		74 AE	CRESS					,	75 (40ME	78	WORK	77 CELL	
	78 SYNOPSIS				7/							m	-			7
	Observed suspect course certificate (-		, boa	Iting safety		
	INVESTIGATION	CONTINUI	NG													
PSIS																
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WAITER	Denie, Craig	1//	7 1	236	11/	U3/201	6 11:43AV	- Mel	ier, Jämes		•	140	16	447	19	\perp
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INVESTIGATION # 17-0329-HA DISTRICT

LEAD INVESTIGATOR
Craig Denta

KEY REPORT

DATE / TIME REPORTED 10/27/2016 7 50:00 AM LOCATION Pohoiki CLASSIFICATION

OWNWB: NO OPERATOR SAFETY COURSE

CONNECTING REPORT(S)

17-0328-HA

Report Type: [x] Continuation of Report

Date/Time Written: 11-03-2016 / 1300 hrs.

Written By: Dente, Craig

[] Supplemental

[] Follow Up

Report

ASSIGNMENT

While on duty as DOCARE 637 on 10-27-2016, at approximately 0750 hrs, I was patrolling the Puna coastline. I observed a vessel enter the Pohoiki Boat Basin and recover onto a smallboat trailer at the Pohoiki Boat Ramp. I conducted a safety inspection of the vessel immediately after it was recovered from the water and found that the operator was not in possession of a boating safety course certificate of completion (or a suitable alternative). I issued a citation under HAR 13-244-15.5(a)

SCENE

- · Location: Pohoiki Boat Basin and Boat Ramp
- Weather: Clear / Sunny
- Water Conditions: Approximately 2-4 foot easterly wind waves, with a 3-5 foot long-period easterly ground swell

VESSEL

- HA 9689 H "HOOKUPU"; 25 foot length; white; fiberglass; power catamaran; twin 150 HP outboard engines
- Vessel was displaying current and adequate vessel numbering and registration decals

OPERATOR IDENTIFIED

The vessel operator produced a Hawaii State Driver's License

Identifying himself as Henry K. POMROY, DOB

PASSENGERS

The vessel had six passengers onboard. See connecting 17-0328-HA for more details.

CONDUCTED SAFETY INSPECTION

I conducted a safety inspection of the vessel, utilizing a DOCARE form 27, Report of Boarding, which is attached as Exhibit (A). I found all safety equipment and administrative requirements to be in suitable condition, with two exceptions:

- During the safety inspection, I asked POMROY to present a Boating Safety Course Certificate of Completion, to which he replied
 that he was not in possession of one. When asked if he possessed a valid Merchant Mariner Credential (which is a suitable
 alternative under HAR 13-244-15.5), POMROY stated that he also did not have a valid Merchant Mariner Credential.
- 2. I also found that POMROY was in possession of a Certificate of Numbers that expired in July of 2016. POMROY stated that he had not received his updated Certificate of Numbers card from DOBOR, but his vessel registration was up to date. I checked the registration decals that were properly affixed to the bow of both sides of HA 9689 H, and they were both current, indicating that the vessel's registration was current.

(Continued on Next Page)

Denle, Cralg

236

Badge No.

11-03-2016 / 1300 hrs

Date / Time

INVESTIGATION # 17-0329-HA Puna

LEAD INVESTIGATOR

KEY REPORT

DATE / TIME REPORTED 10/27/2016 7 50:00 AM LOCATION Poholki Craig Dente

[X]Yes []No

OWNWB. NO OPERATOR SAFETY COURSE

CONNECTING REPORT(5) 17-0325-HA

Report (Continued)

VIOLATIONS OBSERVED

During the inspection, I found that POMROY was in violation of the following:

- 1. HAR 13-244-15.5(a) Boating Safety Course Certificate of Completion
- 2. HAR 13-241-10(e) Expired Certificate of Numbers

CITATION ISSUED

I issued POMROY citation 062425 LNR under HAR 13-244-15.5(a) for not being in possession of a NASBLA Approved Boating Safety Course Certificate of Completion. POMROY signed the citation, acknowledging his mandatory court appearance on December 16, 2016 in S. Hilo Coutroom 2B at 0830 hrs.

WARNING ISSUED

I issued POMOY a verbal warning under HAR 13-241-10(e) for being in possession of an expired Certificate of Numbers, POMROY stated that he would proceed to the Hilo DOBOR office immediately to rectify this deficiency.

DISPOSITION

CLOSED - CITATION ISSUED (062425 LNR)

(End of Report)

Dente, Craig

Officer

236

Badge No

11-03-2016 / 1300 hrs

Date / Time

INVESTIGATION # 17-0329-HA	District Lead In: Puns Dente,			Report Status In Progress	Key Report [X] Yes [] No
Date/Time Reported 10/27/2016 D7 50AM	Location A Poholidi		Classification OWNWB NO OPERAT	OR SAFETY COURSE	Cennecting Reports 17-0328-HA

WARNINGS

issuing Officer

Dente Craig

Issue Date/Time

10/27/2015 08 30AM

Defendant

Pomroy Henry (Suspect)

Notes

Owner in possession of an expired certificate of number, however current certificate of number decals were displayed onboard the vessel, indicating he was in possession of an old card, but the actual vessel registration was up to date. Verbal warning issued

Violation

Activity Code

13-241-10(e) EXPIRED CERTIFICATE OF NUMBER

1720 Ocean Waters Navigable Waters, Beaches

Vehicle

HA9689H (Fiberglass Catameran /

Yardbuilt)

REPORT OF	DATE	BOARDING TIME				
BOARDING	10-27-2016	000-				
VESSEL NUMBER	The second secon	0805				
0.4.00	VESSEL NAME		HIN			
¥ 44 9689 H	HOOKUPU		TEN 2500	30010		
S MAKE	POB TYPE OF BOAT	PROPULSION	HULL MATERIAL	ENGINE COMPARTMENT		
S INTRUDER	CI OpenM/B ADULT AL CabinM/B	JK, Outboard	Cl Wood Cl Aluminum	Open Closed (F/E & Venting)		
L MODEL	ADULT CabhMB	☐ Inbrd@as	☐ Steel	FUEL COMPARTMENT		
YARDBUILT	-7 D Rowboat	III Inbrd/Outbrd	7 Fiberglass	Open		
D MODEL YR NET TONS LENGTH	☐ Canos/Kayak ☐ Houseboat	☐ Jet Propelled☐ Sail only	C) Rubber, Vinyt	Closed (F/E & Ventrey)		
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		16160	C CG Auditary C Power Squadron	☐ State/county		
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FIRE EXTINGUISHER						
BACKFIRE FLAME CONTROL		OTHER (SPEC	FY):			
VENTILATION						
NAV./ANCHOR LTS.		OTHER (SPEC	FY):			
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VISUAL DISTRESS SIGNALS NEGLIGENT OPERATION		The second secon	CTION TAKEN			
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Nov 3, 2016 1,41,12 PM

Printed By, H15DENTC from DLNR02

Received Time:

13:39:50 11-03-16

Source ORI:

HI0020702

Summary:

View Message Details

DLNR02 00007 AT 13:39 11/03/2016

ADLB: OLN:

RX01ADLB MRI-759794

Received Time:

13:39:50 11-03-16

Source ORI:

HIOLN0000

Summary:

ADLB: OLN-

View Message Details

ADLB

DRIVER LICENSE GENERAL ROOT INQUIRY

PF KEY

DATE 11/03/16 13:40 TERM RY01 LIC STATUS BIRTHDATE CLASS CDL CTY LIC EXPIRES

P/L/U/T LICENSE L S

ACTIVE **ENDORS**

RSTR

H MED-REC=

NAME POMROY, HENRY, K, 3RD

POMROY LAST NAME

SUFFIX 3RD

3

FIRST NAME HENRY

MIDDLE NAME K

MAIL ADDRESS

HILO, HI

96720

HOME ADDRESS

HEIGHT

WEIGHT

HAIR

EYES

SEX М

ISSUE DATE

CARD DATE 11/18/2010

09/14/1989 PF3:NAME INQUIRY PF21:NEXT SSN

22: HELP

7888 DRIVERS LICENSE NUMBER HAS AN OUTSTANDING VIOLATION.

MRI 759795 IN: RX01ADLB 354 AT 03NOV2016 13:39:50

OUT: DLNRO2 3 AT 03NOV2016 13:39:50

REG # (HA-XXXX-XX) HA-9689 H HULL ID TEN25003C010 DECAL # R11318

RAMP# R39416 STATUS

EXP DATE (MM/YY)

07/17

PRINCIPAL DWIER LO-DWIER LIENHOLDER MURTGAGES VESSEL VESSEL ALSO MOLL MITTER

PRINCIPAL OWNER

BUSINESS

LAST HAME

DATE OF DIRTH (MM-OD-YYYY)

* FIRST NAME HENRY

CONTACT PHONE XXX-XXX-XXXX

MIDDLE NAME

" EMAIL

*CITIZENSHIP OF OWNER UNITED STATES

MAILING ADDRESS

-STREET1

FEITY HILO

*STATE HAWAII 96720

*COUNTRY UNITED STATES

PROVINCE

STREET ADDRESS

J SAME AS MAILING ADDRESS

- REQUIRED

LAST UPDATED 10 19-2016 07 16 40 PM Esther M Kadohiro

* REG # (HA-XXXX-XX) HA-9689-H

HULL ID TEN25003C010

DECAL # R11318

RAMP# R39416

STATUS NACTIVE EXP DATE (MM/YY) 07/17

PRINCIPAL DIVINER CO OWNER LIENHOLDER MORTGAGEL VESSEL VESSEL MISC HULL NOTES

CO-OWNERS FUJIMOTO, BILL A.G. STREET

CITY STATE/PROVINCE

HI

ZIP CODE 96720

COUNTRY US

VIEW CO-OWNER

BUSINESS

LAST NAME **FUJIMOTO**

DATE OF BIRTH (MM DD-YYYY)

FIRST NAME BILL.

HILO

CONTACT PHONE XXX-XXX-XXXX

MIDDLE INITIAL AG

EMAIL

NONE@NONE OCM

*STREET ADDRESS

STREETS

CITY HILO

COUNTRY UNITED STATES STATE HAWAII ZIP CODE 96720

PROVINCE

LAST UPDATED 09-22-2015-04-23-00 PM, Loviann C Domingo

1-OUTBOARD

* = REQUIRED

HULL ID REG # (HA XXXX XX) DECAL# RAMP STATUS EXP DATE (NM/YY) TEN25003C010 HA-9689-H R11318 R39416 HACTIVE 07/17 FERICAPAL OWNER GO DAMER LIENHOLDER MORTGAGES VESSEL VESSEL MISC MICH. THORES * VESSEL NAME YEAR BUILT YEAR MODEL * FEET * INCHES HOOKAPUU 2012 2012 25 00 HOMESUILT? * ENGINE MANUFACTURER SERIAL NUMBER HONDA * TYPE OF VESSEL 1-CABIN MOTORBOAT * PRINCIPAL USE 1-PLEASURE TYPE OF FUEL 1-GASOLINE * PROPULSION

"REG #{HA-XXXX-XX} HA-9689-H

HULL IO TEN25003C010 DECAL R11318 RANP R39416 STATUS MACTIVE

EXP. DATE (MM/YY) 07/17

PRINCIPAL DIMIER CO OWNER LIENHOLDER MORTGAGES VESSEL VESSEL MISC. HILL HOTES

* RADIO COMMUNICATIONS

4-BOTH

*PLACE VESSEL KEPT

1-MOORED, Z-STORED ON LAND STORED ON LAND

ISLAND HAWAIL/ BIG ISLAND

IF VESSEL REGISTERED AS COMMERCIAL

NET TONS (IF BOAT IS OVER 30 FT)

AVG NO OF PASSENGERS

USE TRAILER TO LAUNCH BOAT FROM STATE BOAT RAMP YES

IF VESSEL REGISTERED AS PLEASURE

IF FISHING (OF ANY KIND) IS NOT YOUR PRINCIPLE USE, DO YOU EVER USE YOUR VESSEL FOR NON-COMMERCIAL OR RECREATIONAL FISHING? [NO]

" REG. = (HA-XXXX-XX) HA-9689-H HULL ID TEN25003C010 DECAL # R11318 RAMP# R39416 STATUS

EXP DATE (MM/YY)

PRINCIPAL SAMER COLOMNER LIENHOLDER MORTG-GES VESSEL VESSELMISC HULL SIGNES

HULL

NUMBER OF HULLS

* HULL MANUFACTURER TERN BOATS *HULL COUNTRY UNITED STATES

"HULL COLOR WHITE * CABIN COLOR WHITE * TRIM COLOR WHITE

* HULL MATERIAL

3-FIBERGLASS/PLASTIC

DOCARE COMPLAINT & SUMMON	S
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NAME POMROY	_
4 HENRY	
Current/Maling	-
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Only, date, 24	_
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Place of Employment School or Environ School or Environ History Rank Antonio History Rank	
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did operate/command Vehicle/Vessels HA 9689 H	
Validia Vessel Mako Name HOOKUPU Type CAT 25' Color WJ4RT IV: 2012	5
et Floorition):	
POHOIKI BASIN	_
NO BOATING SAFETY COURSE	
SECTION: 12 Co. 15 CT.	_
SECTION: 13-244-15.5(a)	2
EVIDENCE TAKEN: Yes DESCRIPTION OF EVIDENCE	
Receipt of title gration is acknowledged (Your signature is not an admission of guitt)	-
X/E//	
The undersigned alleges that the person named above compaled the offense before set lorth, contrary to level	
Date of lease 10-27-2016 Tong 06 50	Hrs.
1000	_
COUNTY CRED TIL Z36	
Complainant's Signature Budge/ID No.	
Ball Forfeiture by Mail Permitted: Yes XNo	
BEFORE court date BEFORE Court date OURT ON COUNT date Propriet Around COURT	
SUMMONS	
Your court appearance date is:	
DATE: DECEMBER 16,2000 8:30 AM COURTROOM 21	3
NORTH COURT OF EMP COURT OF PUNA HULD IN S. HILO	000
	40

OFFICER

beyond its safe power capacity taking into consideration the type and construction of the vessel and other existing operating conditions. Capacity and horsepower limitations shall be in conformance with 33 CFR Part 183. [Eff 2/24/94, comp]

(Auth: HRS §200-24) (Imp: HRS §§200-22, 200-24)

\$13-244-15.5 Operation of power driven vessels.

(a) Any person operating a power driven vessel on the waters of the state shall be required to possess a certificate of completion from a National Association of State Boating Law Administrators (NASBLA) approved course on the safe use and operation of a power driven vessel that contains a component on Hawaii waters approved by the department. Exempt from this requirement are persons who:

- (1) Possess a valid merchant mariner credential to operate a vessel issued by the United States Coast Guard pursuant to 46 CFR Part 10, or
- (2) Operate a thrill craft in a commercial thrill craft zone as authorized by the State, or
- (3) Operate a motor vessel that is ten horsepower or less, or
- (4) Are on a voyage originating outside of the state and remain in the state less than sixty calendar days
- (b) A person under sixteen (16) years of age shall not operate a power driven vessel on the waters of the state unless accompanied on-board and directly supervised by a person twenty-one (21) years of age or older who holds the required certificate of completion.
- (c) A person or the person's responsible managing employee or agent engaged in the business of renting or leasing power driven vessels shall not rent or lease a power driven vessel to any person for operation on the waters of the State unless the person:

- (1) Meets all the requirements of this rule by providing a safety briefing as approved by the department; and
- (2) Is identified on the rental or lease agreement for a power driven vessel by name and age. A person or the person's agent or employee renting or leasing power driven vessels who fails to request and inspect certificates or evidence of exemption is in violation of this rule.
- (d) A person who is operating a power driven vessel on any waters of the State and who is stopped by a law enforcement officer shall present to the officer, upon request, a certificate of completion required by this rule or acceptable evidence of exemption from the required certificate. Failure to present a certificate of completion or acceptable evidence of exemption shall constitute a violation of this rule, unless the person presents the required certificate or evidence of exemption to a court of law and satisfies the court that this person held a proper certificate or was exempt at the time the person was asked to produce the certificate.
- (e) A person who alters, forges, counterfeits or falsifies a certificate or other document used as evidence, or who possesses a certificate or other document that has been altered, forged, counterfeited or falsified, or who loans or permits that person's certificate or other document to be used by another person, shall be in violation of this rule.
- (f) The department shall maintain a list of NASBLA approved courses that provide a department approved component on Hawaii waters, which shall include but not be limited to:
 - Local ocean safety principles and practices; and
 - (2) Any rules or laws pertaining to protected species and power driven vessel operation in the State.
- (g) This rule shall be enforced beginning on the second anniversary date of the rule's effective date.
 - (h) Pursuant to section 200-25, Hawaii Revised

Statutes, any person violating this rule shall be fined not less than \$50 and not more than \$1000 or sentenced to a term of imprisonment of not more than thirty days, or both, for each violation; provided that in addition to, or as a condition to the suspension of, the fines and penalties, the court may deprive the offender of the privilege of operating any vessel in the waters of the State for a period of not more than thirty days. [Eff 11/10/12, am and comp

[(Auth: HRS §\$200-2, 200-3, 200-4, 200-21, 200-22, 200-24, 200-25) (Imp: HRS §\$200-2, 200-3, 200-4, 200-21, 200-21, 200-22, 200-24, 200-25)

\$13-244-16 Restricted areas. No person shall operate a vessel within a water area which has been clearly marked, in accordance with, and as authorized by, these rules by buoys or some other distinguishing device as a bathing, swimming or otherwise restricted area; provided that this section shall not apply in the case of an emergency, or to patrol or rescue craft. [Eff 2/24/94, comp] (Auth: HRS \$200-24) (Imp: HRS \$\$200-22, 200-24)

\$13-244-17 Riding on bow or gunwales prohibited. No person operating a motorboat of twenty-six feet or less in length shall allow any person to ride or sit on the gunwales thereof or on the decking over the bow of the vessel while underway unless the motorboat is provided with adequate guards or railing to prevent passengers from being lost overboard. Nothing in this section shall be construed to mean that passengers or other persons aboard a motorboat cannot occupy the decking over a bow of the boat to moor the vessel or to cast off from a mooring, or for any other necessary purpose. [Eff 2/24/94, comp] (Auth: HRS \$200-24) (Imp: HRS \$\$200-22, 200-24)

§13-244-18 <u>Waterskiing</u>; dangerous practices prohibited; hand signals. (a) No motorboat which

\$200-25 Fines and penalties. Any person violating this part, or any rule adopted pursuant to this part, shall be fined not less than \$50 and not more than \$1,000 or sentenced to a term of imprisonment of not more than thirty days, or both, for each violation; provided that in addition to, or as a condition to the suspension of, the fines and penalties, the environmental court may deprive the offender of the privilege of operating any vessel, including but not limited to any thrill craft or vessel engaged in parasailing or water sledding, in the waters of the State for a period of not more than thirty days. [L 1991, c 272, pt of \$2; am L 1997, c 204, \$2; am L 2014, c 218, \$8]

Previous

Vol03 Ch0121-0200D

<u>Next</u>

		Lead Inve Dente, C		Report Status In Progress	Key Report [X] Yes [] No
Time Reported	Location		Classification		Connecting Reports
01/08/2017 08:00AM	Рипа		SBH. COMMERCIAL ACTIVIT		

Incident & Report Control Form

DOCARE-5 (Rev. B/03)

A. COMPLAINT

Taken By:

Craig Dente

How Taken:

On Beat

Complainant;

Craig Dente

Home

Work

Cell

Phone:

Address:

Incident Summary:

Description COMMERCIAL ACTIVITY

Suspect: HENRY POMROY

Vehicle/Vessel: HA9689H "HOOKUPU"

Location: **Location Notes:**

Pohoiki Boat Ramp

Occured From:

Reported Date/Time:

01/08/2017 D8 00AM

01/08/2017 08:00AM

Occured To:

B. REPORT CONTROL

ranch:

strict Lead Investigator: East Hawaii Craig Dente

Date Assigned:

01/09/2017 10:20AM

C. NOTES/DISPOSITION/OTHER INFO

INVESTIGATION CONTINUING

17-0602-HA		District East Hawaii		Lead Investigator Dente, Craig	r	Report Status In Progress				Key Report				
Date/Time Reported Location 01/08/2017 08 00AM Puna			Ctassi	CIALACTIVITY				Connecting Reports						
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Inve	estigation R	eport											1.	
	CLASSIFICATION SBH; COMMERC	CIAL ACTIV	ITY							z source On Beat				
	COMPLAINANT'S NAME Craig Dente					4. SEX 5. RACE 6. AGE			7. BIRTH DATE		B OCCUPA	8 OCCUPATION		
BASIC	9 ADDRESS					10. PLACE EMPLOYED/SCHOOL ATTEND		ENDING	11. HOME		12. WORK	13. CELL		
14.	LOCATION OF INCID	NTANTERSECTING STREET				I				E/TIME OCCURRED (2017 08.00AM)		16. DATE/TIME REPORTED 01/08/2017 08:00AM		
	TYPE	18 YEAR 2012	19 MAKE	20 MODE ss Catamar Yardbu				21 COLOR White	1	22 LICENSE / HA No. HA9689H		23 LENGTH	1 24 STOLEN	
25	25 REGISTERED OWNER			26 ADDRESS		3111	VVIINE		27 HOME			28 WORK	29 CELL	
	Henry Pomroy												(0 × 1 × 1)	
7) 30	NOTES													
VEHICLES	TYPE	32 YEAR	33 MAKE		34 MODE			35 COLOR	- 36	LICENSE	HA No.	37. LENGTH		
	Boat Trailer REGISTERED OWNER		Boat	40 ADDRESS	Trailer	·				41.HO	145	42 WORK	No CELL	
- 35	Henry Pomroy	;m		40 ADDRESS	3					41. HU	WE	42 WORK	13 CELL	
44	4 NOTES									_1.				
45	1 NAME					45 SEX	47 R	PACE	48 AGE	49 日日	TH DATE	50 OCCUP	ATION	
	Henry Pomroy					Male	Whit	le				fisherma	ın	
51	51 CATEGORY 52 ADDRESS				s					53 HO	ME	54 WORK	55 CELL	
56	Suspect NAME					57 SEX	5A F	IACE	59 AGE	60 BIE	TH DATE	61 OCCUP	ATION	
82 0 62	Bill FUJIMOTO					Male	33 //						********	
82	62 CATEGORY			63 ADDRESS		1			64 HO	ME	55 WORK	66 CELL		
	Suspect T NAME					68 SEX	<u> </u>		30.400	30 800	211 0127	72 OCCUP	ATION .	
•	NAME						99 H	IACE	70 AGE	71 BIRTH DATE		/2 OCCOP	· · ·	
73	3 CATEGORY			74 ADDRES	s					75 HO	ME	76 WORK	77 CELL	
76	a SYNOPSIS			<u> </u>	·									
t t	While patrolling P been trailered. I n having paid \$175 make formal writt INVESTIGATION	nade contac each to go en statemen	t with four on a boat r	lourists who v	vere stand	ding nearby	y, who st	tated that the	y just return	ed from a	a voyage	on HA9689H,	1	
SYNOPSIS	INVESTIGATION	CONTINUI	NG											
						·		111	4			11246		
# D	ente, Craig	19 m		80 BADGE No. 236	and the second	TIME WRITTE 017 05:45F		ler, James	A MINOR	* [1]	DAT 24	ETIME APPROVE	D #4 BADGE No	
WRITER	S DISPOSITION	D							_//		1	1		
								,	<u> </u>			1		

INVESTIGATION # 17-0802-HA

DISTRICT East Hawaii **LEAD INVESTIGATOR** Craig Dente

KEY REPORT [X]Yes []No

TIME REPORTED 1/8/2017 8:00:00 AM

LOCATION Puna

CLASSIFICATION SBH: COMMERCIAL ACTIVITY CONNECTING REPORT(S)

Report Type: [x] Continuation of Report

Written By: Dente, Craig

Date/Time Written: 01-20-2017 / 1800 hrs

[] Supplemental

[] Follow Up

Report

ASSIGNMENT

While on duty as DOCARE 637 on 01-08-2017, at approximately 0800 hrs. I was patrolling at Pohoiki Boat Ramp.

SCENE

Upon entering the lower parking lot of Isaac Hale Beach Park, adjacent to Pohoiki Boat Ramp, I observed HA9689H trailered in the parking lot and dripping wet as if it had just been taken from the water. Nearby, I spotted a pickup truck parked with 4 persons who appeared to be tourists standing by the bed of the truck.

MADE CONTACT WITH TOURISTS

I made contact with the group and identified myself as a Conservation Officer with DLNR DOCARE. The tourists provided identification, identifying themselves as follows:

Mr. James Lear

Mrs. Nichole Lear

Mr. & Mrs. Gary & Donna Bakke Montana Residents

TOURISTS STATED THEY TOOK A LAVA TOUR ON HA9689H

I asked the group if they had just returned from a tour. The group stated that they just returned from a tour to see the lava flow onboard HA9689H with "Captain Skosh", a person known to me as Henry POMROY. I asked them to describe what the Captain looked like, and the description they provided matched that of Henry POMROY, Mr. James Lear stated that he booked the tour and said that he found out about the tour online at www.tailmetours.com. I asked the Mr. Lear what they paid to go on the tour, to which he replied that he made a \$100 deposit via credit card to book a reservation through GregNottingham@tailmetours.com, and at the ramp, they paid \$175 each in cash to Captain Skosh. Mr. James Lear then showed me that Captain Skosh provided him with a business card to share with his friends. I took a photo of the business card. See attached photo log.

(Continued on Next Page)

Dente	
Officer	

Craig

236 Badge No. 01-20-2017 / 1800 hrs

Date / Time

INVESTIGATION # 17-0602-HA

DISTRICT

LEAD INVESTIGATOR

KEY REPORT

East Hawaii

Cralg Dente

[X] Yes [] No

DATE / TIME REPORTED 1/8/2017 8:00:00 AM

LOCATION Puna

CLASSIFICATION

SBH: COMMERCIAL ACTIVITY

CONNECTING REPORT(S)

Report (Continued)

TOURISTS REFUSED TO PROVIDE FORMAL STATEMENT

On 01-12-2016, I contacted Mr. James Lear by telephone. He stated that he and his family were busy and were not interested in providing any further statements.

DISPOSITION

Due to lack of formal witness statements and their unwillingness to testify, there is not sufficient evidence to charge Henry POMROY with a violation for conducting commercial operations without a ramp use permit under HAR §13-231-3 for adjudication in environmental court. Recommend DOBOR pursue civil penalties.

CLOSED - FORWARD TO DOBOR FOR POSSIBLE CIVIL PENALTIES

(End of Report)

Dente, Craig

Officer

Badge No

01-20-2017 / 1800 hrs

Date / Time

INVESTIGATION #

/ TIME REPORTED 1/8/2017 8:00:00 AM DISTRICT
East Hawaii

Puna

LEAD INVESTIGATOR
Craig Dente

CLASSIFICATION
SBH: COMMERCIAL ACTIVITY

KEY REPORT
[X] Yes []

CONNECTING REPORT(S)

Report Description: Photo Log

Date/Time Taken: 01-08-2017 / Approximately 0800 hrs

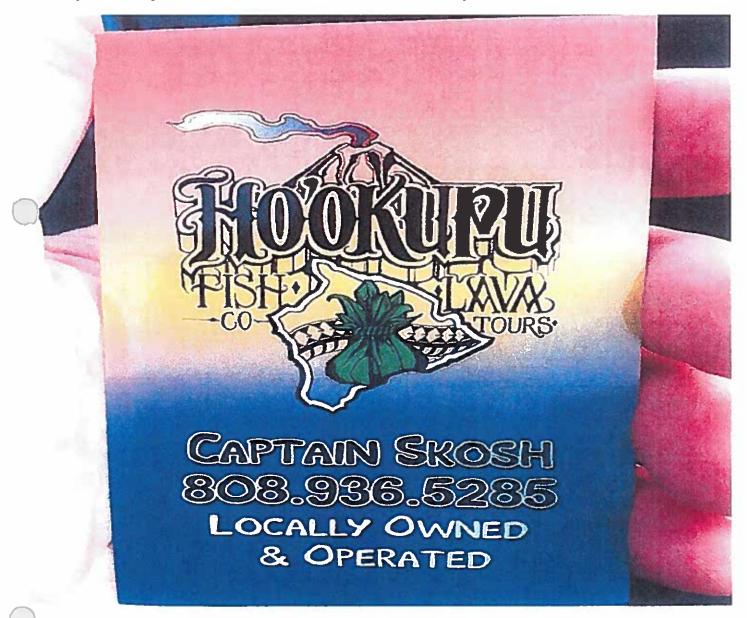
Taken By: Dente, Craig

Scene: Parking Lot adjacent to Pohoiki Boat Ramp

Equipment: iPhone
Weather Conditions: Clear / Sunny
Lighting: Daylight / Natural

Focus: Auto

1 Depicts Henry "Skosh POMROY Business Card "Hookupu Fish Co. / Lava Tours"



Aloha & Welcome to ... BIGISLAND LAVA BOAT

1 - vent Prices & Best Gereter Anywherrs. (808) 333 - 4016



You simply won't believe your eyes! If somehow you could pay for a trip to Mars...you would get there and feel like you wasted a lot of time and money — compared to what you will see, right here on the Big Island of Hawaii!!

So don't wait another second and call us TODAY to learn more about our truly fascinating LAVA BOAT TOURS!!

Thanks for your time and consideration of 2:6 ISLAND LAVA BOAT and we hope to hear from you real soon!

Many Mahalos.

1/20/20₂7 Tail Me Tours

http://tailmetours.com/

Form the second substitution of the second s

INVESTIGATION # 17-0735-HA	District Puna	Land Invi	-	Report Status In Progress	Kay Report [X] Yes [] No	
Dete/Time Reported 02/07/2017 05:45AM	Location Pohoiki		Classification SBH COMMERCIAL RAMP U	ISE	Connecting Report 17-111-HA, 17-0328 17-0736-HA	

Incident & Report Control Form

DOCARE-5 (Rev. 8/03

A. COMPLAINT

Taken By:

Craig Dente

How Taken:

On Beat

Compleinant:

Craig Dente

Work

Phone:

Address:

Incident Summary:

Description COMMERCIAL RAMP USE

Suspect. POMROY, Henry K.

Vehicle/Vessel HA9559H

Location:

Pohoiki

Location Hotes:

Pohoiki Boat Ramp

Occurred From:

Reported Date/Time:

02/07/2017 05 45AM

02/07/2017 05:45AM

Occurred To:

B. REPORT CONTROL

Branch:

Hawsli

Puna Craig Dente

Lead Investigator: Date Assigned:

02/11/2017 11 22AM

C. NOTES/DISPOSITION/OTHER INFO

CLOSED - CITATION ISSUED (062433 LNR)

Deta/Time Reported 02/07/2017 05 45AM Pohoiki Investigation Report 1 CLASSIFICATION SBH COMMERCIAL RAMP US 1 COMPLAINANT'S NAME Craig Dente 9 ADDRESS	E STREET	Mication COMMERC	4 SEX	5 RACE	G AC	0	Connectin 17-111-HA 17-0736-H	17. A	ports 0328-HA, 17-060	12-HA,
I CLASSIFICATION SBH COMMERCIAL RAMP US COMPLAINANT'S NAME Craig Denie	I STREET			<u> </u>	G AG	0	n Beat			
SBH COMMERCIAL RAMP US 3 COMPLANANTS NAME Craig Dente	I STREET			<u> </u>	G AG	0	n Beat			
Craig Dente	MAKE			<u> </u>	G AC	£ 78		_		
B ADDRESS	MAKE		10 PLACE E	TIEN OVER PRIMO	- 1		HTH DATE		8 OCCUPATIO	M .
	MAKE		<u></u>	MATOLEMPCAR	DE ATTENDING	11 1	OME	12	WORK	13 CELL
14 LOCATION OF INCIDENT/INTERSECTING Pohoiki Boat Ramp				······································		ATE/TIME OCC 07/2017 05			16 DATE/TIME D2/07/2017	5.176
	berglass Catamar	20 MODE	_	21 COL		22. LICENS HA96			23 LENGTH 25	24 STOLEN No
25 REGISTERED OWNER	25 ADDRES	S	-			27 1	OME	29	WORK	29. CELL
Henry Pomroy]	80	8-935-8092	
26 NOTES										
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Henry Pomray	40 ADDRES	IS.		•		41	OME		WORK 8-935-8092	43. CELL
44 NOTES									0 000 0032	
45 NAME			46. SÉX	47 RACE	48 A	GE 49 E	IRTH DATE		50 OCCUPATION	DN
Henry Pomray	52 ADDRES		Male	White					fisheman	
Suspect	SZ ADDRES					53 F	OWE		WORK 8-935-8092	55 CELL
SO NAME	I <u>-</u>		S7 SEX	58 RACE	39 A	GE 60. E	INTH DATE	Ĩ	BI OCCUPATE	ON
G. G. CATEGORY	43 ADDRES	3				64 h	ONE	6.5	WOAK	66 CELL
47 NAME	<u> </u>		48. SEX	89 RACE	70.A	GE 71 B	IRTH DATE	_	72 OCCUPATE	DN
73 CATEGORY	74 ADDRES	S		<u> </u>		75 H	OME	76	WORK	77 CELL
Observed suspect at Pohoiki Boat not in possession of a commercial Suspect has previous history of co 09-14-2016, and previously wame 17-111-HA, 17-0328-HA, and 17-0 was issued a Notice of Violation fo (Captain's License).	use permit for Poh inducting lava boat d verbally to stop o 602-HA. Boarding	tours from tours from conducting a was conduc	Poholki. Su passenger cted jointly v	NR issued spect was issued re-for-hire lava with U.S. Coas	ued a Cease Nour operati	and Desist on, Refer to Enforceme	Order by D connecting	LNI rep	R DOBOR on oorts ere the suspe	
TO REPORT WRITTEN BY Dente, Craig as. DISPOSITION	80 BADGE No. 236		ME WRITTEN 7 11:43 M	Weller, James	A Markovisico	419-	a) DATE		13	84 BADGE No. 19

INVESTIGATION # 17-0735-HA

DISTRICT Puna LEAD INVESTIGATOR
Craig Dente

KEY REPORT
[X] Yes [] No

DATE / TIME REPORTED 2/7/2017 5:45:00 AM LOCATION Pohoiki CLASSIFICATION
SBH COMMERCIAL RAMP USE

CONNECTING REPORT(S) 17-111-HA, 17-0328-HA, 17-0602-HA, 17-0736-

Report Type: [x] Continuation of Report

Date/Time Written: 02-25-2017 / 1400 hrs Written By: Dente, Craig [] Supplemental

[] Follow Up

Report

ASSIGNMENT

While on duty as DOCARE 637 on 02-07-2017, from approximately 0530 hrs to 0645 hrs, I conducted a joint boarding with U.S. Coast Guard Law Enforcement Officers of suspect Henry "Skosh" POMROY's 25 foot white fiberglass catamaran "HOOKUPU" HA 9689H at the Pohoiki Boat Ramp staging area at the Isaac Hale Beach Park lower parking lot, in Puna, HI.

I observed suspect Henry "Skosh" POMROY conducting Commercial Operations at Pohoiki Boat Ramp without a Commercial Use Permit. I issued POMROY a Citation. POMROY had previously been served a Cease-and-Desist letter from DLNR Division of Boating and Ocean Recreation (DOBOR), directing him to stop conducting commercial operations without a permit at Pohoiki, Suspect Henry "Skosh" POMROY had also been warned by me for conducting commercial operations without a permit on a separate date

BACKGROUND

- 09-14-2016. Suspect Henry "Skosh" POMROY was issued a Cease & Desist Letter from DLNR DOBOR to cease conducting commercial operations at Pohoiki. Refer to report 17-111-HA, enclosed as Exhibit 1 and Cease & Desist Letter enclosed as Exhibit 2.
- 10-27-2016: Suspect Henry "Skosh" POMROY observed conducting commercial operations at Pohoiki Boat Ramp; case referred to DLNR DOBOR for Civit Penalties. Refer to report 17-0328-HA, enclosed as Exhibit 3.
- 01-08-2017. Suspect Henry "Skosh" POMROY observed upon return from an ocean voyage on HOOKUPU HA9689H at Pohoiki Boat Ramp; four tourists in the area made verbal statements that they paid him to go on a lava tour on his boat. Although cooperative at the time, the tourists refused to make written statements; therefore I had insufficient evidence to put forth a case to Environmental Court. Refer to report 17-0602-HA, enclosed as Exhibit 4.
- 02-07-2017: Suspect Henry "Skosh" POMROY observed conducting commercial operations at Poholki Boat Ramp, with seven paying customers onboard; details contained herein.

SCENE

- Location: Pohoiki Boat Ramp staging area / Isaac Hale Beach Park lower parking lot.
- <u>Time Element</u>: The boarding commenced at approximately 0545 hrs, and concluded approximately 0645 hrs.
- <u>Sunrise</u>: According to the U.S. Navat Observatory, sunrise occurred at Pahoa, HI at 0652 hrs on 02-07-2017.
- <u>Lighting</u>: The boarding commenced during total darkness. At the end of the boarding, it was daybreak.
- . Weather: The sky was clear, with calm winds and no precipitation.
- <u>Persons at Scene</u>: Upon my approach, there were 11 persons loaded into the HOOKUPU HA9689H, which was resting on boat trailer which was attached to a Dodge Pickup Truck
 All 11 persons onboard were identified and are listed below.
- Vesset: HOOKUPU HA9689H, a 25 foot white power catamaran with twin 150HP Honda outboard engines. HOOKUPU HA9689H was on boat trailer attached to a grey Dodge pickup truck Registered owners of the HOOKUPU HA9689H are Henry "Skosh" POMROY and Bill FUJIMOTO, according to the DOBOR Vessel Registry, enclosed as Exhibit 4.

(Continued on Next Page)

	1000		
Dente, Craig	181111	236	02-25-2017 / 1400 hrs
Officer	000	Badge No	Date / Time

State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement S INVESTIGATION # DISTRICT LEAD INVESTIGATOR KEY REPORT 17-0735-HA Рила Craig Dente [X] Yes [] No DATE / TIME REPORTED LOCATION CLASSIFICATION CONNECTING REPORT(S) 2/7/2017 5:45:00 AM Pohoiki SBH: COMMERCIAL RAMP USE 17-111-HA, 17-0328-HA, 17-0602-HA, 17-0736-Report (Continued) COAST GUARD INVESTIGATIVE SERVICES OFFICERS RESERVED SEATS ON TOUR ONLINE As part of the joint DOCARE / USCG Boarding, Coast Guard Investigative Service (CGIS) Agents that they booked a tour on HA9689H online, at website https://bigislandlevaboat.com; stating that they left a \$25 deposit, each, via credit card online. Instructions provided via email instructed them to pay \$150 in cash each to the vessel operator after the tour was completed. Additionally, paying passenger provided an email between BIG ISLAND LAVA BOAT webmaster and himself providing financial details of Commercial Operations at Pohoiki Boat Ramp, HA9689H, and Captain "Skosh; which is attached as Exhibit 6. The first attachment to this email contains a photograph of HA9689H, and is included as Exhibit 7. PAYING PASSENGERS IDENTIFIED AND INTERVIEWED I conducted interviews of the five other paying passengers, with the assistance of U.S. Coast Guard Investigative Service (CGIS) Agents U.S. Coast Guard Boarding Officers Officer L. TERLEP. All passengers made verbal statements that they booked a tour online at https://bigislandlavaboat.com, left a \$25 deposit per person via credit card online, and agreed to pay \$150 in cash per person to the vessel operator after the tour was completed. made a verbal statement to me that he reserved his seat for \$25 online via credit card at the website listed above, and made an agreement with POMROY to pay \$150 in cash for upon the conclusion of the lava tour. made a verbal statement to me that his partner reserved his seat for an additional \$25 via credit card at the website listed above, and made an agreement with POMROY to pay \$150 in cash upon conclusion of the lava tour. , a tourist from Sydney Australia, made a verbal statement to me that he reserved his seat for \$25 online via credit card at the website listed above, and instructions on the confirmation email he received instructed him to pay an additional \$150 in cash to Captain Skosh upon the conclusion of the lava tour. a tourist from Sydney Australia, made a verbal statement to me that she reserved her seat for \$25 online via credit card at the website listed above, and instructions on the confirmation email she received instructed her to pay an additional \$150 in cash to Captain Skosh upon the conclusion of the lava tour. a tourist from New Milford, PA, made a verbal statement to me that he reserved his seat for \$25 online via credit card at the website listed above, and instructions on the confirmation email he received instructed him to pay an additional \$150 in cash to Captain Skosh upon the conclusion of the lava tour. a tourist from San Jose, CA, made a verbal statement to me that he reserved his seat for \$25 online via credit card at the website listed above, and instructions on the confirmation email he received instructed him to pay an additional \$150 in cash to Captain Skosh upon the conclusion of the lava tour. of a tourist from San Jose, CA, made a verbal statement to me that she reserved her seat for \$25 online via credit card at the website listed above, and instructions on the confirmation email she received instructed her to pay an additional \$150 in cash to Captain Skosh upon the conclusion of the lava tour. NON-PAYING PASSENGERS IDENTIFIED AND INTERVIEWED Non Paying passengers aboard HOOKUPU HA9689H on the morning of 02-07-2017 were identified as: of Pahoa, HI. Claimed to be a long-time friend of Henry "Skosh" POMROY. of Pahoa, HI.I , family friend of Henry "Skosh" POMROY. of Hilo, HI; claimed to be crewmember onboard HOOKUPU HA9689H. (Continued on Next Page)

Nagalive Report

Division of Conservation and Resources Enforcement

Dente, Craig

Officer

Page 2 of 4

02-25-2017 / 1400 hrs

Date / Time

236

Badge No

INVESTIGATION #

DISTRICT

LEAD INVESTIGATOR

KEY REPORT

DATE / TIME REPORTED

2/7/2017 5:45:00 AM

LOCATION Poholki

ATION CLASSIFICATION
OILI SBH COMMERCIAL RAMP USE

CONNECTING REPORT(5)

17-111-HA, 17-0328-HA, 17-0602-HA, 17-0736-

HA

Report (Continued)

TRUCK DRIVER IDENTIFIED

The person driving the Dodge Pickup Truck pulling the HOOKUPU HA9689H with passengers loaded onboard, on boat trailer identified himself as Bill FUJIMOTO of Hilo, HI, and presented Hawaii State Drivers License FUJIMOTO was also issued a Citation for Commercial Operations without a Commercial Use Permit during this boarding (062434 LNR). Refer to connecting report 17-0736-HA for more details.

SUSPECT (VESSEL MASTER/CAPTAIN) IDENTIFIED

The operator of HOOKUPU HA9689H was Henry POMROY, and hilo, HI, known to me from previous interactions. POMROY presented me with a valid Hawaii State driver's license, number and pomroy uses a well known alias "Skosh."

SUSPECT NOT IN POSSESSION OF A COMMERCIAL USE PERMIT

I asked suspect Henry POMROY to present me with his COMMERCIAL USE PERMIT for Pohoiki Boat Ramp. POMROY stated that he did not have a permit.

NO ADVICE OF RIGHTS CONDUCTED - NO QUESTIONS ASKED OR STATEMENT SOLICITED

Based on interviews of the paying passengers and CGIS Agents, I did not need a statement from POMROY to establish that he was conducting commercial operations at Pohoiki Boat Ramp; therefore, I did not conduct an advice of rights or conduct questioning.

PHOTOGRAPHS TAKEN AT THE SCENE

Photographs were taken at dawn of the HOOKUPU HA9869H at approximately 0634 hrs; see attached photo log. Photographs were not taken at the scene initially when all passengers were loaded aboard because darkness precluded it.

VIOLATION

HAR 13-231-3(a)(6): Commercial Use Permit: A use permit which authorizes the owner of a commercial vessel to engage in commercial activities as specified in the permit.

CITATION ISSUED

Based on the information listed above, I found that POMROY was using Pohoiki Boat Ramp for Commercial Activity and did not have a Commercial Use Permit for Pohoiki. I issued citation 062433 LNR to POMROY for adjudication in Third Circuit Environmental Court. POMROY refused to sign the citation form, but verbally acknowledged that he had a mandatory court appearance in Environmental Court on 03-17-2017 in South Hilo Courtroom 2B at 0830. I then gave POMROY his yellow copy of the citation form. See attached photo log, which contains a photograph of me handing him his yellow copy of the citation form.

DISPOSITION

CLOSED - CITATION ISSUED (062433 LNR)

(Continued on Next Page)

Dente, Craig

Officer

236

Badge No

02-25-2017 / 1400 hrs

Date / Time

INVESTIGATION # 17-0735-HA

Puna

LEAD INVESTIGATOR
Craig Dente

KEY REPORT
[X] Yes [] No

DATE / TIME REPORTED 2/7/2017 5:45:00 AM

LOCATION Pohoiki

CLASSIFI

CLASSIFICATION SBH: COMMERCIAL RAMP USE CONNECTING REPORT(S)

17-111-HA, 17-0328-HA, 17-0602-HA, 17-0736-

Report (Continued)

LIST OF EXHIBITS

Exhibit 1: DOCARE Report 17-111-HA

- <u>Exhibit 2</u>: Copy of DLNR DOBOR Cease and Desist Letter, with signed USPS Certified Mail Receipts
- Exhibit 3: DOCARE Report 17-0328-HA
- Exhibit 4: DOCARE Report 17-0602-HA
- Exhibit 5: HOOKUPU HA9689H Vessel Registration Information
- Exhibit 6: Copy of email dated 02-08-2017 at 2101 hrs from BIGISLAND LAVA BOAT (G. NOTTINGHAM) to paying passenger with financial details of HOOKUPU HA9689H commercial operations out of Pohoiki Boal Ramp.
- Exhibit 7: Copy of first attachment to Exhibit 6 Email dated 02-06-2017 at 2101 hrs, which is a photograph of HOOKUPU HA9689H.

(End of Report)

Dente, Craig	HAN	
Officer	011	

236

Badge No

02-25-2017 / 1400 hrs

Date / Time

INVESTIGATION # 17-0735-HA DISTRICT Puna LEAD INVESTIGATOR
Craig Denie

KEY REPORT

DATE / TIME REPORTED 2/7/2017 5 45 00 AM LOCATION Poholid CLASSIFICATION SBH COMMERCIAL RAMP USE CONNECTING REPORT(S) 17-111-HA, 17-0328-HA, 17-0602-HA, 17-0736-

Report Description: Photo Log

Date/Time Taken: 02-07-2017 / Approximately 0634 hrs - 0637 hrs

Taken By: Dente, Craig

Scene: Pohoiki Boat Ramp Staging Area / Isaac Hale Beach Park

Equipment: iPhone
Weather Conditions: Clear / Day

Lighting: Natural / Daylight

Focus: Auto

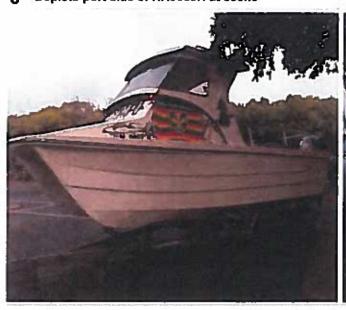
1 Depicts starboard quarter of HA9689H at scene



Depicts starboard side of HA9689H at scene



3 Depicts port side of HA9689H at scene



4 Depicts POMROY receiving Citation 062433 LNR



Photographic Report
Division of Conservation and Resources Enforcement

O , D , Location: W154 57, N19 30

Sun or Moon Rise/Set Table for One Year

PAHDA, HAWAII Rise and Set for the Sun for 2017

Hawaii-Aleutian Standard Time

* SOURCE:

Astronomical Applications Dept. U. S. Naval Observatory Washington, DC 20392-5420

	Jan.	Feb.	Mar.	Apr.	Hay	June	July	A	F			_
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85	8655 1756	9653 1815	8636 1827	8618 1835	8549 1844 8549 1844	9541 1856	0546 1902	0557 1854	9695 1832	8611 1885	9622 1744	9649 1741
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98	9656 1758	6652 1816	0634 1828	9697 1836	0548 1845 0547 1845	0541 1857	0547 1992	0558 1853	8686 1829	0612 1002	8624 1743	8642 1741
89	0656 1758	8651 1817	0634 1828		0547 1845	8541 1857	0548 1902	8558 1852	8686 1828	8612 1992	8624 1743	8642 1742
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		9645 1822	9623 1831	9558 1839	0543 1850	0542 1901	0552 19 00	060 2 1844	0608 1817	0616 1753	8631 1748	0649 1746
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23	9656 1807	0643 1823	0621 1832	8556 1848	0542 1851	8543 1981	0 553 1859	9693 1842	0 689 1815	86 17 1751	8633 1748	8659 1748
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26	0656 1809	0641 1824	0618 1833	0 554 1841	0541 1853	0544 1902	0554 1858	060 3 1839	0610 1812	9618 1749	8635 1748	0652 175B
27	9656 1819	9649 1825	8617 1833	0 553 1842	0541 1853	0544 1902	0554 1858	9694 1838	0610 1811	0619 1748	8635 1740	0652 1750
28	9656 1819	8648 1825	0617 1833	0553 1842	0541 1853	0544 1902	0555 1858	9684 1838	0610 1810	0619 1748	9636 1748	0653 1751
29	8655 1811		0616 1833	0552 1842	0541 1854	0 545 19 0 2	0 555 1857	0604 1837	0618 1889	8628 1747	8637 1748	0653 1751
30	9655 1812		9615 1834	0552 1843	0541 1854	9545 1992	9 556 1857	0604 1836	0610 180E	8629 1747	8637 1748	0653 1752
31	0655 1812		0614 1834		8541 1854		0556 1856	8684 1835		8628 1746		0654 1753
										10 10		

Back to form

Feb 24, 2017 11:50:21 AM

Printed By: H15DENTC from. DLNR02

Received Time:

11:48:32 02-24-17

Source ORI:

HI0020702

Summary:

M55L: LIC= TYP=1

View Message Details

DLNR02 00016 AT 11:48 02/24/2017

RX05M55L MRI-092693

Received Time:

11:48:32 02-24-17

Source ORI:

HILICO000

Summary:

M55L: LIC- TYP-1

View Message Details

M55L/1

PLATE: STATUS: A SPEC-PLT:

EMBLEM:

EXPIR-DATE: 03 17

RO-NAME: POMROY HENRY

MAKE: DODG TYPE: PKUP

YR-MODEL: 05 COLOR: G PHON-CODE: P560H COUNTY: H

RO-CITY: HILO HI 96720

RO-ADDRESS: LO-NM: SAME

SF-EXP: 01 18 TCI-NO: 304HDY-16

LO-CITY:

LO-ADDRESS: 1ST-SOLD: 03 29 05 DT-ISS: 09 29 16 TX-RT: F HVUC: TVB:

BAD-CK: NET-WT: 06950 GVW: 000000 EXMPT: FUEL: D ODOM: 176616 ODOM-EXC: N ODOM-DSC: N

SP-VEH: 1

MO-TX: 00 TAX-COLL: 0.00 FENALTY-AMT: 0.00 PLT-EMB: .00 OT-PND:

PRI-PT: 578HDR XRF-PT:

VO: N MO: N DUP-DT:

F2:MOT F3:MCP F5:MFC F6:MAC F7:MCMT F10:MNR F11:MVRN F12:MFEE

LS-UDT: 01 28 17

ELT KEY: F1:MPL

MRI 92694 IN: RX05M55L 589 AT 24FEB2017 11:48:32 OUT: DLNR02 11 AT 24FEB2017 11:48:32

Feb 24, 2017 11:49:46 AM

Printed By: H15DENTC from DLNR02

Received Time:

11:47:20 02-24-17 ADLB: OLN

Source ORI:

HI0020702

Summary:

View Message Details

DLNR02 00015 AT 11:47 02/24/2017

RX01ADLB MRI-092665

11:47:20 02-24-17

Source ORI:

HIOTN0000

Summary:

Received Time:

ADLB: OLN

View Message Details

ADLB

DRIVER LICENSE GENERAL ROOT INQUIRY

ZADLB1M

PF REY

DATE 02/24/17 11:47 TERM RY01 LIC STATUS BIRTHDATE CLASS CDL CTY LIC EXPIRES

P/L/U/T LICENSE L S

ACTIVE **ENDORS**

RSTR

Ħ

MED-REC=

NAME POMROY, HENRY, K, 3RD

LAST NAME POMROY FIRST NAME HENRY

SUFFIX 3RD

MIDDLE NAME K

MAIL ADDRESS

HILO, HI

96720

HOME ADDRESS

HEIGHT

WEIGHT

HAIR

7888 DRIVERS LICENSE NUMBER HAS AN OUTSTANDING VIOLATION.

EYES

SEX М

ISSUE DATE

CARD DATE

09/14/1989 11/18/2010

PF3:NAME INQUIRY PF21:NEXT SSN

22:HELP

MRI 92666 IN: RX01ADLB 253 AT 24FEB2017 11:47:20

OUT: DLNR02 10 AT 24FEB2017 11:47:20

- (c) For the purpose of this section, a lessee under a lease not intended as security is not an "owner".
- (d) Offshore mooring rules and areas are described in chapter 13-235. [Eff 2/24/94; am and comp 9/25/14] (Auth: HRS \$\$200-2, 200-3, 200-4, 200-6) (Imp: HRS \$\$200-2, 200-3, 200-4, 200-6)

<u>\$13-231-3</u> <u>Use permits; issuance.</u>

permit" as used in these rules means the authorization by the department to utilize state boating facilities, offshore mooring areas, offshore mooring, state ocean waters, and navigable streams, as evidenced by the fully executed "agreement" described in section 13-231-2. The department may issue the following types of use permits:

- (1) Mooring permit. A use permit which authorizes the docking, mooring, or anchoring of a vessel at a small boat harbor or offshore mooring area.
 - (A) Regular mooring permit. A use permit which authorizes the permittee to moor a vessel in a state small boat harbor or at an offshore mooring area for a period not to exceed one year from the date of issuance.
 - (B) Temporary mooring permit. A nonrenewable use permit which authorizes the permittee to moor a vessel in a state small boat harbor or at an offshore mooring area for a period of thirty days or less from the date of issuance.
- (2) Waikiki catamaran registration certificate. A Waikiki catamaran registration certificate is a document, issued by the department, that may authorize its holder to utilize state boating facilities, offshore and onshore mooring, in Waikiki ocean waters and beach.

- (3) Stay aboard permit. A use permit which authorizes use of a state small boat harbor or offshore mooring by the permittee for the purpose of staying aboard a vessel while moored in a state small boat harbor or at an offshore mooring or at anchor.
- (4) Vacation permit. A use permit which authorizes use of the small boat harbor or an offshore mooring area by the permittee for the purpose of using a vessel as a vacation site while moored in a state small boat harbor or at an offshore mooring or at anchor.
- (5) Principal habitation permit. A use permit which authorizes use of the small boat harbor by the permittee for the purpose of using the vessel as a principal place of habitation while moored in Ala Wai or Keehi small boat harbor or in the Keehi Lagoon mooring area.

Commercial use permit. A use permit which authorizes the owner of a commercial vessel to engage in commercial activities as specified in the permit.

- (7) Storage permit. A use permit which authorizes use of a small boat harbor storage area for vessels or other items on land at a small boat harbor.
- (8) Miscellaneous permit. A use permit which authorizes use of a small boat harbor or an offshore mooring area for other purposes as may be authorized by the department in its use permit and is consistent with these rules and applicable laws.
- (b) Use permits, or where applicable, Waikiki catamaran registration certificates, shall be issued only after the department has determined that all applicable laws have been complied with and that all fees and charges have been paid.
- (c) The issuance of any use permit by the department shall not create a property interest in favor of the permittee to an unrestricted use of state

small boat harbors, facilities or state ocean waters. [Eff 2/24/94; am and comp 9/25/14] (Auth: HRS \$\$200-2, 200-3, 200-4, 200-6) (Imp: HRS \$\$200-2, 200-3, 200-4, 200-6)

- \$13-231-4 Use permits; part-time or intermittent occupancy. (a) No use permit for docking, mooring, or anchoring a vessel at a small boat harbor or at an offshore mooring area shall be issued to any person who has been issued a use permit to moor the same vessel at any other small boat harbor, offshore mooring, private marina or yacht club in the State. A temporary mooring permit may be issued to authorize temporary mooring in any small boat harbor or offshore mooring area.
- (b) Temporary mooring of a vessel within the same small boat harbor or offshore mooring area shall not exceed a cumulative period of more than one hundred and twenty days in the same calendar year per vessel, except as provided in section 13-256-73.11 for commercial vessels authorized for use at Heeia Kea small boat harbor. Temporary mooring permits shall be issued in accordance with section 13-231-85.
- (c) Notwithstanding the provisions of subsection (a), the department may issue additional offshore mooring permits to owners of vessels holding a valid commercial use permit issued pursuant to section 13-231-59. [Eff 2/24/94; am and comp 9/25/14] (Auth: HRS §\$200-2, 200-3, 200-4, 200-6) (Imp: HRS §\$200-2, 200-3, 200-4, 200-6)
- \$13-231-5 Period of validity and renewal of various types of use permits. (a) The department may issue or reissue a use permit of all types, including but not limited to commercial use permits, catamaran registration certificates, and mooring permits, for any period up to, but not exceeding one year. Upon expiration of the period stated therein, the use permit and all rights of the permittee thereunder shall automatically terminate. No type of use permit

\$200-14 Violation of rules; penalty. (a) Except as provided in subsection (b), any person who violates any rule adopted by the department under this part or who violates this part, shall be fined not more than \$1,000 or less than \$50 for each violation, and any vessel, the agents, owner, or crew of which violate the rules of the department or this part, shall be fined not more than \$1,000 or less than \$50 for each violation; provided that in addition to or as a condition to the suspension of the fines and penalties, the environmental court may deprive the offender of the privilege of operating or mooring any vessel in state waters for a period of not more than thirty days.

- (b) Any person who violates any rule adopted by the department under this part regulating vehicular parking or traffic movement shall have committed a traffic infraction as set forth in chapter 291D, the adjudication of which shall be subject to the provisions contained therein. A person found to have committed such a traffic infraction shall be fined not more than:
 - (1) \$100 for a first violation:
 - (2) \$200 for a second violation; and
 - (3) \$500 for a third or subsequent violation.
- establishing a fine of not more than \$1,000 or less than \$50 for each violation, any person who violates any rule adopted by the department relating to unauthorized discharge, dumping, or abandoning, in any state boating facility or state waters, of any petroleum product, hazardous material, or sewage in violation of the state water quality standards established by the department of health, shall be fined not more than \$10,000 for each day of violation, and any vessel, the agents, owner, or crew of which violate the rules of the department shall be fined not more than \$10,000 for each day of violation. [L 1991, c 272, pt of \$2; am L 1994, c 38, \$1; am L 1997, c 204, \$1; am L 2008, c 101, \$4; am L 2014, c 218, \$]

Previous

Vol03 Ch0121-0200D

Next

DIVERTIGATION #	District	Leed Investigator	Report Status	Key Report [X] Yos [] No
17-111-HA	Pune	Dente, Craig	In Progress	
Date/Time Reported 08/20/2016 01:40PM	Location Pohobi	OWNWB: COMMERCIAL ACT		Geonecing Reports

incident & Report Control Form

DOCARE 5 Rev BASI

A. COMPLAINT

Taken By: How Taken: Craig Denta

On Boot

Reported Date/Time

09/20/2016 01 40PM

Complainent

Craig Denta

Home

Work

Cell

Phone:

Address:

Incident Summery

Description Commercial Activity

Suspect: Henry "Skosh" POMROY

Vehicle/Vessel HA 9888 H

Location: Location Notes: Pehoibi

I seac Hale Beach Park Boat Washing Station

Occured From:

09/18/2018 09:45484

Occured To:

B. REPORT CONTROL

Oletrict

Lead Investigate

Dela Assigned:

Craig Dente

08/20/2018 01 52PM

KONA DOBOR TUKE STELL HILO KAMUELA HOHOLULU AQUATICS DOFAW LANDON

C. NOTES/DISPOSITION/OTHER INFO

CLOSED - RECORD ONLY # FORWARD TO DOBOR

State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement HOTESTICATION I Load Investigator Report Status 17-111-HA Puns Dente, Craig In Progress [X] Yee [] No. Date/Time B. Lacation 06/16/2016 B9 45AM Pohoki OWNWE COMMERICAL ACTIVITY Investigation Report Z. SOUNCE OWNWB COMMERICAL ACTIVITY On Beat 3 COMPLANANTS HAVE 7. BONTH DATE 4 3FY S. RACE 6 ACE E. DECUPATION Craig Denie B ADDRESS 10. PLACE EMPLOYED/SCHOOL ATT PHONG 11 HOME 12. WORK 13 CELL 14 LOCATION OF INCIDENT/INTERSECTING STREET 18 DATE/THE REPORTED 15 DATE/THE DECLIBRED 08/16/2018 09:45AM 08/16/2016 09:45AM 29 MODEL 17 TYPE IN YEAR 17 MAKE 21 LICENSE /HANG 22, LENGTH 34 STOLEN 2012 Boat Fiberglass Calamar Yardbuitt White HA9589H 25 No 25 REDISTERED OWNER JE ADDRESS SHOH TE 38. WORK 25 CELL Henry Pomroy 808-935-8092 20 NOTES VEHICL 33 MAKE 31 TYPE 12 YEAR 34. MODEL 15 COLOR M LICENSE/HANG 37 LENGTH M STOLEN 39 MEGISTERED DWHEN 40 ADDRESS 41 HOUE 42 WORK 41 CELL 44 NOTES AT BACE 41 AGE 40 DOCUMATION 46 SEE O BETH DATE Henry Pemroy Male White **fisherman** 1) CATEGORY EL ADDRESS SA. WORK 43 HOME SS CELL Suspect 808-935-8092 SO MANG 67 SEX SA RACE NA AGE OR STREET, GATA 41 OCCUPATION Slephen STRAUSS Male EZ CATEGORY EL ADDRESS M CELL 64 HOUE 41 WORK **Business Partner** 47 MANE 66 523 DO RACE 70 AGE TI BIRTH GATE 22 DCCUPATION 73 CATEGORY 71 ADDRESS 75. HOME TH WORK TO CELL 79 STHOPSIS While on duty as DOCARE 627 on 08-16-2016, at approximately 0945 hrs, I was on patrot in Puna. I made contact with an individual at Isaac Hale Beach Park Boat Washing Station, who identified himself as Henry POMROY, who informed me that he was conducting business operations at Poholki Boal Ramp, but did not have a Commercial Use Permit for Poholki. INVESTIGATION CONTINUING 02301 ES BADGE No. TH REPORT WHITE ENLEY BI DATE/TIME WA/TTE BI BADGENO.

DOCARE-8

Weller, James

08/20/2016 02:10FM

Dente, Craig

236

19

INVESTIGATION # 17-111-HA

DISTRICT Puzna

LEAD INVESTIGATOR

KEY REPORT [X]Yes []No

DATE / TIME REPORTED 8/16/2016 9 45:00 AM LOCADON Poholii

Craig Dente CLASSISSICATION

OWNWB: COMMERICAL ACTIVITY

CONNECTING REPORTISH

Report Type: [x] Continuation of Report Date/Time Written: 08-21-2016 / 1300 hrs

Written By: Dente, Craig

[] Supplemental

i 1 Follow Up

Report

ASSIGNMENT

While on duty as DOCARE 637 on 08-18-2016 at approximately 0945 hrs, I was on patrol in Puna in my marked patrol vehicle. SHE 300. I pulled into the parking lot of Isaac Hale Beach Park at Poholki, near the Boat Washing Stallon, and observed a white boat on a trailer with one adult male washing the boat. I noticed that the trailer appeared to be buckling in the middle, so I made contact with the adult male

SCENE

- Time Element: Approximately 0945 hrs to 1000 hrs.
- Location: Isaac Hale Beach Park Boat Washing Station
- Weather: Clear and sunny, unrestricted visibility
- Vehicle Traffic / Foot Traffic / Byslanders: None

OBSERVED VESSEL ON TRAILER AT BOAT WASHING STATION AND CONTACTED OWNER

As I pulled into the parking lot of Isaac Hate Beach Park at Poholst, near the Boat Washing Station, I observed a white boat on a trailer with one person washing the boat. I noticed that the trailer appeared to be buckling in the middle. I made contact with this person by Introducing myself as Officer Dente with DLNR Conservation Enforcement. The person identified himself as Henry "Skosh" POMROY, , of Kaimu, Hl.

I observed that the vessel on the trailer was a white fiberglass power-driven catamaran, displaying numbering "HA 9689 H," with a valid registration decat, and twin Honda 150 HP outboard motors. See attached photo log. The trailer had a valid Ramp Use Decat. The trailer did not have a license plate attached, did not have a vehicle weight tax decal displayed, and did not have a safety check decal displayed. asked POMROY if his trailer was sale to operate on the boat ramp and roadways. POMROY explained that the sag in the middle of the trailer was by design, and showed me the lelescoping tongue of the trailer. I informed POMROY that he needs to get his trailer legal as soon as possible. I informed POMROY that I would not issue him a citation today, but I do intend to follow up with him soon, and expect that his trailer will be brought into compliance. POMROY acknowledged that he understood

VESSEL OWNER DESCRIBED NATURE OF BUSINESS

During the course of my conversation with POMROY, he informed me that he had just started a new business, the "Ho'okupu Fish Company, LLC, POMROY stated that the company sels 0.001% shares of the company to interested investors, and as part of the contract, new investors are entitled to a complementary ride onboard his vessel, HA 9689 H, to a destination of their choice; with activities to include fishing and/or sightseeing. POMROY went further, saying that the vessel never gets underway without a licensed master onboard, and gave me the name of two licensed masters whom he said are always onboard during voyages: Keoni ERICKSON and Nathan KUROHARA. POMROY stated that the vessel typically operates out of Poholiki, and that visits to the lava flow are popular with investors, but the vessel also takes some investors on fishing trips. POMROY stated that his main business partner at the "Ho'okupu Fish Company, LLC' is Mr. Stephen STRAUSS, and that any questions regerding the business should be directed to STRAUSS. POMROY offered me a sample "Conveyance of Membership Confract" for Ho'okupu Fish Company LLC, which I look and included as Exhibit 1.

(Continued on Next Page)

Dente, Cralo

236

08-21-2016 / 1300 hrs

Date / Time

Nariative Report Ownsion of Conservation and Resources Enforcement Page 1 of 2

EXHIBIT 1 (P30F9) DOCARE REPORT 17-111-1-11

INVESTIGATION # 17-111-HA

DISTRICT

LEAD INVESTIGATOR

KEY REPORT

Puna

Craio Dente

[X] Yes [] No

DATE / TIME REPORTED 8/15/2016 9:45 00 AM

LOCATION Poholki

CLASSIFICATION

OWNWB COMMERICAL ACTIVITY

CONNECTING REPORT(S)

Report (Continued)

INTERVIEWED BUSINESS PARTNER STEPHEN STRAUSS

On 08-20-2016 at approximately 1000 hrs, I conducted a telephone interview with Stephen STRAUSS of the "Ho'okupu Fish Company, LLC." STRAUSS informed me that the nature of the business is to promote awareness of sustainable fishing, where investors are invited on the vessel to participate in sustainable fishing practices. STRAUSS claimed that while on voyages, sometimes the vessel does go near popular sites, such as the lava flow. STRAUSS claimed that the company is not engaged in taking "Passengers for Hire" and is therefore not required to obtain a Commercial Use Permit under HAR 13-231-3(a)(6). STRAUSS claimed that the nature of the voyages of the "Ho'okupu Fich Company, LLC" are sometimes Commercial Fishing Voyages, and sometimes Recreational Voyages, depending on the desired activity of the investors. STRAUSS claimed that while the HA 9889 H is operating for the "Ho'okupu Fish Company, LLC," it is under lease by the company.

DISPOSITION

Based on the nature of the claims made by POMROY and STRAUSS, I recommend DOBOR make a determination on whether or not the activities of the "Ho'okupu Fish Company, LLC" require a Commercial Use Permit under HAR 13-231-3(a)(6), then notify the company and DOCARE of the determination.

CLOSED - RECORD ONLY // FORWARD TO DOBOR

Dente, Craig

236

Badge No.

08-21-2016 / 1300 hrs

Date / Time

Narrative Report Division of Consulvation and Resources Enforcement Page 2 of 2

EXHIBIT 1 (PA OF 9) DOCARE REPORT 17-111-11A

BOVESTIGATION # 17-111-HA DISTRICT Purta LEAD DIVESTIGATOR
Craig Denie

(X) Yes []

DATE / THIS REPORTED 5/16/2016 9:45:00 AM LOCATION Poheiki CLASSIFICATION
OWNWB COMMERICAL ACTIVITY

CONNECTING REPORT(S)

Report Description: Photo Log Data/Time Taken: 08-16-2016 / 1900 hrs Taken By: Dente, Craig

Scene: Isaac Hale Beach Park

Equipment: Olympus Digital Camera Weather Conditions: Sunny / Clear Lighting: Daylight Focus: Auto

Depicts starboard side of HA 9689 H on trailer

2 Depicts port side of HA 9689 H on trailer

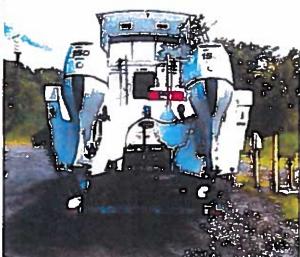




3 Depicts HA 9689 H trailer, possibly buckling

4 Depicts stern of HA 9689 H on trailer





Pholographic Report
Division of Conservation and Resources Enforcement

Page 1 of 1

Otto/Disa Reported (Lacation (Classification)	17-111-HA	l I	ed Investigator Inte, Craig	Report Status In Progress	Hey Report [X] You [] No
G0/18/20/18 09-45AM Pehobi OMMYS COMMERICAL ACTIVITY		Lacation PohoBJ	OWNWE COMMERICAL ACT		Connecting Reports

WARNINGS

Issuing Officer

Dente, Craig

Defendent

Pomroy, Henry (Suspect)

Notes

Observed trater for HAB689H parked at Isaac Hele County Beach Park. Trater did not have license plate, vehicle weight tax decal, nor

safety check decat. Warned owner to bring the trailer into compliance as soon as possible

Violation

Activity Code

HRS 248-7 NO LICENSE PLATE, OBSTRUCTED PLATES, ON CLEAN

1700 Small Boat Harbors

PLATES

HRS 249-2 DELINQUENT WEIGHT TAX

1700 Small Boat Herbora

HRS 286-25 NO/EXPIRED CERTIFICATE OF INSPECTION

1700 Small Boat Herbors

HA9669H (Fibergless Calamaran /

Yandbuitt)

EXHIBIT 1 (PC'8' F 9) DOCARE REPORT 17-111-4A

Online Vessel Registration Renewal | Division of Boating & Ocean Recreation

Page 1 of 1

*REG #(HA-XXXX-XX) HA-9689-H

HULL ID TEN25003C010

P11316

RAMP# P39514

STATUS

EXP DATE (MM/YY)

07/15

PRINCIPAL DWIVER CO-DWIVER LIEN HOLDER MORTGAGEE VESSEL VESSEL MISC HULL HOTES

PRINCIPAL OWNER

BUSINESS

LAST NAME POMROY

DATE OF BIRTH (MM-DD-YYYY)

FIRST NAME HENRY

MIDDLE NAME K

CONTACT PHONE XXX-XXX-XXXX

" EMAR

*CITIZENSHIP OF DWHER UNITED STATES

MAILING ADDRESS

*STREET!

· CITY HILO

* STATE

* 21P CODE 9G720 PROVINCE

-COUNTRY UNITED STATES

STREET ADDRESS

J BAME AS MAILING ADDRESS

- REQUIRED

LAST UPDATED 09-22-2015 04 21 18 PM Leviann C Domingo





KEON I ERICEDIN '

LICENSED CAPTAINS ONE "ALWATS ONEQUED"

CONVEYANCE OF MEMBERSHIP INTEREST IN HO'OKUPU FISH COMPANY, LLC, a Hawai'i Limited Liability Company

AGREEMENT effective	, 2016, between
HO'OKUPU FISH COMPANY, LLC, and	, Member.

RECITALS

- 1. HO'OKUPU FISH COMPANY, LLC (also, "the Company") is a forprofit limited liability company registered and in good standing with the State of Hawai'i.
 The Company engages in sustainable fishing practices and vessel charter operations. Its
 current assets comprise intellectual property, including common law trademark, service
 mark and trade name rights in and to the name and mark "HO'OKUPU FISH
 COMPANY" and lessee rights in and to the powered catamaran ocean-going vessel
 "HO'OKUPU."
- 2. The Company desires to convey a 0.001% interest in the Company to Member.

TERMS AND DISCLOSURES

- 1. For valuable consideration received, the Company hereby conveys a 0.001% interest in the Company to Member.
- 2. The membership interest entitles Member to a single passage on the vessel "HO'OKUPU" and to certain member discounts and premiums that may be offered from time to time by the Company. Depending upon availability, Member may also book passage for Member's guests and minor children by payment to the Company of a guest fee at the guest fee rate in effect at the time of booking.
- 3. The membership interest in the Company conveyed by this Agreement is not intended as an investment security. The membership interest has no present cash value and no disbursements to members holding less than 10% interest in the Company are anticipated unless and until the Company is sold or liquidated resulting in net proceeds.

EXHIBIT (1), PAGE 1 OF 2

EXHIBIT 1 (P8 OF 9)

DOLLRE REPORT 17-111- HA

4. Copies of the Company's Articles of Organization and Operating Agreement are accessible as of September 1, 2016 on the Company's website, hookupufishcompany.com. To promote sustainability, Member waives delivery of paper copies of the Company's documents.

ENTIRE AGREEMENT/ GOVERNING LAW

5. This instrument is the entire Agreement between the parties and supersedes any prior or contemporaneous written or oral representations. No amendment or modification to this Agreement is effective unless it is made in writing and signed by both parties. This Agreement will be governed by and interpreted in accordance with the laws of the State of Hawai'i.

APPROVED AND AGREED

HOLOWING FROM COMMANDE LLC

110 OKOI O LIBII COMI MA	i a talede
Bt. K Pan	Dated:
By Henry K. Pomroy	
its Member-Manager	
Member	
	Dated:
Signature	
Printed Name:	
FILINGU PAMIC.	

THE SECURITIES REPRESENTED BY THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") NOR REGISTERED NOR QUALIFIED UNDER ANY STATE SECURITIES LAWS, SUCH SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, DELIVERED AFTER SALE, TRANSFERRED, PLEDGED, OR HYPOTHECATED UNLESS QUALIFIED AND REGISTERED UNDER APPLICABLE STATE AND FEDERAL SECURITIES LAWS OR UNLESS, IN THE OPINION OF COUNSEL SATISFACTORY TO THE COMPANY, SUCH QUALIFICATION AND REGISTRATION IS NOT REQUIRED, ANY TRANSFER OF THE SECURITIES REPRESENTED BY THIS AGREEMENT IS FURTHER SUBJECT TO OTHER RESTRICTIONS, TERMS AND CONDITIONS WHICH ARE SET FORTH HEREIN.

EXHIBIT (1), PAGE ZOFZ

EXHIBIT 1 (P90F9) DOLARE REPORT 17-111-14 A DAVID Y, IGE BOVENOR OF IMMAN



STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES DIVISION OF BOATING AND OCEAN RECREATION HAWAII DISTRICT OFFICE 74-380 KEALAKEHE PARKWAY KAILUA-KONA, HAWAII 96740-2704

PHONE (808) 327-3690 FACSIMILE (808) 327-3693

BLIZANNE D. CASE

OMMORIGH

BDARD OF LAYD AND VATURAL PESONRESS

COMMINSON DY WATER RESCUREE VANACEMENT

KEKDA KALIHIWA FIRST CEPUTY

JEFFREY T. PEARSON DEPUTY DIRECTOR WALLS

EDWAND (UKDERNOOD ADMENSTRATOR FORTSON OF SCATALIA IN PLANTATION

BOR-H 035.17

September 14, 2016

Henry K. Pomroy

Ho'okupu Fish Company



Dear Mr. Pomroy:

SUBJECT: CEASE & DESIST COMMERCIAL OPERATIONS

According to reports, including an investigative report from the Division of Conservation and Resource Enforcement (DOCARE), state that the recreational vessel "Hookupu" HA 9689 H, has been conducting commercial operations.

Per, <u>Hawaii Administrative Rule (HAR) \$13-231-54 Commercial vessel</u>; "Commercial vessel" as used in this subchapter means a vessel engaged in any trade or business including, but not limited to, carrying passengers for hire, charter fishing, bare boat (demise) or any type of charter maintenance, harvesting coral or similar resources, construction, towing, tow-boating, or other trade or business wherein the vessel is used in any manner to promote the venture, or is registered with the State or documented by the United States Coast Guard for commercial use.

This vessel has not been issued a commercial permit for these type of activity which is a violation of <u>HAR 613-231-3 Use permits</u>; issuance. (a) "Use permit" as used in these rules means the authorization by the department to utilize state boating facilities, offshore mooring areas, offshore mooring, state ocean waters, and navigable streams, as evidenced by the fully executed "agreement" described in section 13-231-2. The department may issue the following types of use permits:

(6) Commercial use permit. A use permit which authorizes the owner of a commercial vessel to engage in commercial activities as specified in the permit

Per HAR §13-231-51, "no person shall engage in any business or commercial activity at any small boat barbor or other small boat facility without:

- (1) Prior written approval of the department; or
- (2) The proper execution of an agreement with the department."

You are hereby notified to cease and desist offering commercial tours, as they are contrary to Hawaii Administrative Rule.

EXHIBIT Z (P1 OF G) CEASE & DESIST LETTER

BOR-H 035.17 September 14, 2016

COMPLETE THIS SECTION ON DELIVERY

Failure to do so could result in fine(s), citation(s), forfeiture of equipment, and/or a legal action against you. We hope this action will not be necessary.

Sincerely,

William E. Taylor Hawaii District Manager

Cc: Administrator DOCARE Stephen Strauss

		Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print yourname say actives on the reverse so that we can return the carbit typu. Attach this card to the back of the malipiece, or on the root happen parmits. Article Addressed to:	A. Signature Agenty Addition Addition
		Henry K. Pomroy Ho'okupu Fish ?Company	
	U.S. Postal Service	вок-н 035.17	3. Service Type Discertified Mail* Priority Mail Express* Registered Proturn Receipt for Merch Insured Mail Collect on Delivery 4. Restricted Delivery? (Extre Fee) Yes
89	CERTIFIED MAIL TO RECEIPT (Domestic Mail Only; No Insurance Coverage Provide		4. Restricted Delivery? (Extra Fee)
나고무	Fc.r delivery information visit our website at www usps com-	(Transfer from service label) YULY UL PS Form 3811, July 2013 Domestic Ret	
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7034	Henry K. Pomroy Singel Apt No. Ho okupu Fish Co. Gay, State Zip-	UL – RETURN RECEIPT REQUES:	TED
1	PS Form 3800, August 2005 See Reverse for Inst	ructions	

SENDER: COMPLETE THIS SECTION

EXHIBIT Z (PZOF6) CEASE & DESIST LETTER

DAVID Y IGE



STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES DIVISION OF BOATING AND OCEAN RECREATION HAWAII DISTRICT OFFICE 74-380 KEALAKEHE PARKWAY KAILUA KONA, HAWAII 96740-2704

PHONE (808) 327-3690

FACSIMILE: (808) 327-3693

BUZAKNE D. CASE
CHARPERCH
BOAFO OF LAND AND INTURN, RESOURCES
CHARLEON DA WATER RESOURCE LANDOUGH

KEKOA KALUHIWA FINIT DEPUTY

JEFFREY T. PEARSON DEPITY DISCTOR-WATER

EDWARD (MERKED) ROTAFIENCIAN MORANI STAN A STAN DE MORANO

BOR-H 067.17

September 14, 2016

William Fujimoto



Dear Mr. Fujimoto:

SUBJECT: CEASE & DESIST COMMERCIAL OPERATIONS

According to reports, including an investigative report from the Division of Conservation and Resource Enforcement (DOCARE), state that the recreational vessel "Hookupu" HA 9689 H, has been conducting commercial operations.

Per, <u>Hawaii Administrative Rule (HAR) §13-231-54 Commercial vessel</u>; "Commercial vessel" as used in this subchapter means a vessel engaged in any trade or business including, but not limited to, carrying passengers for hire, charter fishing, bare boat (demise) or any type of charter maintenance, harvesting coral or similar resources, construction, towing, tow-boating, or other trade or business wherein the vessel is used in any manner to promote the venture, or is registered with the State or documented by the United States Coast Guard for commercial use.

This vessel has not been issued a commercial permit for these type of activity which is a violation of <u>HAR §13-231-3 Use permits</u>; issuance. (a) "Use permit" as used in these rules means the authorization by the department to utilize state boating facilities, offshore mooring areas, offshore mooring, state ocean waters, and navigable streams, as evidenced by the fully executed "agreement" described in section 13-231-2. The department may issue the following types of use permits:

(6) Commercial use permit. A use permit which authorizes the owner of a commercial vessel to engage in commercial activities as specified in the permit

Per HAR §13-231-51, "no person shall engage in any business or commercial activity at any small boat harbor or other small boat facility without:

- (1) Prior written approval of the department; or
- (2) The proper execution of an agreement with the department."

You are hereby notified to cease and desist offering commercial tours, as they are contrary to Hawaii Administrative Rule.

EXHIBIT Z (P3 OF 6) CEASE & DESIST LETTER

BOR-H 067.17 September 14, 2016

Failure to do so could result in fine(s), citation(s), forfeiture of equipment, and/or a legal action against you. We hope this action will not be necessary.

Sincerely,

William E. Toylor Hawaii District Manager

Cc: Administrator DOCARE Henry Pomroy Steven Strauss

U.S. Postal Service ... CERTIFIED MAIL, RECEIPT (Domestic Mail Only, No Insurance Coverage Provided) 96 m 品 465 Postage _ Cartified Fee 0150 0000 Ratum Recept Fee (Endomenti Required) Postmark. Here Restricted Delivery Fee (Endorsement Required) BOR-H 067.17 Total Postage & Fees 5 William Fujimoto Smet Apr. No. /o Steven Strauss or PO Box No. City, State, ZIP+4 PS Form 3800 Aug 151 2006 COMPLETE THIS SECTION ON DELIVERY SENDER: COMPLETE THIS SECTION Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. □ Agent Print your name and address on the reverse so that we can return the candid you. □ Address: Attach this card to the back of the mallplece, or on the front if space permits. ☐ Yes beivery address different from flem 1? 1. Article Addressed to: If YES, enter delivery address below: William Fujimoto c/o Steven Strauss 3. Service Type SENT BY CERT B Certified Mail® Priority Mail Express ☐ Registered 20 Return Receipt for Merchand BOR-H 067.17 I Insured Mail ☐ Collect on Delivery 4. Restricted Delivery? (Extra Fee) ☐ Yes 2. Article Number 7014 0150 0000 4324 3965 (Transfer from service label) PS Form 3811, July 2013 Domestic Return Receipt

> EXHIBIT 2 (P40F6) CEASE & DESIST LETTER

DAVIDY IDE



STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES DIVISION OF BOATING AND OCEAN RECREATION HAWAII DISTRICT OFFICE 74-380 KEALAKEHE PARKWAY KAILUA-KONA, HAWAII 96740-2704

PHONE (808) 327-3690 FACS

FACSIMILE: (808) 327-3693

SUTANNE D. CASE
CHAPPERSON
ECANO OF LAND AND NATURAL RESOURCES
COMMISSION OF WATER RESOURCE LANGUAGES

REKDA KALUHIWA

JEFFREY T. PEARSON DEPUTY DIRECTON WATER

COMARU LIMBER MODO ADMAN ET RATOR POTENCIA COMARCE SU POSENTO POTENCIA COMARCE SU POSENTO

BOR-H 066.17

September 14, 2016



Dear Mr. Strauss:

SUBJECT: CEASE & DESIST COMMERCIAL OPERATIONS

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- (1) Prior written approval of the department; or
- (2) The proper execution of an agreement with the department."

You are hereby notified to cease and desist offering commercial tours, as they are contrary to Hawaii Administrative Rule.

EXHIBIT 2 (PS OF 6) CEASE & DESIST LETTER

BOR-H 066.17 September 14, 2016

CEASE & DESIST LETT

Failure to do so could result in fine(s), citation(s), forfeiture of equipment, and/or a legal action against you. We hope this action will not be necessary.

Sincerely,

William E. Taylor Hawaii District Manager

Cc: Administrator
DOCARE
Henry Pomroy
William Fujimoto

DOMESTIC MAIL	D MAIL: RE Only; No Insurance	Coverage Provided)
Pastage Cernited Fee Cernited Fee Return Required; Returned Delivery Fee (Endorsement Required) Total Postage & Fers	s , 465 3.30 2.70 s 6.465	Posimark Here BOR-H 066.17
Steve Steve Steve or PO Box No. Chy. State. 279-4	n Strauss	See Reverse for Instruction

1	SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
	Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the carding you. Attach this card to the back of the mailpiece, or on the front if space permits.	A. Softeium X. Agent Addre Accived by (Printed Name) Code of Deli
SENT BY CER	1. Article Addressed to: 2015 CED ? Pill	D. to belivery address different from item 17
	Steven Strauss	
	BOR-H 066.17	3. Service Type Certified Main Registered Insured Mail Collect on Delivery
		4. Restricted Delivery? (Extra Fee) Yes
132	2. Article Number (Transfer from service label) 7014 015	0 0000 4324 3972
•	PS Form 3811, July 2013 Domestic Ret	um Receipt EXHIBIT 2 (PGC

HVESTIGATION # 17-0328-HA	Pune Pune	Dente Craig	W	Report Status in Progress	Key Report [X] Yee [] No		
Pots/Time Reported Location 10/27/2018 07 56AM Poholit			Classification SBH COMMERCIAL ACTIVITY		Connecting Reports 17-111-HA, 17-0228-HA		

Incident & Report Control Form

DOCARES FLOW BIOS

A. COMPLAINT

Taken By: How Taken Craig Dente

On Bool

Reported Date/Time

10/27/2016 07 50AM

Complainant,

Craig Denie

Home

Work

Cell

Phone:

Address

Incident Summery

Description COMMERCIAL ACTIVITY

Suspect Henry POMROY

Vshicle/Vessel Hookupu HA9689H

Location: Location Notes: Poholik

Pohoiki Basin

Occured From:

10/27/2016 07 50AM

Occured To:

B. REPORT CONTROL

Branch

Hawaii

District

Puris Craig Dente

Lead Investigator: Data Assigned.

10/27/2016 11 21AM

C. NOTES/DISPOSITION/OTHER INFO

CLOSED - RECORD ONLY # FORWARD TO DOBOR FOR POSSIBLE CIVIL PENALTIES

EXHIBIT 3 (P10=17) PROPERTY DOCARE REPORT 17-0328-HA

	0328-NA Puna			onle Craig In Progress						[X] Yes [] Hs			
his/Time Repaired 0/27/2018 07 50AM	Location Pohoski		Chambrades 58H COMMERCIAL ACTIVITY			īY				Connecting Reports 17-111-HA, 17-0329-HA			
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Craig Dente					4 1ER NACE NACE					7 MINISTER S OCCUPATION			
B ADDRESS					THE PLACE EMPLOYED/SCHOOL ATTEMENS				17 1	KONE	12 WORK	13 CELL	
14 LOCATION OF BIC Pohoiki Boat Rai		CTHIS STREET							2016 07		16 DATE/18 10/27/2016	D7 50AM	
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DOCARE-6

EXHIBIT 3 (PZ OF \$2) ... DOCARE REPORT 17-0328-HA

INVESTIGATION # 17-0328-HA

DESTRUCT

LEAD INVESTIGATOR Crale Dente

KEY REPORT [X] Yes [] No

DATE / TIME REPORTED 10/27/2016 7 50 00 AM

LOCATION **Pohoiki**

CLASSIFICATION SBH COMMERCIAL ACTIVITY CONNECTING REPORTIS) 17-111-HA, 17-0329-HA

Report Type: [x] Continuation of Report

[] Supplemental

Dats/Time Written: 11-10-2016 / 1100 hrs. Written By: Denie, Craig

f | Follow Up

Report

ASSIGNMENT

While on duty as DOCARE 637 at approximately 0750 hrs on 10-27-2016, I observed Henry POMROY operating HA9689H, returning from sea, entering Poholki Basin with a total of 8 persons onboard. Seven of the persons were identified and interviewed, and two claimed to be passengers who paid money to be taken to view the lava flow. POMROY did not have a Commercial Use Permit for Poholki Boat Ramp and had previously been issued a Cease and Desist notice from DOBOR for commercial operations at Poholki (see attached Cease and Desist Letter and connecting 17-111-HA for details on Commercial Operations)

NOTIFICATION

At approximately 0457 hrs on 10-27-2016, I received a text message from an informant who wishes to remain anonymous, stating that POMROY was at the lava flow off Katapana on HA9689H with multiple passangers onboard. At 0600 hrs on 10-27-2016, I checked in for duty, and shortly thereafter, I proceeded to Poholki Boat Ramp with Officer TAMURA.

SCENE

At approximately 0700 hrs on 10-27-2016, Officer TAMURA and I arrived at the Poholki Boat Ramp. I observed POMROY's pickup truck altached to boat trailer which was empty, parked at the bottom of Isaac Hale Beach Park,

I parked my patrol vehicle near the boat ramp and awaited the return of HA9689H

The weather was clear and sunny. Ocean conditions outside of the Poholki Boat Basin were approximately 2-4 foot easterly wind waves, with a 3-5 foot long-period easierly ground swell

OBSERVED HA9689H ENTERING POHOIKI BASIN

At approximately 0750 hrs. I observed HA9689H approaching Pohoiki Basin. As the vessel entered the vicinity of the Boat Ramp, I recognized the person manipulating the throttles and steering of HA9689H, piloting the vessel onto its boot trailer, as Henry POMROY The vessel was then lowed into the parking lot with POMROY and seven other persons abound on its trailer. The person who was driving the pickup truck with the attached boat trailer was later identified as Bill FLUIMOTO, co-owner of HA9589H

OBSERVED PASSENGERS ABOARD HA9689H

As the boat trailer came to a stop in the parking lot, I introduced myself and Officer TAMURA as Conservation and Resources Enforcement Officers with DLNR DOCARE I informed POMROY that we needed to talk to him, and that my partner, Officer TAMURA needed to talk to the passengers. I then proceeded to interview POMROY, while Officer TAMURA interviewed the passengers (see Officer TAMURA's enclosed Supplemental Report)

(Continued on Next Page)

Dente, Craid

Badge No

11-10-2016 / 1100 hrs

Date / Time

Property.

EXHIBIT 3 (P30=17) DOCARE REPORT 17-0321

DIVESTIGATION # 17-0328-HA DESTRICT Pursa LEAD INVESTIGATOR
Craig Danie

KEY REPORT

DATE / TIME REPORTED 10/27/2018 7:50:00 AM LOCATION Poholki CLASSIFICATION

SBH COMMERCIAL ACTIVITY

CONNECTING REPORT(8) 17-111-HA, 17-0329-HA

Report (Continued)

INVERVIEWED SUSPECT HENRY POMROY

I informed POMROY that I suspected that he was conducting Commercial Operations at Poholiki Boat Ramp without a Commercial Usa Permit. Before asking POMROY any questions about his activities, I conducted an Advice of Rights (see attached form). At that time, POMROY indicated that he understood his rights, and did not wish to answer questions or make a statement. POMROY also indicated that he did not wish to have a lawyer present

CONDUCTED SAFETY INSPECTION OF HA9689H

After POMROY informed me that he did not wish to make a statement, I informed him that I would be conducting a safety inspection of his vessel. POMROY compiled with the safety inspection. I found HA9689H to be in compilance with all safety requirements for a 25 foot recreational power driven vessel, with two exceptions: POMROY had an expired Certificate of Numbers, and POMROY did not have an Operator Safety Course Certificate of Completion or a suitable alternative (see connecting 17-0329-HA for details on safety inspection and enforcement action taken).

OFFICER TAMURA COMPLETED INTERVIEWING PASSANGERS

Immediately after I completed the safety inspection, Officer TAMURA informed me that two passengers stated to him that they paid POMRQY money to take them onboard HA9689H to view the lava flow

INFORMED POMROY OF VIOLATION

At approximately 0840 hrs, it informed POMROY that some of the passengers stated that they paid him money to go see the lava flow. At that point, without being questioned, POMROY made a spontaneous statement that he did collect money from some of the passengers, but it was for the "Hookupu Fish Company LLC." POMROY then furnished me with another copy of the "Hookupu Fish Company LLC" contract, which he had provided me on 08-16-2016 (see connecting 17-111-HA for more details).

I stated to POMROY that the Hookupu Fish Company LLC is a for-profit venture. POMROY agreed, I then stated that his operations have therefore been deemed commercial activity by DOBOR. I reminded POMROY that DOBOR issued him a Cease and Desist notice, and despite that notice, he has continued to operate at Pohoiki without a Commercial Use Permit. I informed POMROY that I would be assembling a case for possible Civil Penalties, and forwarding it to DOBOR. I then warned POMROY that if he continues to conduct commercial operations at Pohoiki without a permit after this encounter, I will initiate a criminal case and take custody of his vessel. POMROY acknowledged that he understood, and stated that he would cease his activities with Hookupu Fish Company at Pohoiki until he is able to obtain a permit.

DISPOSITION

CLOSED - FORWARD TO DOBOR FOR POSSIBLE CIVIL PENALTIES

(End of Report)

Dente, Craig

Officer

236

Badge No

11-10-2016 / 1100 hrs

Date / Time

State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement INVESTIGATION # DISTRICT LEAD BOVESTIGATION KEY REPORT Puna Crala Dente [X] Yes [] No DATE / THE REPORTED LIDEATION CLASSIFICATION CONNECTING REPORTIS 10/27/2016 7 50 DO AM Poholki SBH COMMERCIAL ACTIVITY Report Type: [] Continuation of Report | x | Supplemental | | Follow Up Dete/Time Written: 11-4-16/1700 Written By: Tamura, Ivan Report **ASSIGNMENT** On 10-27-16 at 0556 hours I receive a phone call from Officer Craig DENTE who informed me he had information that Henry POMROY may be operating an illegal lava tour involving commercial activity. I met with Officer DENTE and we proceeded down to the Pohoiki boat ramp, OFFICER'S OBSERVATIONS On 10-27-16 at approximately 0750 hours I observed a boat on the water coming in from the South. As the boat got closer to the harbor I was informed by Officer DENTE that the bost belonged to POMROY due to the fact that he knew the word HO'OKUPU is on the front. As the boat was coming in a Dodge truck was waiting with a trailer at the ramp. The truck plate with attached trailer license plate was being driven by Bill FUJIMOTO who was later identified. License plate checks revealed both the truck and trailer is registered to Henry POMROY of As the boat reached the ramp area, I look a few photos of the people on the boat. It appeared there were eight people on the vessel including POMROY who I remembered from prior contacts. The Dodge truck pulling the trailer parked in the parking lot and the people on the vessel started exiting. I look a photograph of the occupants standing and using a ladder to get off the boat as POMROY was sitting on the railing. I then proceeded to make contact with people as they headed to their vehicles. **TOURIST CONTACTS** On 10-27-16 at approximately 0810 hours I contacted a husband and wife identified as They are further identified as, Upon speaking with the I was informed they want on EBAY and put down a \$50,00 deposit to book a tour with Hanry POMROY. The relayed that on the morning of 10-27-15 they met POMROY who identified himself to them as rs. The stated that the went on the tour and view lave and on the way back at the

Tamura, Ivan 251 11-4-16/1700 Officer Badge No. Date / Time

Poholki ramp they gave POMROY \$300.00 for the tour, as it was agreed payment was \$150,00 per person.

Manatike Report Unition of Contental on and Resources Enforcement

"SKOSH" at approximately 0530 hours. The

the payment was made in cash.

Page 1-11

EXHIBIT 3 (P50F DOLARE REPORT 17-032)

State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement INVESTIGATION # DESTRICT LEAD DIVESTIGATOR KEY REPORT 17-0326-HA **Graig Dente** [X]Yes []No DATE / TIME REPORTED LOCATION CLASSIFICATION CONNECTING REPORT(S) 10/27/2016 7 50 00 AM **PoholiJ** SBH COMMERCIAL ACTIVITY

Report (Continued)

TOURIST CONTACTS CONT.

After speaking with the I contacted four other tourist's who came off the vessel, they were identified as,

Upon speaking with all the Australian tourist, they stated they went on the tour to view lave and no of them paid any money for Informed me his cousin the trio. who he communicates via facebook provided information of Henry POMROY. stated the cousin told him to call POMROY and POMROY would be able to take he and his friends out to view the lava.

TRUCK/TRAILER OPERATOR

On 10-27-16 at approximately 0845 I contacted the operator of the Dodge truck registered to POMROY. He provided me with a Hawali Drivers License and was identified as Bill FUJIMOTO, FUJIMOTO stated he met POMROY at his house on Koele Street in Hilo and assisted with launching and loading the vessel upon exit in Poholki.

PHOTOGRAPHS

Photographs were taken at the scene, for more information rafer to the photographic record submitted.

DISPOSTION

In view of the Information in this investigation, I recommend a copy of this report be routed to Officer Craig DENTE for his review and final disposition.

ROUTE COPY OF REPORT TO OFFICER CRAIG DENTE #11-4-14/1730

INV. CONTINUING

Tamura, Ivan 251 11-4-16/1700 Officer Date / Time

Division of Contents on and Resources Phloromenia

Page 2 ol 2

EXHIBIT 3 (PG OF 17) DOCARE REPORT 17-0328.

State of Hawali | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

17-0328-HA

DATE / TIME REPORTED 10/27/2016 7 50 00 AM DISTRICT Puns

LOCATION

LEAD INVESTIGATION Craig Dente

CLASSIFICATION SBH COMMERCIAL ACTIVITY KEY REPORT

соинестик пероппа

Report Description: Photo Record
Data/Time Taken: 10-27-16/0802-0806
Taken By: Temura, Ivan
Scene: Poholk!

Equipment: Digital Olympus Weather Conditions: Cloudy Lighting: Overcast Focus: You

1 Ho'okupu vessel coming in to exit Poholki ramp.

2 Vessel waiting for Trailer to exit water.



3 Female in white and male in blue jacket admitted to paying.

4 Vessel pulled out of water heading to parking lot.





Photographic Report
Division of Conservation and Resources Enforcement

Page 1 of 3

State of Hawali | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

envestigation e 17-0328-HA DETRICT

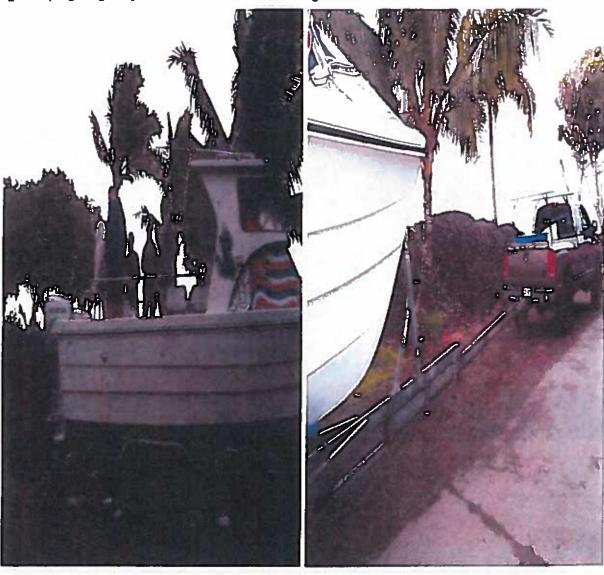
LEAD BOVESTIGATOR
Craig Denie

KEYREPORT

DATE / TIME REPORTED 10/27/2018 7 50 00 AM LOCATION Poholki CLASSIFICATION SBH COMMERCIAL ACTIVITY COMMECTING REPORT(S)

5 People getting ready to exit vessel.

R Closer view of vessel and truck, both registered to POMRCY.



State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

INVESTIGATION # 17-0328-HA

DISTRUCT Puna

LEAD INVESTIGATOR Craig Dente

KEY REPORT
[X] Yes []

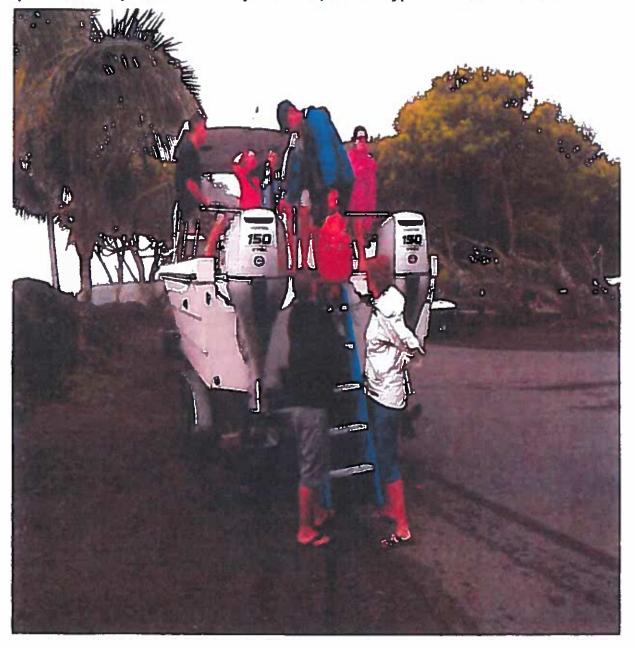
DATE / TIME REPORTED 10/27/2016 7 50:00 AM

LOCATION Pohoisi

SAH COMMERCIAL ACTIVITY

CONNECTING REPORT(S)

7 Female in white jacket and male in blue jacket with hat, admitted they paid \$150,00 each to view lava.



State of Hawaii Department of Land and Natural Resources Division of Conservation and Resources Enforcement

ADVICE OF RIGHTS

Report/Citation # 17-0328-4A

I am a Conservation Enforcement Officer. I want to inform you of your rights.

- You have the right to remain silent. You do not have to answer any questions. 1.
- Anything you say may be used against you in a court of law. 2.
- 3. You have the right to talk to a lawyer before we ask you any questions and to have him with you during questioning.
- If you cannot afford a lawyer, one will be appointed for you before any questioning if you 4. wish.
- If you decide to answer the questions now without a lawyer present, you will still have the 5.

right to stop answering at any time and talk	to a lawyer.	
The Advice of Rights was administered to HEN	RY POMROY	
- ×	By C. DENTE Conservation Enforcem	ient Officer
POLIDIKI BOAT KAMP		80Z4RS
Location	Date	Time
WAIVER OF RIGHTS	Initial	
1. Do you understand the rights that I have just	t read to you? Yes No	
2. Do you want a lawyer now?	Yes Note	3
3. Are you willing to answer questions and mai	ke a statement? Yes No./	
4. Do you want a lawyer during this interview?	Yes No	2
13,11 Firm to sittle	Al & m	>
Witness	Subject's Signature	
10-27-2016 0805	8.05 AM 10	-27-2016
Date Time	Date Tim	e
Refused to sign / /		
All the foregoing was translated into		
By Remar	ks:	
	FYILIAITT	10100E17)

CONVEYANCE OF MEMBERSHIP INTEREST IN HO'OKUPU FISH COMPANY, LLC, a Hawai'i Limited Liability Company

AGREEMENT effective	, 2016, between
HO'OKUPU FISH COMPANY, LLC, and	, Member.
RECITALS	

- i. HO'OKUPU FISH COMPANY, LLC (also, "the Company") is a forprofit limited liability company registered and in good standing with the State of Hawai'i.

 The Company engages in sustainable fishing practices and vessel charter operations. Its
 current assets comprise intellectual property, including common law trademark, service
 mark and trade name rights in and to the name and mark "HO'OKUPU FISH
 COMPANY" and lessee rights in and to the powered catamaran ocean-going vessel
 "HO'OKUPU."
- 2. The Company desires to convey a 0.001% interest in the Company to Member.

TERMS AND DISCLOSURES

- 1. For valuable consideration received, the Company hereby conveys a 0.001% interest in the Company to Member.
- 2. The membership interest entitles Member to a single passage on the vessel "HO'OKUPU" and to certain member discounts and premiums that may be offered from time to time by the Company. Depending upon availability, Member may also book passage for Member's guests and minor children by payment to the Company of a guest fee at the guest fee rate in effect at the time of booking.
- 3. The membership interest in the Company conveyed by this Agreement is not intended as an investment security. The membership interest has no present cash value and no disbursements to members holding less than 10% interest in the Company are anticipated unless and until the Company is sold or liquidated resulting in net proceeds.

4. Copies of the Company's Articles of Organization and Operating Agreement are accessible as of September 1, 2016 on the Company's website, hookupufishcompany.com. To promote sustainability, Member waives delivery of paper copies of the Company's documents.

ENTIRE AGREEMENT/ GOVERNING LAW

5. This instrument is the entire Agreement between the parties and supersedes any prior or contemporaneous written or oral representations. No amendment or modification to this Agreement is effective unless it is made in writing and signed by both parties. This Agreement will be governed by and interpreted in accordance with the laws of the State of Hawai'i.

APPROVED AND AGREED

HO'OKUPU FISH COMPANY, LLC

	Dated:
By Henry K. Pomroy	
Its Member-Manager	
Member	
	Dated:
Signature	
Printed Name:	

THE SECURITIES REPRESENTED BY THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1993, AS AMENDED (THE "SECURITIES ACT") NOR REGISTERED NOR QUALIFIED UNDER ANY STATE SECURITIES LAWS. SUCH SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, DELIVERED AFTER SALE, TRANSFERRED, PLEDGED, OR HYPOTHECATED UNLESS QUALIFIED AND REGISTERED UNDER APPLICABLE STATE AND FEDERAL SECURITIES LAWS OR UNLESS, IN THE OPINION OF COUNSEL SATISFACTORY TO THE COMPANY, SUCH QUALIFICATION AND REGISTRATION IS NOT REQUIRED. ANY TRANSFER OF THE SECURITIES REPRESENTED BY THIS AGREEMENT IS FURTHER SUBJECT TO OTHER RESTRICTIONS, TERMS AND CONDITIONS WHICH ARE SET FORTH HEREIN.

EXHIBIT 3 (P12 of 217) DOLARE REPORT 17-0328-HA Nov 4, 2016 1 22 04 PM

Printed By H15DENTC from: DLNR02

Received Time:

13:20:34 11-04-16

Source ORI: H10020702

Summary:

MSSL: LIC-269HZE TYP-5

View Hessage Details

DLNR02 00012 AT 13:20 11/04/2016

RXOSM55L MRI-785537

Received Time:

13:20:34 11-04-16

Source ORI:

HILICOOGO

Summary:

M55L: LIC-269HZE TYP-5

View Message Details

M55L/5/269HZE

PLATE: 269HZE

STATUS: A SPEC-PLT: EMBLEM: H25749 EXPIR-DATE: 07 17

YR-MODEL: COLOR:

VIN: HP002616H538HL MAKE: HOMADE TYPE: BOAT RO-NAME: POMROY HEHRY

PHON-CODE: P560H COUNTY: H

RO-CITY: HILO HI 96720

RO-ADDRESS: 1694 KOELE STREET

LO-MH:

SF-EXP: 08 17 TCI-NO:

LO-ADDRESS:

LO-CITY:

19T-SOLD: 00 00 00 DT-ISS: 08 29 16 TX-RT: F HVUC: TVB: BAD-CK: SP-VEH:

ODOM-EXC: ODOM-DSC:

NET-WT: 02660 GVW: 0800000 EXMPT: FUEL: ODOM: ODOM-EXC: OPON MO-TX: 12 TAX-COLL: 158.05 PENALTY-AMT: 0.00 PLT-EMB: 30.50 OT-PND:

PRI-PT:

XRF-PT:

Vo: Mo: DUP-DT:

LS-UDT: 00 30 16

ELT KEY:

F1:MPL F2:MOT F3:MCP F5:MFC F6:MAC F7:MCMT F10:MDR F11:MVRN F12:MFEE

MRI 785538 IN: RX05M55L 546 AT 04H0V2016 13:20:34

OUT: DLHR02 6 AT 04HOVZ016 13:20:34

Printed By H15DENTC from DLNR02 Nov 4, 2016 1 22 13 PM 13:39:50 11-03-16 Source ORI: HIOLHOODO Received Time: ADLB: OLN-Summary: View Message Details DRIVER LICENSE GENERAL ROOT INQUIRY EADLB1M ADLE PF KEY DATE 11/03/16 13:40 TERM RY01 P/L/U/T LICENSE LIC STATUS BIRTHDATE CLASS CDL CTY LIC EXPIRES SSN ACTIVE 3 MED-REC= ENDORS RSTR POHROY, HENRY, K, 3RD NAME LAST NAME POHROY SUFFEX 3RD FIRST NAME HENRY MIDDLE NAME K MAIL ADDRESS HILO, HI 96720 HOME ADDRESS HEIGHT WEIGHT HAIR EYES SEX H ISSUE DATE CARD DATE

MRI 759795 IN: RX01ADLE 354 AT 03NOV2016 13:39:50 OUT: DLNR02 3 AT 03NOV2016 13:39:50

7888 DRIVERS LICENSE HAMBER HAS AN OUTSTANDING VIOLATION.

11/18/2010

PF3:NAME INQUIRY PF21:NEXT SSN

09/14/1989

22:HELP

Nov 4: 2016 1:21:05 PM

Printed By: H15DENTC from DLNR02

Received Time:

13:19:32 11-04-16

Source ORI:

HI0020702

Summary:

M55L: LIC TYP-1

View Massage Details

DLNR02 00010 AT 13:19 11/04/2016

RX05H55L MRI-785521

Received Time

13:19:32 11-04-16

Source ORI:

HILICOGGO

Summary:

H55L: LIC TYP 1

View Hessage Details

M55L/1/

PLATE: VIN:

STATUS: A SPEC-PLT: ENGLEM:

HARE: DODG TYPE: PKUP

EXPIR-DATE: 03 17 YR-HODEL: 05 COLOR: G

PHON-CODE: P560H COUNTY: H

RO-NAME: POMROY HENRY RO-ADDRESS:

RO-CITY: HILD HI 96720

LO-NM: SAME LO-ADDRESS:

SF-EXP: 12 16 TCI-NO: 304HDY-16

LO-CITY:

19T-SOLD: 03 29 05 DT-ISS: 08 29 16 TX-RT: F HVUC: TV8: BAD-CK: SP-VEH: 1 NET-WT: 06950 GVW: 000000 EXHPT: FUEL: D ODOM: 176616 ODOM-EXC: N ODOM-DSC: N MO-TX: 00 TAX-COLL: 0.00 PENALTY-AMT: 0.00 PLT-EMB: .00 OT-PND:

PRI-PT: 578HDR XRF-PT: VO: N HO: N DUP-DT:

L5-UDT: 00 29 16

ELT KEY:

F1:MPL F2:MOT F3:MCP F5:MFC F6:MAC F7:MCMT F10:MNR F11:MVRB F12:MFEE

MRI 785522 IN: RX05M55L 544 AT 04NOV2016 13:19:32

OUT: DLHR02 4 AT 04HOV2016 13:19:32



STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES DIVISION OF BOATING AND OCEAN RECREATION HAWAII DISTRICT OFFICE 74-380 KEALAKEHE PAPIKWAY KAILUA-KONA, HAWAII 95740-2704

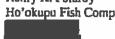
PHONE. (808) 327-3690 FACSIMILE: (808) 327-3683

MITANNED, CARE

administration Tating & Ocean Pickeaten

BOR-H 035.17

Henry K. Pomroy Ho'okupu Fish Company



September 14, 2016

Dear Mr. Pomroy:

SUBJECT: CEASE & DESIST COMMERCIAL OPERATIONS

According to reports, including an investigative report from the Division of Conservation and Resource Enforcement (DOCARE), state that the recreational vessel "Hookupu" HA 9689 H, has been conducting commercial operations.

Per, Hawaii Administrative Rule (HAR) 613-231-54 Commercial vessel; "Commercial vessel" as used in this subchapter means a vessel engaged in any trade or business including, but not limited to, carrying passengers for hire, charter fishing, bare boat (demise) or any type of charter maintenance, harvesting coral or similar resources, construction, towing, tow-boating, or other trade or business wherein the vessel is used in any manner to promote the venture, or is registered with the State or documented by the United States Coast Guard for commercial use.

This vessel has not been issued a commercial permit for these type of activity which is a violation of HAR §13-231-3 Use permits; issuance. (a) "Use permit" as used in these rules means the authorization by the department to utilize state boating facilities, offshore mooring areas, offshore mooring, state ocean waters, and navigable streams, as evidenced by the fully executed "agreement" described in section 13-231-2. The department may issue the following types of use permits:

(6) Commercial use permit. A use permit which authorizes the owner of a commercial vessel to engage in commercial activities as specified in the permit

Per HAR §13-231-51, "no person shall engage in any business or commercial activity at any small boat harbor or other small boat facility without:

- Prior written approval of the department; or (1)
- The proper execution of an agreement with the department."

You are hereby notified to cease and desist offering commercial tours, as they are contrary to Hawaii Administrative Rule.

EXHIBIT 3 (P160F17) DOLARE REPORT 17-0328-114

BOR-H 035.17 September 14, 2016

Failure to do so could result in fine(s), citation(s), forfeiture of equipment, and/or a legal action against you. We hope this action will not be necessary.

Sincerely,

William E. Taylov Hawaii District Manager

Cc: Administrator

> DOCARE Stephen Strauss

> > SENT BY CERTIFIED MAIL - RETURN RECEIPT REQUESTED

EXHIBIT 3 (P170F17) DOCARE REPORT 17-0328-HA

11-602 State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

NIVESTIGATION # 17-0602-HA	East Havei	Leed investigator Dente Craig	Report Status In Progress	Key Report [X] You () No
Octoffine Reported 01/08/2017 Oil OCAM	Location Punk	SAH COMMERCA	ALACTIVITY	Connecting Reports

Incident & Report Control Form

DOCARES (Ray SO))

A. COMPLAINT

Taken By:

Craig Dente

How Taken:

On Beat

Reported Data/Time; 01/08/2017 08 DGAM

Complement:

Craig Dente

Hame

Phone

Address:

Incident Summary:

Description COMMERCIAL ACTIVITY

Suspect HENRY PONROY

Vehicle/Vessel HA9689H "HOOKUPL"

Location: Location Notes:

Poheski Boat Ramp

Occured From:

01/08/2017 08 00AM

Occured To:

B. REPORT CONTROL

District Lead Investigator: East Hawaii Craig Dente

Date Assigned:

01/09/2017 10 20AM

KONA ST. PARKS HILO DOBOR 7 KAMUELA PROST CLITCH HONOLULU FE **AQUATICS** DOFAW OCCL LAND DIV

C. NOTES/DISPOSITION/OTHER INFO

INVESTIGATION CONTINUING

EXHIBIT 4 (P10=9) DOCARE REFORT 17-06-02-HA

State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

7-0502-HA	East Howaii		nte Craig			In Progress		[X] Yes		
Detailline Reported 01/08/2017 05 00AM	Location Pura			COMMERI	CIAL ACTIVIT	ſΥ		Connectin	g Reports	
nvestigation	Report			Cont.	PON NA	1000000		-C C-1011		
	N-Q-Lin									
SBH COMME	RCIALACTIVIT	Υ						on Beat		
3 COMPLANIANT'S H Craig Dente	AILE				4 SEX	3 RACE	8 AGE	7 BUTTH DATE	# OCCUPATION	DN
# ADDRESS					IO PLACE I	MPLOYED SCHOOL ATT	ENDONG	II HOWE	12 WORK	13 CELL
14 LOCATION OF NO Pohokil Boat Rar		NG STREET					100	WE OCCUMBED 17 08:00AM	14 DATE/TIN 01/08/2017	
13 TYPE Boat	10 YEAR 2012	19 BAKE Fiberglass	Catamar	23 MODE Yardbi		2) COLOR While	1 =	НА9689Н	23 LENGTH 25	24 STOLEN No
25 REGISTERED OWN	OER .	T	SEEPOON IC					37 HOME	28 WORK	79 CELL
Henry Pomroy				-					808-935-8092	
30 HOTES					-					
21 TYPE Boat Trailer	32 TEAR	23 MARE Boot		31 MODE Trailer		35 COFON	39	LICENSE HA NA	ST LENGTH	NO STOLEN
30 REGISTERED DWY	FA		40 ADDRESS	4				41 MOME	42 WORK	4) CELL
Henry Pomray		1							808-935-8092	
44 NOTES			Toronto.		- 4					
41 HAUE					1 48 SEX	47 RACE	4 ADE	44 EPITH DATE	SO OCCUPAT	10H
Henry Pomray					Male	White			fisherman	
1) CATEGORY			13 ADDRESS		-			11 HOME	SI WORK	AS CELL
Suspect				1					808-935-8092	Marie Commission
M NAME BIO FUJIMOTO					ST SEE	34 RACE	34 AGE	SO BIRTH DATE	II OCCUPAT	IGN
EM FUJIMOTO			N ADDRESS		Male			S- HOME	ES WORK	94 CELL
Suspect			EF ADDITION		0.00			a little	ES WOME	W CELL
67 HAUE				_	14 327	41 RACE	79 AGE	71 BIRTH DATE	72 OCCUPAT	ICH
				/						
73 CATESORY			14 ADDRESS					THE HOME	PR WORK	77 CELL
71 STHOPSIS		-		NAME OF TAXABLE PARTY.	-					
been trailered. I i	made contact v i each to go on ien slatements	vith four tou a boat ride	rists who w	ere stand	ing nearby.	ing lot of Isaac Hale who stated that they osh "Although cobp	just returne	d from a voyage	on HA9689H,	
Denie, Craig	132	0c 23	BAQGE No.		ALE WARTEN	July W	A Topolo	101 11 241	TIME APPROVED	SA BADGE NO.

DOCARE-8

EXHIBIT 4 (PZOF 9) PODOLOGI DOCARE REPORT 17-06-02-HA

State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

POSSTIGATION F

DISTRICT East Hewall LEAD INVESTIGATION Craig Dente

KEY REPORT {X}Yes []No

DATE / TIME REPORTED 1/8/2017 8 00 00 AM LOCATION Puru

CLASSIFICATION SBH COMMERCIAL ACTIVITY

CONNECTING REPORTIS)

Report Type: [x] Continuation of Report Date/Time Written; 01-20-2017 / 1800 hrs Written By: Denie, Craig

[] Supplemental

[] Follow Up

Report

ASSIGNMENT

While on duty as DOCARE 637 on 01-08-2017, at approximately 0800 hrs, I was patrolling at Pohoiki Boat Ramp.

SCENE

Upon entering the lower parking lot of Isaac Hate Beach Park, adjacent to Poholki Boat Ramp, I observed HA9589H Irailered in the parking lot and dripping wet as if it had just been taken from the water. Nearby, I spotted a pickup truck parked with 4 persons who appeared to be tourists standing by the bed of the truck.

MADE CONTACT WITH TOURISTS

I made contact with the group and identified myself as a Conservation Officer with DLNR DOCARE. The tourists provided identification. identifying themselves as follows:



TOURISTS STATED THEY TOOK A LAVA TOUR ON HA9889H

I asked the group if they had just returned from a tour. The group stated that they just returned from a tour to see the lava flow onboard HA9689H with "Captain Skosh", a person known to me as Henry POMROY. I asked them to describe what the Captain looked like, and stated that he booked the tour and said that he found out the description they provided matched that of Henry POMROY. what they paid to go on the tour, to which he replied that he made a about the four online at www.tailmetours.com. I asked the \$100 deposit via credil card to book a reservation through GragNottinohem@lailmetours.com, and at the ramp, they paid \$175 each in cash to Captain Skosh then showed me that Captain Skosh provided him with a business card to share with his friends. I look a photo of the business card. See attached photo log.

(Continued on Next Page)

Dente, Craig Officer

238 Badge No 01-20-2017 / 1800 hrs

Date / Time

State of Hawall | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

WWESTIGATION # 17-0602-HA

DESTRUCT East Hawaii LEAD DWESTIGATOR Craig Dente

KEY REPORT

1/8/2017 8 00 00 AM

LOCATION Puna

[X]Yes [|No

CLASSIFICATION SBH COMMERCIAL ACTIVITY

CONNECTING REPORT(S)

Report (Continued)

TOURISTS	REFLISED	TO PROVIDE FORMAL	STATEMENT

On 01-12-2016, I contacted any further statements.

by telephone. He stated that he and his family were busy and were not interested in providing

DISPOSITION

Due to lack of formal witness statements and their unwillingness to testify, there is not sufficient evidence to charge Henry POMROY with a violation for conducting commercial operations without a ramp use permit under HAR §13-231-3 for adjudication in environmental court Recommend DOBOR pursue civil penalties

CLOSED - FORWARD TO DOBOR FOR POSSIBLE CIVIL PENALTIES

(End of Report)

Dente, Craig

236

Badge No

01-20-2017 / 1800 hrs

Date / Time

State of Hawali | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

INVESTIGATION # 17-0802-HA

DISTRICT East Hawaii LEAD INVESTIGATION Craig Denta

KEYREPORT [X] Yes []

DATE / TIME REPORTED 1/8/2017 8.00:00 AM

LOCATION

CLASSIFICATI

CLASSIFICATION
SBH: COMMERCIAL ACTIVITY

сониестика пероптуя)

Report Description: Photo Log

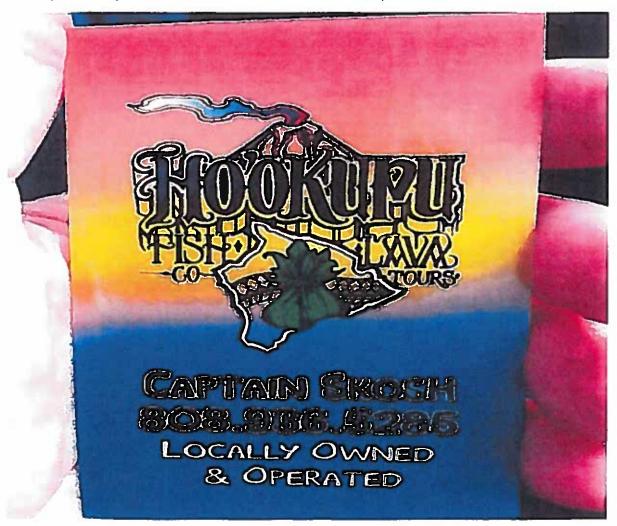
Date/Time Yaken: 01-06-2017 / Approximately 0800 hrs

Taken By: Denia, Craig

Scene: Parking Lot adjacent to Pohoiki Boat Ramp

Equipment: iPhone
Weather Conditions: Clear / Sunny
Lighting: Devlight / Natural
Focus: Auto

1 Depicts Henry "Skosh POMROY Business Card "Hookupu Fish Co. / Lava Tours"



Aloha& Welcome to.

B'G ISLAND LAVA BOAT

Lowest Prices & Best Service Anywhere!!!

(808) 333 - 4016

EXHIBIT 4 (PG OF 9) DOCARE REPORT 17-0602-HAM



1/20/2017

You simply won't believe your eyes! If somehow you could pay for a trip to Mars...you would get there and feel like you wasted a lot of time and money — compared to what you will see, right here on the Big Island of Hawaii!!

So don't wait another second and call us TODAY to learn more about our truly fascinating LAVA BOAT TOURS!!

of BIG ISLAMD LAVA BOAT and we hope to hear from you real soon!

Many Mahalos,

EXHIBIT 4 (PB 0F9) SO DOCARE REPORT 17-06D2-HA

http://bigisland.evaboat.com/

1/20/2017

Tali Me Tours

http://tailmetours.com/

EXHIBIT 4 (P9 OF 9) IN DOCARE REPORT 17-0602-HA

Online Vessel Registration Renewal | Division of Boating & Ocean Recreation

CONTACT PHONE XXX-XXX-XXXX

* REG. # (HA-XXXX-XX) HA-9689-H

HULL ID TEN25003C010 DECAL # R11318 RAMP # R39416 STATUS INACTIVE EXP. DATE (MM/YY)

07/17

CO-OWNER LIENHOLDER-MORTGAGEE VESSEL VESSEL MISC HULL NOTES

PRINCIPAL OWNER

BUSINESS

· LAST NAME **POMROY**

FIRST NAME HENRY

MIDDLE NAME

* EMAIL

DATE OF BIRTH (MM-DD-YYYY)

*CITIZENSHIP OF OWNER **UNITED STATES**

MAILING ADDRESS

*STREET1

· CITY HILO

* STATE HAWAII * ZIP CODE 96720

* COUNTRY **UNITED STATES** PROVINCE

STREET ADDRESS

SAME AS MAILING ADDRESS

= REQUIRED

LAST UPDATED: 10-19-2016 07:16:40 PM , Eather M Kadohiro

EXHIBIT 5 (P1 of 7) HA 9689 H REGISTRATION

2/25/2017

Online Vessel Registration Renewal | Division of Boating & Ocean Recreation

* REG. # (HA-XXXX-XX) HA-9689-H

HULL ID TEN25003C010 **DECAL**# R11318 RAMP # R39416 STATUS INACTIVE EXP. DATE (MM/YY)

PRINCIPAL OWNER

COORTING LIENHOLDER - MORTGAGEE VESSEL VESSEL MISC HULL NOTES

COUNTRY

CO-OWNERS FUJIMOTO, BILL A.G.

STREET

CITY HILO

STATE/PROVINCE HI

96720

ZIP CODE

US

EXHIBIT 5 (PZ OF7) HA9689H REGISTRATION

* REG. # (HA-XXXX-XX) HA-9689-H

HULL ID TEN25003C010 DECAL # R11318

RAMP# R39416 STATUS INACTIVE

EXP. DATE (MM/YY) 07/17

PRINCIPAL OWNER CO-OWNER

RETAINOLITED RESIDENCES VESSEL VESSELMISC HULL NOTES

NO LIEN HOLDER DEFINED

2/25/2017

Online Vessel Registration Renewal | Division of Scating & Ocean Recreation

* REG. # (HA-XXXXX-XX) HA-9689-H

HULL ID TEN25003C010 **DECAL**# R11318 RAMP # R39416 STATUS INACTIVE

EXP. DATE (MM/YY)

PRINCIPAL OWNER CO-OWNER LIENHOLDER - MORTGAGEE

VESSEL MISC HULL NOTES

* VESSEL

NAME HOOKAPU'U YEAR BUILT 2012

YEAR MODEL 2012

* FEET 25

*INCHES 00

HOMEBUILT?

• ENGINE

MANUFACTURER HONDA

SERIAL NUMBER N/A

*TYPE OF VESSEL

1-CABIN MOTORBOAT

*PRINCIPAL USE

1-PLEASURE

*TYPE OF FUEL

1-GASOLINE

* PROPULSION

1-OUTBOARD

= REQUIRED

* REG. # (HA-XXXX-XX) HA-9589-H

HULL ID TEN25003C010 DECAL# R11318

RAMP # R39416

STATUS

EXP. DATE (MM/YY)

07/17

PRINCIPAL OWNER CO-OWNER LIENHOLDER - MORTGAGES VESSEL

HULL NOTES

* RADIO COMMUNICATIONS

4-BOTH

* PLACE VESSEL KEPT

1-MOORED, 2-STORED ON LAND STORED ON LAND

ISLAND

HAWAII / BIG ISLAND

IF VESSEL REGISTERED AS COMMERCIAL

NET TONS (IF BOAT IS OVER 30 FT)

AVG. NO OF PASSENGERS

USE TRAILER TO LAUNCH BOAT FROM STATE BOAT RAMP

YES

IF VESSEL REGISTERED AS PLEASURE

IF FISHING (OF ANY KIND) IS NOT YOUR PRINCIPLE USE, DO YOU EVER USE YOUR VESSEL FOR NON-COMMERCIAL OR RECREATIONAL FISHING? [NO]

* REG. # (HA-XXXX-XX) HA-9689-H

HULL ID TEN25003C010

DECAL# R11318 RAMP # R39416 STATUS INACTIVE EXP. DATE (MM/YY)

PRINCIPAL OWNER CO-OWNER LIEN HOLDER (MORTGAGEE VESSEL VESSEL MISC)

NOTES

HULL

NUMBER OF HULLS

* HULL MANUFACTURER **TERN BOATS**

* HULL COUNTRY **UNITED STATES**

HULL COLOR WHITE

* CABIN COLOR WHITE

* TRIM COLOR WHITE

*HULL MATERIAL

3-FIBERGLASS/PLASTIC

" REG. # (HA-XXXX-XX) HA-9689-H

HULL ID TEN25003C010

DECAL# R11318 RAMP # R39416 STATUS INACTIVE

EXP. DATE (MM/YY) 07/17

PRINCIPAL OWNER CO-OWNER LIEN HOLDER - MORTGAGEE VESSEL VESSEL MISC HULL

VESSEL NOTES

TYPE	LAST UPDATED DATE	LAST UPDATED BY	STOLEN DATE	CONTENT
Other	10-19-2016		-	AV HWR BARS 7/19/2016 RNWL/RP/APPLICATION GIVEN
Other	08-03-2015		_	07/2/2015 HWR HILO REG/RAMP/TRANSFER
Other	02-26-2013		_	HWR 02/04/13 TRN/MOD TO CP
Other	02-26-2013		-	ALL REQUESTED DOCUMENTS RECEIVED
Other	10-12-2012		-	WINDWARD BOATS 08/02/12 REG/RAMP

TRANSFER NOTES

TRANSFER NUMBER	TRANSFER OWNER	BILL OF SALE DATE	INPUT DATE	INPUTTED BY
HA-9689-H		05-08-2015	09-22-2015	
HA-9689-H		03-19-2014	08-03-2015	
HA-1872-CP		02-25-2014	02-25-2014	
HA-9689-H		02-01-2013	02-26-2013	

PRIOR VESSEL REGISTRATION NUMBER

PRIOR HA#	DATE	USER
HA-1872-CP	Feb 25, 2014 2:53:54 PM	
HA-9689-H	Feb 26, 2013 9 41:55 AM	

Dente, Craig P

From:

Sent:

Friday, February 10, 2017 5:40 PM

To:

Cc:

Dente, Craig P

Subject:

Fwd: CONFIRMATION RECEIPT & BOOKING NOTICE - Sunrise Lava Boat Tour on

Tuesday, February 7th!!

Attachments:

Capt Skosch's Boat 2JPG; 040JPG; Lava Photo (6)JPG; Lava Photo 6.jpg; Lava Photo

5.jpg; Lava Photo 7.jpg; Lava Photo 2.jpg

This is the information I got also got a refund

----- Forwarded message ------

From: <gregnottingham@tailmetours.com>

Date: Mon, Feb 6, 2017 at 9:01 PM

Subject: CONFIRMATION RECEIPT & BOOKING NOTICE - Sunrise Lava Boat Tour on Tuesday, February

7th!!

To: Hemlock 1594@gmail.com

Aloha

Thanks for your call and \$25 deposit and it was very nice speaking with you. As I mentioned, your party of 1 is now CONFIRMED for a Sunrise Lava Boat Tour on Tuesday, February 7th - that's tomorrow!!

Please note: Captain "Skosh" (@ 808-936-5285) will greet you in the OCEAN-FRONT parking lot adjacent to Isaac Hale Beach Park and the Pohoiki Boat Ramp for orientation at 5:30 a.m. sharp. Please call the captain if you are going to be more than 10 minutes late. Please also remember to pay Capt. Skosh the total balance due of \$150 (\$150 x 1 persons) in cash at time of departure. Any tips, at your discretion, at the conclusion of your tour are also very much appreciated!

For your convenience, please paste the link below into your web browser address bar for a "Google Map" showing you the precise location of Isaac Hale Beach Park and the boat's location near the boat ramp – our point of departure.

https://www.google.com/maps/dir//19.4579041,-154.8409909/@19.4580478,-154.8425774,18z/data=!4m2!4m1!3e0

Again thank you for choosing BIG ISLAND LAVA BOAT and have a wonderful time!!

If you have any questions or should you require any additional information, please do not hesitate to call me.

Thanks again and have fun!!

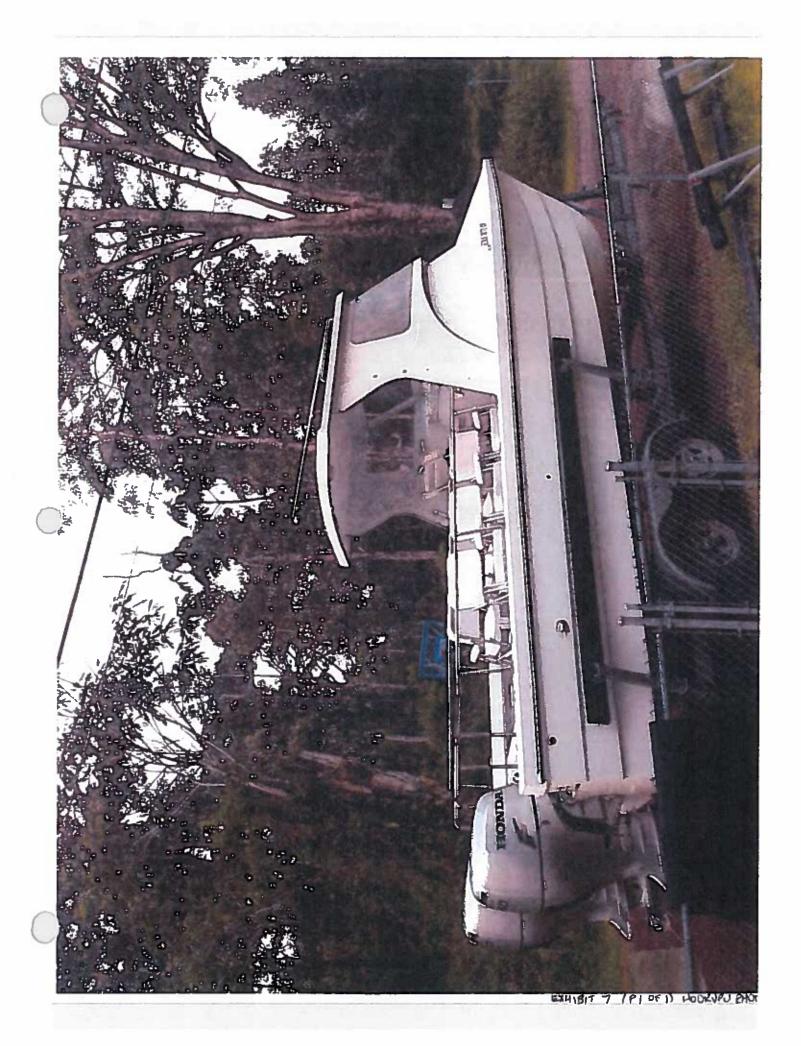
Greg Nottingham
Owner & President
www.BIGISLANDLAVABOAT.com
www.TAILMETOURS.com
www.LAVAWALK.com

EXHIBIT 6 (P1 of Z) CONFIRMATION EMAIL

(808) 333-4016

P.S. You can also read about us in TRAVEL AGENT MAGAZINE by clicking on the link below:

http://www.travelagentcentral.com/hawaii-big-island/tail-me-tours-debuts-big-island-12236



DOCARE COMPLAINT & SUMMONS
In the DISTRICT/FAMILY COURT
of the THIRD JUDICIAL CIRCUIT, STATE OF HAWAII
Dry lic STATE JUVENILE
MAME POMROY
HENRY K
Current/Mailing
AddressCity, State, Zip
Place of Employment Job Tibe, Yr. In school
School or Branch of Service or Military Rank
Parent's name II juvanile or Registered owner of vehicle/vesset:
Phone number (Days). (Eves): SAME
Did order 704 day FEB v.17 at 5 45 AM
did operato/command Vehicle/Vessel#: HA 9689 H
Vehicle/Vessel HOOK HALTypo CAT 75' color WLIT Vr. ZO17
at (location): POHOLKI BOAT RAMP
and tild commit the offense of: COMMERCIAL RAMP VS5
MAIST POPULE
SECTION: 12-731-3(4)(4)
EVIDENCE TAKEN: Yes OESCRIPTION OF EVIDENCE
Receipt of this citation is acknowledged (Your signature is not an admission of guilt)
The undersigned alleges that the person named above committed the offense herein set forth,
Date of lease 2-7-2017 Teme 0625 Hes.
C. DENTE.
Print Bank, First India a State Marrie Z36
ConfetSpanSignature Badge/ID No.
Bail Fodelfure by Mall Permitted: Yes 2000
BEFORM count date Payment Amount COURT D'ON count date Payment Amount COURT
SUMMONS
Your court appearance date is:
DATE MARCH 17TH 2017 THE 8:30 AM COURTROOM 2B
Offered Court OF Femily Court of PUNA HELD IN S. HILLO

COURT

	OFFICER'S REPORT	
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SUSPECT	NOT IN POSSESSION	O
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A COMME	ERCIAL USE PERMIT	
FOR POH	DIKI. CITATION ISSU	٥.
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he undersigned allege	s that the person named herein committed the of	S
orth, contrary to law.	The Art of	12
G. DENTE,	CREO TIT 777 2	36 Number
	2.21-17	
Subscribed and swom t	perfore me on	25
oryo C	STATE OF HAWAII Land and Natural Resources	
()		

State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

INVESTIGATION # 17-0738-HA	Puna Dente, C		or .	Report Status in Progress	Key Report
Date/Time Reported 02/07/2017 05.45AM	Location Pohoiki		iffication : COMMERCIAL RA	AMP USE	Connecting Reports 17-0735-HA

Incident & Report Control Form

DOCARES (Rev. 6/03)

A. COMPLAINT

Taken By:

Craig Dente

How Taken:

On Beat

Reported Dete/Time: 02/07/2017 05 45AM

Complainant:

Craig Dente

Home

Work

Cell

Phone:

Address

incident Summary:

Description COMMERCIAL RAMP USE

Suspect. FUJIMOTO, Bill A G

Vahicle/Vessel HA9689H

Location:

Location Notes:

Poholiki

Pohoiki Boat Ramp

Occurred From:

02/07/2017 05 45AM

Occured To:

B. REPORT CONTROL

Branch:

Hawaii

District

Puna

Lead Investigator:

Craig Dente

Date Assigned:

02/11/2017 11 54AM

C. NOTES/DISPOSITION/OTHER INFO

CLOSED - CITATION ISSUED (062434 LNR)

State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

17-0	17-0736-HA Pune Dente Craig In Progress [] Yes [X] No												
	Time Reported 7/2017 05:45AM	Location Poholki	·		fication COMMER(CIAL RAMP (JSE			Connects 17-0735-4	ng Reports		
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	Suspect									Voja d			
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PSIS	See connecting ma	aster report	17-0735-F	(A for more di	etails.								
SYNOPS	CLOSED - CITATIO	ON 062434	LNR issue	ed.									
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or ,	78 REPORT WRITTEN B	100		SO BADGE No.		IME WRITTEN		DHIVORNIA	# 10	83. DAT	E/TIME APPROV		NOGE No.
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Feb 11, 2017 12:45:17 PM

Printed By: H15DENTC from: DLNR02

Received Time:

12:43:38 02-11-17 ADLB: OLN=

Source ORI:

HI0020702

Summary:

View Message Details

DLNR02 00006 AT 12:43 02/11/2017

RX01ADLB MRI-832469

Received Time:

12:43:38 02-11-17

Source ORI:

HIOLNOOOO

Summary:

ADLB: OLN-

View Message Details

ADLB

DRIVER LICENSE GENERAL ROOT INQUIRY

ZADLB1M

PF KEY

DATE 02/11/17 12:44 TERM RY01

MED-REC=

P/L/U/T LICENSE

SSN ACTIVE

LIC STATUS BIRTHDATE CLASS CDL CTY LIC EXPIRES H

NAME FUJIMOTO, BILL, A G

LAST NAME FUJIMOTO

RSTR B SUFFIX

FIRST NAME BILL

MIDDLE NAME A G

MAIL ADDRESS

HILO, HI

96720

ENDORS

HOME ADDRESS

HEIGHT

WEIGHT

HAIR

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ISSUE DATE CARD DATE 10/13/2009 10/13/2009

PF3:NAME INQUIRY PF21:NEXT SSN

0613 INQUIRY HAS SUCCESSFULLY COMPLETED

22:HELP

MRI 932470 IN: RX01ADLB 128 AT 11FEB2017 12:43:38

OUT: DLNR02 4 AT 11FEB2017 12:43:38

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COURT

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SUSPECT NOT IN	POSSESSION OF
A COMMERCIAL U	SE PERMIT
FOR POHOIKY, CIT	ATION ISSUED.
REFER TO REPORT	T 17-0736- HA
FOR MORE DETAIL	
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State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

INVESTIGATION # 47-0938-HA	District Puna	Dente, D	•	Report Status In Progress	Kay Raport [X] Yes [] No
/Time Reported 21/2017 08 00AM	Location Pohoiki	-1	Classification SBH COMMERCIAL OPERAT	Connecting Reports	

Incident & Report Control Form

DOCARE-5 (Rev. 8/03)

A. COMPLAINT

Taken By:

Craig Denle

How Taken:

On Beat

Reported Date/Time:

03/21/2017 08 00AM

Complainant:

Craig Dente

Home

Work

Call

Phone:

Address:

Incident Summary:

Description COMMERCIAL OPERATIONS

Suspect. Henry POMROY, Bill FUJIMOTO, Sleven STRAUSS, HOOKUPU FISH COMPANY

Vehicle/Vesset HOOKUPU HA9689H

Location:

Pohoiki

Occured From: Occured To:

03/20/2017 05 00AM

Location Notes:

Poholki Boat Ramp

B. REPORT CONTROL

Granch.

Hawaii

Lead Investigator:

Craig Dente

Date Assigned:

03/21/2017 12 27PM

C. NOTES/DISPOSITION/OTHER INFO

CLOSED - RECORD ONLY

State of Hawaii | Department of Land and Natural Resources | Division of Conservation and Resources Enforcement

	INVESTIGATION # District Lead Investigator Report Status Key Report T-0939-HA Puna Dente, Craig In Progress [X] Yes [] No						7										
	te/Time Reported V20/2017 05 DOAM	Location Pohoiki				Reston COMMER	CIAL OPERA	ATIONS				Conne	cting F	leport			
G	vestigation f	Report								1 33	F 19	11/2	19		SULL		
	1 CLASSIFICATION SBH COMMER	CIAL OPER	RATIONS									2 SOURCE On Beat					
	O COMPLAMANT'S NA Anonymous	ME		4 SEX	S. RACE 6 AGE 7 BH			7 BIRTH DATE	RITH DATE & OCCUPATION								
D ADDRESS UNKNOWN, HI **A LOCATION OF INCIDENT/INTERSECTING STREET Poholiki Boat Ramp							10 PLACE	EMPLO	YED/SCHOOL ATT	ENDING		11 HOME	1	2 WO	RIK	13 CELL 808-425-	0985
												2017 05:00AM			16 DATE/TIME REPORTED 03/20/2017 05 00AM		
	17 TYPE Boat	18 YEAR 2012	18 MAKE Fibergi	ass Catan	nar	20 MODE Yardbı			21 COLOR White			ENSE/HA NO. A9689H	7	23 LENGTH 25		24 STO	
	26 REGISTERED OWN Henry Pomroy	ER		29 ADI	DRESS							27 HOME	`	08-9	rk 35-8092	29 CELL	
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	45 NAME Henry Pomroy						44 SEX Male	47 Wh	RACE	44 AG		49 BIRTH DAT	E		occupat	_	\dashv
	51 CATEGORY			52 ADI	ODRESS						53 HOME	HOME 54 WORK 55			55. CELL	\dashv	
	Suspect										808-935-8092			1			
Щ	SO NAME BIJ FUJIMOTO					S7 SEK 68 RACE 59 AGE Male Japanese			١,	OF BURTH BATE			61 OCCUPATION				
PEOPLE	42 CATEGORY			83 ADI	I) ADDRESS			aphonose		84 HOME		1 0	65 WORK		00 CELL	——)`	
ā.	Suspect								- 1						q		
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	73 CATEGORY	<u> </u>		1			Male	<u> </u>									
	Suspect			74: ADI	DRESS	•						75. HOME	Ι,	M WO	HK	77 CELL	
	78 SYNOPSIS							· · · ·								<u> </u>	1
On 03-20-2017 at approximately 0745hrs, I received a comptaint from a reliable source who wishes to remain anonymous alleging that H POMROY and Bill FUJIMOTO launched the HOOKUPU HA9689H, taking what appeared to be tourists for two different boat tours to the flow off Kalapana that moming. I contacted Chief Warrant Officer of the U.S. Coast Guard in Honolulu to advise him of the report stated that if the HOOKUPU Fish Company (POMROY, FUJIMOTO, and STRAUSS) was running tours without a licensed mast poppoant again. It would be a violation of U.S. Coast Guard Captain of the Port Hopefully Order running four 2017-10, a possible Class-D Forter.								the lava eport Ci naster	3								
SYNOPSIS	On 03-21-2017, at approximately 0445 hrs, I arrived at Poholki accompanied by Officer J. WELLER of DOCARE. We met with a three person U.S. Coast Guard Boarding Team and waited in the area. At approximately 0730 hrs, I observed Henry POMROY and Bill FUJIMOTO arrive at Poholki with the HOOKUPU. I witnessed the HOOKUPU wait at the pier for approximately 20 minutes, then depart to sea without any tourists onboard. I believe that POMROY may have been alerted to our presence, as he seemed to have departed somewhat hastity.																
	Shortly thereafter run two boat tourn stated to me that HOOKUPU.	with seven	al founsts old him on	the morn	ing ol	03-20-20	17 that he	g of 03 (POM	3-20-2017, bet	ween the	hours	at he also w of 0500 and ining regular	J 090	0.	al	SD	
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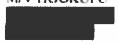
Continander United States Coast Guard Sector Honglulu 400 Sand Island Parkway Honokifu, Hawaii 96819 Phone (808) 842-2506 Fax (808) 842-2524 Email scchonolut@uscg mil

16600/2017-10 HOOKUPU

Henry K Pomroy, Owner M/V HOOKUPU



William Akira Gushiken Fujimoto, Co-Owner M/V HOOKUPU



Steve Strauss M/V HOOKUPU



CAPTAIN OF THE PORT ORDER 17-10

By the authority of the Ports and Waterways Safety Act, 33 U.S.C. 1221 et. seq., and by Title 33. Code of Federal Regulations, Part 160, vested in me as the Captain of the Port. I hereby issue this order to your vessel to ensure the safety of the vessels and waterfront facilities and the protection of the navigable waters and the resources therein. My staff is available to work with you to explain the applicable regulations that apply to your operation.

You are hereby ordered to:

 Immediately cease operations of your documented Recreational Vessel as a Passenger Vessel, including the carriage of any passengers for hire as defined by Title 46 U.S.C. 2101, at any time, while underway or pier side. This order shall remain until such time as it can be shown to the satisfaction of the Coast Guard that the aforementioned vessel is being operated by an individual holding the appropriate license and the vessel is in compliance with all applicable federal laws and regulations.

PENALTY FOR VIOLATING THIS ORDER

SECTION 1232 of Title 33 U.S. Code provides the penalties for violation of this order. The statute, as amended by the Federal Civil Penalties Inflation Adjustment Act of 1990 and Coast Guard regulations, authorizes a maximum civil penalty in the amount of \$40,000 for each violation. The statute further states that:

"Any vessel subject to the provisions of this chapter, which is used in violation of this chapter, or any regulations issued bereunder, shall be hable in rein for any civil penalty assessed... and may be proceeded against in the United States district court for any district in which such vessel may be found."A willful and knowing violation of this order may also result in a class D felony eriminal charge. A class D felony is punishable by a fine of up to \$250,000 or more and or confinement from five to ten years.

APPEAL OF THIS ORDER

Should you be aggrieved by this order, you may appeal under the procedures described in 1 itle 33. Code of Federal Regulations, Section 160.7, appeal orally or in writing to the official who issued this order or in whose name it was issued. Should you be further aggrieved, appeal orally or in writing through this office to the Commander. Fourteenth Coast Guard District. However, it the appeal is made orally, a written submission is required within five days of the oral presentation.

COAST GLARD POINT OF CONTACT FOR THIS ORDER

All questions pertaining to this order may be directed to my Command Duty Officer at (808) 842-2603

TERMINATION OF THIS ORDER

Sincerely,

This order will remain in effect until resemded by me in writing. My Command Duty Officer will inform you when I have issued the reseission order.

MICHAREC, LONG Captain, U.S. Coast Guard Captain of the Port Honolulu

Receive	d by			Position		
Date	25	Feb 2017	a are arribused and the second	Lune.	0940	

Cupy 134. S. Coast Guard, District Fourteen Command Center 2) Hawaii Department of Land and Natural Resources

Presented By: Mark LT, beorge Supposed
Witnessed By: Ware CAZ, ANGELO MELETA

Presented to the Pampoy at the below address. Explained the COTP order to the Pompoy but he refused to sign until he spoke to his attorney the tried to call the Strauss, and he left a voice for him. He Pompoy stated that the Strauss was to Oaku yesterday for a hearing with the state of Hamaii. Two DLNR officers were present and took photos.