



Ka Moku'aina 'O Hawai'i Aha Moku O Pae'Aina

State of Hawai'i Aha Moku

P. O. Box 621

Honolulu, Hawaii 96809

Testimony of the Hawaii State Aha Moku

Board of Land and Natural Resources

Friday, April 26, 2024

9:00 a.m.

DLNR Boardroom, Kalanimoku Bldg.

SUPPORT – J-1

Agenda Item J-1: Request for administrative enforcement and penalties for alleged violations of Hawaii Revised Statutes Section 200-39 (Kaneohe Bay commercial ocean use activities; permits; restrictions) and Hawaii Administrative Rule Sections 13-256-3 (Commercial Use Permit or catamaran registration certificate requirements) and/or 13-253-73 against Ohana Kayak Rentals and Ms. Janell Jensen, individually and as owner of Ohana Kayak Rentals, both jointly and severally, for allegedly offering commercial ocean recreational equipment for commercial ocean use activity within Kaneohe Bay ocean waters, and/or delivering for hire or pre-positioning for hire within one thousand feet of any shoreline of Kaneohe Bay, on the Island of O'ahu, such commercial ocean recreational equipment for these purposes, and advertising these illegal activities, all without a commercial use permit issued by the department, on at least five separate dates, and for allegedly conducting these prohibited commercial activities on Sundays and/or federal holidays on at least two of those dates, for a total of seven (7) separate violations.

The Hawaii State Aha Moku (Aha Moku) strongly supports this agenda item.

The purpose of this submittal of the Department of Boating and Ocean Recreation (DOBOR) of is to provide the Board of Land and Natural Resources (BLNR) with a summary of existing commercial use illegal activities in Kaneohe Bay.

The DOBOR submittal is lengthy and informative as it accurately focuses on critical data collection of illegal ocean use activities in Kaneohe Bay.

Kaneohe Bay is connected to the Ahupua'a Districts of Mokapu, Kaneohe, Heeia, Kahaluu, Waihe'e, Kaalea, Waihole Waikane Kakipuu and Kualoa (ten (10) of the fourteen (14) ahupua'a of the Ko'olaupoko Moku. The stated illegal ocean activities interfere with, and adversely impact generational and native Hawaiian *lawai'a* (traditional ocean practices). Further, legal existing Kaneohe Bay ocean activities are protected by the Kaneohe Bay Master Plan.

Another critical consideration is that the Kapa'akai Analysis must be done for commercial ocean use permits. This analysis comes directly from the Hawaii Supreme Court Case *Ka Pa'akai O Ka'Aina*¹ which directed the following Findings of Fact and Conclusions of Law: 1) Identification and scope of "valued cultural, historical, or natural resources" in petition or impacted area, including the extent to which traditional and customary native Hawaiian rights are exercised

¹ *Ka Pa'akai O Ka'Aina vs. Land Use Commission, State of Hawai'i* (No.21162 (CIV.NO.96-190K)), State of Hawaii, 2000, Supreme Court of Hawai'i

Pae'Aina: Moku O Keawe, Moku O Piilani, Moku O Kanaloa, Nana'i Kaula, Moloka'i Pule O'o, Moku O Kakuhihewa, Manokalanipo, Ka'Aina O Kawelonakala

in the petition area; 2)The extent to which those resources, including traditional and customary native Hawaiian rights, will be affected or impaired by the proposed actions; and 3)The feasible action, if any, to be taken to reasonably protect native Hawaiian rights if they are found to exist.

Each ahupua'a has native Hawaiian *lawaiia* with traditional coastal and ocean gathering and fishing practices. To protect these practices, any commercial ocean activity in these waters must comply with the analysis.

To protect and preserve the unique historic value of Kaneohe Bay, we believe that any commercial use vendor must accurately relay the educational treasure of each place, including Ahu a Laka. It has been shown, as stated in the submittal that the Ohana Kayak Rentals do not care about anything except a monetary profit, at the expense of the communities connected to Kaneohe Bay.

We are grateful to DLNR, DOBOR and DOCARE for their diligence in protecting the natural and cultural resources of Kaneohe Bay waters. We strongly support the DOBOR submittal and urge the Land Board to approve the administrative enforcement and penalties for the stated illegal commercial use activities of the Ohana Kayak Rentals and Ms. Janell Jensen.

Respectfully yours,

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