



KŪKULU KE EA A KANALOA

## KAHO'OLAWE ISLAND RESERVE COMMISSION

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COMMISSION MEMBERS

MICHELE MCLEAN  
*Chairperson*  
AMBER NĀMAKA WHITEHEAD  
*Vice-Chair*

WILLIAM J. AILA, Jr.  
N. EMMETT ALULI, M.D.  
C. KALIKO BAKER, PhD.  
COLETTE Y. MACHADO

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

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

**Before the House Committee on  
Ocean Marine Resources & Hawaiian Affairs**

**Monday, March 11, 2013  
10:30 AM  
State Capitol, Conference Room 325**

**In consideration of  
SENATE BILL 1169 SD2  
RELATING TO THE KAHO'OLAWE ISLAND RESERVE**

Senate Bill 1169 SD2 clarifies that any equipment, article, instrument, aircraft, vehicle, vessel, business record, or natural resource used or taken in violation of the rules applicable to the Kaho'olawe Island Reserve (Reserve) may be seized and subject to forfeiture pursuant to section 199-7 and chapter 712A, Hawaii Revised Statutes (HRS). The Kaho'olawe Island Reserve Commission (KIRC) supports this measure with the SD2 amendment, for it would strengthen our enforcement ability and provide the KIRC with another tool to manage the Reserve.

The KIRC seeks the addition of the forfeiture clause to HRS 6K-8 to increase the penalties for violators, thus strengthening our enforcement capabilities and our protection of the Reserve's resources as well as protecting members of the public who disregard the dangers of unexploded ordnance on and around the Island.

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of**  
**WILLIAM J. AILA, JR.**  
**Chairperson**

**Before the House Committee on**  
**OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS**

**Monday, March 11, 2013**  
**10:30 AM**  
**State Capitol, Conference Room 325**

**In consideration of**  
**SENATE BILL 1169, SENATE DRAFT 2**  
**RELATING TO THE KAHOO LAWE ISLAND RESERVE**

Senate Bill 1169, Senate Draft 2 proposes to clarify that any equipment, article, instrument, aircraft, vehicle, vessel, business record, or natural resource used or taken in violation of the rules applicable to the Kahoolawe Island Reserve may be seized and subject to forfeiture pursuant to Section 199-7 and Chapter 712A, Hawaii Revised Statutes (HRS), except in the case of persons or vessels within one nautical mile of the boundaries of the Island Reserve. **The Department of Land and Natural Resources (Department) strongly supports this Administration measure.**

The Hawaii Supreme Court found, in *Carlisle v. One (1) Boat*, 119 Hawaii 245, 195 P.3d 1177 (2008), any associated enforcement of natural resource protection cannot include forfeiture of property used in furtherance of specified offenses unless forfeiture is specifically and clearly allowed in applicable statutes.

The adoption of an *in rem* forfeiture provision within Chapter 6K, Hawaii Revised Statutes, for remedial sanctions by administrative or civil proceedings would serve as a deterrent, thus strengthening the Department's enforcement capabilities and allowing for greater protection of the Reserve's resources and members of the public who may be unaware of the dangers of unexploded ordnance on and around the Island.

**WILLIAM J. AILA, JR.**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**ESTHER KIAAINA**  
FIRST DEPUTY

**WILLIAM M. TAM**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS