

Anelakai Adventures
P.O. Box 390858
Kailua-Kona, Hawai'i
96739

October 26, 2022

Board of Land and Natural Resources
P.O. Box 621
Honolulu, Hawai'i
96809

Re: Item J.2 on the Board's Oct. 27, 2022 agenda, requesting approval to initiate rulemaking proceedings, including public hearings to amend Hawaii Administrative Rules (HAR) Chapter 13-230, General Provisions, re: Section 13-230-8, Definitions, and HAR Chapter 13-256, Ocean Recreation Management Rules and Areas, to add new Sections 13-256-26, Manta Ray Viewing, and 13-256-165, Makako Bay Manta Ray Viewing Zone, 13-256-26, Kaukalaelae Point Manta Ray Viewing Zone, as regulations for Manta Ray viewing activities.

Aloha e Chairperson Case and BLNR Board Members,

Mahalo nui for this opportunity to provide testimony supporting the intent of these much improved draft rules for the safety of manta rays, and opposing the remaining negative impacts on the safety and accessibility of ocean guests of all physical abilities, on the invasiveness upon



manta rays, and on our ability as a small, local business that focuses on providing safe, respectful, Hawaiian ocean cultural experiences to people with all levels of ocean knowledge and capabilities.

Anelakai Adventures (www.anelakaiadventures.com) offers the only manta ray experience that provides access for children, non-swimmers and people with physical and mental challenges to safely view manta rays. It does so by being the only company without a lightboard, in part because it acts as its own light source. Anelakai also provides the only completely eco-friendly, non-motorized access to view the mantas: via traditional paddling power in double-hulled canoes that have been innovatively rigged for everyone's safety, including the manta rays, our guests and ocean guests arriving via other vessels. All aspects of our vessel have been designed to assure safety for people and

marine life. Our staff has been trained in safety, compassion, ocean skills and Hawaiian cultural and natural resource knowledge. Aloha and safety are our top priorities as ambassadors of the Hawaiian waterman and waterwoman lifestyle.

Below, we share our concerns with how the current draft rules for manta ray viewing still provide incomplete care for manta rays, visitors and for small, local businesses that care deeply about the ability to show true aloha for our home, culture, natural resources and visitors. We brought these concerns to the Small Business Regulatory Review Board (SBRRB) on Feb. 26, 2019. They graciously wrote to us on Mar. 1, 2019 (letter attached), asking us to continue providing information to the Division of Boating and Ocean Recreation (DOBOR) and requesting DOBOR to work with us to amend and clarify the draft rules that they presented at that time.

DOBOR did just that. We are grateful for their willingness and their efforts to meet, talk and email with us over the past three years, despite the impacts of the COVID-19 pandemic. The draft rules are much improved, and we appreciate the staff's work and communication. The staff expressed the intention to assure that our business would be able to continue to operate, either with an explicit exemption or because the rules would clearly allow for our operations.

In reviewing this draft, however, that intention is not clear to us. We have several questions about the ultimate interpretation and implementation of the rules, particularly in how they will impact the safety of mantas and guests and how they seem to put us out of business. We remain concerned about elements of the draft rules that would make it impossible for our small business to survive, including the question of how the permits will be issued: via lottery, auction or first-come, first-served. Manta ray tours are the main source of our income, and we have maintained our compliance (and will continue to do so) with the existing rules for commercial entities in Keauhou and with the drafted requirements for obtaining manta ray viewing permits. However, unlike the much larger, motorized vessels, we can only take a maximum of 6 people at a time in our double-hulled canoes, and because we only use human-, paddle-power, being able to have just one vessel permitted for approximately 2 hours a night constricts us to taking out 6 people a night – if we get a permit – which is not viable.

Anelakai Adventures

Based in Keauhou Bay, we have commercial use permits for our double-hulled canoes, which allow us to offer eco-friendly, culturally aware ocean tours, including manta ray tours in the evening, if weather and ocean conditions permit. We are only paddle-powered, so we stay at Kaukalelae Point for our manta ray tours. Anelakai is a long-term member of that ocean community, which is a tight-knit 'ohana that looks out for and supports each other and each other's safety and guests, and meets all of the draft regulations' safety and other requirements to attain a permit to provide manta ray viewing operations.

Keauhou's culturally and historically significant location also provides a perfect setting for educating guests about Hawai'i as well as mantas while they paddle in canoes that are lashed

together in the traditional way, with rope. Each hull of our lashed double-hulls holds four people, for a total of eight per vessel, including two staff members: one who is the lead steersperson. Thus, our commercial operations only allow for six visitors per tour. Those six visitors are screened by our staff to determine their abilities and comfort levels in the ocean, because we want to assure that any special needs are met and that everyone is comfortable and has a positive experience.

People with physical or mental challenges, small children, people uncomfortable or unsure in the ocean, and non-swimmers in general are afforded an opportunity to go to sea safely in our canoes and view the mantas from their seats, unlike any other vessel currently offering



manta viewing (please see sample testimonials at the end of this letter). We are honored to be able to offer this opportunity to people who have been turned away from everyone else, but who want to be able to experience Hawai'i's ocean environment and life. We are well-known for offering these services to groups and to individuals. This has become a defining part of our business and a gift that we cherish being able to give, and that we want to assure that the final HAR rules would not eliminate.

Equally, because we have proven over the years that there is a safe and comfortable way to provide access to the ocean and to viewing the mantas, we effectively supply DOBOR with their only compliance to the American Disabilities Act (ADA) in this arena. The ADA, among other things, prohibits discrimination on the basis of mental or

physical disabilities in commercial facilities and by state and local government – including commercial activities that are licensed by the state – as do Federal and Hawai'i Civil Rights laws. This community or class of people is often excluded from ocean activities because all of these laws allow for exemptions if there is not a safe alternative and if the activity is not fundamental to their lives and well-being as important members of our society. In this case, we provide the safe alternative, which would be eliminated if these draft rules are approved as they are currently written, thereby effectively excluding this protected class.

Anelakai is committed to safety on and in the water. We require that all of our staff be CPR, first aid and lifeguard certified, and we have life vests, lifeguard buoys, first aid kits, fire extinguishers, flares, proper lighting, an AED and oxygen on board as part of our safety gear and required safety training. None of this is currently required, nor are any of these safety protocols for vessels, staff or guides included in the draft regulations.

Furthermore, our vessels' innovative design creates a controlled situation that keeps



everyone either sitting inside or floating between the hulls for manta and human safety and control purposes. People can view the mantas from the comfort of their seats in the canoe, or via masks from the water, holding rods between the two hulls and with their feet suspended on the surface of the water by floats. Thus, everyone is kept together, easily able to climb in and out of the canoe by a ladder between the hulls, and are constantly monitored and accessible by our staff. If a person panics or needs assistance, we can have them back

in the canoe in seconds. We also can and have provided assistance to guests from other vessels who have panicked or run into trouble in the ocean. We are concerned that none of this oversight, security and care would be allowed under the current draft rules, because our paddle-powered vessel may not be allowed into the viewing area.

Not only do our double-hull canoes provide a peaceful, safe experience for visitors of every ability and capacity, but it also provides a safer, more controlled experience for the mantas. Because no one is free swimming, no one is kicking fins underwater, and we have no engines, the deepest possible elements in the water are our rounded hulls (no skegs or propellers), which are stationary, and our steering paddles, which do not go much deeper – if at all – than the hulls themselves. In comparison, please see photo of the dive fins and legs of other snorkelers and of guides requiring very long fins to push and hold in place multiple visitors holding onto a light board, usually with the long fins and their legs moving while straight down into the water column. These fins regularly hit mantas, and our culturally sensitive and eco-friendly canoes, paddles and guests never have.



We have our own light source, which is not submerged so as not to entangle or injure the mantas, and which attracts the plankton that attracts the mantas. Because our steerspeople are in constant control of the canoe (we strive not to moor, raft or anchor so that our lines also cannot entangle mantas), our visitors are kept inside or between the hulls and are not free-swimming or free-floating, we essentially are our own light board, with a smaller footprint and much smaller potential impact into the water column where mantas swim. Because there is no definition or parameters for light boards, we do not know what their size or lumens requirements would be.

Having tried to be active participants in DOBOR's consultations process for these draft rules and regulations, we are pleased with some of the evolutions that we have witnessed. For example, it is a relief that each Manta Ray Viewing Operations Permit will only be issued for one of the viewing zones (Makako Bay or Kaukalaelae Point). Any conflicts that we have witnessed among tour operators and any overwhelm of the site at Kaukalaelae Point have been because of vessels from Makako Bay not finding enough mantas in their waters and motoring to



our area, where they usually live boat (keep their engines running and vessels moving) because there is not enough room for them. It is also a relief that SCUBA will not be allowed at Kaukalaelae Point for manta ray viewing, because having people of various skill levels diving within the water column and moving their long fins below and around the mantas has caused problems in the past.

We also strongly support the requirement for propeller guards being installed on outboard and inboard motors

for vessels permitted to offer manta ray viewing operations. One of the reasons we have never had a motor on our double-hulled canoes is to protect marine life, our guests and our staff in the water from the unintentional and extreme damage that propellers can cause. We are curious, however, as to why a vessel in this area should be allowed not to have a propeller guard “if a crew member, other than the person operating the vessel, is designated as a lookout to ensure safety at all times.” (See Draft Rules §13-256-26(d)(2)(vii).)

While the regulations stipulate that only 24 permits will be offered for each viewing zone, there are no stipulations as to the size of vessels or the number of visitors allowed in each zone or to be allowed to be brought by each vessel. Without a schedule for which permitted vessels will be able to use which mooring at what time, on which date, the rules appear to be

creating a scenario of motorized vessels racing each other to limited moorings, while being unable to guarantee to their guests whether or not they will be able to moor and therefore be able to put their guests into the water. Rather than supporting the existing Keauhou 'ohana situation, the draft rules likely would create a negative, competitive situation where mantas and guests are more at risk. The draft rules, which allow one company one vessel permit and only allow each to



be moored for 2 to 2 ½ hours at a time, also seem to be promoting larger vessels that can bring more people at once, which fundamentally counters the stated intent of promoting the safety of mantas and guests.

Furthermore, the draft rules provide for a ratio allowing one guide to control as many as eight people in the water – all swimming, and all presumably attached to a light board. This scenario is an improvement over the

past ratio of 1:10, but still must presume that the guide will need very long fins and have to be extremely strong in the water to push or pull as many as eight people and a light source away from their vessel and to the viewing campfire. Currents, winds, swells and potentially frightened and cold swimmers of mixed abilities among an unlimited amount of other guides and swimmers far away from their support vessels portends a dangerous, uncontrolled situation where rescue is about 100 feet away on a vessel that cannot see the people in the water and is not allowed to approach the area – whether under motor power or not – unless there is an emergency. Also, if one of the guide's 8 guests is injured, becomes frightened, cramps, or has other difficulties, the guide cannot separate the guests and leave seven alone to return one to the vessel.



Nothing about this scenario speaks to the safety or comfort of the visitors, the guides or the mantas.

This scenario also could unnecessarily exclude our safe, respectful business model of a providing a paddling canoe as a light board, an opportunity for people of varied abilities to share the special Hawaiian ocean experience with mantas, and a back-up safety mechanism for other Keauhou-based businesses. We have often helped guests from other companies who are panicked or confused and allowed them to come sit in or hold onto the canoe to calm down. We like to present our canoes as beacons of safety to all of the other light boards in the water and invite them to come to us if they are in need. We do not agree that it would be safer to moor our canoe and swim our guests away from its natural security toward a “campfire”.

While a “campfire” setting (currently undefined or regulated as to light source or lumens) for manta ray viewing may make sense for SCUBA visitors who can then all sit in place on the ocean floor and not disturb the mantas above them in the water column, it puts both mantas and swimmers more at risk in a snorkeling setting. Also, Kaukalaelae Point has more currents than Makako, which is part of why SCUBA does not belong at Kaukalaelae, and part of why light boards that are not at least tethered to a vessel do not belong at Kaukalaelae Point. One guide with a large board and non-trained swimmers attached to that board will be hard pressed to swing the board against the current, hold the board and people in place, and swim them against the current – either away from or back to their vessel. All of this must be done – if at all – with huge fins that can hurt the mantas, and all of it would be done out of visual sight from the vessels and people on the vessels that could help the guides and visitors.

Questions:

- Can our unique operation be exempted in any way from these rules, which were crafted because of the negative impacts of too many unregulated motor vessels with too many people?
- §13-230-8 Definitions:
 - The proposed, new definition for “canoe”, in Hawai‘i’s rules, now describes non-Pacific Islander vessels and may or may not include the various traditional canoes that are integral to Hawaiian culture: outrigger canoes (which still have their own definition), double-hull canoes, sailing canoes, fishing canoes, voyaging canoes, etc. This seems insulting to the host culture, and it raises concerns for our non-motorized, double-hulled paddling canoes being able to continue to be permitted to provide any kind of commercial operation, including for manta ray viewing.
 - Bolded words are suggested additions to the Dec. 2020 proposed definition of “Canoe” to assure that Anelakai’s safety-conscious, sustainable double-hulls clearly fit within this definition and within the Manta Ray Viewing set of rules: “**Paddling** Canoe” means [~~outrigger canoe.~~] a narrow, open-top, manually propelled watercraft without rudders, fins, keels, **skegs** or any other type of protrusions extending from the vessel’s hull **or hulls**, which is steered and propelled solely by use of single-bladed paddles, and in which **paddlers** sit on bench-type seats in an elevated position from the bottom of the hull.”

- “Hawaiian or Polynesian Canoe” means [~~outrigger canoe.~~] a narrow-hulled vessel, which is steered by use of single-bladed paddles, and lashed with rope to spars (‘iako), another hull, an outrigger (ama), or a deck. A Hawaiian or Polynesian canoe may be propelled by use of single-bladed paddles, sails and motors.
- **Note:** The purpose of the second proposed definition is to be inclusive. It would apply to voyaging canoes, paddling canoes, sailing canoes and fishing canoes, some of which are not yet represented at all in these rules, but all of which are part of Hawai‘i’s unique seascape. In Anelakai’s case, both of these definitions would apply to our double-hulls, but only the Paddling Canoe version – which with our proposed amendments allows for more than one hull and for non-paddlers to sit on the deck (like we sometimes have physically challenged people do) – would be referenced in the Manta Ray Viewing rules, because it only allows for non-invasive paddle power.)
- The proposed definition for “Commercial manta ray viewing operation” reads that “an operator for hire carries passengers or brings participants into the water, or both, to engage in manta ray viewing at areas where illumination is used for the purpose of attracting plankton.” This would seem to allow for our double-hulled canoes to continue to carry passengers view manta rays from the canoe itself, which could be wonderful for us, if we can continue to be our own light source.
- The proposed definition for “Manta ray viewing zone campfire” remains the same, which means it still only references an “intended gathering point for in-water participants to view manta rays”, not for people viewing from canoes. **Question:** Does this mean that we can still operate our canoe as its own light source, out of people’s way? **Suggestion:** If not, we suggest proposing the following amendment to the definition: “means the intended gathering point for in-water participants and permitted paddling canoes to view manta rays.”
- The definition for “Manta ray viewing zone”, which is defined as “an area where manta rays are intended to be viewed, whether commercially or non-commercially”, leaves open the possibility that the viewing does not have to occur around a “campfire”, which is not specifically defined anywhere. This could be helpful for us, or just confusing.
- §13-256-26 Manta Ray Viewing:
 - (b)(1) Now, only 24 of these permits will be allowed for each zone from the beginning; no longer is there an attrition plan built in to get the permit numbers from 30 to 24 over time. **Question:** How is this impacted by the idea that there may not be as many mooring buoys as originally planned? Anelakai notes that it does not need a mooring, since it is under paddling power, has its own light

source and will need to be able to bring our visitors directly to the mantas (not swim them away from the safe and equal opportunity view options of the canoe).

- (b)(2) each commercial manta ray viewing operation can only work in one zone and during viewing hours (4pm-4am) and will be limited to what reads as maybe a single, two-hour shift per night. This is not viable for Anelakai with only as many as 6 passengers per night in one double-hull canoe, especially since we only go out when safety and weather conditions allow, and paddling takes a bit of time, making each of our potential shifts at least 1½ hours long. A lot of the motor vessel companies run 30- to 40-minute tours, whereas Anelakai’s visitors are in the water (only between our hulls) for an hour. If we are not able to be exempted from these rules, we suggest amending this section – to be compatible with the section (b)(5) suggested amendment below – to allow for more than one shift by adding an “s” to the word “shift” at the end of the section so that it also matches the language in (b)(5), which allows for “shifts”, so that we could potentially take out a canoe twice a night: “Commercial manta ray viewing operations shall only be conducted during manta ray viewing hours and shall be subject to two-hour shifts as determined and assigned by the department. No commercial manta ray viewing operator may operate within any manta ray viewing zone outside of their assigned shifts.”
- (b)(5) limit of 60 passengers within 24 hours, with a 1:8 ratio of guide to guests, no matter how many of the guests are in the water (**Suggestion:** Shouldn’t there instead or also be a cap on the number of people in the water at a time with the mantas?). Only one commercial permit per company (which means only one vessel). Because Anelakai’s one vessel only allows us to take out as many as 6 people at a time, if we cannot be exempted from these rules or be allowed the possibility of taking out our canoe twice a night, for flexibility purposes we suggest amending this section to read: “...No more than one commercial manta ray viewing operation permit shall be issued per person or business entity, **or to no more than two licensed, double-hulled paddling canoes per person or business entity.**” (Note that this amendment requires the previous suggested change to the definition of “canoe”).
- (b)(6) Each permitted vessel shall have a capital “M” on both sides of the vessel. (**Question:** At no point is a double-hull canoe defined or described as a vessel that can be designated and permitted. Should they be?)
- (c)(2)(iii) Can only be at a buoy for about 2 ½ hours then have to detach and leave the area for at least 30 minutes before returning. **Question:** This ability to return seems counter to the apparent limit of a single shift for each permittee, per 13-256-26(b)(2) above, which makes our suggested amendment more pragmatic. If a vessel does not moor, but only remains free-paddling, like a double-hulled canoe, does this time limit apply?

o (d) Prohibitions in the zones:

(1) No one shall:

- (i) operate a vessel above the slow-no-wake speed (easy for Anelakai)
- (ii) anchor any vessel (Anelakai does not and will not)
- (iii) raft any vessel (**Note:** unless one is defined as a kayak, canoe or paddleboard, which is why it is important to assure that Anelakai's double-hulled paddling canoes meet the definition of at least one kind of canoe, just in case they need to raft for safety purposes)

(2) During manta ray viewing hours, no one shall:

- (i) Navigate any motorboat (except for when attaching or detaching from a buoy or in an emergency) within 100 feet of any manta ray viewing zone campfire. (**Note:** here, the word "campfire" – which is not defined anywhere – is used on its own): "...navigating a vessel within one hundred feet of any manta ray viewing zone campfire shall be allowed only for ingress and egress purposes or in emergency situations, if a campfire is available."

Questions: Does that mean that this rule only applies in Makako Bay, which is shown in the map as having a set location for a campfire? Also, this subsection seems to limit the ability of a paddling canoe to enter a "manta ray viewing zone campfire" but only if an undefined "campfire" is available. We thought that non-motorized, double-hulled canoes would be able to safely paddle into the viewing area at Kaukalaelae Point. **Suggestion:** If this subsection applies to Kaukalaelae Point, to allow our canoe to continue to operate as intended, we suggest the following amendment (as well as request a definition for "campfire" if it is to be used as a term by itself): "...providing further that navigating a motorboat [vessel] within one hundred feet of any manta ray viewing zone campfire shall be allowed only for ingress and egress purposes or in emergency situations, if a campfire is available."

- (iv) "Use subsurface vessel lighting or excessive topside lighting if a campfire is available." (**Question:** Can continue to paddle into the viewing area and use its onboard lighting?)

- (v) "Use any point source of illumination for the purpose of attracting plankton or manta rays more than 100 feet from any campfire." (**Question:** Can Anelakai can continue to paddle into the viewing area and use its onboard lighting?)

- (vii) Use a motor without a propeller guard unless a crewmember who is not operating the vessel is designated as a lookout.

(**Question:** This seems strange and unsafe. Why was this language amended so that not everyone has to use a propeller guard?)

Conclusion

Mahalo nui again for this opportunity to voice our concerns and to offer suggested paths to solutions. We share DOBOR's intentions for safety and sustainability for manta ray viewing opportunities in West Hawai'i, and we hope that our questions and proposed solutions are helpful to the future of manta rays, their respectful visitors and our small, local business that serves an under-represented community of uniquely abled and physically challenged people who seek a safe, eco-friendly, Hawaiian ocean experience.

We would be happy to answer any questions and to further collaborate on solutions. Please feel free to contact us, the co-founders of Anelakai Adventures: Iko Balanga via e-mail iko@anelakaiadventures.com or via phone at (808) 896-4294; and Holly Crane via e-mail at holly@anelakaiadventures.com, or via phone at (808) 987-7975.

Me ke aloha,

Iko Balanga

Holly Crane

Attachment: March 1, 2019 letter from SBRRB

Copied: SBRRB

Additional photos and reviews of Anelakai's services and operation, contrasted with images of motorized vessels' operations with lightboards



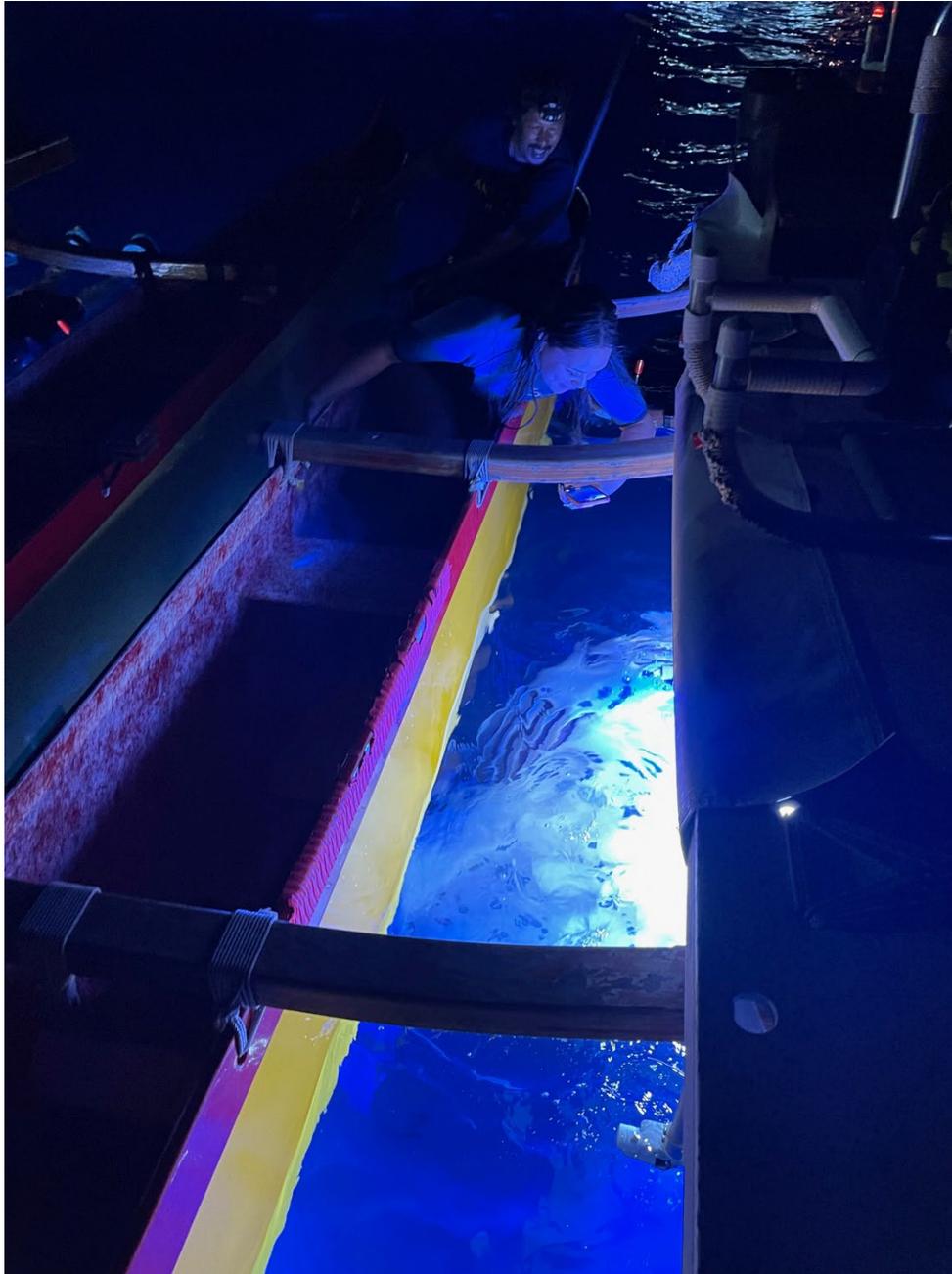
Here is a family getting ready to paddle out for their sunset manta ray viewing tour on a double-hulled canoe: no motors, no gas, no oils, ecofriendly, nonimpactful to the manta rays and culturally respectful. Please note that we always have two (2) steerspeople for each outing, one in each hull.



This is how our guests view the Manta Rays: between the hulls, 4 ½ feet away from our lights, and using ankle floats to keep their legs level on the surface. Guides stay in the canoe right next to them to ensure their safety and comfort at all times.



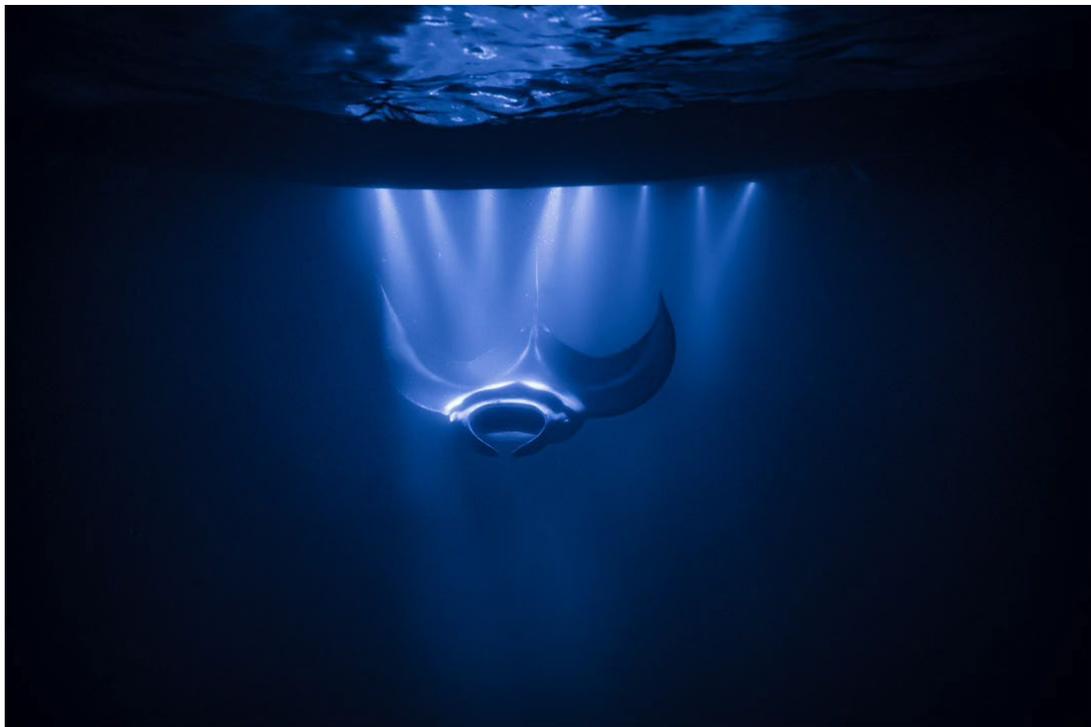
Preston is autistic and this is the only way he can safely view the Manta Rays – from his seat in the canoe. He said it was one of the best days of his life.



Many of our guests book with us so that they don't have to get in water and can view from their seat in the canoe. For some it is because they cannot swim; for others it is because they are not comfortable in the water, perhaps more so at night. Still others are physically or mentally challenged, and our canoes provide the only accessible means of experiencing this natural wonder.



Underwater view of a Manta Ray doing backflips under our guests safe between the hulls of our canoe.



Manta Ray doing a back flip under the smooth hull of the canoe feeding on plankton attracted by the lights.



A view from our canoe of us working in harmony with other companies' light boards. While we have concerns about the safety of the other vessels' guests and the manta rays with the light board methods, we strive to create a community of care in the ocean out of Keauhou.



A link of light boards from just two commercial motor boats that stretches more than 100 feet long. Our double-hulled canoe, which is only 24 feet long, should be able to be in the same viewing area as these much more expansive light boards.

This is another view from our canoe as we line up with other light boards at the site. Our canoe is only 24 feet long. As you can see this string of lightboards is much longer than that with many more guests, several types of lightboards and means of keeping guests' afloat, including pool noodles that easily blow or get swept away, becoming marine debris and leaving guests' feet and legs dangling.



Reviews cut and pasted directly from TripAdvisor (no corrections made to spelling errors), with links provided from each title:

[Manta-fest!](#)

We saved the best Hawaii adventure for our last evening and it was AWESOME! I have some mobility issues, knew I wasn't going to snorkel, but hoped my husband and I could see Mantas together. Boy did we see them. I had called Anelakai before booking and they were very helpful, listening to my concerns and answering my questions. A couple days before our tour we popped down to Keauhoe to see how easy it would be for me to get into the canoes. The crew was so helpful. They answered questions and helped figure out what the tides might look like and how high or low the step into the canoe would be for our tour. The night of our 6:30 tour, they came prepared to help me in and made sure I was comfortable. Captain "Donut" and Mana'o were a great team: instructing how to paddle, entertaining with jokes, educating us about Mantas, giving local restaurant tips. The dive spot is just outside the harbor and you suit up and are in the water within the first 10 minutes. We lucked out with perfect weather, calm seas and a warm night. Once they turned on the lights the plankton started to gather and then the mantas immediately came to scoop them up. They fed continuously the whole time we were out there. We saw at least 7 different individual Mantas which the crew knew by their markings. The lights are placed in between the two canoes so if you are unable to get into the water you are just as close as the snorkelers...you just don't get wet. You are not allowed to touch them but they were that close. Those in the water had mantas swimming and brushing against them. So amazing. We had so much fun. Thank you for being the only company that made it possible for me to experience the mantas on the water.

[Highlight of our holiday!](#)

My two sisters and I LOVED our experience seeing the mantas. There were so many of them, and they were inches away from us! They are magnificent creatures! Being in a canoe made us feel so connected to the ocean...so much more meaningful and special than chugging out in a smelly boat! It was fun to paddling the canoe. The owners, Eco and Hollie, and their staff are beyond fantastic! Caring, dedicated, knowledge and fun! They go way out of their way to make sure the experience is perfect. I am a quadriplegic, and getting into a boat is impossible without someone helping me. Ok...lifting me! Other companies refused to take me. Then I saw Anelakai Adventures website and read a review by a man who was also paralyzed and had had an amazing trip to the mantas in the canoe. I called and was treated with such kindness, enthusiasm and assurance that I signed up on the spot! Best time ever! These guys do it for the love. They love the mantas and they love life and they love people. You feel like you're with your favourite cousins! They truly gave me the most wonderful experience I've had in years. LiterallyI could not have done it without them! I'll be back!

[A Kind Canoe Journey Among Gentle Giants](#)

Mantas are majestic creatures that display majestic acts of unreal underwater acrobatics– everybody knows this, but what everybody doesn't know is that Anelakai is by far the best and most kind way to experience their magic. Other tours involve shuffling out onto massive rafts with literally dozens of other people. Beyond this, the boats are motorized and huge, which is an irresponsible opportunity to hurt these gentle giants. Anelakai is the opposite- you will be part of a small canoe crew, paddling out to the bay and dropping in the water without spinning blades or diesel fumes. I can say with near certainty that the mantas appreciate the smaller size, numbers, and lack of mechanical disruption. Seeing the mantas with severe propeller damage is heartbreaking and reinforced my decision to go out with this crew. Speaking of the crew, they are fabulous- knowledgeable about the creatures you are seeing (tell them you want all the manta facts!) the history and culture of canoe expeditions, and

bursting with local knowledge of the best eats and sights. I truly could not imagine doing any tour but this one, and it is an experience I shall treasure always.

[Best wheelchair accessible adventure on the Big Island](#)

Breast wheelchair friendly adventure activity I found on the big island and I called a lot t of places. I felt safe and had a blast. A one in a lifetime experience. I am a complete T5 para with arthritic shoulders and I was able to enjoy the snorkel just like all the other able bodied passengers

[If you do one thing on the Big Island do this!](#)

Incredible experience for all ages. We had my 8 year old son & 73 year old mother on charter and they both loved it! I would recommend this experience for 3 reasons. 1. Environmentally conscious - The canoe has no motor and thus no negative impact on the reef. Operators are knowledgeable and show concern for the ecosystem. 2. Safety - This is a small charter and the operators are very concerned about safety. 3. Culture- you are supporting local small business that is involved in the community. The operators are very knowledgeable about Hawaiian Culture and give you an experience you are not going to get anywhere else.

[Best way to see the rays](#)

There are lots of options but this is the best for several reasons. First the guide to participant ratio was as 2:6 not 2:40! Our guides could name the rays by their spots, so we knew when it was Amanda Ray or Quarintina. We got to paddle out in a Hawaiian canoe trip which was also on our island bucket list. Because you are in the canoe right on the water getting wet is completely optional. One person in our boat never left the boat and had a great view. You could bring young kids, less agile elders, or folks who can't swim and they wouldn't miss a thing! That isn't true for the big boats. I am so glad a local told us about them.



SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism (DBEDT)
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MEMORANDUM

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Governor

Michael McCartney
DBEDT Director

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O'ahu

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Maui

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Kaua'i

Director, DBEDT
Voting Ex Officio

TO: Mr. Iko Balanga and Ms. Holly Crane
Anelakai Adventures

FROM: Anthony Borge, Chair *Anthony Borge*
Small Business Regulatory Review Board (SBRRB)

DATE: March 1, 2019

SUBJECT: SBRRB Meeting on February 26th, 2019

On behalf of the SBRRB, I wish to thank you both for attending the February 26th SBRRB meeting and providing testimony with regards to the creation of manta ray snorkel and dive site rules and regulations by the Department of Land and Natural Resources (DLNR's) Division of Boating and Ocean Recreation (DOBOR).

One of the concerns we have discovered in the administrative rule-making process is that small businesses are generally unaware of new rules and proposed changes being considered to rules, particularly those that may impact their operations. Although we are pleased to know that you have been working with DOBOR in crafting rules for commercial procedures for manta ray viewing, we acknowledge that working on the rules since 2013 is an extremely long period of time.

Therefore, as you are aware, at the SBRRB's February 26th board meeting, we discussed concerns you and others have conveyed with the draft rules to representatives from DOBOR. Overall, the discussion included limitations on commercial operators, safety and accessibility of ocean guests, and reasons for the delay in promulgating the rules.

In addition to encouraging stakeholders, such as yourselves, to continue providing input to DOBOR, we also requested that DOBOR work with you and others to amend and clarify the draft rules to allow for protection of manta rays as well as guests. We will continue to monitor DOBOR's progress on these rules. However, as noted at the meeting, absent receiving sufficient funding from the State Legislature, DOBOR is subject to approvals from the State Attorney General's Office and the Board of Land and Natural Resources prior to bringing the rules back to the SBRRB and prior to public hearings.

Thank you, again, for your attendance at the meeting and conveying your concerns.

c: Mary Albitz, SBRRB Discussion Leader

From: [Joni Balancio](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Manta Ray viewing testimony 10/27/22
Date: Wednesday, October 26, 2022 8:09:28 AM

Aloha

I have been doing Manta ray tours for the past 9 years. We are a 6 passenger vessel which leaves out of keauhou bay boat ramp and take our guest to view the Manta rays at Kaukalaelae Point.

My 3 biggest concerns are as follow

#1- if creating a camp fire at Kaukalaelae point manta ray viewing site is created and boats are to tie up to a mooring and swim to the camp fire, I see a problem. Kaukalaelae is a point that sits at a location where MANY nights the current is very strong. Over 1 knot at times. If a vessel is tied to a mooring far away from the camp fire, there is a major safety issue on the nights the current is strong. Some won't be able to swim against the current. Some nights the current changes and picks up during the tour. If our guest are at the camp fire along with the other tour boats guest and while being in The water and current picks up, they will not be able to swim back and the water guide won't be able to keep them over the camp fire. The vessels will need to drive to get them. The vessels need to stay close to their guest at Kaukalaelae point.

#2 if moorings are added to each Manta ray viewing site, how safe is it for the manta rays and any other ocean inhabitants. They can get tangled into the mooring lines. I've seen it happen.

#3 I feel strongly that scuba diving tours should not be allowed at Kaukalaelae point. When scuba tours come down to Kaukalaelae point we watch their guest from above crawling along the ocean floor. Grabbing onto the reef. There is not a lot of sand at Kaukalaelae point like Makako Bay. If you continue to allow scuba tours to be at Kaukalaelae point they will destroy the reef which is home to many ocean inhabitants and any life of coral.

Mahalo for your time
Joni-May Balancio
JBB Enterprise Inc
Hawaiian Coastline Adventures

--

Joni-May and Bryan Balancio
Hawaiian Coastline Adventures
808-313-1621

From: [Mendy Dant](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] October 27, 2022, BLNR meeting Item J-2
Date: Wednesday, October 26, 2022 7:36:49 AM

Aloha Chairperson Case and Board Members,

Our company Kona Sunrise Charters, Inc, has been running Manta Ray viewing tours from Keauhou Bay to the Kaukalaelae Point Manta Ray Viewing Zone since 2007 on our vessel Hula Kai. We are going out three nights a week for one tour. However, we do not use a campfire at this location which is written in the BLNR J-2 item, as required.

o Requiring all participants to gather at a central viewing point (known as a "campfire") for safety.

We do not have SCUBA, and all other Keauhou Bay-permitted vessels do not offer SCUBA. The campfire is used by the dive boats, but because we do not have a diving crewmember, we can not set the campfire carefully onto the ocean floor, making sure coral is not disturbed. We do not set a box of lights on the bottom, there is no need for that at Kaukalaelae Point. Instead, we have a lighted float that our guests hold onto and lay perpendicular so as not to get into the Manta's water column. This is the common style for the Kaukalaelae Point Manta Ray Viewing Zone. The individual lighted floats allow the vessel to have proximity to the snorkelers, not swimming them to a central place where 20 or so vessels are around in the dark ocean waters. We gather our floats with the snorkelers together when possible to make a large area for the Mantas to swim and feed in.

Page 29 Restricted:

iv. Use subsurface vessel lighting if campfire is available.-

response: Keauhou Bay Kaukalaelae Point Viewing Zone does not allow SCUBA and therefore, a campfire is not used. None of the Keauhou vessels use subsurface vessel lighting, but we all use custom-made floats with lights set into the float apparatus, not a campfire on the ocean floor.

Thank you for the opportunity to speak on this matter, and am very glad the rules are finally seeing the light of day!

Sincerely,
Mendy Dant

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[Travel Tips: Ocean Conservation](#)

“We need to respect the oceans and take care of them as if our lives depend on it. Because they do.” Dr. Sylvia Earle

From: [Rich Kersten](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Manta Rules
Date: Wednesday, October 26, 2022 9:06:20 AM

Aloha BLNR Board Members,

I am providing written testimony regarding the proposed Manta Ray Site Rules. We her at Sea Paradise have conducted manta ray tours for nearly forty years. We were part of the original working group collectively working with a member of the DLNR and a few other long time manta tour operators. Our objective was to try and come up with some type of management for the two location that provide this type of tour. Sea Paradise is located and operates out of Keauhou Bay. Therefore our tour will only be offered at the Kaukalaelae Point site.

Regarding the proposed rules, we have objection to a few that are being proposed:

Kaukalaelae Point site will be designated as a NO SCUBA diving location, therefore the need for a **campfire** (underwater light source) should be omitted completely.

Rule #5 Regarding how many passengers an operator can take in any 24 hour time being only 60 total participants. Many vessels are regulated by the federal USCG on how many passengers we are able to legally have onboard. The state should not govern or order how many passengers or participant we can take while the USCG has already done this.

Thank you for your time,

Richard Kersten
President | Sea Paradise
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www.seaparadise.com



Your Sailing and Snorkeling Adventure Begins Here!

Written Testimony For Hawai‘i Board Of Land And Natural Resources Meeting

October 27, 2022

In OPPOSITION to Agenda Item J.2

Request approval to initiate rulemaking proceedings, including public hearings, to amend Hawaii Administrative Rules (HAR) Chapter 13-230, General Provisions, re: Section 13- 230-8, Definitions, and HAR Chapter 13-256, Ocean Recreation Management Rules and Areas, to add a new Sections 13-256-26, Manta Ray Viewing, and 13-256-165, Makako Bay Manta Ray Viewing Zone, 13-256-166, Kaukalahae Point Manta Ray Viewing Zone, as regulations for Manta Ray viewing activities.

Submitted on behalf of Kia‘i Kanaloa by Roxane Keli‘ikipikāneokolohaka, Ed.D.

on October 26, 2022

Kia‘i Kanaloa shares the concern of not having any current laws or administrative rules regulating Manta Ray viewing operations. As we cannot rely on this industry to place the needs of the Kanaloa (the hāhālua) above their financial wants, we also agree that there needs to be regulation.

However, we do not agree with or support the process used to develop this proposal. According to the proposal, DOBAR consulted with just one non-government stakeholder – Manta Ray viewing operators. This intentional choice egregiously skews the resulting proposed rule changes. Absent from these initial conversations were the critical voices of the right holders and stakeholders – the ‘ohana of these geographical areas and Hawaiian cultural practitioners whose practice focuses on the akua element that is the hāhālua (Manta Ray).

This proposal is an example of how government agencies are quick to use Hawaiian culture for the aspirational poster verbiage and the PSAs but dismisses our authentic knowledge and practices when it comes to regulations, policy, and the like.

Had DOBAR consulted the right people in the conversation from the start, the proposed rule changes that would eventually move forth to the public would be more appropriately balanced. Was there even a consideration of moratoriums throughout the year where our hāhālua would not be subjected to a state of constant disruption and alteration? Further, the proposal fails to indicate what DOCARE's enforcement assurances are. Is DOCARE going to rely on self-regulation? Will the state fund daily monitoring of each area to ensure enforcement? The current regulations clearly put the "industry" before the akua (hāhālua). The proposal fails to put adequate protections for the hāhālua in place. The following highlights just two of the many points of concern we have in this regard:

- The 4 pm – 4 am viewing hours do not afford them any substantial unaltered, non-human time in the dark hours. Hāhālua would continue to be habitually prostituted for 12 hours a day every day.
- The supposed limiting of viewing (24 permits X 60 passengers/day) is still way too excessive.

Kia'i Kanaloa urges the Board of Land & Natural Resources to **reject** this proposal and requires DOBAR to restart this process in consultation with representatives of 'ohana and Hawaiian cultural practitioners, as stated above, to develop a more appropriate and effective proposal.

Ola i ke au a Kanaloa!

Roxane K. Kelikiptānokolohaka

ROXANE K. KELI'IKIPIKĀNEOKOLOHAKA, Kia'i

Kia'i Kanaloa
kiaikanaloa@gmail.com



From: [Teri Leicher](#)
To: [DLNR.BLNR.Testimony](#)
Cc: [Representative David A. Tarnas](#); [Representative Nicole E. Lowen](#); [KONA-KOHALA-Wendy](#); [Keller Laros](#)
Subject: [EXTERNAL] Request for Manta Ray Rules
Date: Wednesday, October 26, 2022 9:16:35 AM

Aloha,

We are Jeff and Teri Leicher. We are the managing partners of Jack's Diving Locker and Kona Coast Skin Divers. Jack's Diving Locker has been in business since 1981. Kona Coast Skin Divers since 1883.

We started the manta ray night dive back in 1983 and have been going there since that time.

We are in favor of DOBORS request to initiate rule making. Although the current proposed rules need modification with new community input.

These sites have a long history. And there are others as well.

Over the years more businesses started going there. When we reached about 5 dive charter operators going regularly to the site at Keauhou, we as a community, along with PADI Project AWARE, developed manta viewing guidelines. This was about 1993.

Viewing mantas gained popularity during the recession about 2009 and by 2012, we had formed a user committee along with Nancy Murphy at DOBOR to update the guidelines.

We requested that DOBOR put a cap on the dive sites, create a permit and ORMA and ensure that anyone going there was educated and would educate their clients on manta protocols.

At this time there were approximately 21 boats going to two sites at any given time.

Now there can be 60.

We ask that a committee of long time users be formed to modify the current proposed rules.

Mahalo,

Jeff and Teri Leicher

(HAR) Chapter 13-230 and section 13-230-8,
(HAR) Chapter 13-256,
(HAR) Section 13-256-26, 13-256-165 and 13-256-166

Teri Leicher | Managing Partner

Jack's Diving Locker

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Sea Quest Hawaii
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Kailua-Kona, HI 96740
(808) 329-7238
SeaQuestHawaii.com

October 26, 2022

Aloha Board of Land & Natural Resources members,

Mahalo for the opportunity to submit testimony on this latest iteration of proposed regulating rules at the two manta ray viewing sites in Kailua Kona. To provide some context, Sea Quest Hawaii, the company owned and operated by my husband & myself, is currently in its 35th year of operations in Keauhou Bay. My husband & I, a native Hawaiian, were raised on Hawaii island and are raising our three children in Kealakekua Bay to be near our business. We employ 44 members of the community and operate rigid hull inflatable vessels. The following testimony, in opposition to the proposed rules, pertains in particular to the Keauhou manta ray viewing location but much of this is relevant to both manta ray viewing sites. I mention this as the two sites are each of a very different nature and the proposed rules apply a broad stroke that is not only irrelevant at times but creates dangerous and unnecessary conditions in many instances.

After reviewing the proposed rules, we are left with some very serious concerns. Specifically regarding the safety of our guests and crew, as well as the economic impact the proposed rules will have on a small community that is still reeling from the global pandemic and while a recession is almost certainly expected. When you consider the dire safety and economic impact that would follow the implementation of the rules, we are left with the question “what are we trying to solve for?” Safety? Overcrowding? Please allow us to address the “issues” the proposed rules attempt to resolve but regrettably would almost certainly inflict more harm than good.

Safety

Have the BLNR members been provided any data regarding incidents of bodily harm to either guests or crew? Considering the large number of participants and crew that are on the water every evening and that have participated in this activity historically, the safety record ratio is wildly disproportionate to any other activity on the Island and in the water. In fact, the most extreme and recent example of bodily harm that resulted in death was while a Captain & crew were attempting to tie off to a mooring ball, something the proposed rules would mandate. The majority of operators in Keauhou Bay are live-boaters. The historical data suggests that live-boating allows for quicker response times to medical emergencies, safety of the guests where the elements & surf are concerned, and eliminates the most dangerous few moments of the activity entirely- tying off to a mooring ball. The average visitor to the Island cannot manage the potentially 100 yard swim to the “campfire” mandated by the rules. Should a vessel be tied to a mooring ball, the response time is slowed exponentially, the consequences of which can be dire. We have on more than one occasion, assisted with a medical emergency involving a guest from a moored vessel that was unable to respond immediately as we are able to do.

Additionally, the addition of more mooring balls will act as an obstruction to the manta rays and their natural behaviors as filter feeders, potentially resulting in harm to the creatures. This begs the question- who’s safety are the rules intended to protect? The guests? The manta rays? The crew? All are endangered by the proposed rules.

Overcrowding

Overcrowding is only a concern when the operators that originate from Honokohau Harbor relocate operations to the Keauhou site after not seeing manta rays at the Northern location, Garden Eel Cove. The simple solution to overcrowding is mandating that operators only visit the site they are permitted to operate from- Keauhou or Honokohau harbor.

Potential operator conflict is cited in the rules as a concern, however that has not historically been an issue. The only potential conflict we can identify would be a byproduct of the proposed rules and the mandate of mooring ball use- conflict with recreational boaters, conflict between operators to ensure a mooring ball, etc.. Based on the proposed rules, operators at both viewing locations have been running through potential scenarios that could result in conflict and there are numerous opportunities for conflict to arise. Again, what are we trying to solve for?

Regulation & Enforcement

Although regulation serves a purpose and there are models within our State where regulation has worked to protect the resources, these rules do not serve that purpose. The DLNR, acting as the industry's regulating body, is already tasked with the regulation and limitation of the industry. Inserting another level of regulation into the process is unnecessary and will almost certainly result in litigation. Will the author of the rules please provide us with a better understanding of how the number of 60 individuals per 24 hour period was decided upon? Each of our vessels, like the majority of vessels that participate in the activity, are regulated federally by the USCG. Each operator's vessel is assigned a COI based on extensive design and testing parameters. To impose the number of 60 individuals is another example of applying a broad pen stroke to a varied and diverse industry that consists of entrepreneurs that have invested heavily in their company and their community. The industry will be gutted by the proposed rules which will lead to family's losing their livelihood and an adverse effect on our community's economy. As I mentioned earlier, we employ dozens of people including providing them with healthcare and a retirement package. The proposed rules would result in the loss of hundreds of positions along the Kona Coast (just as unemployment is again on the rise), lost rental revenue, and lost revenue for the DLNR.

We are curious as to how the decreased revenue in gross sales, a significant portion of the DLNR's budget, will impact enforcement of these rules. The DLNR have asserted themselves that they are understaffed and underfunded to enforce the *existing* rules. We regularly resolve plumbing and infrastructure problems that arise in Keauhou Bay on our own as calls to the DLNR go unanswered due to their prioritizing other calls over one of a leaky faucet, etc. What is being proposed is additional expense with decreased revenue when there are no issues to resolve from the perspective of the majority of the operators to begin with.

In conclusion, this iteration of the proposed rule set is attempting to solve for a problem that does not exist. This is particularly perplexing as the proposed rules were authored outside of the industry itself as far as we know. Considering the varied nature of the two viewing sites, we are curious who in Keauhou Bay was consulted when the data was compiled and the proposed rules were written. Sea Quest Hawaii has operated in Keauhou Bay for 35 years. Our data set and experience was not sought or included in this process and our concerns for both the industry and our community are of a very serious nature. We hope you will consider taking a step back and asking what it is you are trying to solve for and whether or not these proposed rules do that and how.

Mālama Pono,

Manu & Liam Powers
Sea Quest Hawaii, EST. 1987
Manu Cell: (808) 936-0243
Liam Cell: (808) 640-1336