

DEPARTMENT OF PARKS & RECREATION

COUNTY OF MAUI

JUNE 26, 2009

PUBLIC HEARING

Held at the Department of Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku Maui, Hawaii, commencing at 9:00 a.m. on June 26, 2009.

REPORTED BY: JEANNETTE W. IWADO, RPR/CSR #135

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ATTENDANCE
DEPARTMENT OF PARKS & RECREATION
PUBLIC HEARING
JUNE 26, 2009

HEARING OFFICER: SUE KIANG
PARKS & RECREATION:
DIRECTOR: TAMARA HORCAJO
DEPUTY DIRECTOR: ZACHARY HELM
PERMIT CLERK II JEAN MIYAZONO
AQUATICS RECREATION SPECIALIST: DUKE SEVILLA
STAFF: MARK DANIELS
DEPUTY CORPORATION COUNSEL: JEFFREY UEOKA
SECRETARY: LISA ALMEIDA

1 DEPARTMENT OF PARKS & RECREATION

2 PUBLIC HEARING

3 JUNE 26, 2009

4 TRANSCRIPT OF PROCEEDINGS

5
6 HEARING OFFICER KIANG: So welcome. My name is
7 Sue Kiang, and it's my role today to manage this meeting for
8 the Department of Parks and Recreation, County of Maui. It
9 will be my job to follow the hearing process and to maintain
10 order.

11 The goal of today's meeting is to gather public
12 input regarding the proposed administrative rules for the
13 Ocean Recreational Activity Permits. It is an open forum to
14 share your thoughts on the topic.

15 The panel convened to hear your testimony is, from
16 my right, Duke Sevilla from the Aquatics Division, Zachary
17 Helm, our Deputy Director, Tamara Horcajo, the Director of
18 the Department of Parks & Recreation, and Jeff Ueoka from
19 Corporation Counsel.

20 In addition, we have Jeannette Iwado, a court
21 reporter. She will transcribe a verbatim report of what has
22 been said today, and those minutes will be posted on the
23 website at www.MauiCounty.gov. And for your convenience, I
24 did write that on the board. That will be there within 30
25 days.

1 Today's public hearing will begin with a brief
2 overview by Director Horcajo. We will then open the floor
3 for three minute statements from all that have signed up
4 today to speak. We're here today to gain input on the
5 proposed rules, which are the result of a larger process.
6 We are not here to debate the process or its history, but to
7 hear feedback on the proposed rules.

8 There are a few ground rules that I ask you to
9 abide by. No interrupting, and by that I mean no audible
10 forms of agreement or disagreement. In other words, no
11 clapping. Use your own testimony time to agree or rebut a
12 statement. Please use civil language. If anyone's behavior
13 is disruptive, the individual will be asked to leave, and if
14 need be, escorted from the room. While this is potentially
15 an emotional topic, we are all well intentioned and here to
16 participate in the hard work of examining the rules.

17 Just a reminder, time will be indicated with one
18 minute before the end of your three minutes. At that point
19 then the timer will hold up the one minute cautionary sign.
20 At the end there will be a stop sign. You will be given a
21 minute to bring your statements to a conclusion, but please
22 just a sentence or two, so the next person will have
23 adequate time as well.

24 If there is a need for further clarification on
25 your statement, you will be contacted at a later date. So

1 when I call you up I will give the number on the sign-up
2 sheet which you are. And please restate your name for the
3 record as well. We also have received two written
4 statements, and those will be included in the final
5 document.

6 So thank you very much for your attendance. Let's
7 begin, and we will start with that opening statement from
8 Tamara.

9 DIRECTOR HORCAJO: Thank you everyone who's here
10 for attending one more meeting. Many of your faces are very
11 familiar. And we do thank you for the time that you have
12 taken out of your day to again meet with us.

13 We are here to exam the Rules of Practice and
14 Procedure for the commercial ocean recreation activities for
15 the Department of Parks & Recreation, County of Maui. And
16 in order to give you a brief understanding of the history of
17 this project, I'm just going to take about ten minutes to go
18 through a brief history for those of you who may not know
19 it, and then do a summary of the Maui County Code, as well
20 as the rules, and then give you a little info on where we're
21 going from here.

22 And I do want to impress upon you that our main
23 goal today is that we are here to listen. And thank you to
24 Jeannette from Iwado Court Reporting to assist us so that we
25 can listen well again in the next, as we review the minutes.

1 A little history. In October 2003, the County of
2 Maui, Maui County Council, transferred the responsibility of
3 the administration of CORA. And the CORA, as most of you
4 know, is Commercial Ocean Recreation Activities. So when I
5 say CORA, that's what it means. So it transferred the
6 responsibility of management from the Department of Finance
7 to the Department of Parks & Recreation.

8 The key provision in this transfer was to fairly
9 and effectively regulate CORA to ensure that county beach
10 parks and other county property are utilized for the
11 community's maximum recreational, environmental, and
12 economic benefit. The Parks Department has jurisdiction
13 only through the county parks.

14 The requirement attached to this transfer of
15 administration is in Chapter 13 of the Maui County Code.
16 And I'll give you a brief -- some of the key points are that
17 permits are required in order to conduct CORA operation in,
18 on, or over county property. Each permit allows the
19 privilege of conducting one activity at one beach park. It
20 indicates a one-year duration for the permit.

21 The ordinance also lists specific prohibited beach
22 parks. It also indicates that it is revokable by the
23 Director of the Department of Parks & Recreation, and
24 requires the establishment of rules which include day, time,
25 place, volume of the use of our county beach parks, and it

1 indicates that permits are non-transferable. These are
2 items that are indicated in the code and are not governed by
3 the department. And for your information, the Parks
4 Department appeal process is through the Board of Variance
5 and Appeals.

6 In March 2005, the department commissioned a
7 study, a commercial ocean recreation study, in order to look
8 at information in this process. Meetings were held with the
9 permit holders in April, June, and October of 2005. Based
10 on the input from those meetings, the first draft of the
11 administrative rules were posted on the website in September
12 2007. Focus groups were then initiated in September 2007,
13 with an additional four meetings held in February of 2008.
14 Sports-specific groups were then made and initiated in March
15 of 2008, with five additional meetings held at that time.

16 Based on the input from those previous meetings,
17 the current revised rules of practice and procedures were
18 posted on the website on June 5th, 2009. This has been a
19 very long process, and the rules have not yet been completed
20 in order to provide the enforcement requested by many of the
21 operators, community and government, county government.
22 This public hearing is another step in that process.

23 Now I will try to just highlight a summary of the
24 information that's included in our admin rules. Copies of
25 these rules are available on our website and are also

1 available up here. They're also available for viewing at
2 the Kahului Public Library.

3 The highlights of these rules are, existing
4 permits shall remain in effect subject to compliance with
5 all other provisions of the chapter. Permit renewal for one
6 year is allowed for all operators in good standing. Permit
7 drawing will be held when the count of permits issued allows
8 for additional permits to be issued. Non refundable
9 application fee and permit fees are set in the annual budget
10 ordinance.

11 The overall goal is to prevent any beach parks
12 from being overcrowded, and to ensure that our limited
13 facilities and resources are maintained. Parking for CORA
14 operators shall be limited to areas designated by the
15 department.

16 When possible, the department used the industry
17 standards to set the capacity and certification requirements
18 set forth in these rules. The department is aware of the
19 concerns regarding the availability of the Environmental
20 Protection and Cultural Awareness Program set forth in these
21 rules. It is the intention of our department to work with
22 these educators to develop a more accessible program.

23 For your information, the department is also
24 transferring definition to Council regarding transferability
25 that will allow the inclusion of your family, spouse,

1 siblings, et cetera.

2 It is impossible for the department to be aware of
3 every infraction of these rules. Self policing of these
4 rules will need to be maintained by the permittee. Please
5 keep in mind the spirit and intent of these rules when
6 interpreting the regulations.

7 In addition to the oral testimony taken at this
8 hearing, written testimony will be accepted today until 3:00
9 pm.

10 I do apologize for our phone number, 87 -- no,
11 270-7080, which is posted in the paper.

12 MR. UEOKA: 80.

13 DIRECTOR HORCAJO: 270-8070. We are trying to
14 make this number -- we have changed it so that it will be
15 answered from our permit office from 7:00 in the morning
16 until 10:00 at night, and there has been in the transfer of
17 this telephone line some confusion with the message machine.
18 I believe we have that under control at this point. So I do
19 want to thank you for that.

20 I also want to thank Mark Daniels for being here
21 today. Thank you, Mark. Dave Ross is our other park ranger
22 here today. Thank you, Dave. Most importantly, Jean
23 Miyazono, who many of you know. I definitely want to thank
24 you, Jean, who has taken over and working with our
25 department as a special events specialist as our special

1 events specialist has been on leave. So thank you, Jean,
2 for all your work, all your work.

3 What happens next is that we will be reviewing the
4 information and input that we receive during this process.
5 We are looking at that taking probably a month. It will be
6 then reviewed by Mayor and Corp Counsel. I want to let you
7 know that any information we will be posting an update by no
8 later than August 30th on the website as to the status of
9 these rules. As an additional note, our office is currently
10 renewing the permits, and applications are due no later than
11 noon, June 30th.

12 I want to thank you very much again for coming
13 today. We are here to listen, and we look forward to
14 meeting the mission of our department, which is a safe,
15 satisfying, recreational opportunity for the residents and
16 visitors of Maui County. Thank you.

17 HEARING OFFICER KIANG: Thank you, Tamara. So our
18 first speaker will be speaker number one, Jim Smith.

19 MR. SMITH: Director Horcajo, members,
20 distinguished members of the panel. I've been involved with
21 the process for ocean beach activities for more than ten
22 years, when it first came before the County Council. At
23 that time a decision was made. The decision was that
24 commercial activities would be permitted. I opposed that,
25 but I recognize that we live in a society where we have to

1 consent to be governed.

2 The problem I find with these rules is they appear
3 to be authoritarian, very much detailed. The kind of
4 insurance you can get really isn't your A plus, A minus. It
5 seems to me it's excessive. It seems to me, again, that we
6 have to distinguish between legislative power and
7 administrative power, because we have to preserve our
8 understanding so we know our system and it sustains itself.

9 The legislative power would determine, for
10 example, what parks were prohibited for commercial use.
11 Administrative power would set a criteria for use as
12 applying a right that's given by our legislation. So I
13 would think that you need -- if it hasn't been approved by
14 the Council, they can't abdicate that authority of giving us
15 rights. So that should be approved just like bed and
16 breakfasts. If you are going to have so many bed and
17 breakfasts permits in Haiku, it should be a legislative
18 decision. So I would ask you to transmit this to the
19 Council for that reason.

20 I think the rules do not contain, for example, a
21 section on appeal to the Director's decision. It's absent,
22 and it should be there, because on two different occasions
23 penalties that would be 41, a suspension of permit, that all
24 talks about violations of rules or decisions that a director
25 would make, and there has to be that process spelled out in

1 the rules so that I'm confident. And it's not here and it
2 should be here, I would suggest.

3 The notion that you can suspend a permit's use
4 needs clarification. It needs protection for the permittee.
5 So you should have a calendar of the year. Because they're
6 scheduling tours and they're doing their business, and you
7 have to preserve that because you have said it's okay, it's
8 good. You can't come a month ahead and say, oh, we are
9 going to have this big windsurfing event, you've got to
10 clear out. To me, that's got to be clarified. There should
11 be a calendar in advance sufficient to satisfy the needs of
12 these commercial operators.

13 I would ask that you consider this testimony, and
14 if you could involve our Council on significant issues, like
15 numbers of permits per planning area. Thank you very much.

16 HEARING OFFICER KIANG: Thank you. Testifier
17 number two, Greg Howeth.

18 MR. HOWETH: Aloha Director Horcajo. My name is
19 Greg Howeth. I represent -- I am a commercial permittee. I
20 own a company called Lahaina Divers as well as Lahaina Dive
21 and Surf LLC. I'm actually speaking today in my capacity as
22 the vice-president of the Ocean Tourism Coalition.

23 In the sake of time, I am going to get right to
24 the concerns that I have with the current rules as they're
25 recorded. Under Section 10-102-21, the report to the

1 department, there's an awful lot of information that's
2 required in this spread sheet that's yet to be determined.

3 And under section number 5 it's asking for
4 detailing monthly activities, specific patron counts, fee
5 per patron for each permitted beach park. I'm not exactly
6 sure what the county needs and why they want that
7 information, but in the current economy and the state of
8 things, business are very proprietary over any financial
9 information that they have. And just divulging this to the
10 county for the sake of a permit when there doesn't appear to
11 be any rationale or use of that information other than just
12 curiosity, I think is onerous and overstepping the bounds.
13 So I'd ask that that section be stricken or taken out.

14 I'd also like to comment that under scuba diving
15 we've effectively eliminated 35 percent, if you will, of the
16 available days on beach parks. And the problem that I see
17 is the times that have been eliminated are the times that
18 most of us who live here on the island would have in order
19 to participate in all these activities.

20 When you're considering that under scuba you have
21 to get certification. It's not something -- I can't just go
22 to some store and buy scuba equipment and do it myself. And
23 by the way you've written the rules and the limitations on
24 the beach park times, you've taken out the largest
25 percentage of time that our local population would have to

1 partake in this activity. So I'd ask that you reconsider or
2 look at some options for how we can address our local
3 population.

4 The final thing that I would ask you to look into
5 is the days of the week as far as the timing of day. Scuba,
6 again, has certain restrictions that for night diving we
7 must participate and train during those type of conditions.
8 And under the current system with all the beach parks, the
9 time of closures and stuff, there is no provision for
10 training or doing night dives. So I'd ask that you look at
11 that and see if there's an accommodation that you can make.

12 Thank you for your time, and I appreciate the
13 opportunity to testify.

14 HEARING OFFICER KIANG: The next testifier, number
15 three, Jim Fosbinder.

16 MR. FOSBINDER: Hello. It was about a year ago
17 that I met Tamara. There was a meeting that she attended.
18 She states that the only reason that the rules existed was
19 because of our complaints about overcrowding. And she also
20 admitted that she couldn't decide anything. Well, that only
21 left one person above here in the hierarchy. So the person
22 who is really deciding what's going on here is the Mayor.
23 What the Mayor has decided is to turn this department into
24 the Department of Discrimination. Let's look at Cove Park.

25 HEARING OFFICER KIANG: Excuse me, please restrict

1 your statement to comments.

2 MR. FOSBINDER: I have freedom of speech and you
3 have the freedom to be quiet.

4 HEARING OFFICER KIANG: We'd like your comments to
5 be related to the rules as opposed to the process and the
6 personality. So I'd ask you to comment specific to the
7 rules that we're here for today.

8 MR. FOSBINDER: Does that time come out of my time
9 or does that come out of her time?

10 HEARING OFFICER KIANG: It will be your time.
11 You'll get three minutes.

12 MR. FOSBINDER: So you interrupted and you've
13 babbled in order to take my time away from me to comment on
14 what's happened here.

15 HEARING OFFICER KIANG: You'll have three minutes.

16 MR. FOSBINDER: This is becoming the Department of
17 Discrimination. Look at Cove Park. If I want to bring my
18 kid to Cove Park and teach her how to surf, I can come up
19 with ten friends and relatives to help me do it, and I can
20 have all of them in the water at once. But if someone comes
21 from the mainland who doesn't know how to surf and doesn't
22 even know how to swim and wants their child to have the
23 benefit of knowing how to surf, they can't have anybody in
24 Cove Park with their child to protect them from drowning.
25 This is a vicious system, it is racist, it is nasty, it is

1 anti tourism.

2 And let's talk about lifeguards while we're at it,
3 because we have a sick system here for life guards. They
4 work from 8:00 to 4:00. The most important time for them to
5 be in the water is between 3:00 and 6:00, and they're all at
6 Charley's or at -- one of them is Mama's Fish House working
7 their second job. There are no lifeguards here during the
8 most dangerous times of the day. I have been out in 30 foot
9 waves, my wife has been out in 30 foot waves. We know what
10 the dangers here are. Lifeguards aren't there when you need
11 them. This is a sick system. (Applause)

12 HEARING OFFICER KIANG: The next testifier will be
13 Jeff Strahn. Please don't applaud.

14 MR. STRAHN: Thank you for the opportunity to
15 speak. My name is Jeff Strahn, I'm general manager of Maui
16 dive Shop. I'd just like to point out that I would prefer
17 not to have any administrative rules at all. I think that
18 the system that's in place right now with the park rangers
19 is working very, very effectively. I will admit that there
20 were problems in the past with rogue operators, and I
21 believe the park ranger system that we've developed has
22 cleaned that up, and I really don't see a need for
23 administrative rules.

24 That being said, commenting on the administrative
25 rules, a few points that I'd like you to consider. Section

1 10-102-21, item number 5, the spread sheet. You know, in a
2 time where the economy is right now, to add more burden to
3 our business. I've laid off 25 people this year. To now
4 ask me to do more reporting, which really has no purpose, is
5 just stressing the already weakened workforce that I have by
6 asking them to do a spread sheet and detailing. If you want
7 to know what the gross is, fine, but to know details of what
8 the patron is and how much they paid and what beach they
9 went to and all that, it's pretty much ridiculous.

10 In Section 10-102-36, item number four, completion
11 of an environmental protection and cultural awareness
12 program, although I think that's great as far as a
13 suggestion goes, to have a requirement where you have to
14 complete a program prior to the program being in existence
15 doesn't make any sense.

16 So I think what you need to do is curtail that
17 item until the program itself is developed. And then once
18 the program is developed then we know. I mean I'm happy to
19 send my people to the program, but where is the program?
20 Who do I send them to? How do I do it? And according to
21 this, I think I have 180 days to come up with that. It will
22 probably take longer than 180 days to develop the program.
23 So some consideration I think probably should be made with
24 that.

25 Under the penalties right here, Section 10-102-41,

1 item number B, "Any person operating a CORA without a permit
2 shall be subject to a fine or imprisonment." A bit harsh,
3 although I'm not, you know, I realize you had the guy with
4 the big school bus down there at Cove Park that started all
5 this type of a thing, and he probably should have been
6 thrown in prison. But I think for operating in a beach
7 park, to go to prison for that it's a bit much. So if you
8 could address those types of things I would greatly
9 appreciate it. And I thank you very much for your time.

10 HEARING OFFICER KIANG: Testifier number 5, Roger
11 Simonot.

12 MR. SIMONOT: Good morning. My name is Roger
13 Simonot. I operate a small business, Water Sports. I agree
14 with Jeff, I think a lot of these rules are redundant the
15 way the system has been operating. I've been doing this for
16 more than ten years, and I've been involved with a group of
17 operators dealing with the county, meeting with them for
18 years and years and years prior to 2003. And really for the
19 most part nothing that we've -- none of our inputs really
20 made any difference.

21 We are the operators, we know what's going on down
22 there, we can help, we can be your eyes and your ears down
23 there, but for the most part we've been ignored, I think.

24 With respect to the rules, a couple of things that
25 I think need to be -- I'm just going to highlight a number

1 of things. Under 10-102-4, the definition of a permittee
2 needs to include the word "entity." We are not all sole
3 proprietors. There should be a renewal process as opposed
4 to an application process every year. There should be a
5 renewal process. If we are to include, after five business
6 days, any updates to our information, you have all of our
7 current information. So the application process,
8 reapplication process over and over is redundant. Renewal
9 with updated insurance and anything else like that should
10 suffice.

11 The number of permits. You are putting caps on
12 established businesses. We spent a lot of resources
13 establishing our businesses and growing them. You're
14 capping my business, you are going to cap our business, yet
15 if there's -- if all the permits are consumed you are going
16 to reissue a permit. So redistribution of market share. So
17 essentially you're okay with the numbers, but you're only --
18 you're not allowing the individual entity or person to grow,
19 and I think that's wrong.

20 I have to agree with the gentleman about the
21 30-day notice. I have yet to ever receive a 30-day notice
22 that a park is being closed, and they have been closed on
23 numerous occasions. And we book our business in advance, so
24 notification that these parks are closed would be beneficial
25 to us.

1 Parking. In the rules it says we are going to
2 have one parking stall. Right now we are allowed two. I
3 don't know why it's being brought down to one. For a lot of
4 the activities you may have a trailer and a support vehicle.
5 A support vehicle often has first aid kits, extra equipment,
6 communication devices, those kinds of things. So I think
7 it's important to have that second spot.

8 Loading zones. We have yet to see where these
9 things have been established. I will give you an example of
10 Kalama Park. The operators there have pretty much
11 distributed themselves equitably. They're separated far
12 enough from each other where it's a comfortable operating
13 environment. There's no one spot that's getting overcrowded
14 with people, so it's working pretty good. I think you can
15 check with the rangers that for the most part it's a
16 friendly environment down there.

17 Specifically for the kayaking, I don't know how
18 many kayakers are here today, but kayaking is one of the
19 most benign sports, water sports that you can have as a
20 permitted activity. Our numbers are down pretty low,
21 they're 20. We need higher numbers.

22 HEARING OFFICER KIANG: Thank you. There will be
23 time for everyone to speak, and we have more visitors than
24 we have seats. If you have got a spare chair next to you,
25 is there any? I can't see.

1 UNIDENTIFIED MALE SPEAKER: There's a stack in the
2 back that can be distributed.

3 HEARING OFFICER KIANG: Oh, okay. And we will
4 take a break to be sure that everybody gets signed up to
5 speak.

6 So our next speaker, number 6, is Robert Baker.

7 MR. BAKER: Hi. I think the worst thing we have
8 in these rules is our inability to transfer our permits,
9 okay. In so doing, you are assuring that we all eventually
10 will go out of business, okay. Now, I've been working at
11 this since 1978, I have had my own company, and without the
12 right to transfer a county permit, my company, Maui Sun
13 Divers, that I spent decades building, becomes worthless.

14 This permit should be an asset. It should be
15 included if I want to sell my company and retire. And I'm
16 60 years old, I've been teaching this more than 35 years.
17 All of a sudden the company that I built -- and it's a small
18 company, it's a local company, we take care of a lot of
19 local people, okay -- I've been taking small groups to
20 Maui's beaches since 1978. We've taken thousands of people
21 diving without a single accident all these years.

22 Selling my small company should be allowed to be
23 part of my retirement. The way you guys have it set up,
24 once we decide to leave, it's gone. This is not a part-time
25 job for most of the smaller operators, okay, it's dammed

1 hard work. It's seven days a week in busy season with
2 awesome responsibility.

3 We don't just train the tourist -- affectionately
4 known as the overfed, the nearly dead, and the newly wed --
5 we also train Maui's local residents that are generally far
6 more flexible, in order to accommodate local working
7 people's schedules, and are less expensive than the hotels.
8 It does seem that putting us out of business is to the
9 benefit of only a few people, and that might be the hotels.

10 One more thing, prohibited times. And this is --
11 what you have here is a bit confusing. For example, you
12 have cut our permits down to, in my case, only two places
13 that I can take people diving. It's not safe. It would be
14 much more reasonable if we are allowed to go to alternative
15 locations when a park has to be closed for maintenance or if
16 the weather is wrong.

17 Ulua may be closed for a year to allow new hotel
18 construction. Those of us who only have a permit for Ulua
19 and Welakahao since Makena Landing was given away, some of
20 us are going to be pushed from our regular parks or we'll
21 have to go out of business, or take jobs maybe with the
22 county.

23 Instruction. Under instruction I want to say
24 thank you for having this part. And this is precisely why
25 we need to be allowed to be permitted to go to more

1 locations. The lid was shut with no warning after the
2 first county permits were issued in 2003 by the Parks
3 Department. That moratorium needs to be lifted. When the
4 surf or current comes up, the ocean can be dangerous. In
5 the past when the dive site was junk, we'd simply -- and the
6 ocean does that. It's the ocean's decision, the ocean is
7 the boss, okay -- we'd simply drive a bit and go to another
8 place that is safe.

9 It would be worth an extra 500 from the \$50 that
10 we used to pay per location if we can still operate safely.
11 Safety is always our first concern and the ocean is always
12 the boss.

13 MR. DANIELS: Time.

14 MR. BAKER: Do I have a minute more to sum up?

15 MR. DANIELS: Yes.

16 MR. BAKER: Thank you. We are trained in CPR, et
17 cetera, we carry oxygen. We are ready, willing and able to
18 help anyone in distress, and have countless times over the
19 years. Safety should not be compromised by the Parks
20 Department at the expense of our customers and the local
21 people. We don't just take care of our customers, we take
22 care of people on the beach. If there's a problem we're
23 always there, and we're equipped and ready to deal with it.

24 The fewer parks we are allowed, the harder our
25 jobs become, and it also creates the illusion of

1 overcrowding. If you want to talk overcrowding let's look
2 at the addition of Wailea 670 and Makena Resort. How many
3 more people will that put into the parks, and what parking
4 arrangements have you made?

5 Speaking of parking arrangements, how much guest
6 parking is there at the hotels? Okay, there's very little
7 guest parking at the hotels. Where are the local people
8 supposed to park that want to use the beaches by the hotels?
9 They're not given. Why is that? You tell me. We need the
10 county to work with us to keep the beaches safe.

11 I think the last thing I want to talk about is
12 the --

13 HEARING OFFICER KIANG: Thank you. Appreciate it.

14 MR. BAKER: All right, thank you.

15 HEARING OFFICER KIANG: Testifier number 7 -- and
16 my apologies for mispronouncing names -- - M. Schule.

17 MR. SCHULE: Markus.

18 HEARING OFFICER KIANG: Markus, thank you.

19 MR. SCHULE: Sorry for the handwriting. My name
20 is Markus Schule, I operate the Kite Boarding School of
21 Maui. And I'm a relative newcomer to Maui, and I'd just
22 like to comment moreover all on how I perceive the
23 relationship between businesses and the county. Because the
24 specifics I think we have a lot of good points already.

25 From my perspective, overcrowding is not as

1 important as safety of clients. I think when you look at
2 Wailea to the previous point you have hundreds and hundreds
3 of tourists there. It's overcrowded. But we wouldn't go to
4 the hotels and restrict them on the number of rooms to have.

5 I think the logic behind allowing businesses to
6 flourish is that if businesses flourish it will be safer
7 because they're all capitalized. Substantial businesses
8 here on Maui, the guys who have been around for 20 years,
9 know what they're doing. To not allow them to grow and to
10 cap them in their numbers will make experiences for
11 travelers more unsafe. I think the emphasis should be more
12 on controlling safety for travelers, rather than capping
13 businesses and regulating our instructors.

14 I think it should be an easy relationship between
15 the county and the businesses to grow the businesses instead
16 of shrinking them. The more substantial businesses you have
17 in Maui and the more professional they are, the more safe it
18 is for the visitors, and the better off Maui is overall in
19 tourism.

20 So I think, for me, the emphasis is wrong. Just
21 give them the point of overcrowding. That is not so much
22 the issue, I think it should be safety, and it should be
23 allowing the right organizations to operate on Maui. Thank
24 you.

25 HEARING OFFICER KIANG: Testifier 8, Darian

1 Smith.

2 MR. SMITH: I'm going to give my time.

3 HEARING OFFICER KIANG: Okay, thank you.

4 9, John Browne.

5 MR. BROWNE: My name is John Browne. I'm with
6 Maui Beach Boys, and my biggest concern is the spread sheet,
7 which they already talked about. That's one of my concerns.
8 The other one that I wanted to bring to your attention is
9 when we cannot teach people to surf, if I have 12 surfers in
10 at 10:00 -- I have the Grand Wailea, the Kea Lani and a few
11 others -- we maybe put 30 or 40 people in the water at 10:00
12 in our six-packs like we're supposed to. Everything is
13 going good, ask the ranger.

14 When we cannot do that, I've got 160 surfboards.
15 My buddy over here has got about 500 surfboards. Surfboards
16 will get rented, people will be in the water. People will
17 be at Launiupoko, people will be at Puamana, people will be
18 at Hookipa, and people will be at Honolua. If this is an
19 issue about the locals and having the parks and all that,
20 get ready for a mess, because it's going to happen.

21 Another thing I wanted to talk about, they're
22 going to do what they want to do. We control the time
23 they're in the water and the times that they're in the
24 water. Two hours in the water for a lesson, close the park
25 at 2, everybody is out, locals get what they want. Without

1 that, people are going to do what they want, where they
2 want, when they want, and we are going to have a lot of
3 injuries. That's one of them.

4 People are teaching surfing all over, so I don't
5 know why the DLNR guy isn't here. The west side is packed
6 with guys who aren't allowed, who are not supposed to be
7 teaching. We're all paying for permits. My insurance and
8 all my fees are about 8 or 10 grand a year just to operate.
9 I need more than 12 people at a time to stay alive to take
10 care of the people.

11 Am I getting down there, Mark? We have kept all
12 our promises as permit holders that the county has asked of
13 us. We have been regulated, restricted. We've had parks
14 closed. Permit fees have had a 500 percent increase. We
15 have not been given 30 days' written notice, as promised by
16 the county, ever.

17 The thing is, they come down to the park, the park
18 is closed. I have got 30 people coming at 10. They can't
19 come because the park is closed, and we got no written
20 notice. And we're going to get thrown in jail if we don't
21 do this. And I would think this would be a restriction of
22 trade. I spent 20 years, 18 years trying to build a
23 business that I'd like to hand over to my daughter and my
24 grandson, who is Hawaiian, my grandson. I would like to be
25 able to know that my work -- and at 53 years old I might be

1 like Bobby Baker and be able to retire and have something
2 worth that I built.

3 Lastly, my business activities are private and
4 confidential. I don't want to tell you guys about what I do
5 and my numbers. We pay a fixed fee not based on any sales
6 figure, and it's more of a burden for us. I thank you very
7 much for listening to me.

8 HEARING OFFICER KIANG: Testifier number 10, Erik
9 Stein.

10 MR. STEIN: I'll pass.

11 HEARING OFFICER KIANG: Thank you. Number 11,
12 Victoria Martocci.

13 MS. MARTOCCI: Good morning. I'm not really clear
14 on what it is I exactly want to say. I do know that this
15 process has been extremely difficult to understand. I would
16 think that given where the world is today, the county would
17 recognize that diversity among businesses is going to be
18 beneficial. Many people here have mentioned the safety
19 concerns and how the commercial operators on the beach
20 having access to the beach is an asset to the community.

21 And I welcome anyone in the audience who is a
22 commercial operator and participated in a rescue to raise
23 their hand, if they feel like it. Because I know we're all
24 out here and we're doing a good job for the county and for
25 the community. And I think restricting our access and

1 making more opportunity for big business than just a few
2 businesses is just simply the wrong way to go. So I ask you
3 to take that into consideration.

4 HEARING OFFICER KIANG: Testifier number 12, Ed
5 Robinson.

6 MR. ROBINSON: I'm going to be speaking on behalf
7 of snorkeling at this time. I'm going to read a letter that
8 my wife put together. We put it up on our website.

9 "Each morning leading snorkel tours is like taking
10 a small journey in life. Visitors from all walks of life
11 seek me out to take them snorkeling, from healthy everyday
12 people to those celebrating special occasions, couples with
13 anniversaries, and families of all ages. And ages could be
14 five year old kids up to 85 year old people that have never
15 been in the ocean.

16 There are many who are not comfortable in the
17 ocean and want an experienced guide to take them out in a
18 safe, controlled environment. A lot of people come with
19 special needs, such as a women who was paralyzed on her
20 upper left side from an automobile accident, or a man born
21 without one of his legs, or others with terminal illness who
22 want to experience this mysterious beauty before passing.

23 I don't take one morning of leading snorkel tours
24 for granted. I feel it is an honor to be with each and
25 every one of you, and I give all to make sure you have the

1 best experience possible. I love the ocean, I love meeting
2 people, and most of all I love sharing this beautiful and
3 unique place on the planet. The beauty and majestic nature
4 always leaves me excited for another adventure of
5 snorkeling." So this is the face that my wife gives to
6 tourists and the locals that she meets on the beach.

7 Now, my experience is with the county, on the
8 other hand. The county really doesn't seem to care about
9 the tourists. In fact, I've seen it in numerous places
10 where the tourists aren't even considered to be public.
11 That is even though they are the lifeblood of our economy.
12 The county doesn't seem to care about the quality of the
13 tourist experience. And I say this because we have gone
14 from three locations down to only being allowed one
15 location. And we are not allowed to have alternate places
16 where we can have flat water. These people need flat water,
17 they need good conditions.

18 The county also blames commercial activity for
19 stressing the environment. But I ask you, when is the last
20 time the county or rather a commercial operator speared one
21 of the vanishing uhus off the reef? Hawai'i is known as the
22 Aloha State. But to be honest, when it comes to government
23 here I don't really feel there's a lot of aloha in this
24 room. And what I do see instead is a lot of greed and
25 selfishness. A lot of like, "It's my beach and you can't

1 have it."

2 HEARING OFFICER KIANG: Testifier number 13, Jake
3 Jacobus.

4 MR. JACOBUS: Thank you, good morning. Jake
5 Jacobus, an under-employed ocean activity worker. I would
6 like to start off by just pointing out today's paper, the
7 front page of the paper, "Downward trend in Maui visitors
8 continues, drops another 14 percent." And while speaking
9 about newspapers, if anybody read yesterday's edition, Ron
10 Youngblood had a very interesting recount of an experience
11 where he took some divers out, and of the divers that he
12 took out there was one Mr. Pushy that just didn't want to
13 abide by the rules or safe practices, as Mr. Youngblood was
14 trying to keep him adhering to.

15 To touch on that issue with some of the previous
16 testimony, that's what's going to happen if you restrict the
17 commercial operators who are taking people out under
18 instruction and guidance. You are going to get these guys
19 that have got their one day certification from some
20 Caribbean trip two years ago, and they're going to come here
21 and rent equipment and go diving themselves, because there's
22 no commercial operators that they can sign up to go out with
23 safely. So you are going to have that problem compounding
24 itself.

25 But more importantly, the problem with -- and I

1 touch on the process. I know you didn't want to hear about
2 the process, but I touch on it because it was brought up in
3 opening comments. The problem county's process in anything
4 they do is they take so long that it's obsolete by the time
5 you get to the end of the process. Time and circumstances
6 and life do not slow down for bureaucracy, okay. This isn't
7 2003, this isn't 2004, this isn't 2005, this is 2009. And
8 in case anybody hasn't figured it out yet in government, we
9 have a crisis.

10 So every problem that government addresses, they
11 need to place that problem on this scale, where does it fit.
12 Right now we're -- a couple of years ago we were right here
13 (indicating). B&B issues were a problem, neighborhoods
14 complained, blah, blah, blah. It was a problem, I'm not
15 saying it wasn't, but it was down here below where the
16 economic crisis is at. So what did the county do? They
17 enacted rules, well, they just abolished the industry. So
18 what that did was bump up the crisis level way up here where
19 it's at right now.

20 So whenever new proposals for new rules, you have
21 got to place it on that scale. What is the problem that
22 you're telling us? The beaches are overcrowded, families,
23 locals, Okay, it's a problem. I'm not saying it's not. But
24 where is it on that scale? Is it equal to or greater than
25 the economic crisis that we're all facing right now, or is

1 it down here. Can it be put off two years? Can we come
2 back and revisit these issues, or maybe not be so
3 extravagant in all these new rules and restrictions that you
4 are placing on business.

5 Again, I'm an under-employed ocean activity
6 worker. Not only aren't there any openings, but the more
7 rules you come up with, the more people Jeff has to lay off,
8 the fewer positions are available for the rest of us locals,
9 whether we're transplants or born here.

10 So I think you have got blind -- not you
11 personally, but county and government generally has these
12 blinders on. It's like damn the torpedoes, full speed
13 ahead. They're not using their peripheral vision to see the
14 results, the overall universal results of the decisions that
15 they're making. And sometimes I mean we all, all of us
16 villagers sit in awe at what our village elders are doing to
17 our village. And we have to ask ourselves, do they ever
18 come out of their huts to see what's going on out here?

19 So I would just ask that they take the blinders
20 off and pay attention to the bigger picture. It's not 2003,
21 you cannot address 2003 issues or rule changes under 2009
22 circumstances. Again, I am not saying the problems don't
23 exist, but where are they on that crisis level. And if they
24 do not rise to the level, equal to or greater than the
25 economic crisis that we're all facing, and if what rules

1 you're going to be implementing are only going to be
2 exacerbate that and make it even worse, you need to stop,
3 slow down, take a deep breath, maybe revisit the issues a
4 little bit later.

5 But please, please, please, please look at the
6 current situation we're at with all of the decisions that
7 you folks make. The village elders are supposed to be
8 taking care of us villagers, not hurting us. Thank you very
9 much. (Applause)

10 HEARING OFFICER KIANG: Testifier number 14, Tom
11 Castleton.

12 MR. CASTLETON: Thank you. Good morning. Thanks
13 for this opportunity. My biggest concern is of course the
14 restriction of how many people in the water at one time or
15 how many instructors. Someone just talked about
16 instructors, because now I've got to choose. I can only
17 have two instructors in the water. Now I have got to tell
18 Ekolu, "Sorry, Ekolu, there's no work for you today because
19 we can only have two people in the water." So now I've got
20 20 to 30 people that I've got to say, "Sorry, guys, there's
21 just no work." So that's my big concern, is the workforce
22 is going to drop. These guys are going to have nothing to
23 do if they're going to be out of work.

24 Also, a safety issue as far as if you allow us to
25 do semi-privates, privates, and smaller groups, and let us

1 do those little groups, I can employ more people and it will
2 be safer for everybody, and then there will be way more
3 monitoring of what goes on in the water.

4 There is going to be a problem with unsupervised
5 rentals because the tourists don't know. They're going to
6 run into somebody, they're going to hurt -- they might run
7 into a local kid and then the father is going to hurt the
8 guy, you know. So, you know, there's going to be issues
9 like that that are just not good.

10 So I think it would be wise if possible that you
11 can rethink going to smaller classes and let us have
12 semi-privates, let us do the privates, let us do the groups,
13 and just keep it really organized and managed, and it's just
14 more maintainable.

15 So my concern is I've got to let all these guys
16 go. There will be no work for them. I can sit there and
17 rent boards all day, but you are going to take work away
18 from these guys that were born and raised here and that's
19 all, you know, this is their life. They have families,
20 kids, that's all they've got. So if you take that away it's
21 not going to be any good. Thank you.

22 HEARING OFFICER KIANG: Testifier number 15,
23 Rachel Domingo.

24 MS. DOMINGO: Good morning. My name is Rachel
25 Domingo. I teach scuba for a living at a local company

1 here. Thank you for the opportunity to testify.

2 I agree with a lot of the points that have already
3 been made. Sometimes I do wonder how did we get on this
4 runaway train that's just going like crazy now. Because in
5 my experience, I agree with what Jeff Strahn said earlier,
6 the system that we have in place right now, especially with
7 rangers cruising around checking permits and seeing what's
8 going on, things seem to be working fine.

9 It is kind of like how did we get going here, why
10 are we even continuing along that path. But since we are,
11 and in the interest of not repeating many of the things that
12 have already been said, I'll try pick the things on my list
13 that haven't been said.

14 Page 102-14, item 10-102-15 pertaining to change
15 of information. This section should require the permittee
16 to notify the Director within 30, not five business days.
17 Lots of things can happen in five business days that we are
18 not even aware of. It's just too little time.

19 Page 102-26, 10-102-33, maintenance of CORA
20 instructor certification records. Item B requiring
21 permittees to submit new hire information to the department
22 should be changed to 30 calendar days instead of 14.

23 Page 102-28, 10-102-36, scuba diving instructor
24 requirements. Item three needs to be removed. Scuba diving
25 manuals are several hundred pages long. You would have to

1 get rental storage space to store all of those. These are
2 items we talked about before.

3 Page 102-31, 10-102-41, Penalties. Item B,
4 imprisonment. Wow, that needs to be thought out a little
5 better.

6 Page 102-31, 10-102-43, Suspension-Revocation of
7 permit. Giving one person absolute power and saying that
8 this person can revoke a permit for the violation of any
9 rule, this needs to have and define a system of due process
10 for permit holders.

11 Aside from that, I agree with the people already
12 who have testified about the spread sheet. Nobody can find
13 a reason for that, it doesn't make sense. I agree also with
14 the previous testimony about beach park hours in terms of
15 how it would affect night diving. Thank you.

16 HEARING OFFICER KIANG: Thank you. Testifier
17 number 16, Toni Marie Davis. Toni Marie? Oh, thank you,
18 I'm sorry.

19 MS. DAVIS: Thank you. Aloha, good morning.
20 Thank you for this opportunity to testify. I don't have
21 formal testimony, so I'm going to speak from my heart.
22 Sometimes that's the best place to come from.

23 I am the Executive Director for the Activities and
24 Attractions Association of Hawai'i, so I represent the whole
25 state. And it's such an honor to represent these people

1 that are back here, because most all of them are stewards to
2 this environment. They rescue people, they watch over our
3 beaches. They are an added employee of yours that you
4 aren't aware of that are taking care of things.

5 And these rules way outstep, I think, boundaries
6 of government. You're going into micro-management of how
7 these businesses run, and it's inappropriate. You've worked
8 with this group, and I know -- I mean I have been involved
9 since the transfer, and it's been a long process, and we
10 have gone through three administrations. And I'd like to
11 say, you know, your actions don't necessarily speak to your
12 words, otherwise this room wouldn't be overflowing, right.
13 I mean if it was truly a partnership and people were
14 listened to, this room would not be overflowing.

15 Quick little points that, you know, I don't get
16 exactly why this has gotten to where it is, how we got these
17 caps. The environmental evaluation showed no environmental
18 impacts or threats due to these uses. They really showed
19 lack of facilities, inadequate facilities. We need to put
20 money into our parks.

21 We have this great demand of people who want to
22 come here and experience. Activities and attractions are
23 what make Maui so successful over all the other counties.
24 That's what you guys have got, and it is our economic
25 engine, and this is a big part of it. And the impact that

1 you are having by reducing that, the paper said 35 percent.
2 It's more like 42.

3 If you go back to before 2003 and you look at the
4 parks that these guys were operating at, it's a 42 percent
5 impact in reduced places. Overcrowding? Well, now you're
6 pushing them all into little parks and you're increasing
7 that problem. (Applause)

8 The other thing is that this went to the Small
9 Business Regulatory Review Board, which I was at one time
10 honored to be part of, and they made recommendations. And
11 thank you, I noted that you recognized one of the
12 recommendations was that this could be passed on to your
13 grandson, which is great to see happen.

14 But you know what, this transferability has
15 already been gone through by the DLNR with all of our
16 boating people. It's not right. What you're doing is
17 you're setting up people to not have a vested interest in
18 their business. Hard for them to get loans from the bank or
19 to put any money into this thing, because it's just on
20 paper. It's a permit that lasts for a year.

21 You want to have serious people that are really
22 partners with you, That are taking cultural training not
23 because it's required, but because they want to because they
24 want to have the best quality product. Those kinds of
25 things, like capping instructors and all that, that's

1 marketing. That shouldn't be in a rule. That should be a
2 best practices.

3 MR. DANIELS: Time.

4 MS. DAVIS: There's so much more. I am going to
5 send you a comment. I didn't because we hadn't talked, but
6 now I will after hearing all this. Thank you so much.

7 Aloha. (Applause)

8 HEARING OFFICER KIANG: Testifier 17, Jimmy
9 Conniff.

10 MR. CONNIFF: Hi, I'm Jimmy Conniff. Am I the
11 last one? (Laughter)

12 Thank you for your Viewpoint in the paper. I came
13 today, I'm glad to see the TV, Akaku here. I came just to
14 be in person to hear what was going on, because sometimes in
15 the print it doesn't really tell you what's -- what happened
16 in the rooms.

17 The portion that I've heard so far, I'm not too
18 sure about it. And I read some of it, but I agree with the
19 recommendation that the permits be transferable to spouses
20 or family. In the past some of the folks that had the
21 permits would just hold onto them, and when they were
22 selling that portion of their business the increase in the
23 price would be \$10,000 to \$50,000. That's what some of the
24 quotes were, just because they had the permit.

25 I'm representing myself and the Wailea Canoe Club,

1 which is not in Wailea, but it's in Kihei by the cove. We
2 are a non-profit. We try to keep a low spotlight on
3 ourselves. Primarily it's canoeing, but we have surfboards.
4 We have given, we distribute them to the kids who come down
5 to train free, all of it's free. If people ask us for a
6 board we tell them it's free, but we are in a situation that
7 says, well, how do you make any money? I reply, donations
8 would be okay.

9 I am not allowed to accept any money in the park.
10 If I am, there are complaints by at least one of the other
11 surf schools that, you know, we're being treated by
12 criminals or we're violating something. If someone offers
13 money I used to have them throw it in the box where we keep
14 the boards or take it out to my truck.

15 What I'm kind of requesting is, if you have time
16 to consider that I don't have a ratio, but for every 10 or
17 20 commercial permits that are issued could you kind of
18 consider something for people like ourselves, non-profits.
19 It's not about the money, the money goes back into the canoe
20 club and I don't get it. But it's kind of scary to be
21 thinking that Mark and some of the other guys, they do a
22 good job but they have to answer a complaint. Okay, thanks.

23 HEARING OFFICER KIANG: Testifier 18, David Dorn.

24 MR. DORN: Hello, everyone. Thanks for hearing
25 our testimony. My name is David Dorn, I'm a school operator

1 and I'm a water sports instructor for a quarter of a
2 century. And I was a lot younger when this process started,
3 and I feel a lot older now six years into this current
4 session. And I've been at every meeting I can get to, and
5 this meeting right now I'm actually ignoring my
6 responsibilities. I have got, you know, kids in the water
7 that should really have my attention as well, but I think
8 it's very important that I come here and speak up for the
9 people that can't make it, and also for myself and my
10 family.

11 Okay, it's very hard to address all these small
12 items and issues without sounding petty or greedy. I'm
13 talking about commercial or talking about whatever. But
14 what we're really talking about here are some serious
15 issues. We're talking about community, access, quality,
16 safety, environment, okay.

17 Addressing all the small issues, you know our
18 thoughts on every single issue because we have submitted
19 testimony on every single point. A lot of the testifiers
20 here made great points, and I agree with everything that's
21 been said so far.

22 But the core community, as I keep going over again
23 in my testimony, we have people who have served the
24 community for 20 or 30 years, and we really are an asset.
25 It sounds bad coming from me, but I can talk about the other

1 operators. They are a tremendous asset to the community.
2 One of the last testifiers said that the rescues, the
3 oxygen, just the stewardship of the environment and what
4 have you.

5 Toni also pointed out that in addition to the
6 dedication of the people, in addition to the extra service
7 that we provide to the county, we are serving in a capacity
8 as quasi lifeguards. That was a whole subject of another
9 paper that I wrote, that we're saving the county potentially
10 millions of dollars in supervising the beaches. This is
11 something that we just do out of our nature. We're all
12 water people, and we all love the ocean, and we all love the
13 environment, so we'd never jeopardize that. We are actually
14 stakeholders in preserving the environment and making sure
15 that our beach parks function for all people.

16 Just addressing one issue, there are some
17 misconceptions that have come up over the years. And I'm
18 not reading from my notes, I'm just really skimming through,
19 and one is that we have an impact on the environment. Well,
20 we have all read the environmental impact study that was
21 done a few years ago, and there was no mention of any
22 negative impact except for perhaps not sticking on pathways
23 going to the beach.

24 And that's really what we do here, we don't occupy
25 the park and we don't hold our events in the park itself, we

1 cross over the park to get access to the ocean, and that's
2 all we really need to do. For the most part we're just
3 crossing over the park, ingress and egress. As we are
4 crossing the park we are not dragging our boards and we're
5 not creating any environmental impact at all. So we are
6 actually a wind powered, wave powered, people powered sport.

7 We are not polluting, we're not taking a single
8 fish out of the ocean. And I think we should be viewed as
9 an asset to the community with no detrimental effect. In
10 fact, also helping the economic engine. And not to mention
11 already with this economy we've already laid off 40 percent
12 of our employees, and somebody mentioned 25 divers they've
13 laid off.

14 The restrictions in the times and the dates, at
15 this time I would challenge those to be really appropriate
16 at this time, because in the beach parks there's not that
17 many tourists, quite frankly. There's not that many people
18 in the beach parks. And there's no need right now in this
19 2009 versus 2003 when it started to decrease access by
20 limiting times and more dates at this time. It's just
21 unnecessary pressure on us.

22 And you're actually taking those times away from
23 the community too. We've got the local community, the kids
24 camps, and the people who can only get access to the water,
25 the local families, on weekends and holidays. So consider

1 that. Thank you very much.

2 HEARING OFFICER KIANG: Testifier 19, Sandy
3 Barker.

4 MS. BARKER: Aloha, I'm Sandy Barker, and I'm here
5 because I'm a victim of -- oh, thank you. I am a victim of
6 the permit process many, many times since I have been in
7 business on Maui. And I am really outraged, and I came to
8 this meeting more to speak to the people who are whining and
9 crying about little changes they want in your rules, when in
10 the first place the rules are the problem, and the whole
11 permitting process is a problem. I know because I'm
12 required right now to get a permit for every single activity
13 that I do, and it's not working. It's not working on a big
14 scale.

15 You yourself said that you cannot enforce these
16 beaches and make sure that all of the companies out there
17 are doing what they're supposed to do. And in my industry
18 it's the same way, nobody is enforcing anything. And
19 consequently what happens is you create unfair competition
20 on a big scale. You also enable the bad companies to
21 succeed where the good companies can't because they're doing
22 what they think they're supposed to do. (Applause)

23 You need to really take a look at what you are
24 doing. The government is supposed to be of the people, by
25 the people, for the people. That doesn't exist any more.

1 Now the government, especially in Hawai'i and Maui, seems to
2 be against small business, which is supposed to be the
3 backbone of everything. I mean without the small businesses
4 Maui doesn't exist. A lot of places wouldn't exist.

5 And do you think that we don't have competition?

6 Because we do. I, in my industry, had to pull all my
7 advertising of Maui because I can't afford it any more
8 because of all the rules and regulations that have pretty
9 much ruined our industry, which is the wedding industry.
10 And many of you know who I am because I've been here before,
11 and I've been in this mess for ten years, and I have done
12 everything I was supposed to do.

13 And I have got 21 years invested in a business
14 which has pretty much been annihilated due to rules and
15 regulations that are totally illegal in the first place.
16 I've actually sued the state, and they settled out of court
17 because they knew they didn't have a leg to stand on.

18 And now all of you are saying you want little
19 things here and you want little things there, and you will
20 be happy if you don't have to show them how much money you
21 make. Well, you know what, you shouldn't have to do
22 anything, and it's time for the people to stand up against
23 government that is against the people.

24 I don't even understand why it's -- I know some of
25 you are just appointed, but people who are elected shouldn't

1 be being elected in this state and in this county. And it
2 really makes you wonder, are they elected? When I go and
3 vote is it counted? I mean I'm really wondering, because
4 I've been fighting now for ten years for my life.

5 The first ten years everybody was glad I was here
6 because I was bringing a lot of money in, and people were
7 working. And ten years ago Maui was the number one wedding
8 destination in the world. People come here for the
9 activities and the things that we do here, and the state and
10 the county are annihilating it. So you're doing a great
11 job. (Applause)

12 HEARING OFFICER KIANG: Testifier number 20, Patty
13 Cadiz.

14 MS. CADIZ: Hi. My name is Patty Cadiz. I work
15 for Hawaiian Sailboarding Techniques. We do windsurfing,
16 surfing and kite surfing lessons here on Maui. And I have
17 to agree with a lot of things I've heard today. I believe
18 that the administrative rules are overreaching and
19 overburdensome. I believe that the rules as they exist
20 could deal with a lot more problems. There are still plenty
21 of renegade operators down there. There are still plenty of
22 things that the rules that are on the books, the laws that
23 are on the books could address.

24 I think that the goal of the rules and the law was
25 to manage the resource for the enjoyment of visitors and

1 residents alike. I believe that rather than try to reduce
2 the size of the operators who are providing ancillary
3 services to lifeguards, park maintenance crews, park rangers
4 for enforcement, ambassadors at the beach, talking about the
5 rules, where to go, where not to go, what's safe, how you
6 are doing this, welcoming people to our community.

7 I think the problem is that we've invited so many
8 people and we really haven't tried to expand our assets. We
9 need more beach parks, we need more access, even if it's
10 just ingress-egress points. It doesn't have to be a full-on
11 beach park, it doesn't have to be a gazillion dollar
12 investment, but it does need to be safe ingress-egress, and
13 there should be ways to work that through the hotels.

14 Now, that's my sort of general speech, then I have
15 some specifics. Section 102-21, number 5, the spread sheet.
16 Per the EA study, the \$180,000 study that's supposedly the
17 basis for these rules, CORA windsurfing patrons and
18 instructors represent only a small fraction of the total use
19 of the park. Therefore, extracting information from the
20 operators is really only giving you a small piece of what's
21 really happening at the park, and I don't think that it
22 actually adds up to useful information. So I would request
23 that section 5 be deleted.

24 Parking restrictions. I think that if you just
25 simply change "shall" to "may" so the park doesn't need

1 designation of parking areas if there's no implied
2 obligation. The park may not have to be designated for
3 parking if there's no need for it. Otherwise it says that
4 it shall be. And if you don't need it, you shouldn't have
5 to do it.

6 Cutting us back to a single parking stall versus
7 two parking stalls. We've always had two stalls. We are
8 allowed to have the volume of business that actually
9 requires two vehicles. But if we can only have one, then de
10 facto we're actually being limited again.

11 Something that I'd like to mention regarding
12 access. In the ten years that we've actually been
13 processing the law and then the rules regarding park
14 operations, kite surfing has done nothing but grow.

15 MR. DANIELS: Time.

16 MS. CADIZ: May I have an extra minute, please?

17 MR. DANIELS: Yes.

18 MS. CADIZ: Thank you. And kite surfing is
19 actually going to need more room, not less, but the present
20 rule actually diminishes the size of the upper beach park
21 where schools can operate. And I'd really like you to
22 reconsider using the existing signage and existing space,
23 rather than cutting it back to the Girl Scout pavilion.

24 Environmental awareness. I think that programs
25 should be made available on line, so that it's not just a

1 classroom situation for people that have to take it, but
2 that it's available for everyone. Maybe it should even be
3 shown on the airplanes when people arrive.

4 And I guess that will do for now. I am going to
5 submit written testimony about a few more nuts and bolts
6 issues, but thank you very much for allowing us the
7 opportunity to testify and for listening again.

8 HEARING OFFICER KIANG: I have one more person
9 that signed up. We have been working hard for about an
10 hour, so we will take a break after we hear from that
11 individual, and that will provide an opportunity for anyone
12 else who hasn't had a chance to sign the testimony sheet.

13 So number 21 is Dana Cagon.

14 MR. CAGON: Thank you. My name is Dana Cagon with
15 Sports Insurance, and I insure a lot of the activities,
16 things that people are doing here in the ocean, and thank
17 you for your time.

18 You know, a couple of things that -- well, I am
19 going to restate. Obviously there's a lot of passionate
20 people here in the audience, and the people here that have a
21 lot of passion for what they do. They have a passion for
22 the ocean, they have a passion for the people they work
23 with, the tourists that come here.

24 But also don't forget a lot of these folks work
25 with our local people that live here, whether it be, you

1 know, these folks being on the beach in the morning first
2 thing when they get to the park, cleaning up the park
3 because there's been a party overnight in a park that was
4 supposed to have been closed or people that were supposed to
5 have been removed.

6 I see the schools in the park in the morning
7 actually picking up broken beer bottles and glass, you know.
8 And if there's a fight on the beach there they're right
9 there, and they're responding to those kinds of things.

10 I also see, you know, my child and our children in
11 the community taking lessons from some of the schools that
12 we have here. I've seen my wife being rescued in the ocean
13 after something had separated from her rig windsurfing,
14 being pulled in by one of our local schools. So these guys
15 are a real asset to the county.

16 And that said too, obviously with the permits, you
17 know, they're paying to use the parks. They're paying to,
18 you know, obviously they're bringing their own water in to
19 do what they need to do. But also a lot of times I see
20 other folks in the parks wasting the resources. So from
21 what I see is the operators are an asset to, you know,
22 providing a service.

23 You know, one thing I see with the regulations is
24 we're putting a cap on these folks to grow their business.
25 And what makes me really nervous is to see people who have

1 spent so many years doing what they do in providing good
2 service and being stewards of the land possibly not having
3 something to retire on or to hand off to somebody else.

4 So what I'd like to see is, you know, these folks
5 having the opportunity, if they're going to be able to put
6 into their business or to be able to promote Maui or the
7 sport, and have an opportunity to retire on some of their
8 hard work. I hate to see that go to waste.

9 There's a lot of things that they do in the
10 environment that is important as well with these folks.
11 They're teaching people safety, they're teaching children in
12 our community ocean safety, they're teaching our tourists
13 who come over here how to be safe in the ocean, how to
14 respect the ocean, and how to respect the environment. So
15 there's a lot of interaction that goes on. Again, not only
16 with tourists coming over, but also with our local community
17 as well. I see that as a vital part of what these guys are
18 doing. They're actually educating our people.

19 MR. DANIELS: Time.

20 MR. CAGON: I've got a lot more points, and I'm
21 going to actually submit that written to you as well. Thank
22 you. Thank you for the opportunity.

23 HEARING OFFICER KIANG: Thank you. I'd like to
24 thank all the participants to this point. We are going to
25 take a ten minute break. So if you haven't had the

1 opportunity to sign up to speak, please take that chance,
2 and we will see you at 10:25.

3 (Whereupon a brief recess was had).

4 HEARING OFFICER KIANG: If you can take a minute
5 to be reseated.

6 UNIDENTIFIED MALE SPEAKER: Excuse me. Could we
7 get an email address on the blackboard where we can submit
8 written testimony, please? That's always been a problem.
9 Okay, we we'll finally get one that we can all submit
10 testimony. Thank you.

11 HEARING OFFICER KIANG: I'll go ahead and write
12 that on the board.

13 DIRECTOR HORCAJO: Sue, why don't you get the
14 meeting started.

15 HEARING OFFICER KIANG: It has been asked if we
16 could indicate an email address where you can submit
17 testimony, and so Jean is providing that on the white board
18 for you. So we'll begin.

19 UNIDENTIFIED MALE SPEAKER: Is there also an
20 email, or is there also a way to get a response from the
21 email? Is there any way we can get a response?

22 HEARING OFFICER KIANG: We will be indicating on
23 the website at Mauicounty.gov the next steps available to
24 you. And just to let you know, I accessed that this
25 morning, and once you go to the department it has an area

1 for CORA as well.

2 UNIDENTIFIED MALE SPEAKER: Okay, thank you.

3 HEARING OFFICER KIANG: Thank you.

4 So testifier number 22 will be Teri Leonard. And
5 just to remind you to turn off your cell phone again. Thank
6 you. Teri Leonard.

7 MS. LEONARD: Good morning. Thank you for
8 allowing us to testify. I'm not going to go into the small
9 details like I thought I would. I've worked for Maui Dreams
10 Dive Company for ten years, and I've seen how hard the
11 owners have worked. It's a family owned company. And it's
12 just a shame to see how they could be affected by these
13 rules and regulations as residents of the community, as
14 citizens of Maui County and Hawai'i.

15 And I would like to bring to the attention of the
16 Parks Department here, everyone I have seen testify this
17 morning -- now, granted, not everyone has testified yet, and
18 I did miss the first few testifiers because there was no
19 parking outside, interestingly enough. Everyone I have seen
20 or heard testify was against these rules in some manner.
21 Where are the people who have been injured, where are the
22 injured parties, where is the public to testify?

23 So there's somebody saying there's a couple, okay.
24 Well, that's good, good, because I want to hear what they
25 have to say.

1 I'm really curious why we're spending so much time
2 and energy in the Parks Department on this issue when we
3 have much bigger, bigger issues to deal with. The reef
4 environment is at such risk right now, it's deadly. It's
5 dangerous to all of us. And why we're not spending this
6 time and energy on looking at injection wells, wetlands
7 issues, runoff issues, development issues, overpopulation
8 issues. I just am curious about where our priorities are
9 here. And that's all I have to say today. Thank you.

10 (Applause)

11 HEARING OFFICER KIANG: Testifier 23, Rene
12 Umburger.

13 MS. UMBURGER: Thanks for this opportunity again,
14 for the tenth time or something over the last seven years.
15 I'd like to address the underlying unspoken prejudice around
16 this issue. Every person on this island is making a living
17 off the resource. If Maui's resources weren't in a
18 beautiful healthy state, no one here would have a job or a
19 business. So I'd like people to please stop being
20 hypocrites and realize that everyone is making a living off
21 the resource, not just marine tourism operators.

22 Parks Department statements have continually
23 referred to protection of the natural resource, unlike the
24 real culprits of over-fishing and land-based pollution. Not
25 a single study has ever shown that any divers or snorkelers,

1 much less commercial tours, are contributing to degrading
2 coral reefs. In fact, studies show that Maui County reefs
3 have the highest biomass, abundance and diversity of marine
4 life or marine protected areas where fishing cannot occur,
5 and they happen to be the areas most heavily visited by
6 snorkelers and divers. So this is not a marine resource
7 issue. (Applause)

8 I believe also the department has forgotten that
9 in negotiations earlier, our industries voluntarily gave up
10 Kam I, II and III in recognition of the heavy local use,
11 especially on weekends. There is no reason to severely
12 restrict our access to the ocean via parking space
13 allocation. If parking is the issue, perhaps Parks should
14 consider limiting how many tourists get to park in the
15 permitted parks, since rental cars easily outnumber
16 residents' cars in the South Maui areas where we lead our
17 tours, and they are all zoned for tourism.

18 I strongly object -- and this is something, Jeff,
19 that I was mentioning earlier that I think that Corp Counsel
20 could look into -- Section 10-102-5 and Section 10-102-41,
21 it says that it's unlawful for any person to conduct a CORA
22 without a permit, and the penalty says any person operating
23 without a permit. So does that mean that all staff and not
24 just businesses and operators are required to get permits?
25 That's how I read it. And so that means that four people,

1 not four businesses, would have access to Ulua Beach, for
2 instance, for teaching scuba.

3 I strongly object to Section 10-102-7 for existing
4 permits. And even though it states that permits issued
5 before the effective date of these rules shall remain in
6 effect for the duration of their respective terms, that
7 means that maybe we would have another year and then we'd be
8 forced into those numbers.

9 Tamara, I know that you said that it's your
10 intention to not weed us out and just let those numbers go
11 down by attrition, but it does give you and future
12 administrations authority to shut out operators.

13 MR. DANIELS: Time.

14 MS. UMBURGER: May I have one more minute, please?

15 MR. DANIELS: Yes.

16 MS. UMBURGER: And so there aren't any
17 descriptions of how determinations will be made as to who
18 gets the permits.

19 I also strongly object to sections prohibiting
20 Christian religious holidays, like Christmas and Good Friday
21 and the Sunday Sabbath. The county has an obligation to
22 govern without religious influence, and has no business
23 restricting operations based on the Christian or any other
24 religion. (Applause)

25 HEARING OFFICER KIANG: Please.

1 MS. UMBURGER: And I would say that I agree with
2 almost everything everybody else has said, so thank you.

3 HEARING OFFICER KIANG: Testifier 24, Don Domingo.

4 MR. DOMINGO: Hello. I'm Don Domingo, I own Maui
5 Dreams Dive Company, and I just want to say I'm going to go
6 totally in a different direction. I think you guys need to
7 have more of us. And why I say that is third world
8 countries have it right and we have it so wrong. They have
9 it where divers come to them, they have to get checked out
10 before going. Because most divers around the world they're
11 trained in cold water diving, that's muck diving. They go
12 on the bottom, they walk with their hands and kick up
13 everything. Where we want them to not touch the coral, they
14 are not used to coral, they haven't seen coral, it's their
15 first time out here.

16 And like Bonaire or Rotan, what they do is they
17 have to get checked out first. They have to go to the
18 commercial people. They have to get to the people who have
19 been trained right to go out and protect our reefs, and
20 that's us. They're funneled towards us, they have to get a
21 checkout dive before, and they get a tag that says they've
22 been checked out before they can be allowed to go out on
23 their own.

24 Right now what you're doing is you're restricting
25 it all the way back and getting all of us out of there and

1 saying, "You guys that don't know what the hell you're
2 doing" -- I'm sorry -- "can go ahead and destroy the reef
3 all you like, because we are the stewards of the reef and we
4 are allowing you to do it."

5 Where the people who are really the stewards,
6 people who work for you for free, in fact, we pay you to
7 work for you to go out and train people, not to destroy our
8 reefs, you're getting rid of us. And that's the main thing
9 I want to say. Thank you.

10 HEARING OFFICER KIANG: Testifier number 25,
11 Jennifer Noelani Edens.

12 MS. EDENS: Aloha, good morning, and mahalo for
13 your time. I am one of the one people that showed up here
14 today, but I guarantee you there are more than just one.
15 There are thousands of us on this island who would never
16 think that we'd have to come here today to discuss this
17 issue.

18 I can tell you from going to the beach every
19 day -- I am a shell picker, and I make things with shells,
20 that's part of my work, and I'm also a paralegal -- and I
21 can't tell you the amount of times I've witnessed lessons
22 being given down the beach right next to the water
23 reclamation facility, or whatever it's properly called, I'm
24 not sure.

25 These things -- when it's windy down there, we all

1 know how windy it gets. Those things are what, 20 feet long
2 possibly. And when it blows it's not going to discriminate,
3 you know, it's going to hit whatever is in its path. I have
4 seen them go from the ocean into the tree line, into the
5 bushes behind the tree line from the wind. That's just one
6 of the issues.

7 But one of the big issues that I have been
8 experiencing, I and the fishermen and the divers, those of
9 us who don't respect the beach, have been experiencing is
10 excrement all over the beach that is coming down strangely
11 enough from that area, the Kanaha Beach Park area. The
12 fishermen have told me that they believe it comes from the
13 kite boarders and the wind surfers. They stay out there for
14 hours and hours and hours, you know.

15 One of the retired lesson -- one of the retired
16 instructors, retired instructors said to me, "That's how we
17 do it on the mainland, you know."

18 Just to give you an idea of what we're dealing
19 with here, we are not dealing with a business that you could
20 say is indigenous to this land, like surfing, you know. I
21 believe they should have more right than somebody coming in
22 now and wanting to do all this other stuff.

23 But one of the other problems is that I'm hearing
24 about how great all of this is, and the reason we're only
25 hearing about that is because everybody in this room in some

1 way, shape or form, outside of those of us that we know are
2 not, because I do not make a living off the resources here,
3 I don't do that, that is not my mana'o.

4 UNIDENTIFIED MALE SPEAKER: Shells?

5 MS. EDENS: They're on the beach. It's not a
6 resource, Braddah.

7 HEARING OFFICER KIANG: Please be respectful.

8 MS. EDENS: Well, I was speaking and I was
9 interrupted.

10 HEARING OFFICER KIANG: Speak to the panel,
11 please.

12 And audience, no comment.

13 MS. EDENS: Ignorant comments, I would appreciate
14 it. But in any case, for the most part, you know, I'm only
15 hearing about how great this is. It's not just great.
16 We've already heard about the parking issues. They want to
17 be exempted from everything. Linda Lingle's own EIS
18 council --

19 MR. DANIELS: Time.

20 MS. EDENS: May I have another minute, sir?

21 MR. DANIELS: Yes, ma'am.

22 MS. EDENS: -- has stated that she's been
23 dishonest and allowed all kinds of people to do whatever
24 they want, so evidently that's become the norm around here.

25 I was born and raised on Kauai in Hanalei.

1 Everybody that told me when I was protesting the SuperFerry,
2 me and my sister and all of my friends that said, "You'll
3 never keep it from happening on Kauai." Well, guess what,
4 there ain't no SuperFerry on Kauai. And this needs to be
5 reigned in right here, right now.

6 The Planning Commission needs to let these people
7 know that this is not just a money bucket, this is our home,
8 and it needs to be treated like our home first, and then
9 your business, and then your money.

10 So just from somebody, a lay person who likes to
11 go to the beach, I don't like swimming in kukai, and yet
12 it's all over the beach. And yes, in my shells and
13 everything, and it's disgusting, but nobody is down there
14 inspecting that. And that's just one of the problems. If
15 you talk to fishermen you know, divers, they don't want to
16 come in here. I wonder why, I wonder why.

17 MR. DANIELS: Time.

18 MS. EDENS: Mahalo very much.

19 HEARING OFFICER KIANG: Thank you. Testifier 26,
20 Brian Yesland.

21 MR. YESLAND: Thank you. Thank you for allowing
22 me to speak. I was going to get into some of the details on
23 this, but I think that's -- I'll reserve that for written
24 testimony. I am going to just talk about some of the
25 general things.

1 As I understand the origin of these rules going
2 back so long that it's hard for me to remember, but part of
3 the crux of these rules was to address safety and
4 environment. And what these rules are doing, as you've
5 heard others say, is it's basically not going to fix either
6 of those problems or resolve those problems, it's going to
7 create the problem.

8 If I'm going to be restricted on my numbers,
9 restricted on the parks that I can use, basically cut them
10 in half for kayaking, we're basically being told we cannot
11 operate on any beach park south of Kalama Park. You've
12 increased the permits in Kalama Park, which shouldn't
13 happen. That area is already full of surfers and it's not a
14 safe area to kayak.

15 So basically what I'm being told is go to an area
16 that's not safe, and you cannot access any point south of
17 there for kayaking. Whereas those areas south of there are
18 more suited for kayaking, and that's where the guests want
19 to go.

20 So what am I going to do with my business? I
21 can't go down there with tours, I'm going to be cut down on
22 numbers on tours, so I'm going to have to change my business
23 model. I'm going to have to stay in business, so I'm got
24 the equipment, so what am I going to do? I'm going to start
25 renting my equipment. What's going to happen? People are

1 going to be going and they're going to be unsupervised.
2 They're going to create just the problems in these areas
3 that we want to try to prevent.

4 I won't be the only one that will change my
5 business model, other people will do the same so they can
6 stay in business. These rules are going to do opposite of
7 what you want, what they really were meant to do, and that's
8 to protect the environment and create some safety controls.

9 I've heard multiple times that this process is a
10 partnership between Parks and the operators, yet we've gone
11 over a year since the last draft of these rules or there was
12 any discussion between Parks Department and operators, over
13 a year. Then we get this latest draft 30 days before this
14 meeting to comment only at this meeting. That is not a
15 partnership, not at all.

16 Additionally, the CORA study that was the county,
17 out of our money -- when we say county government it's our
18 money, all of us in this room -- almost \$200,000 was spent
19 on a study to give us a basis point from where to go to
20 create these rules. Yet there's nothing in these rules
21 about cutting back parks, cutting back numbers that comes
22 from that study. That study in no way supports these rules.
23 Thank you.

24 HEARING OFFICER KIANG: Roger, we did hear from
25 you already, and I appreciate your enthusiasm. But if you

1 want more input you can email or provide that in a written
2 form.

3 So testifier number 27 will be Keoki Haiwi.

4 MR. HAIWI: Aloha. Hi, my name is Keoki. I do
5 surf lessons right here in Kalama Park. I know Mark, I see
6 him all the time.

7 Good job, Mark. I see you all the time.

8 And I just want to say that yeah, all the people
9 that come to Hawai'i, they love surfing. We've been doing
10 this for many years. This is our life. And you guys talk
11 about being passionate about the ocean. Like I said, this
12 is our life, this is our food, this is where we play. This
13 is for all our keikis when they get older. It's going to be
14 here forever. We want to keep it for us.

15 Just with the surf lessons, you know, it's been
16 good to me. I've been doing it for almost three years now
17 right there at Kalama Park, and I've just got to say, like
18 all the tourists come over and you guys try to put like caps
19 on how many tourists we can do, and it makes it hard on
20 everybody, you know, it's hard on us.

21 I've get a family too, I just had a little baby,
22 and it also affects the community. Everybody who's done
23 surfing, they want to go off and eat food, you know, you've
24 got places right down the road. We all know Johnson, we
25 send them over to Johnson's. We get Lulu's. Everybody gets

1 a part of when they come over, when the tourists come over,
2 you know.

3 So we've met people from everywhere, and they all
4 come from all over the world. And when they come here, like
5 I said, they put money into our community, okay. So the
6 money goes back to me, it goes back into the community,
7 people go off go eat good food, plate lunch, okay. So all
8 this good stuff is for the community. It helps us all out.
9 So when you put little caps on how much people we can do, it
10 just makes it harder for the community. It's a rough time
11 for us right now.

12 And I really love what I do. I've been surfing my
13 whole life, like I said. All of us Hawaiians, that's what
14 we do down at the beach. When we were keiki we swimming
15 before we one years old already, so that's how it is.

16 But yeah, and the other thing is it's like on the
17 permits too, it's like some day, like I said, I just had a
18 keiki. One day I want to have, like do something for
19 myself. And it's hard, like we being Hawaiians it's hard
20 for us to get ahead, you know. Everybody is saying how long
21 they've been here, 30, 40 years. But for us Hawaiians we've
22 been here for generations and generations to come, and we'd
23 just like a fair shot at what we do best.

24 That's basically it. Like I said, Mark, you doing
25 a good job, Mark, I see you every day. Mahalo to everybody.

1 You know, I respect everybody in the water, and that's how
2 it is. And so we just like live our life, and make money
3 like everybody else, and try to be happy. That's basically
4 it, okay. Aloha mai and aloha to everybody. Mahalo nui.
5 (Applause)

6 HEARING OFFICER KIANG: Testifier 28,
7 Ku'uikaikapu'aliiokekai.

8 MR. KU'UIKAIKAPU'ALIIOKEKAI: That's close. Just
9 call me Kai. I'm a surf instructor at Kalama Park. My name
10 is Kaika. Keoki pretty much said everything. Exactly what
11 he said but.

12 I've been teaching for about like seven years, and
13 it's what we do, it's our life. I mean and we teaching
14 surfing until hopefully around 80, if I still can walk and
15 stuff. But we love to surf. We always respect everybody in
16 the water. And like the numbers, what he was saying about
17 how much guys we can take out, one of us each can take out
18 about 12 people out at a time. It's like a machine out
19 there, we start launching, but we can teach plenty people at
20 one time. So if you guys keep the numbers down then we're
21 going to be losing money for our families, for everybody.

22 And that's about it, I think. Good job, again,
23 too.

24 MR. DANIELS: Mahalo.

25 MR. KU'UIKAIKAPU'ALIIOKEKAI: And maybe Duke might

1 hire me for lifeguard, but I don't know. Maybe. Nah. But
2 thank you very much, guys. Aloha. (Applause)

3 HEARING OFFICER KIANG: Testifier number 29,
4 "Shaka" Doug Corbin. Doug Corbin.

5 MR. CORBIN: Yeah, I'm coming, thank you. My name
6 is Doug Corbin. A lot of people know me as Shaka Doug.
7 Well known in the scuba industry here. I've made it a point
8 to make scuba diving my life for 24 years now, and I love
9 what I do, and I share what I do with lots and lots and lots
10 of people.

11 And I fly this flag today, the upside down State
12 of Hawai'i flag, which was also the flag of the Kingdom of
13 the State -- the Kingdom of Hawai'i, to show that we are in
14 distress, okay. Our community is in distress. I feel
15 distress, my finances are in distress, we are all in
16 distress. I think we're in agreement, yes? (Applause)

17 It's important for us to regulate the CORA people.
18 I understand that you have a job that you have to come up
19 with some rules. You have been working on it since 2003. I
20 have been part of the CORA program since 1997 here on Maui.
21 I like what you do, I appreciate what you do. I know that
22 your job is hard.

23 I like having rangers, I like knowing that you're
24 there. I like knowing that there's permits available and
25 that people are regulated so we don't have rogue people up

1 there just doing reckless teaching and reckless activities,
2 because that does happen, and we've seen it in the past and
3 we've seen it. You guys have been able to correct it, and
4 some of us have corrected it ourselves by policing our own
5 industry.

6 A lot of people made a lot of good points here.
7 I'm going to hit four of them real quick, while I have my
8 time to address the issues that I have with the current
9 ordinance that you're trying to enforce on us, and one is
10 the hours and dates and holidays. If you restrict us that
11 much by reducing us to something around 95 days, 100 days
12 out of a normal work year, we will go out of business. I
13 will go out of business. What I will be forced to do is
14 work under the table. I'll come up with some new thing.

15 I'm still going to go diving, nobody is going to
16 stop me from diving. I will be a private citizen and I will
17 go diving every single day. So we need to look at the hours
18 and days. Just give us freedom to work as much as we want.

19 Parking stalls is going to be a huge problem. If
20 you want to try to set up parking stalls you'd better start
21 figuring out where they're going to be and how we're going
22 to work it out, because it's going to create all kinds of
23 problems.

24 The cultural awareness program? Let's see it. If
25 we are going to have to be part of it, we'd better see what

1 that is. As far as I know, it's not even designed yet.

2 Tourism is our easiest way to make money in
3 Hawai'i. We don't have to destroy anything, we've already
4 got the infrastructure. Mother Nature and God have given us
5 the island and the reefs, the beauty, and that's all people
6 want. They come here and they drop tons and tons of money.
7 And they're not dropping it right now, in case you haven't
8 noticed. Look at today's paper, it's way down. We're all
9 in trouble right now. We need to work together and help us.

10 These are all good people here. I've spent lots
11 of time and energy in my promoting Maui and promoting my
12 business. People come here to see me sometimes.

13 MR. DANIELS: Time.

14 MR. CORBIN: Thank you.

15 HEARING OFFICER KIANG: Speaker number 30, Garth
16 Everhardt.

17 MR. EVERHARDT: Thank you very much. My name is
18 Garth Everhardt, and I am not an operator, I'm a just a --
19 I'm a farm manager from the north shore, and I just want to
20 talk a little bit about my experience.

21 I've only been here five or six years, and it's
22 been a great time for me because I've been able to take
23 scuba lessons at a number of beaches, windsurfing lessons at
24 a number of beaches, and kayaking at a number of beaches,
25 and that was one of the things that drew me to Maui to take

1 on a farm project.

2 And it just seems odd to me that in today's
3 economy we are restricting or looking at restricting the
4 ability for scuba shops to teach at one beach instead of two
5 beaches or three beaches. And I appreciate the ability to
6 go to a number of beaches depending on the conditions,
7 because I or a tourist, or any other resident, should be
8 able to go to the beach that best fits the conditions that
9 day for safety.

10 The other thing about it is I'm a resident. But,
11 you know, like the gentleman before me just talked about,
12 the economy is down. I mean we really kind of need some
13 tourism dollars right now. And to reduce the number of days
14 and the locations, what do we do with the tourism? I mean
15 tourist dollars right now are hard to come by, and they have
16 other places to go. They can go to Mexico, they can go to a
17 lot of different places now, and this is just another kind
18 of black eye for Maui.

19 So to me, it's just it seems like it's
20 overreaching. I'm not -- I haven't read all the document,
21 but I don't seem to understand how it helps small business.
22 It seems to help hotel operators, because they have a lump
23 of people that are always at the hotel. But I just don't
24 see how it helps the small businessman, and I am a small
25 businessman. I am not directly involved in this, but I'm

1 kind of sitting there going, they've gone after the vacation
2 rentals, they've gone after all these businesses, you know,
3 when are they going to come after my farm.

4 So that's why I'm here testifying, I'm really here
5 testifying based on my experience and the enjoyment I've
6 had. Because Maui is an island surrounded by water, and
7 it's known for its water activities. And I just, I'm afraid
8 as a small businessman that as they go after the water-based
9 operators, you know, when are they going to start coming
10 after guys like me.

11 The other thing is I don't really understand how
12 this enhances the environment. I've been lucky enough to
13 take place -- take work in an event cleaning up reefs, and
14 that was put together by a surf shop. I mean our reef
15 environment is critical. I used to scuba dive a lot in
16 Florida, and I've seen what's happened to their reefs. And
17 I've been down on the reefs here cleaning up fishing lines,
18 cleaning up tires. I mean the stuff that gets dumped off of
19 boats is amazing. I've seen on my property --

20 MR. DANIELS: Time.

21 MR. EVERHARDT: Can I have one more minute?

22 MR. DANIELS: Yes.

23 MR. EVERHARDT: Thank you very much. I sit on my
24 property on the north shore, the stuff that washes in on the
25 north shore, if we saw that on the south shore -- because my

1 sight is a little rocky, high cliff site. We can't get to
2 it to clean a lot of it up. But if that stuff washed in on
3 the south shore you guys would be amazed.

4 So I mean seeing these operators taking part in
5 the cleaning up of the reefs, I mean it's another thing that
6 the community is getting out of this water operation. I
7 just hope that this move towards supporting the hotels slows
8 down, and we really take a look at how do we keep our small
9 business operators alive.

10 Because I'm a small businessman, and the mentality
11 that's just been kind of going on for the last couple of
12 years seems to go after every small business. I don't get
13 it, I just don't understand it, and I don't see who it
14 really serves other than big companies who don't spend their
15 money here. Thank you very much. (Applause)

16 HEARING OFFICER KIANG: Testifier number 31, Alan
17 Cadiz.

18 MR. CADIZ: Thank you. My name is Alan Cadiz.
19 I'm owner/operator of Hawaiian Sailboarding Techniques. You
20 know, a lot of the things that are in the administrative
21 rules are redundant to 1304, a lot of things in there. And
22 I really think since 1304 was amended and the enforcement
23 officers and the closure of certain parks, the capping of
24 permits for better or worse, have actually helped to subside
25 the number of complaints.

1 I really think that the current administrative
2 rules are overbearing, overburdensome, overlegislated.
3 There's too many things in here. And I really think that if
4 100 percent of enforcement, or at least genuine enforcement
5 can be given on 1304, there wouldn't be the need for all the
6 additional administrative rules.

7 I do know that the Director has the sole
8 discretion to defer, eliminate, or change any of the rules,
9 and I think that she should really think about that. You
10 know, as a business owner, business owners, we have to
11 respond to the requests of the public. If we don't, like
12 any business, you will go out of business real quick. The
13 next person will step up and do it. So you have to respond.

14 From that side of the table your rules might seem
15 justifiable, but from this side of the table they're not,
16 and I need you to respond the way we would respond to our
17 business public. You need to listen to what we're saying
18 and make the changes.

19 You know, if the intent is to reduce the number of
20 operators, then the administrative rules work towards that
21 goal. And if the goal is to cut back on tourism, whether
22 it's bed and breakfasts or beach businesses, then let us
23 know and let the Visitors Bureau know to stop spending all
24 that money.

25 If we're a tourist-based economy then we need to

1 work together to make it happen, and these rules I think are
2 -- they throw the business out with the bath water. There's
3 definitely a lot of good things in here, and we have made a
4 lot of progress over the years, but it's still not right.

5 So I think either you should revise this as
6 opposed to signing it into law, or there's going to be a lot
7 of problems for all of us, and I don't want to see that
8 happen.

9 I want this to be over, I'm done with it. I'm
10 sure you want it off your desk too. But that won't
11 eliminate the problem. You need to really listen to what
12 we're saying and make the changes. Thank you.

13 HEARING OFFICER KIANG: I would like to thank
14 everybody for their participation this morning.

15 MR. RUSSELL: Excuse me.

16 HEARING OFFICER KIANG: Oh, I'm sorry, I thought I
17 had you all. One more person, Philip Russell.

18 MR. RUSSELL: Aloha. Thank you for giving me this
19 opportunity to speak. I wasn't really planning on speaking,
20 I don't have any notes, but I think as this stands right
21 now, if this is implemented you are probably going to see a
22 good 60 percent of these businesses go under. You know, in
23 the current economic climate, restricting these businesses
24 in this manner is a little bit extreme.

25 I think that the problems that we had six years

1 ago have -- the dynamics have changed tremendously. I think
2 the implementation of the ranger program has really been
3 very effective. I think that with possibly some current
4 amendments or some amendments to the current rules that
5 could make, you know, could really make this a lot simpler.
6 I think we're making a big deal out of something that could
7 be very simple.

8 You know, again, I think that, you know, putting
9 these kinds of restrictions on small businesses is, you
10 know, going to benefit entities like the hotels and the
11 larger corporations that, you know, and those are the people
12 that are probably causing the most environmental
13 destruction, you know, to our reefs with the golf courses
14 and the development runoff.

15 I think that the environmental awareness and
16 protection or cultural awareness clauses are a very good
17 thing. There is a program in place currently, it's called
18 the Coral Card. It's a very good program. Our business has
19 gone through it. I've done it. I think that it would be
20 good to have that. That's pretty much all I have to say.
21 Thank you for your time.

22 HEARING OFFICER KIANG: Again, I thank you all for
23 your hard work today. As I've said, that if there is a need
24 for clarification, we made note of the number of the speaker
25 and that corresponds to the sign-in sheet, so you will be

1 contacted to answer those questions for us.

2 The update will be on the website posted there on
3 the chalkboard and white board. And if you want to submit
4 something more to Jean's address, do that by 3:00 this
5 afternoon.

6 UNIDENTIFIED MALE SPEAKER: Is that reasonable,
7 3:00 this afternoon? It's 11:00 now. Why does it have to
8 be 3:00 this afternoon? Why couldn't we have 24 hours? I
9 thought this was a partnership. 3:00 is unreasonable.

10 HEARING OFFICER KIANG: We're following the
11 protocol that was listed in the newspaper.

12 UNIDENTIFIED MALE SPEAKER: It's unreasonable,
13 unreasonable.

14 HEARING OFFICER KIANG: Send it in.

15 UNIDENTIFIED MALE SPEAKER: I can't, I've got work
16 to do. I can't get it done by 3:00 this afternoon. I have
17 a business to run.

18 UNIDENTIFIED FEMALE SPEAKER: This is part of your
19 job. That's why you're here, sir. If you have a small
20 business, this is an investment for you.

21 HEARING OFFICER KIANG: Thank you again, all who
22 participated. Appreciate it.

23 DIRECTOR HORCAJO: Mahalo.

24

25 (The proceedings were concluded at 11:00 a.m.)

1 WRITTEN TESTIMONY FOR CORA RULES AND REGULATIONS

2

3 FROM TIM BAMFORD:

4 "I am just writing to express my opposition to the
5 new Maui County Park rules that are to be discussed on
6 Friday, June 26, on restrictions to be placed on
7 windsurfing, surfing, kayaking, and dive schools, limiting
8 the number of students and instructors each school can have
9 working at one time.

10 I live in New Zealand, and have visited Maui five
11 times for a windsurfing vacation, each time taking lessons
12 at Kanaha Beach Park on the north shore. Kanaha is a world
13 class windsurfing spot, and many people who visit Maui go
14 windsurfing there and get windsurfing lessons, from beginner
15 to advanced.

16 The lessons are a small fraction of the overall
17 windsurfing population at the park on a good day, and
18 limiting the number of students and instructors will not
19 serve any practical purpose. It will also decrease the
20 enjoyment of tourists, such as myself, who want to get
21 windsurfing lessons there.

22 Yes, there can be situations where the amount of
23 commercial use needs to be limited, but there is no
24 one-size-fits-all-parks solution. Imposing a "solution"
25 where there is no problem, as at Kanaha, will create a

1 problem.

2 At a time where some tourist operations on the
3 island are down by 50 percent, I feel it is a very
4 ill-sighted proposition to limit the amount of students and
5 instructors each school can have working at one time at
6 spots like Kanaha.

7 I agree with the environmental reasons of the
8 proposition/rules, however I think the rules need to be
9 tailor-made for each surf/windsurf/kayak/dive spot in order
10 for it to obtain the best balance between environmental and
11 economic benefits/costs and decrease the chance of putting
12 people out of business in an already unstable economy.

13 Regards, Tim Bamford."

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1 WRITTEN TESTIMONY FROM AN UNIDENTIFIED SOURCE:

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3 "1. Thank you for creating and enforcing a set of
4 rules the past 3+ years. The balance between recreational
5 users and commercial operators has been much better than it
6 was before.

7 2. The permits should have to be renewed every year.
8 This is because if the public begins to lose use of a beach,
9 they have a year to form a protest to improve the situation.

10 3. I personally have not had any issues with
11 commercial operators at Ukumehame this past three years.
12 However, I would like the situation flexible at this beach
13 because it is heavily used by recreational users. The 2006
14 CORA study is outdated at this beach because the number of
15 users has increased greatly in the past two years due to the
16 new popular sport of stand-up paddling.

17 A. I feel the surf schools should not be
18 allowed in the main four surf breaks, especially between the
19 hours of 5 a.m. and 10 a.m., and after 3 p.m. This is when
20 it is best for recreational surfers. 7 a.m. is too early to
21 allow surf schools in the main breaks because most surfers
22 surf in the morning between 6 a.m. and 9:30 a.m.

23 B. There are many reef breaks after the four
24 main breaks at Ukumehame that few surfers use, which would
25 be perfect for surf schools (breaks more like Kalama Park).

1 These breaks are on a sandy beach between the date nut tree
2 on the mauka side of the highway and the road going to the
3 new subdivision (about a 2 mile long stretch of beach).

4 C. Parking is extremely limited near the four
5 surf peaks at Ukumehame. To the north of the surf breaks
6 there is lots of parking due to less recreational users.

7 D. If the surf schools enter the main breaks
8 they should stay on the inside and yield to recreational
9 surfers. (Example: Not push students in front of
10 experienced surfers who have the right of way). If a
11 student cuts off a surfer with the right of way and a
12 collision occurs, the surf school should be liable to the
13 recreational surfer for damages, and the accident should be
14 reported and kept on record so that heavy abuses can be
15 addressed.

16 E. If there is a problem or a change, users at
17 the park should be consulted. For example, notices could be
18 posted at the park notifying users of the meeting and
19 proposed changes. This is because there are people who do
20 not read the newspaper.

21 In closing, I would like to say that beach parks are
22 very limited on Maui. Parking is even more limited. Parks
23 by nature should not have commercial uses. They are public
24 property. The amount of people who would like to use beach
25 parks for personal financial gain, at the expense of

1 recreational users, is very large, especially for \$600 a
2 year. (The monthly rent for my Kahului office is more than
3 \$600). This is why these rules are very important."
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C E R T I F I C A T I O N

I, JEANNETTE W. IWADO, Notary Public for the State of Hawaii, certify:

That the proceedings contained herein were taken by me in machine shorthand and were thereafter reduced to print under my supervision by means of computer-aided transcription; that the foregoing represents, to the best of my ability, a true and accurate transcript of the proceedings had in the foregoing matter.

Dated the 28th day of June, 2009

Jwado



NOTARY PUBLIC, State of Hawaii

My commission expires 2/5/12