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**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
**DIVISION OF AQUATIC RESOURCES**  
1151 PUNCHBOWL STREET, ROOM 330  
HONOLULU, HAWAII 96813

October 24, 2008

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

**SUBJECT:** Enforcement Action against Makena Boat Partners for Breaking and Damaging Stony Coral in Makena Bay, Maui

**SUMMARY:** This submittal requests the Board find that Makena Boat Partners violated Hawai'i Administrative Rules section 13-95-70 by breaking and damaging an estimated 538 specimens of stony coral, and requests the Board assess administrative fines, fees, and costs pursuant to Hawai'i Revised Statutes section 187A-12.5.

**DATES OF INCIDENT:** July 2007 through August 24, 2007

**AGAINST:** Makena Boat Partners and its general partners Kai Kanani, Inc. and Maalaea Boat Sales and Charters, Inc.  
5400 Makena Alanui Dr.  
Kihei, Maui 96753

**LOCATION OF DAMAGE:** Makena, Maui

## I. INTRODUCTION

Stony corals are living, invertebrate species that are native to Hawai`i and belong to the scientific order Scleractinia. HAR § 13-95-1; Exhibit A. Millions of these soft-bodied animals called “polyps” form large carbonate structures and create the coral reefs prominent in Hawai`i’s nearshore waters.

Coral reefs are a vital part of our history, our culture, our economy, and our quality of life. The first animal that appears in the Kumulipo, the Hawaiian Creation Chant, is the coral polyp. These tiny animals are the building blocks of coral reef ecosystems, and are an invaluable resource in Hawai`i. Coral reefs act as shoreline protection and are a source for the white sand that has made Hawaiian beaches famous destinations. Known as the “rain forests of the sea,” despite occupying only about 1% of the ocean’s surface area, coral reefs are biodiversity hotbeds and home to a quarter of all marine fishes. And, coral reefs contribute more than \$350 million annually to Hawai`i’s economy.

When corals are damaged or killed, the entire ecosystem is affected by the loss of their habitat services. It can take many years for a complex coral reef ecosystem to recover once the coral has been damaged.

The location of the incident described in this submittal, Makena Bay, Maui, is a popular recreation area and its coral reefs provide excellent snorkeling. Makena Bay contains abundant marine life including octopus, various fish species, and the green sea turtle. Exhibit B at 7 (DAR Habitat Damage Assessment).

Makena Boat Partners (“MBP”) is a commercial snorkeling and whale watching charter service that operates at Molokini and Makena Bay. See Exhibit C (MBP website). MBP offers a variety of tour excursions, which range in price from \$54.98 to \$116.06 per adult passenger. Id. MBP has been registered to operate in Hawai`i since 1988. See Exhibit D. The vessel at issue in this case is MBP’s *Kai Kanani*. MBP has one prior citation on its record—a \$500 citation levied in 1988 for mooring the *Kai Kanani* in Makena Bay prior to receiving a mooring permit. See Exhibit E at 1.

From sometime in July 2007 through August 24, 2007, MBP violated Hawai`i Administrative Rules Section 13-95-70 (attached as Exhibit F) when its vessel the *Kai Kanani* dropped anchor on a coral reef in Makena Bay. Although MBP was cited by DOCARE and was told to remove the vessel, MBP delayed action for more than 3 weeks, all the while causing damage to the coral below. The resulting impact from the anchor and chain damaged 910.4 square meters of coral habitat and approximately 538 specimens of stony coral. See Exhibit B at 3 & 7.

This submittal sets forth the options available to the Board of Land and Natural Resources (“Board”). The Board may, in its discretion, impose a fine against MBP and its general partners Kai Kanani, Inc. and Maalaea Boat Sales and Charters, Inc. of up to \$542,950.49 in administrative fines, fees, and costs pursuant to Hawai`i Revised Statutes section 187A-12.5 (Exhibit G).

## II. FACTUAL BACKGROUND

The violation described in this submittal occurred when Makena Boat Partners relocated its vessel, the *Kai Kanani*, from a permitted mooring to an unpermitted anchor site and in the process damaged valuable coral habitat.

### A. Relocation and Anchoring of the *Kai Kanani*

Prior to July 2007, MBP utilized a permitted offshore mooring in the Makena Bay Offshore Mooring Zone at Makena Bay, Maui, to moor its commercial snorkel vessel, the *Kai Kanani*. The *Kai Kanani* is a 46 foot wood hull catamaran with a carrying capacity of 48 people. MBP then obtained a second boat, the *Kai Kanani II*. The *Kai Kanani II* is 64 foot, 11 inch fiberglass hull catamaran with a carrying capacity of 80 people. MBP did not have a second mooring permit for this second boat. Accordingly, sometime before July 22, 2007, MBP moored the *Kai Kanani II* at the original mooring site; MBP relocated the *Kai Kanani* southeast of the mooring site and dropped an anchor to secure the boat to the ocean bottom.

### B. Initial Ecological Assessment and Damage Quantification of the Anchor Site

On July 22, 2007, Maui DAR staff received an email complaint that the *Kai Kanani* was anchored on coral reef fronting the Makena Prince Hotel. Exhibit H. On July 26, 2007, DAR staff conducted an initial investigation to assess the damage caused by the anchor. See Exhibit B at 2-3. The survey team observed that the *Kai Kanani* was anchored to the bottom substrate via a large anchor. Staff documented the exact location of the anchor. The anchor was approximately 1.8 m long x 1 m wide and was connected to the boat with heavy chain, 30 meters of which was lying directly on the substrate. *Id.* at 2-3; Exhibit B.1 at 1.

During the initial assessment on July 26, DAR staff observed 422.7 square meters of coral habitat damage at the anchor site. Exhibit B at 3; see Exhibit B.1 at 1. The damage was evident along the length of the chain, and occurred as the chain dragged along the ocean bottom with the current and waves. The dragging chain disturbed or removed numerous coral colonies from the substrate. Exhibit B.1 at 1.

### C. Citation and Removal of the *Kai Kanani*

On July 27, DAR notified Maui DOCARE of the violation. Exhibit B.1. On August 1, 2007, DOCARE issued MBP a citation and informed MBP that it was required to move the *Kai Kanani* from its anchor site. Exhibit I.

Despite being ordered to move the vessel, MBP did not relocate the *Kai Kanani* until more than 3 weeks later. MBP delayed action ostensibly until it could obtain dry dock space at Ma'alaea Harbor, which would not have been until September. MBP took no action until it was contacted again by Staff. On August 21, a DAR staff member contacted Sidney Akiona and explained that the vessel must be removed. On August 24, MBP removed the *Kai Kanani*. Exhibit B at 3. The *Kai Kanani* was thus anchored to the coral substrate for more than one month.

MBP pled no contest to criminal penalties and paid a fine of \$200 for the *Kai Kanani* anchor site stony coral violation on October 5, 2007. Exhibit J. The *Kai Kanani* is currently not being used commercially.

#### D. Follow-up Ecological Assessment and Damage Quantification of the Anchor Site

On August 29, 2007, Maui DAR conducted a follow-up inspection of the *Kai Kanani* anchor site. Staff documented increased damage to the coral, which likely occurred while the vessel and anchor chain shifted with changing winds, currents, and surf conditions during the 3 week period since the initial inspection. See Exhibit B.

The anchor marked the starting point for the damage assessment. Staff divided the area around the anchor into four quadrants with the original anchor site as the center. *Id.* at 3. The quadrants were set at 90 degree angles and each ran a distance of 30 meters from the anchor (which was the length of the chain that had been dragging on the ocean bottom). *Id.* at 3. Using this quadrant system, the survey team methodically moved through the damaged habitat to document and photograph the damaged colonies. The survey team identified the species, counted the number of coral fragments, and photographed each location. *Id.* at 5. The team photo-documented each specimen. See Exhibit K (compact disc). Tools used to acquire this information included underwater metric measuring tape, a black and white archaeological stick divided into ten centimeter segments, underwater data sheets, a camera, and GPS units.

DAR staff calculated 910.4 square meters of habitat damage. Exhibit B at 3. This damaged area included: increased damage to the original damage site ("Area A"), which now comprised 656.4 square meters, plus an additional 254 square meters of damage north of the anchor. The new northern area was identified as "Area B." *Id.* at 3. Area A was a flat hard bottom substrate, and the coral provided most of the vertical habitat. Area B was made up of higher-quality habitat because the coral was structurally more complex, with mid-sized coral reef mounds. *Id.* at 6.

Dar staff identified 538 individual coral colonies that were killed, damaged, or dislodged. *Id.* at 6-7. Because the assessment dive plan was based on the amount of damage observed during the initial July 26 inspection, DAR staff was not equipped to extensively assess the entire damage site, which had doubled in size. Accordingly, Staff mapped and measured the entire area but concentrated its detailed colony damage assessment on the larger Area A. *Id.* In Area A, 388 individual colonies were identified. *Id.* at 6. Then, assuming that the density of damaged colonies in Area B was the same as in Area A, Staff used the colony-to-area ratio of Area A to extrapolate the number of individual colonies in Area B. *Id.* at 7. An estimated 150 colonies were damaged in Area B. *Id.* This totals 538 damaged colonies. *Id.*

DAR staff considers the 538 individual coral colonies to be a conservative number. Id. The extensive damage to the coral made it difficult to determine precisely how many independent coral colonies were impacted. In some cases, differences in species or in coral color made it possible to differentiate individual colonies. In other cases, when it was not clear, DAR staff simply counted all the fragments as though they were from one colony. Furthermore, Area B was not extensively surveyed but was made up of higher-quality habitat than was Area A. Therefore, the number of individual coral colonies and the extent of habitat damage is potentially much higher. Id.

The long-term effects of this incident on the coral reef is already evident. Dense growths of turf algae quickly moved in to the new open habitat, as documented by DAR staff. Id. at 7 & photo 9. This algae will slow the recovery of the coral reef.

### III. LEGAL AUTHORITY FOR ENFORCEMENT

#### A. Administrative Penalties Available for Violations of Title 13, Chapter 95, HAR

MBP's anchor and chain caused damage to stony coral, which is protected by HAR Title 13, Chapter 95 and by HRS section 187A-12.5. "Stony coral" is defined as "any of a variety of invertebrate species belonging to the order Scleractinia characterized by having a hard, calcareous skeleton that are native to the Hawaiian islands." HAR § 13-95-1; Exhibit A.

HAR § 13-95-70(a) states that "[i]t is unlawful for any person to take stony coral, or to break or damage any stony coral with a crowbar, chisel, hammer, or any other implement." Exhibit F. "Break" means "to hit with, or to apply sufficient force to reduce to smaller pieces or to crack without actually separating into pieces." HAR § 13-95-1 (emphasis added); Exhibit A.

HRS § 187A-12.5(c) provides the penalties for violations of HAR § 13-95-70 and other administrative rules relating to aquatic resources: "(1) [f]or a first violation, a fine of not more than \$1,000; (2) [f]or a second violation within five years of a previous violation, a fine of not more than \$2,000; and (3) [f]or a third or subsequent violation within five years of the last violation, a fine of not more than \$3,000." Exhibit G.

HRS §187A-12.5(e) also provides that "a fine of up to \$1,000 may be levied for each specimen of . . . aquatic life taken, killed, or injured" in violation of aquatic statutes or rule. (Emphasis added). "Aquatic life," according to HRS § 187A-1, includes coral. Exhibit L.

Additionally, HRS § 187A-12.5(a) authorizes the Board "to recover administrative fees and costs . . . or payment for damages or for the cost to correct damages resulting from" a violation of the statutes and rules pertaining to aquatic resources. Exhibit G.

Finally, a criminal penalty for violating the aquatic resources statutes or rules does not preclude the State from recovering administrative fines, fees, and costs. HRS § 187A-12.5(f); Exhibit G.

## B. Criminal Penalties for Violations of Title 13, Chapter 95, HAR

MBP paid a stony coral criminal penalty of \$200, on October 5, 2007.<sup>1</sup> Exhibit J.

## C. Permit Revocation

As discussed below, permit revocation is not an available remedy in this instance.

## IV. ANALYSIS

This submittal considers administrative penalties only. MBP has already paid a criminal penalty. Exhibit J. MBP's permits are not subject to revocation in this instance. MBP did possess a Marine Conservation District Use Permit for Molokini Shoal MLCD in the name of the *Kai Kanani*. Exhibit M. But, the anchor was not dropped within the MLCD, and thus the penalty rules pertaining to the MLCD permit are inapplicable.<sup>2</sup> MBP also possesses a Commercial Operating Area Use Permit from DOBOR, but this permit was not in the name of the *Kai Kanani* at the time of the violation. See Exhibits N-O. In November 2006, MBP was awarded a one-year permit for the *Kai Kanani*. Exhibit N. But on July 2, 2007, prior to DOCARE's citation, MBP switched the Operating Permit from the *Kai Kanani* to the *Kai Kanani II*. Exhibit O. Therefore, at the time the violation occurred, the *Kai Kanani* was not permitted and there is no permit to revoke.<sup>3</sup>

By dropping anchorage on to stony coral, MBP satisfied the elements of a violation of HAR § 13-95-70(a). See Exhibit F. These elements are: (1) a person must take, break, or damage; (2) stony coral; (3) with a crowbar, chisel, hammer, or any other implement. First, the *Kai Kanani* anchorage damaged or broke approximately 538 stony coral specimens, as documented by DAR staff. See Exhibit B. The anchor and chain provided force sufficient to damage or dislodge the corals from their calcareous base. This constitutes a "break" pursuant to HAR § 13-95-1 because the coral heads were reduced to smaller pieces when they were crushed or separated from the base. (Refer to Exhibits B & K for photographic evidence). Second, the coral damaged by the *Kai Kanani* are "stony coral." As discussed above, stony coral is native to Hawai'i and is within the order Scleractinia. All of the 538 specimens that were damaged are in the order Scleractinia and are native to Hawai'i. This fact is established by DAR's survey of the impact area and documentation of five distinct coral species, all of which are "stony coral": Porites lobata, Pocillopora eydouxi, Pocillopora meandrina, Porites compressa, and Pavona varians. Exhibit B at 8-15 (documenting the species identified). Third, the anchor and chain qualify as "implements." Thus, the elements of HAR § 13-95-70(a) are satisfied and the violation is subject to a fine of \$1000 per specimen, pursuant to HRS § 187A-12.5(e).

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<sup>1</sup> MBP also paid a live rock criminal penalty of \$200. Exhibit J.1.

<sup>2</sup> See HRS § 190-4 and HAR § 13-31-5 (relating to revocation of permit due to violations within the conservation district).

<sup>3</sup> MBP was awarded a one-year Operating Permit from DOBOR for the *Kai Kanani II* on September 24, 2007. Exhibit O.1.

The ultimate decision on the appropriate administrative penalty lies with the Board. As the Board makes its determination, it may be helpful to consider that MBP had an opportunity to minimize the amount of damage done to the coral but did not do so. MBP was notified by DOCARE on August 1 that it was in violation of state law and had damaged coral. Had MBP acted immediately, a substantial percentage of the habitat damage could have been avoided. Instead, MBP's transgression spanned over one month. The damage to the coral area more than doubled in the time lapse between when MBP was notified of its violation and when MBP actually removed the vessel. The initial July 26 assessment found 422.7 square meters of habitat damage, but the August 29 inspected found 910.4 square meters of habitat damage. Staff considers MBP's delay to be an egregious disregard of a directive from DOCARE.

*Assessment of Administrative Fines, Fees and Costs for Damage to Coral*

The Board may assess administrative fines, fees, and costs against MBP and its general partners Kai Kanani, Inc. and Maalaea Boat Sales and Charters, Inc. of up to \$542,950.49 for damaging 538 specimens of coral. HAR § 13-95-70(a) establishes liability against MBP for breaking and damaging these stony coral specimens.

This maximum statutory penalty was computed as follows:

- HRS § 187A-12.5(c) grants the Board authority to assess an administrative fine of up to \$1,000 for a first time violation of DAR regulations. This incident is considered to be a "first time violation" although MBP has in fact been cited before. A "first time violation" is one which occurs more than 5 years after a prior violation. See HRS § 187A-12.5(c)(2). In 1988, MBP (through Messrs. Warren and Sidney Akiona) was cited for a violation of HRS § 183-41 and HAR Title 13, Chapter 2 and fined \$500 for mooring the *Kai Kanani* in Makena Bay prior to receiving a mooring permit.<sup>4</sup> See Exhibit E. Because the incident at issue in this submittal is more than 5 years after the 1988 citation, it is a "first time violation."
- Furthermore, HRS § 187A-12.5(e) allows the Board to assess a fine of up to \$1,000 for each coral specimen. A coral colony is a "specimen" for purposes of an administrative fine under HRS § 187A-12.5. See Exhibit P.
- Finally, HRS 187A-12.5(a) authorizes the Board to charge MBP for fees and costs incurred by DLNR as a result of the violation.

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<sup>4</sup> HRS § 183-41 has since been repealed.

Applying this statutory framework to the conservative estimate of coral specimens damaged, the Board may assess the following maximum penalty against MBP:

Available Penalties	Proposed Penalty	Offense	Legal Authority
Graduated fines (up to \$1,000 for 1 <sup>st</sup> offense)	\$1,000	Unlawfully killing and injuring coral within Makena Bay	HRS § 187A-12.5(c)
Graduated fines (up to \$1,000 per specimen for 1 <sup>st</sup> offense)	\$538,000	\$1,000 per specimen of coral damaged x 538 specimen	HRS § 187A-12.5(e)
Fees & costs incurred by DLNR <sup>5</sup>	\$3,950.49	Costs to assess coral damage, DAR staff time	HRS § 187A-12.5(a)
<b>TOTAL</b>	<b>\$542,950.49</b>		

**V. RECOMMENDATION**

The Board may elect to impose against MBP and its general partners Kai Kanani, Inc. and Maalaea Boat Sales and Charters, Inc. a fine of up to \$539,000 plus costs of \$3,950.49, for a maximum of \$542,950.49. As the Board deliberates, Staff recommends that the Board consider MBP’s blatant disregard for the order from DOCARE to remove the vessel, the fact that MBP could have avoided as much as one-half of the damage had MBP acted in a timely manner, and the fact that this is MBP’s second violation. The Board may also consider, as a mitigating factor, that the violation did not occur within a Marine Life Conservation District.

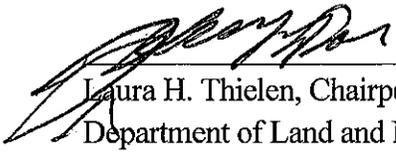
Respectfully Submitted,



Dr. Dan Polhemus, Administrator  
Division of Aquatic Resources

<sup>5</sup> See Exhibit Q for a break down of DLNR’s costs associated with this incident.

APPROVED FOR SUBMITTAL:



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Laura H. Thielen, Chairperson  
Department of Land and Natural Resources

§13-95-71 Live rocks

§13-95-1 Definitions. As used in this chapter, unless otherwise provided:

"Aholehole" means any fish known as *Kuhlia xenura* or *Kuhlia sandvicensis* or any recognized synonym.

"Akule" means any fish identified as *Selar crumenophthalmus* or other recognized synonym. This fish is also known as pa'a'a, halalu, hahalalu, and big-eyed scad.

"Awa" means any fish known as *Chanos chanos* or any recognized synonym.

"Break" means to hit with, or to apply sufficient force to reduce to smaller pieces or to crack without actually separating into pieces.

"Carapace length" means the straight line measurement from the tip of the rostrum to the middle of the trailing edge of the body or carapace, not including the tail.

"Commercial marine licensee" means a person who has been issued a commercial marine license pursuant to section 13-74-20 and section 189-2, HRS.

"Damage" means to smash, trample, or otherwise cause extensive injury resulting in irreparable harm or death.

"Day" means a twenty-four hour period.

"He'e" means any mollusk known as *Octopus cyanea*, *Octopus ornatus*, or any recognized synonym.

"Kala" means any fish known as *Naso unicornis*, *Naso brevirostris*, *Naso annulatus*, or any recognized synonym.

"Kona crab" means any crab known as *Ranina ranina* or any recognized synonym.

"Kumu" means any fish known as *Parupeneus porphyreus* or any recognized synonym.

"Length" means the straight line measurement from the tip of the snout to the middle of the trailing edge of the tail.

"Live rock" means any rock or coral to which marine life is visibly attached or affixed.

"Net" means any of various fishing devices of mesh material made into various shapes, such as but not limited to, a bag, sack, pouch, or curtain, used to entangle, surround, or concentrate aquatic life.

"Manini" means any fish known as *Acanthurus triostegus sandvicensis* or any recognized synonym.

"Moano" means any fish known as *Parupeneus multifaciatu*s or any recognized synonym.

"Moi" means any fish known as *Polydactylus sexfilis* or any recognized synonym.

"Mullet" means any fish known as *Mugil cephalus* or any recognized synonym.

"Oio" means any fish known as *Albula glossodonta* or any recognized synonym.

"Opelu kala" means any fish known as *Naso hexacanthus* or any recognized synonym.

"Sell" means to solicit and receive an order for; to have, or keep, or offer, or expose for sale; to deliver for value or in any other way than purely gratuitously; to peddle; to keep with intent to sell; and to traffic in.

"Speared" means to capture aquatic life by stabbing with a spear or other such pointed device. The presence of any puncture wound on the external surfaces of the aquatic life, which are fresh and does not show signs of healing, shall be evidence that the aquatic life was speared.

"Slipper lobster" means any crustacean of the species *Scyllarides squammosus* or *S. haani*, or recognized synonyms. These animals are also known as rock lobster, mole lobster, shovel-nosed lobster, or ula papapa.

"Spiny lobster" means any crustacean of the species *Panulirus penicillatus* or *P. marginatus*, or recognized synonyms. These animals are also known as lobster, Hawaiian spiny lobster, red lobster, green lobster, or ula.

"Stony coral" means any of a variety of invertebrate species belonging to the order *Scleractinia* characterized by having a hard, calcareous skeleton that are native to the Hawaiian islands.

"Take" means to fish for, catch, capture, confine, or harvest, or to attempt to fish for, catch, capture, confine, or harvest, aquatic life. The use of any gear, equipment, tool, or any means to fish for, catch, capture, confine, or harvest, or to attempt to fish for, catch, capture, confine, or harvest, aquatic life by any person who is in the water, or in a vessel on the water, or on or about the shore where aquatic life can be fished for, caught, captured, confined, or harvested, shall be construed as taking.

"Uhu" means any fish known as *Scarus dubius*, *Scarus psittacus*, *Scarus rubroviolaceus*, *Chlorurus sordidus*, *Chlorurus perspicillatus*, or any recognized synonym.

"Ulua" means any fish known as *Caranx ignobilis*, *Caranx lugubris*, *Caranx melampygus*, *Caranx sexfasciatus*,

*Carangoides equula*, *Carangoides ferdau*, *Carangoides orthogrammus*, or any recognized synonym. The young of these species are also known as papio.

"Weke" means any fish known as *Mulloidichthys flavolineatus* or any recognized synonym. These fish are also known as goatfish, yellowstripe goatfish, weke a, and the young of this fish is known as oama. [Eff 12/03/98; am 1/11/02; am Dec 19 2002 ] (Auth: HRS §§187A-3.5, 187A-5) (Imp: HRS §§187A-3.5, 187A-5)

§13-95-1.1 Licenses, permits, and other exemptions. Notwithstanding the provisions of this chapter, the department may issue the following licenses and permits to exempt persons from the provisions of this chapter:

- (1) Licenses issued pursuant to section 187A-3.5, HRS;
- (2) Permits issued pursuant to section 187A-6, HRS;
- (3) Permits issued pursuant to section 188-23, HRS;
- (4) Permits issued pursuant to section 188-37, HRS;
- (5) Permits issued pursuant to section 188-44, HRS;
- (6) Permits issued pursuant to section 188-57, HRS;
- (7) Permits issued pursuant to section 188-68, HRS;
- (8) Licenses issued pursuant to section 189-6, HRS; and
- (9) As may be otherwise provided by law. [Eff Dec 19 2002 ] (Auth: HRS §§187A-3.5, 187A-6, 188-23, 188-37, 188-44, 188-45, 188-57, 188-68) (Imp: HRS §§187A-3.5, 187A-6, 188-23, 188-37, 188-44, 188-45, 188-57, 188-68)

§13-95-2 Penalty. A person violating this chapter shall be punished as provided by law. [Eff: DEC 03 1998] (Auth: HRS §§187A-5, 187A-12.5, 187A-13, 188-53, 188-70, 189-4) (Imp: HRS §§187A-5, 187A-12.5, 187A-13, 188-53, 188-70, 189-4)

§13-95-3 Severability. If any provision of this chapter, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter

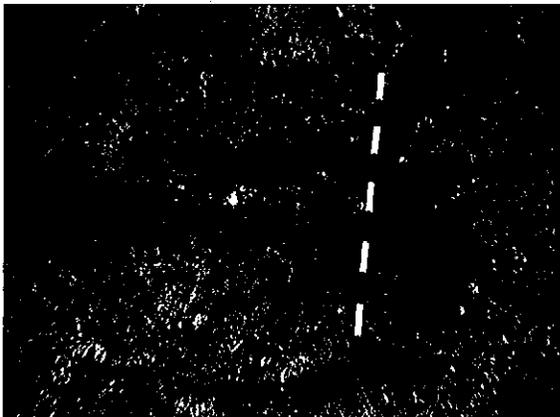
**Kai Kanani  
Anchor and Chain  
Habitat Damage Assessment  
August 2007**

**Field Investigation Report  
Initial Field Assessment 7-26-2007  
Final Assessment 8-29-2007**

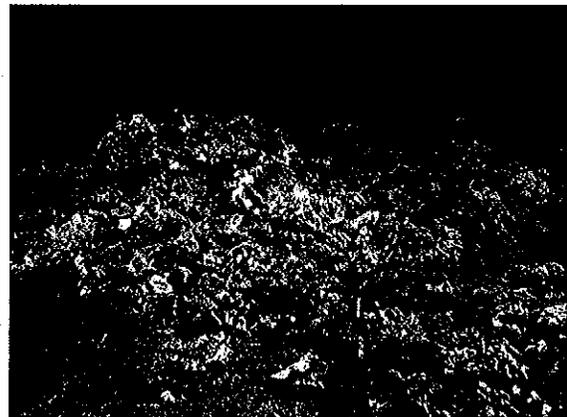
**Russell Sparks  
Division of Aquatic Resources, Maui Office**



**Kai Kanani Anchored in Makena**



**Kai Kanani's Anchor**



**Anchor Chain Impacting Coral  
Reef Habitat**

## Overview

On Sunday, July 22, 2007, Maui Division of Aquatic Resources (DAR) received an email complaint alleging that Makena Boat Partner's Kai Kanani commercial snorkel vessel (pictured on the cover) was anchored on coral reef fronting the Makena Prince Hotel. The complaint explained that a second vessel, the Kai Kanani II, was recently placed on the Kai Kanani's original Makena mooring and the Kai Kanani was then moved to the southeast and anchored on the hard bottom substrate with a large anchor and chain (pictured on the cover). In response to this complaint, Maui DAR conducted an initial site inspection (see attached Inspection of Kai Kanani memo dated 7/27/2007). This site inspection documented damage to numerous specimens of live coral colonies as well as live rock. These cases of damage were directly related to the anchor and chain that was connected to the vessel Kai Kanani (photo 1 and 2). This initial inspection also documented damage to live rock and corals that resulted from the established mooring system currently attached to the vessel Kai Kanani II.

Based on the information from the initial complaint and the findings of the DAR initial site inspection of the anchor site, the owners of the Kai Kanani were cited for criminal coral and live rock damage by the Division of Conservation and Resource Enforcement (DOCARE).

Although the complaint and the subsequent initial site inspection involved both the Kai Kanani anchorage and the Kai Kanani II mooring site, the follow-up assessment and documented damage within this report involved only the impact associated with the Kai Kanani anchorage. Concerns with the Kai Kanani II mooring were forwarded to the Maui Land Management Division, and the Division of Boating and Ocean Recreation (DOBOR).



Photo 1: Anchor chain impacting a mound of living coral reef.



Photo 2: damaged *Pocillopora meandrina*

## Case History

The initial inspection that was conducted on July 26, 2007 documented the exact location of the Kai Kanani anchor, at which time the majority of the coral damage had occurred to the southeast of the anchor site. Following the findings of the initial DAR inspection

and the subsequent DOCARE action (criminal citations and verbal notice that the vessel could not be left anchored on the reef), the vessel remained on site until it was finally relocated on Friday, August 24, 2007. During the month that followed the initial site inspection, the damage to the habitat continued and increased to include new habitat to the northwest of the anchor site. This new damage could have been avoided if the Kai Kanani had been immediately removed following the initial inspection and subsequent DOCARE criminal citations. In fact, the Kai Kanani stayed on site until after DAR called one of the owners (Mr. Sidney Akiona) on August 21, 2007. During this phone conversation, Mr. Akiona admitted that he was aware that he needed to move the boat, but he was waiting for a dry dock space at the Maalaea harbor. Mr. Akiona said the dry dock space would probably become available in mid September. It was explained to Mr. Akiona that it was unacceptable to allow continued coral habitat damage to occur and that he needed to contact DOBOR and move the vessel to a suitable overnight anchorage location. The vessel was moved 3 days later, and the follow-up inspection was scheduled for August 29, 2007.

## **Detailed Coral Damage Assessment**

### Measurements of Damaged Area

During the initial July site inspection, the exact anchor location and the length of chain on the habitat were recorded (see Figure 1. Kai Kanani Anchor Damage-7/26/2007). The anchor was 1.8 m x 1 m in size and was lying at a depth of 21 feet, located at 20°38.876'N, 156°26.786'W. The anchor location marked the starting point for the subsequent August damage assessment. On August 29, 2007, the area around the anchor was first marked off into four quadrants with the anchor location at the center (photo 3). Four transect lines were run out 90 degrees to each other starting at the anchor location and running a distance of 30 meters (30 m being the measured chain length on the bottom habitat from initial site inspection). This effectively broke up the potentially impacted area into four equal quarters. These four transect lines were then referenced to measure out and diagram the full extent of the impacted area. The observed damage fit best with the attached sketch of three partial circles connected together, with the largest circle having a radius of 15.5 meters. With these measures, it was possible to calculate the total damaged area as 910.4 m<sup>2</sup>. These damaged areas were made up by anchor location with the southern damaged side (Area A) measured at 656.4 m<sup>2</sup>, and at the northern damaged side (Area B) measured at 254 m<sup>2</sup> (see Figure 2. Kai Kanani Anchor Chain Damage Area-8/29/2007).

By comparing the measured habitat damage from the initial inspection on July 26 (422.7m<sup>2</sup>) and the final detailed assessment conducted on August 29 (910.4m<sup>2</sup>), it is clear that more than twice the total damage occurred well after Makena Boat Partners were notified of the Department's concerns and cited for illegally damaging coral and live rock. During the initial inspection, the damage was observed only to the southeast of the anchor location. The follow-up assessment, however, found damage that had increased substantially on the south side of the anchor, as well as extended 12 meters to the north of the anchor location (Area B). This additional damage likely occurred as the vessel was shifted around by changing winds, currents, and surf conditions.

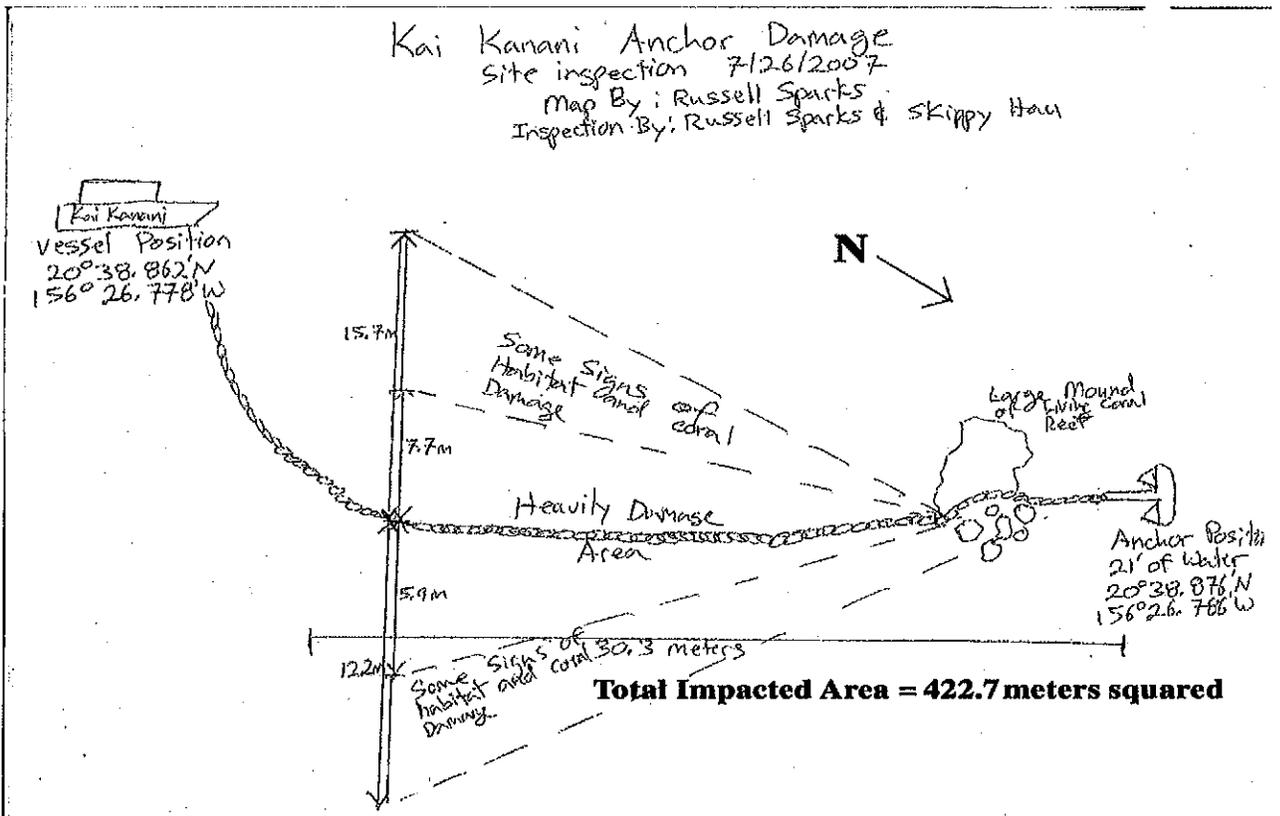


Figure 1. Kai Kanani Anchor Damage-7/26/07

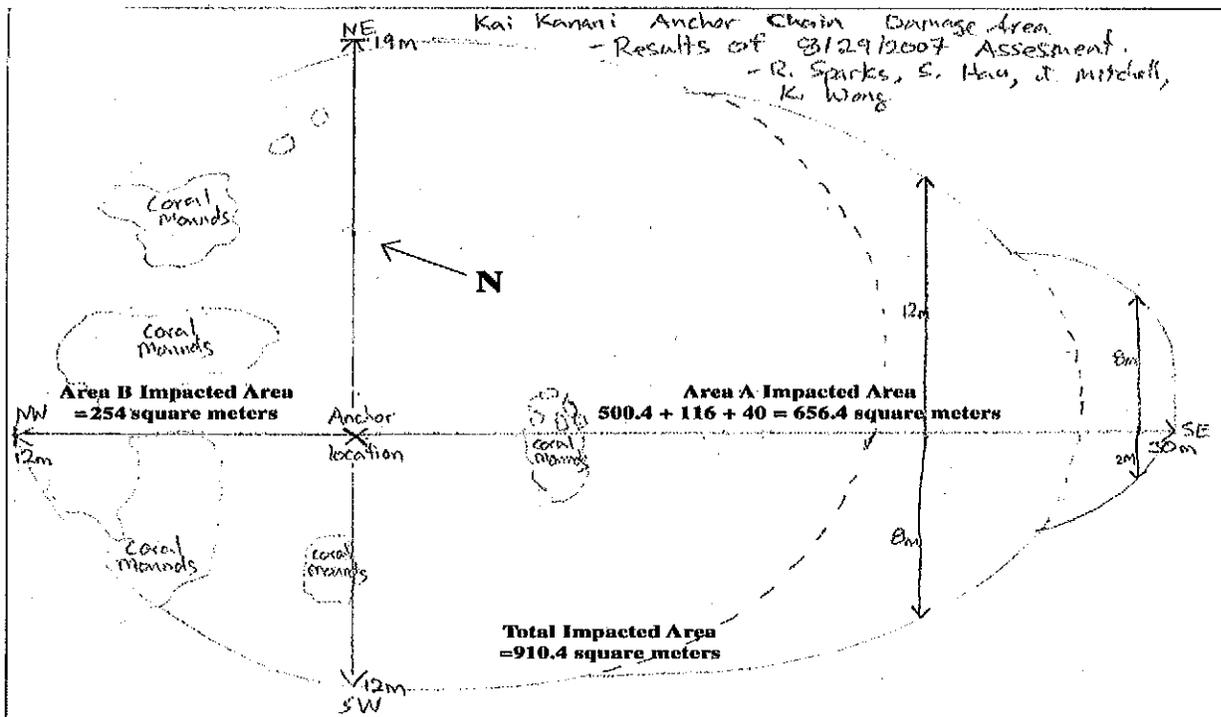
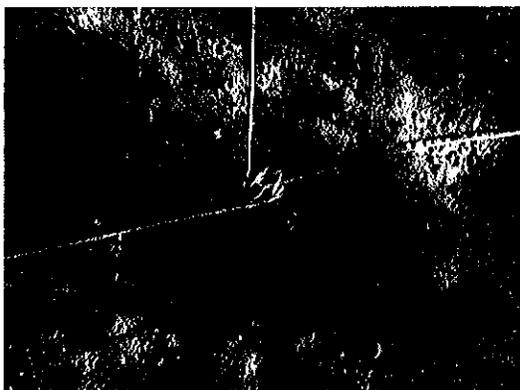


Figure 2. Kai Kanani Anchor Chain Damage Area-8/29/2007

### Assessment of the Total Impacted Live Coral Colonies:

The four transect line grid described above and shown in Figure 2 was used as a basis to methodically move through the damaged habitat and to document and photograph all damaged coral colonies (photo 3). This assessment dive plan was devised based on the information gathered from the initial (7/26/2007) site inspection, and as a result, the DAR survey team was not fully prepared to survey the amount of damaged habitat that they encountered. In order to complete the assessment with available time and resources, it was decided to map out and measure the entire damaged area, but to concentrate the detailed coral colony damaged assessment surveys to the area south of the anchor location (Area A). Area A, instead of the northern area, was the focus of the detailed assessment because, one, the majority of the damaged area was in Area A, and two, the results could be compared with the initial July assessment of Area A.

Two dive teams were used to conduct the assessments. They consisted of one observer/photographer and one assistant per team. One team (Russell Sparks-Observer/Kristy Wong-Assistant) worked on the northeast side of the damaged area, and the other team (John Mitchell-Observer/Skippy Hau-Assistant) worked on the southwest side of the damaged area (photo 4). The surveys were conducted by having the dive assistants lay out a series of transect lines parallel to the southeast transect tape at 1 meter intervals. This allowed the observer/photographers to assess meter-wide swathes of the damaged habitat in a single pass, and it also meant that survey teams were able to clearly identify which areas had already been surveyed and which were still to be done.

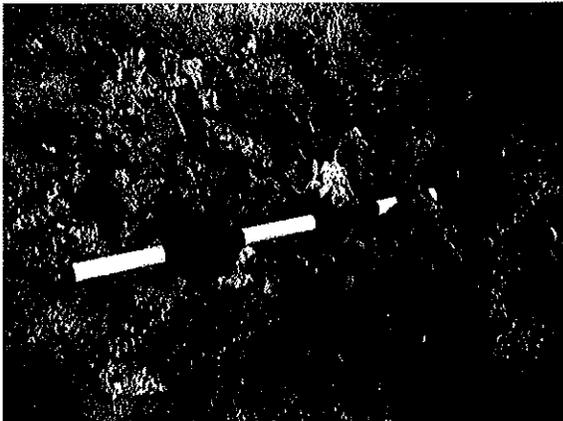


**Photo 3. Anchor site, and four transect tapes running out at 90° angles from one another**

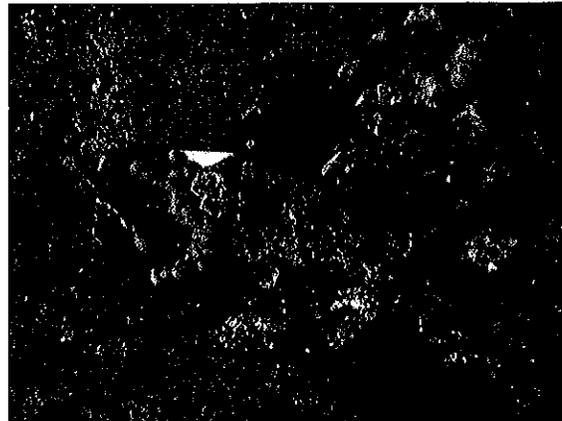


**Photo 4. John Mitchell and Skippy Hau working on the southwest site of Damage (Area A). Notice the parallel transect lines marking each meter wide survey swath.**

The observer/photographers located all damaged or dislodged corals, identified the species of coral, counted the number of fragments and/or described the type of damage, and photographed each location. In many cases the degree of damage made it difficult to precisely determine how many independent coral colonies were damaged. In these cases all the fragments were simply counted as if they were from a single colony (photo 5). In other cases, differences in the color and/or species of different coral fragments allowed observers to determine that the fragments were derived from more than one colony (photo 6).



**Photo 5. Several *Porites lobata* coral fragments. In this case there were no obvious color difference so all fragments were recorded as being from a single colony.**



**Photo 6. Several *Porites lobata* fragments. In this case, two separate colonies were recorded. Notice the coral on the right side has a lighter coloration than the coral on the left.**

The majority of the damaged habitat in the surveyed area (Area A) was composed of flat hard bottom with small patchy coral colonies. Because the area is fairly flat, prior to damage, the coral colonies would have provided most of the vertical habitat. The anchor chain was therefore able to effectively scour the bottom and toppled most of the living coral found within the damaged area (photo 7). The area to the north of the anchor location (Area B) was composed of several mid-sized coral reef mounds. The damage that occurred to this area was likely much more substantial per unit area than the damage recorded in Area A, because, prior to the anchor damage, it would have been a higher-quality habitat – comprised of a structurally complex habitat (large raised coral reef mounds) and a healthy and diverse coral community (photo 8).



**Photo 7. Representative image of Area A, showing the flat habitat with numerous damaged and dislodged coral heads.**



**Photo 8. Representative image of Area B with large raised coral reef mounds shown in the background.**

Tables 1 and 2 document coral damage that was observed, recorded and photographed by Russell Sparks and John Mitchell. Copies of all the photographs have been put on three compact discs and reference each data entry by a photo number. One compact disc will be kept on file in the Maui DAR office, and the other two will be kept in the Oahu DAR Office. In total, 2,106 damaged and/or dislodged coral fragments were recorded along with 388 individual colonies in the area surveyed (Area A). Dividing the total number of

damaged colonies by the area impacted, yields an average of 0.59 damaged coral colonies per square meter of habitat. As described above, Area B was not surveyed in detail by DAR, but if we assume that the density of damaged colonies in Area B was the same as in Area A, we estimate that an additional 150 colonies were damaged in Area B. Therefore, we estimate that 538 coral colonies were likely killed, damaged or dislodged by the Kai Kanani's anchor and anchor chain (Table 3).

For a number of reasons, we believe that number (538 damaged coral colonies) to be a very conservative estimate of the damage caused by the anchor chain. First, it was often difficult to tell with certainty whether a group of coral fragments came from a single or from multiple colonies. Whenever there was any doubt, we assumed that the fragments were from a single colony, thus likely undercounting the total number of damaged colonies. Second, our assumption that the extent of damage in Area B was the same as that in Area A was probably a substantial underestimate for Area B. This is because, as discussed above, Area B was composed of raised coral reef mounds that housed more numbers and diversity of corals and was almost certainly a higher-quality habitat than Area A prior to anchor impacts; the number of damaged colonies per meter was probably greater in Area B than the estimate reflects.

This case clearly demonstrates that a carelessly dropped anchor within hard bottom habitat can cause substantial damage to the living coral reef. The general location of this event is a heavily-utilized recreational area. The habitat in this location supports abundant marine life including octopus, various fishes and is heavily used by green sea turtles. The area is commonly utilized by recreational fishers, and is a popular recreational snorkeling spot. In fact, the Kai Kanani has been observed leading snorkel tours on the very reef that their anchor and chain were damaging. The long-term impact of this habitat damage is already evident in the new growth of turf algae over the damaged area. The complete scouring action of the Kai Kanani's anchor chain has opened up a lot of new substratum for rapid-growing turf algae (photo 9). Dense growths of turf algae of the type we have observed in the damaged area affect the ability of new corals to recruit into the habitat, and will therefore slow down future coral reef recovery.



**Photo 9. Photo of thick turf algae that was observed on all the recently scoured hard bottom habitat.**

**Table 1. Recorded Coral Damage from the Northeast Side of Area A (Russell Sparks-Observer/Photographer).**

<b>Photo Number</b>	<b>Observer's Name</b>	<b>Coral Species</b>	<b>Fragment Numbers</b>	<b>Colony Numbers</b>
1	R. Sparks	<i>P. lobata</i>	1	1
2	R. Sparks	<i>P. lobata</i>	1	1
3	R. Sparks	<i>P. lobata</i>	1	1
4	R. Sparks	<i>P. lobata</i>	3	1
5	R. Sparks	<i>P. lobata</i>	3	1
6	R. Sparks	<i>P. lobata</i>	2	1
7	R. Sparks	<i>P. lobata</i>	4	1
8	R. Sparks	<i>P. lobata</i>	4	1
9	R. Sparks	<i>P. lobata</i>	4	1
10	R. Sparks	<i>P. lobata</i>	7	1
11	R. Sparks	<i>P. lobata</i>	3	1
12	R. Sparks	<i>P. lobata</i>	5	1
13	R. Sparks	<i>P. lobata</i>	11	1
14	R. Sparks	<i>P. lobata</i>	18	2
15	R. Sparks	<i>P. lobata</i>	3	1
16	R. Sparks	<i>P. lobata</i>	2	1
17	R. Sparks	<i>P. lobata</i>	1	1
18	R. Sparks	<i>P. lobata</i>	17	1
19	R. Sparks	<i>P. lobata</i>	7	1
20	R. Sparks	<i>P. lobata</i>	13	1
21	R. Sparks	<i>P. lobata</i>	3	1
22	R. Sparks	<i>P. lobata</i>	4	1
23	R. Sparks	<i>P. lobata</i>	1	1
24	R. Sparks	<i>P. eydouxi</i>	1	1
25	R. Sparks	<i>P. lobata</i>	13	1
26	R. Sparks	<i>P. lobata</i>	7	1
27-29	R. Sparks	<i>P. lobata</i>	1	1
30	R. Sparks	<i>P. lobata</i>	30	1
31	R. Sparks	<i>P. lobata</i>	16	1
32	R. Sparks	<i>P. lobata</i>	8	1
33	R. Sparks	<i>P. lobata</i>	8	1
34	R. Sparks	<i>P. lobata</i>	9	1
35	R. Sparks	<i>P. lobata</i>	2	1
36	R. Sparks	<i>P. lobata</i>	6	1
37	R. Sparks	<i>P. lobata</i>	10	1
38	R. Sparks	<i>P. lobata</i>	8	1
39	R. Sparks	<i>P. lobata</i>	3	1
40	R. Sparks	<i>P. lobata</i>	7	1
41	R. Sparks	<i>P. lobata</i>	6	1
42	R. Sparks	<i>P. lobata</i>	7	1
43	R. Sparks	<i>P. lobata</i>	8	1

Photo Number	Observer's Name	Coral Species	Fragment Numbers	Colony Numbers
44	R. Sparks	<i>P. lobata</i>	14	1
45	R. Sparks	<i>P. lobata</i>	16	1
46	R. Sparks	<i>P. lobata</i>	11	1
47	R. Sparks	<i>P. lobata</i>	3	1
48	R. Sparks	<i>P. lobata</i>	7	1
49	R. Sparks	<i>P. lobata</i>	14	1
50	R. Sparks	<i>P. lobata</i>	10	1
51	R. Sparks	<i>P. lobata</i>	4	1
51	R. Sparks	<i>P. meandrina</i>	1	1
52	R. Sparks	<i>P. lobata</i>	7	1
52	R. Sparks	<i>P. meandrina</i>	1	1
53	R. Sparks	<i>P. lobata</i>	10	1
54	R. Sparks	<i>P. lobata</i>	10	1
55	R. Sparks	<i>P. lobata</i>	9	1
56	R. Sparks	<i>P. lobata</i>	14	1
57	R. Sparks	<i>P. lobata</i>	14	1
58	R. Sparks	<i>P. lobata</i>	15	1
58	R. Sparks	<i>P. meandrina</i>	1	1
58	R. Sparks	<i>P. compressa</i>	1	1
59	R. Sparks	<i>P. lobata</i>	13	1
59	R. Sparks	<i>P. lobata</i>	1	1
60	R. Sparks	<i>P. lobata</i>	7	1
61	R. Sparks	<i>P. lobata</i>	7	1
62	R. Sparks	<i>P. lobata</i>	4	1
63	R. Sparks	<i>P. lobata</i>	7	1
64	R. Sparks	<i>P. lobata</i>	12	1
65	R. Sparks	<i>P. lobata</i>	4	1
66	R. Sparks	<i>P. lobata</i>	2	1
67	R. Sparks	<i>P. lobata</i>	3	1
68	R. Sparks	<i>P. lobata</i>	3	1
69	R. Sparks	<i>P. lobata</i>	1	1
70	R. Sparks	<i>P. lobata</i>	10	1
70	R. Sparks	<i>P. meandrina</i>	1	1
71	R. Sparks	<i>P. lobata</i>	10	1
72	R. Sparks	<i>P. lobata</i>	7	1
72	R. Sparks	<i>P. meandrina</i>	2	1
73	R. Sparks	<i>P. lobata</i>	6	1
74	R. Sparks	<i>P. lobata</i>	14	1
75	R. Sparks	<i>P. lobata</i>	13	1
76	R. Sparks	<i>P. lobata</i>	5	1
76	R. Sparks	<i>P. varians</i>	1	1
77	R. Sparks	<i>P. lobata</i>	8	1
78	R. Sparks	<i>P. lobata</i>	7	1
78	R. Sparks	<i>P. meandrina</i>	1	1
79	R. Sparks	<i>P. lobata</i>	7	1
80	R. Sparks	<i>P. lobata</i>	3	1

Photo Number	Observer's Name	Coral Species	Fragment Numbers	Colony Numbers
81	R. Sparks	<i>P. lobata</i>	4	1
82	R. Sparks	<i>P. lobata</i>	3	1
82	R. Sparks	<i>P. meandrina</i>	1	1
83	R. Sparks	<i>P. lobata</i>	3	1
84	R. Sparks	<i>P. lobata</i>	5	1
85	R. Sparks	<i>P. lobata</i>	4	1
86	R. Sparks	<i>P. lobata</i>	4	1
87	R. Sparks	<i>P. eydouxi</i>	1	1
88	R. Sparks	<i>P. lobata</i>	14	2
89	R. Sparks	<i>P. lobata</i>	9	1
90	R. Sparks	<i>P. lobata</i>	11	1
91	R. Sparks	<i>P. lobata</i>	1	1
91	R. Sparks	<i>P. meandrina</i>	1	1
92	R. Sparks	<i>P. lobata</i>	9	1
93	R. Sparks	<i>P. lobata</i>	8	1
93	R. Sparks	<i>P. meandrina</i>	1	1
94	R. Sparks	<i>P. lobata</i>	5	1
95	R. Sparks	<i>P. lobata</i>	5	1
96	R. Sparks	<i>P. lobata</i>	3	1
97	R. Sparks	<i>P. lobata</i>	8	1
98	R. Sparks	<i>P. lobata</i>	5	1
99	R. Sparks	<i>P. lobata</i>	1	1
100	R. Sparks	<i>P. lobata</i>	2	1
101	R. Sparks	<i>P. lobata</i>	6	1
102	R. Sparks	<i>P. lobata</i>	9	1
103	R. Sparks	<i>P. lobata</i>	5	1
104	R. Sparks	<i>P. lobata</i>	7	1
105	R. Sparks	<i>P. lobata</i>	7	1
106	R. Sparks	<i>P. lobata</i>	14	1
107	R. Sparks	<i>P. lobata</i>	8	1
108	R. Sparks	<i>P. lobata</i>	5	1
109	R. Sparks	<i>P. lobata</i>	4	1
110	R. Sparks	<i>P. lobata</i>	9	1
111	R. Sparks	<i>P. lobata</i>	4	1
112	R. Sparks	<i>P. lobata</i>	9	1
112	R. Sparks	<i>P. meandrina</i>	1	1
113	R. Sparks	<i>P. lobata</i>	12	3
114	R. Sparks	<i>P. lobata</i>	4	1
114	R. Sparks	<i>P. meandrina</i>	2	2
115	R. Sparks	<i>P. lobata</i>	5	2
116	R. Sparks	<i>P. lobata</i>	29	1
117	R. Sparks	<i>P. lobata</i>	5	1
117	R. Sparks	<i>P. meandrina</i>	1	1
118	R. Sparks	<i>P. lobata</i>	14	1
119	R. Sparks	<i>P. lobata</i>	6	1
119	R. Sparks	<i>P. meandrina</i>	1	1

Photo Number	Observer's Name	Coral Species	Fragment Numbers	Colony Numbers
120	R. Sparks	<i>P. lobata</i>	4	1
121	R. Sparks	<i>P. lobata</i>	14	1
121	R. Sparks	<i>P. meandrina</i>	1	1
122	R. Sparks	<i>P. lobata</i>	8	1
123	R. Sparks	<i>P. lobata</i>	7	1
124	R. Sparks	<i>P. lobata</i>	7	1
125	R. Sparks	<i>P. lobata</i>	7	1
126	R. Sparks	<i>P. lobata</i>	4	1
127	R. Sparks	<i>P. lobata</i>	13	1
128	R. Sparks	<i>P. lobata</i>	6	1
129	R. Sparks	<i>P. lobata</i>	6	1
129	R. Sparks	<i>P. meandrina</i>	2	2
130	R. Sparks	<i>P. eydouxi</i>	1	1
131	R. Sparks	<i>P. lobata</i>	6	1
132	R. Sparks	<i>P. lobata</i>	2	2
133	R. Sparks	<i>P. lobata</i>	15	1
134	R. Sparks	<i>P. lobata</i>	9	1
134	R. Sparks	<i>P. meandrina</i>	1	1
135	R. Sparks	<i>P. lobata</i>	8	1
135	R. Sparks	<i>P. meandrina</i>	1	1
136	R. Sparks	<i>P. lobata</i>	8	1
137	R. Sparks	<i>P. lobata</i>	3	1
138	R. Sparks	<i>P. lobata</i>	8	1
139	R. Sparks	<i>P. lobata</i>	8	1
140	R. Sparks	<i>P. lobata</i>	5	1
141	R. Sparks	<i>P. lobata</i>	3	1
142	R. Sparks	<i>P. lobata</i>	5	1
143	R. Sparks	<i>P. lobata</i>	13	1
144	R. Sparks	<i>P. lobata</i>	6	1
145	R. Sparks	<i>P. lobata</i>	4	1
146	R. Sparks	<i>P. meandrina</i>	1	1
146	R. Sparks	<i>P. lobata</i>	2	1
147	R. Sparks	<i>P. lobata</i>	12	3
148	R. Sparks	<i>P. lobata</i>	8	1
149	R. Sparks	<i>p. varians</i>	2	1
149	R. Sparks	<i>P. meandrina</i>	1	1
149	R. Sparks	<i>P. compressa</i>	2	1
149	R. Sparks	<i>P. lobata</i>	5	1
150	R. Sparks	<i>P. lobata</i>	9	1
150	R. Sparks	<i>P. meandrina</i>	1	1
151	R. Sparks	<i>P. lobata</i>	6	1
152	R. Sparks	<i>P. lobata</i>	6	1
153	R. Sparks	<i>P. lobata</i>	4	1
154	R. Sparks	<i>P. lobata</i>	19	1
155	R. Sparks	<i>P. lobata</i>	4	1
155	R. Sparks	<i>P. meandrina</i>	1	1

Photo Number	Observer's Name	Coral Species	Fragment Numbers	Colony Numbers
156	R. Sparks	<i>P. lobata</i>	9	2
157	R. Sparks	<i>P. lobata</i>	3	1
158	R. Sparks	<i>P. lobata</i>	8	1
159	R. Sparks	<i>P. lobata</i>	9	1
159	R. Sparks	<i>P. meandrina</i>	1	1
160	R. Sparks	<i>P. lobata</i>	5	1
160	R. Sparks	<i>P. meandrina</i>	1	1
161	R. Sparks	<i>P. lobata</i>	2	1
161	R. Sparks	<i>P. meandrina</i>	2	2
162	R. Sparks	<i>P. lobata</i>	6	1
163	R. Sparks	<i>P. lobata</i>	10	1
163	R. Sparks	<i>P. eydouxi</i>	14	1
164	R. Sparks	<i>P. lobata</i>	3	1
165	R. Sparks	<i>P. lobata</i>	5	1
165	R. Sparks	<i>P. meandrina</i>	1	1
166	R. Sparks	<i>P. lobata</i>	3	1
167	R. Sparks	<i>P. lobata</i>	5	2
168	R. Sparks	<i>P. lobata</i>	6	1
169	R. Sparks	<i>P. lobata</i>	5	1
170	R. Sparks	<i>P. lobata</i>	7	1
171	R. Sparks	<i>P. lobata</i>	5	1
172	R. Sparks	<i>P. lobata</i>	5	1
173	R. Sparks	<i>P. lobata</i>	3	1
174	R. Sparks	<i>P. lobata</i>	6	1
175	R. Sparks	<i>P. lobata</i>	5	1
176	R. Sparks	<i>P. lobata</i>	7	1
176	R. Sparks	<i>P. meandrina</i>	1	1
177	R. Sparks	<i>P. lobata</i>	5	1
178	R. Sparks	<i>P. lobata</i>	12	2
179	R. Sparks	<i>P. lobata</i>	2	1
180	R. Sparks	<i>P. lobata</i>	3	1
181	R. Sparks	<i>P. lobata</i>	7	1
182	R. Sparks	<i>P. lobata</i>	2	2
183	R. Sparks	<i>P. lobata</i>	3	1
184	R. Sparks	<i>P. lobata</i>	4	1
185	R. Sparks	<i>P. lobata</i>	5	1
186	R. Sparks	<i>P. lobata</i>	4	1
187	R. Sparks	<i>P. lobata</i>	10	1
187	R. Sparks	<i>P. meandrina</i>	2	2
188	R. Sparks	<i>P. lobata</i>	4	1
189	R. Sparks	<i>P. lobata</i>	7	1
190	R. Sparks	<i>P. lobata</i>	5	1
191	R. Sparks	<i>P. lobata</i>	4	2
191	R. Sparks	<i>P. meandrina</i>	1	1
192	R. Sparks	<i>P. lobata</i>	3	1
193	R. Sparks	<i>P. lobata</i>	4	1

Photo Number	Observer's Name	Coral Species	Fragment Numbers	Colony Numbers
194	R. Sparks	<i>P. lobata</i>	6	3
194	R. Sparks	<i>P. meandrina</i>	1	1
195	R. Sparks	<i>P. lobata</i>	1	1
196	R. Sparks	<i>P. lobata</i>	3	1
197	R. Sparks	<i>P. lobata</i>	1	1
198	R. Sparks	<i>P. lobata</i>	2	1
199	R. Sparks	<i>P. lobata</i>	3	1
200	R. Sparks	<i>P. lobata</i>	4	1
201	R. Sparks	<i>P. lobata</i>	1	1
202	R. Sparks	<i>P. lobata</i>	4	1
203	R. Sparks	<i>P. lobata</i>	3	1
204	R. Sparks	<i>P. lobata</i>	8	1
204	R. Sparks	<i>P. compressa</i>	1	1
205	R. Sparks	<i>P. lobata</i>	7	1
205	R. Sparks	<i>P. meandrina</i>	1	1
206	R. Sparks	<i>P. lobata</i>	4	1
207	R. Sparks	<i>P. lobata</i>	1	1
<b>Russell Sparks Surveyed (NE Section-Area A)</b>			<b>Total Fragments</b> <b>1407</b>	<b>Total Colonies</b> <b>261</b>

**Table 2. Recorded Coral Damage from the Southwest Side of Area A (John Mitchell-Observer/Photographer).**

Photo Number	Observer's Name	Coral Species	Fragment Numbers	Colony Numbers
1	J. Mitchell	<i>P. lobata</i>	3	1
2	J. Mitchell	<i>P. lobata</i>	3	1
3	J. Mitchell	<i>P. lobata</i>	3	1
4	J. Mitchell	<i>P. lobata</i>	7	1
5	J. Mitchell	<i>P. lobata</i>	7	1
6	J. Mitchell	<i>P. lobata</i>	8	1
7	J. Mitchell	<i>P. lobata</i>	9	1
8	J. Mitchell	<i>P. lobata</i>	2	1
9	J. Mitchell	<i>P. lobata</i>	4	1
10	J. Mitchell	<i>P. lobata</i>	15	1
11	J. Mitchell	<i>P. lobata</i>	8	1
12	J. Mitchell	<i>P. lobata</i>	5	1
13	J. Mitchell	<i>P. lobata</i>	8	1
13	J. Mitchell	<i>P. meandrina</i>	10	1
14	J. Mitchell	<i>P. meandrina</i>	12	1
15	J. Mitchell	<i>P. meandrina</i>	12	1
16	J. Mitchell	<i>P. meandrina</i>	2	1
16	J. Mitchell	<i>P. lobata</i>	6	1
17	J. Mitchell	<i>P. lobata</i>	6	1

Photo Number	Observer's Name	Coral Species	Fragment Numbers	Colony Numbers
18	J. Mitchell	<i>P. lobata</i>	16	1
19	J. Mitchell	<i>P. lobata</i>	3	1
20	J. Mitchell	<i>P. lobata</i>	8	1
21	J. Mitchell	<i>P. lobata</i>	7	1
22	J. Mitchell	<i>P. lobata</i>	6	2
23	J. Mitchell	<i>P. compressa</i>	8	1
24	J. Mitchell	<i>P. lobata</i>	3	1
25	J. Mitchell	<i>P. lobata</i>	2	1
26	J. Mitchell	<i>P. lobata</i>	9	1
26	J. Mitchell	<i>P. meandrina</i>	1	1
27	J. Mitchell	<i>P. lobata</i>	4	1
27	J. Mitchell	<i>P. meandrina</i>	1	1
28	J. Mitchell	<i>P. lobata</i>	18	1
29	J. Mitchell	<i>P. lobata</i>	16	1
30	J. Mitchell	<i>P. lobata</i>	9	1
31	J. Mitchell	<i>P. lobata</i>	11	1
32	J. Mitchell	<i>P. lobata</i>	11	1
33	J. Mitchell	<i>P. lobata</i>	10	1
34	J. Mitchell	<i>P. lobata</i>	10	1
35	J. Mitchell	<i>P. lobata</i>	11	1
36	J. Mitchell	<i>P. lobata</i>	2	1
37	J. Mitchell	<i>P. meandrina</i>	11	1
38	J. Mitchell	<i>P. lobata</i>	8	1
39	J. Mitchell	<i>P. meandrina</i>	3	1
40	J. Mitchell	<i>P. lobata</i>	7	1
41	J. Mitchell	<i>P. meandrina</i>	1	1
41	J. Mitchell	<i>P. lobata</i>	2	1
42	J. Mitchell	<i>P. lobata</i>	3	1
42	J. Mitchell	<i>P. meandrina</i>	1	1
43	J. Mitchell	<i>P. lobata</i>	7	1
44	J. Mitchell	<i>P. lobata</i>	3	1
45	J. Mitchell	<i>P. lobata</i>	6	1
46	J. Mitchell	<i>P. lobata</i>	1	1
47	J. Mitchell	<i>P. lobata</i>	1	1
48	J. Mitchell	<i>P. lobata</i>	13	1
49	J. Mitchell	<i>P. lobata</i>	4	1
50	J. Mitchell	<i>P. meandrina</i>	15	1
51	J. Mitchell	<i>P. lobata</i>	8	1
52	J. Mitchell	<i>P. lobata</i>	6	1
53	J. Mitchell	<i>P. lobata</i>	8	1
54	J. Mitchell	<i>P. lobata</i>	2	1
55	J. Mitchell	Rubble Pile	11	2
56	J. Mitchell	Rubble Pile	10	2
57	J. Mitchell	Rubble Pile	2	1
58	J. Mitchell	Rubble Pile	4	2
59	J. Mitchell	Rubble Pile	6	2

Photo Number	Observer's Name	Coral Species	Fragment Numbers	Colony Numbers
60	J. Mitchell	Rubble Pile	22	4
61	J. Mitchell	Rubble Pile	15	2
62	J. Mitchell	<i>P. lobata</i>	8	1
63	J. Mitchell	<i>P. compressa</i>	5	1
64	J. Mitchell	<i>P. lobata</i>	14	3
65	J. Mitchell	<i>P. lobata</i>	6	2
66	J. Mitchell	<i>P. lobata</i>	8	1
67	J. Mitchell	Debris Pile	1	1
68	J. Mitchell	Debris Pile	1	1
69	J. Mitchell	Debris Pile	8	2
70	J. Mitchell	Debris Pile	7	3
71	J. Mitchell	<i>P. lobata</i>	2	1
72	J. Mitchell	<i>P. lobata</i>	5	1
73	J. Mitchell	<i>P. lobata</i>	2	1
74	J. Mitchell	<i>P. meandrina</i>	1	1
75	J. Mitchell	<i>P. lobata</i>	5	1
76	J. Mitchell	Rubble Pile	8	2
77	J. Mitchell	Rubble Pile	3	1
78	J. Mitchell	<i>P. lobata</i>	23	2
79	J. Mitchell	<i>P. lobata</i>	4	1
80	J. Mitchell	<i>P. lobata</i>	24	3
81	J. Mitchell	<i>P. lobata</i>	7	1
82	J. Mitchell	<i>P. lobata</i>	12	1
83	J. Mitchell	Debris Pile	3	1
84	J. Mitchell	<i>P. lobata</i>	2	1
85	J. Mitchell	<i>P. lobata</i>	6	1
86	J. Mitchell	<i>P. lobata</i>	8	1
87	J. Mitchell	<i>P. lobata</i>	2	1
88	J. Mitchell	<i>P. meandrina</i>	1	1
89	J. Mitchell	<i>P. lobata</i>	3	1
90	J. Mitchell	<i>P. lobata</i>	6	2
91	J. Mitchell	<i>P. lobata</i>	14	2
92	J. Mitchell	<i>P. lobata</i>	3	1
93	J. Mitchell	<i>P. lobata</i>	3	1
94	J. Mitchell	<i>P. lobata</i>	3	1
95	J. Mitchell	<i>P. lobata</i>	5	1
96	J. Mitchell	Chips	1	1
97	J. Mitchell	<i>P. lobata</i>	2	1
98	J. Mitchell	<i>P. lobata</i>	5	1
99	J. Mitchell	<i>P. lobata</i>	1	1
100	J. Mitchell	<i>P. lobata</i>	1	1
<b>John Mitchell Surveyed (SW Section-Area A)</b>			<b>Total Fragments</b>	<b>Total Colonies</b>
			<b>699</b>	<b>127</b>

**Table 3. Final Damage Assessment for Total Impact Area.**

<b>Area A - SURVEYED</b>		
<b>Damaged Colonies Counted</b>	<b>Damaged Area (m<sup>2</sup>)</b>	<b>Derived: Damaged Coral Colonies (#/m<sup>2</sup>)</b>
<b>388</b>	<b>656.4</b>	<b>0.59</b>

<b>Area B - ESTIMATED</b>		
<b>Estimated Damaged Colonies*</b>	<b>Damaged Area (m<sup>2</sup>)</b>	<b>Estimated: Damaged Coral Colonies* (#/m<sup>2</sup>)</b>
<b>150</b>	<b>254</b>	<b>0.59</b>

\* Number of damaged colonies per meter assumed to be same as for area A

<b>Total Damage</b>	
<b>Estimated Damaged Colonies</b>	<b>Damaged Area (m<sup>2</sup>)</b>
<b>538</b>	<b>910.4</b>

COPY

STATE OF HAWAII  
Department of Land and Natural Resources  
Division of Aquatic Resources-Maui Office  
130 Mahalani Street  
Wailuku, HI 96793  
(808)243-5294

July 27, 2007

Memorandum

To: Buzz Hubert, DOCARE Officer

Through: Randy Awo, District Chief, DOCARE Maui

From: Russell Sparks, Education Specialist, DAR Maui *R.S.*

Subject: Inspection of Kai Kanani anchorage and Kai Kanani II mooring regarding possible coral and live rock damage

On Sunday, July 22, 2007, I received an email complaint from [REDACTED] regarding damage to the reef from the Kai Kanani and Kai Kanani II Vessel moorings off of Makena (see attached email copy). In response to this email complaint, Skippy Hau and myself conducted a site inspection on Thursday, July 26, 2007.

The Kai Kanani is anchored with chain directly to a large anchor (1.8 m x 1 m in size). The anchor's location is at 20°38.876'N, 156°26.786'W and it is lying at a depth of 21 feet. At the time of the inspection, the vessel was sitting southeast of the anchor with over 30 meters of chain lying directly on the substrate. The vessel's position was at 20°38.862'N, 156°26.778'W. An underwater assessment of the impact area clearly showed damaged coral and live rock all along the chain, with recent and very obvious damage 7.7 meters to the southwest of the chain and 5.9 meters to the northeast of the chain. In addition to the obvious recent impacts, signs of coral and live rock damage were also present as far as 15.7 meters to the southwest and 12.2 meters to the northeast. Although much of this area is uncolonized by coral, many small living coral colonies were damaged or completely removed from the substrate by the anchor chain. A large mound of living coral was also found to have sustained substantial damage from the chain. (See attached map of the Kai Kanani anchorage) Clearly the current anchorage is inappropriately designed and located in a sensitive area. Therefore the Kai Kanani should be required to immediately move to another location in concurrence with current DOBOR rules and regulations.

An underwater assessment was also conducted at the mooring that is currently being utilized by the Kai Kanani II. This mooring site is also causing substantial damage to the surrounding habitat. The center mooring weight is a large tire filled with cement. It is attached to a surface buoy with chains that are found to dangle on the substrate for several meters before heading up to the surface.

Inspection of Kai Kanani  
July 27, 2007  
Page 2

An area of damage is very clear around the large concrete filled tire where it obviously has slid back and forth along an east to west track. The tire is prevented from moving north or south by two large anchors connected by large chains. The southern anchor appears to be about 1 meter long by 1 meter wide and is connected to the center tire weight by 24 meters of heavy gauge chain. The Northern anchor is very large (3.3 m x 1.6 m) and is connected to the center weight by 18.1 meters of heavy chain. The chain that connects this anchor to the center weight has caused substantial damage to a large mound of coral reef and there is evidence of damaged habitat throughout the general area of the concrete tire, anchors and chains. (See attached map of the Kai Kanani II mooring).

Past inspection were conducted by this office in October of 1999 (see attached memo to Officer Tamaye). As is apparent from a review of this memo, the problem with Kai Kanani's excessive anchors and insufficient moorings has been ongoing. It is my suggestion that the chains and anchors associated with this mooring system should be removed and a two point manta mooring system be installed with bridled chains connecting to a subsurface mooring buoy. In this way, the buoy will keep the chain and rope under constant tension and prevent any impact with the substrate below.

Photographs were taken of the disturbed coral rubble, the anchors and the chain. These photos were saved on four compact disks and kept with a description of the photographs on file as follows (DAR, Maui Office, DAR, Oahu Office, and two copies to DOCARE, Maui Office).

Enclosure:

c: DAR, Oahu Office  
Wesley Choi, DOBOR, Maui Office  
Daniel Ornellas, Land Management, Maui Office

Molokini Snorkeling with the Kai Kanani offers the shortest trip to Maui's Premier Snorkeling Location - Green Sea Turtles, Dolphins, & Whales



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*"The most fun we've had on four straight summers vacation snorkeling with the turtles!"*

- The Mike Todd Family

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Learn more about the amazing tours the Kai Kanani has by clicking on the banners below.

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Roxanne Wilmington, KS

*"We won't be leaving from Maalaea ever again! How have you kept this boat a secret for so long?...we loved everything! Captain Mike was hilarious, great snorkeling & the food was awesome too!"*

The Blackwells, UT

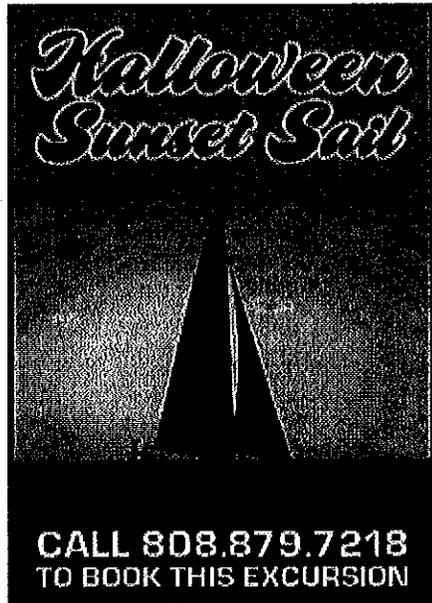
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- Continental Breakfast
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Check-in 6:15am - Boat loads at 6:30am  
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Activity Date

Adult Seats  @ \$54.98 ea.

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Check here acknowledging our Non-Refundable Cancellation Policy: 24 hours from check in for 1-2 people; For groups of 3- 4,48 hours notice of cancellation; 6 or more 72 hours notice of cancellation. Cancellations must be made 24 hours prior to the day of service and will result in a 10% credit card charge. Cancellations made in a shorter period of time (less than 24 hours prior to the day of service) will result in a 100% charge being incurred/No refund.

**REQUIREMENTS**

**Boards 6:15am • DEPARTS PROMPTLY at 6:30am! • Retu**

If you're staying at the Maui Prince Hotel or anywhere on Maui, then of cou to take the fastest and shortest ride to Molokini...the Kai Kanani leaves rig sand in front of the Maui Prince Hotel. We depart several times daily.

Our "Molokini Express" tour boards promptly at 6:15am and departs on tir 6:30am daily. We get to Molokini first for undisturbed snorkeling pleasure.

After you've had the opportunity to fully experience Molokini snorkeling, v Turtle Town arriving before all the other Maalaea tour boats, so you get th a better price and with less crowds. Experience the Kai Kanani today, you' did!

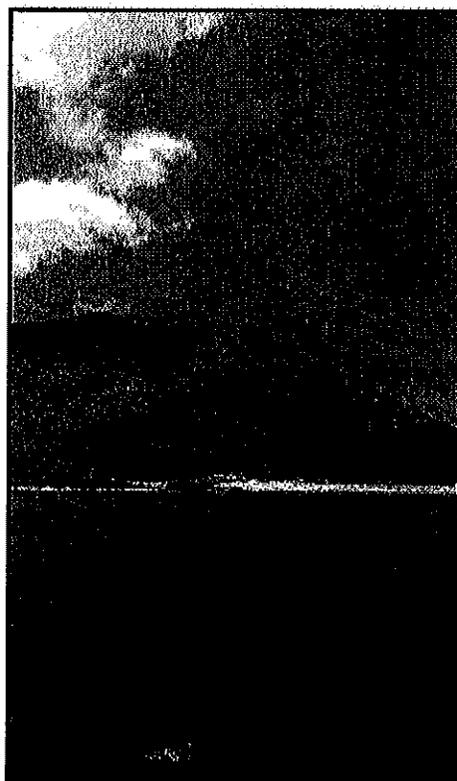
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- Great Lunch & Beverages
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- Complete Instruction
- Floatation Devices, if needed

Aloha Capt. Patrick,

*Much Aloha and many Mahalos for the spectacular day of snorkeling and dolphin encounters...you made our day amazing!*

Lilly Feinstein  
Laguna Beach, CA



**Boards 8:50am • DEPARTS PROMPTLY at 9:00am! • Returns 1:00pm**

After we load from the sand in front of the Maui Prince Hotel, we'll take a pleasant 15 minute ride out to Molokini. Molokini Crater was designated a bird and fish sanctuary in 1977 and is one of Hawaii's top snorkel and dive destinations.

We'll moor inside the the crater and take time to snorkel and explore all this location has to offer. We provide everything you need for snorkeling, including flotation devices, one-

## Book Tour HERE!

**The Deluxe Snorkel & Sailing Adventure**  
(plus La Perouse Bay and/or the Kanaio Coast)  
Check-in 8:30am - Boat loads at 8:50am -  
Arrive back 1:00pm

Activity Date    
Adult Seats   @ \$116.06 ea.

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Website URL: <http://hbe.ehawaii.gov/documents>

## Business Information

MASTER NAME	MAKENA BOAT PARTNERS
BUSINESS TYPE	General Domestic Partnership
FILE NUMBER	16064 G5
STATUS	Active
PURPOSE	OPERATING A BOAT CHARTER SERVICE AND OTHER ACTIVITIES RELATED TO SUCH BUSINESS
PLACE INCORPORATED	Hawaii UNITED STATES
REGISTRATION DATE	Aug 22, 1988
ORGANIZATION DATE	Aug 1, 1986
MAILING ADDRESS	5400 MAKENA ALANUI DR KIHEI, Hawaii 96753 UNITED STATES
AGENT NAME	ROGER GILDERSLEEVE
AGENT ADDRESS	5400 MAKENA ALANUI KIHEI, Hawaii 96753 UNITED STATES

## Annual Filings

FILING YEAR	DATE RECEIVED	STATUS
2008	Jul 8, 2008	Processed
2007	Oct 9, 2007	Processed
2006	Aug 4, 2006	Processed
2005	Jul 21, 2005	Processed
2004	Jul 18, 2004	Processed
2003	Oct 20, 2003	Processed
2002		Not Required
2001		Processed
2000		Processed
1999		Processed

## Officers

NAME	OFFICE	DATE
KAIKANANI, INC.	*G	Dec 31, 1998
*MAALAEA BOAT SALES AND CHARTERS, INC.	*G	Jul 1, 2003

## Trade Names

EXHIBIT D

NAME	TYPE	CATEGORY	REGISTRATION DATE	STATUS
KAI KANANI CHARTERS	Trade Name	NO CATEGORY SELECTED	Mar 17, 2003	Expired



DEPUTIES

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MANABU TAGOMORI  
RUSSELL N. FUKUMOTO

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DEPARTMENT OF LAND AND NATURAL RESOURCES

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WATER AND LAND DEVELOPMENT

DEC 28 1988

FILE NO.: MA-3/24/87-1965  
180-Day Exp. Date: 9/21/87  
DOCUMENT NO.: 4646E

Mr. Warren Akiona  
Makena Boat Partners  
c/o Maui Prince Hotel  
5400 Makena Alanui  
Makena, Hawaii 96753

RECEIVED  
12/20/81

Dear Mr. Akiona:

The Department has reviewed your request for reconsideration and after informal discussion with the Board, the Board has decided not to reconsider its earlier decision.

As such, we wish to inform you that your Conservation District Use Application for three (3) moorings (2 After-the-Fact) for commercial Use and a Beach Use Permit Fronting the Maui Prince Hotel, Makena, Maui at TMK 2-1-06 and 2-1-07 (offshore) was approved on August 14, 1987 subject to the following:

A. Violation

1. That the Board find that applicant Makena Boat Partners, a private partnership, comprised in part of Kai Kanani Inc., consisting of Warren and Sidney Akiona among others is responsible for:
  - a. A mooring in place at Makena Landing,
  - b. A second mooring in place in front of the Maui Prince, and,
  - c. The use of public-owned beach in front of the Maui Prince Hotel for the loading/offloading of passengers on a regular basis.

With required Board/Departmental approval

2. That these three separate land uses/actions are violations of Chapter 183-41, Hawaii Revised Statutes, as amended, and Title 13, Chapter 2, Administrative Rules;
3. That the applicant be fined \$500.00 for the violations for a total financial sanction of \$500.00; and

EXHIBIT E

4. That failure to comply with this section within thirty (30) days after the date of this letter the matter be turned over to the Department of Attorney General for appropriate action to include
  - a. removal of the existing moorings at the applicant's expense
  - b. all administrative costs by the State.

B. Land Use

That upon compliance with Section A, Staff recommends approval of the following:

1. The existing mooring in front of Maui Prince as the primary mooring;
2. The existing mooring at Makena landing as a non-exclusive emergency mooring only; and
3. The non-exclusive use of public beach in front of the Maui Prince Hotel for the loading/offloading of passengers on a regular basis.

Subject to the following conditions:

1. The applicant shall comply with all applicable statutes, ordinances, rules and regulations of the Federal, State and County governments, and applicable parts of Section 13-2-21, Administrative Rules, as amended;
2. The applicant, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
3. Since this approval is for use of conservation lands only, the applicant shall obtain appropriate authorization through the Division of Land Management, State Department of Land and Natural Resources for the occupancy of State lands;
4. The applicant shall comply with all applicable Public Health Regulations;

5. Any construction, alteration, moving, demolition and repair of any building or other improvement on lands within the Conservation District, authorized by the Board, shall be subject to the building and grading codes of the respective counties in which the lands are located; provided that prior to the commencement of any construction, alteration, or repair of any building or other improvement, four (4) copies each of the final location map, plans, and specifications shall be submitted to the Chairperson, or his authorized representative, for approval of which three (3) copies will be returned;
6. Any work or construction to be done on the land shall be initiated within one (1) year of the approval of such use, and all work and construction must be completed within three (3) years of the approval of such use. Failure to comply with this condition shall render this application null and void; and
7. Other terms and conditions as prescribed by the Chairperson.

C. On the Primary Mooring

1. That within sixty (60) days the applicant shall receive approval from the Department of Health, in consultation with the Department of Transportation, as to the location, if any, in which sewage may be disposed.

D. On the Non-Exclusive Emergency Mooring in Makena Bay

1. That the applicant shall document and maintain written records for each use of the emergency mooring to include:
  - a. the nature of the emergency
  - b. the duration of the emergency
  - c. the duration of the use of the emergency mooring
2. That the written record be of such a nature that it may be verified by the U.S. Coast Guard.

E. On the Non-Exclusive Use of Public Beach in front of the Maui Prince Hotel for the Loading/Offloading of Passengers on a Regular Basis

1. That no physical markings be placed on the beach; and
2. That the beach area to be used be an area devoid of other beach users including hotel guests and other members of the public.

F. That failure to comply with any of these conditions be cause for the Board to require the immediate cessation of these activities and the removal of the moorings at the applicant's expense.

Please acknowledge receipt of this permit with the above noted conditions in the space provided below. Please sign two copies. Retain one and return the other.

Should you have questions on any of these conditions, please feel free to contact our Office of Conservation and Environmental Affairs staff at 548-7837.

Very truly yours,

*William W. Paty*  
WILLIAM W. PATY

Receipt acknowledged:

*Warren E. Akiona*  
Applicant's Signature

12/30/88  
Date

cc: Maui Board Member  
Maui Land Agent  
Maui Dept. of Planning  
DOH/OEQC/EC/DBED/OHA

DLNR  
OCEA

59 JAN 3 10:48

RECEIVED

Historical Note: Chapter 86 of Title 13 was based substantially upon Regulation 18 of the Division of Fish and Game, Department of Land and Natural Resources, State of Hawaii. [Eff. 3/28/58; am 10/6/58; R 5/26/81] Section 13-95-55 is based substantially upon Chapter 86 of Title 13 [Eff 5/26/81; R Dec 19 2002 ]

§13-95-70 Stony corals. (a) It is unlawful for any person to take stony coral, or to break or damage any stony coral with a crowbar, chisel, hammer, or any other implement.

(b) It is unlawful for any person to sell any stony coral; except that stony coral rubble pieces or fragments imported for the manufacture and sale of coral jewelry or stony coral obtained through legal dredging operations in Hawaii for agricultural or other industrial uses may be sold. [Eff 12/03/98; am Dec 9 2002] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-95-71 Live rocks. (a) It is unlawful for any person to take live rock, or to break or damage with crowbar, chisel, or any other implement, any rock or coral to which marine life is visibly attached or affixed.

(b) It is unlawful for any person to sell any rock or coral to which marine life is visibly attached or affixed. [Eff 12/03/98; am Dec 9 2002 ] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

**[§187A-12.5] General administrative penalties.** (a) Except as otherwise provided by law, the board is authorized to set, charge, and collect administrative fines and to recover administrative fees and costs, including attorney's fees and costs, or bring legal action to recover administrative fines, fees, and costs, including attorney's fees and costs, or payment for damages or for the cost to correct damages resulting from a violation of subtitle 5 of title 12 or any rule adopted thereunder.

(b) For violations involving threatened or endangered species, the administrative fines shall be as follows:

- (1) For a first violation, a fine of not more than \$5,000;
- (2) For a second violation within five years of a previous violation, a fine of not more than \$10,000; and
- (3) For a third or subsequent violation within five years of the last violation, a fine of not more than \$15,000.

(c) For all other violations the administrative fines shall be as follows:

- (1) For a first violation, a fine of not more than \$1,000;
- (2) For a second violation within five years of a previous violation, a fine of not more than \$2,000; and
- (3) For a third or subsequent violation within five years of the last violation, a fine of not more than \$3,000.

(d) In addition to subsection (b), a fine of up to \$5,000 may be levied for each specimen of threatened or endangered aquatic life taken, killed, or injured in violation of subtitle 5 of title 12 or any rule adopted thereunder.

(e) In addition to subsection (c), a fine of up to \$1,000 may be levied for each specimen of all other aquatic life taken, killed, or injured in violation of subtitle 5 of title 12 or any rule adopted thereunder.

(f) Any criminal penalty for any violation of subtitle 5 of title 12 or any rule adopted thereunder shall not be deemed to preclude the State from recovering additional administrative fines, fees, and costs, including attorney's fees and costs. [L 1998, c 243, §1]

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**EXHIBIT G**

[Redacted]

To <russell.t.sparks@hawaii.gov>

cc

bcc

07/22/07 05:57 PM

Subject Coral reef destruction!

History: This message has been replied to and forwarded.

Russell,

My name is [Redacted]

[Redacted] There is a couple of boats that are anchored or moored in that area. The Kai kanani 1 and recently Kai kanani 2 this boat picks up passengers from the beach for snorkeling trips. I would like to let you know that Kai Kanani 1 has been left on a new anchorage just south of the old mooring where the new boat now stays. The 100' of chain that is being used is attached to a 500 lb anchor. That 100' of chain has totally destroyed the reef in approx. 360 degrees around that area.

[Redacted] The old mooring used to be attached to 3 different anchors with chains which have pulverized the coral reef. Both boats are in a popular turtle cleaning station area and I am beginning to worry that the chains may destroy that reef also. I love that area and the marine life that frequents that reef, please can you investigate and have the owner remove the chain from the ocean. I am attaching some pictures for you to view. should you have any questions please contact me on my cell:

Please Help me solve this problem.

Mahalo



[Redacted] KikaN13.jpg KikaN12.jpg KikaN11.jpg KikaN10.jpg KikaN9.jpg KikaN8.jpg



KikaN1.jpg

Dept. DLNR  
Div. DOCARE

INVESTIGATION REPORT

CLASSIFICATION <b>(1130) DAMAGE OF STONY CORAL</b>			3. ISLAND <b>MAUI</b>		1. REPORT NUMBER <b>MA-08-0182</b>	
5. COMPLAINANT (Firm Name, if Business) <b>Russell Sparks (DLNR/DAR) Biologist</b>			6. SEX RACE AGE <b>M</b>		2. INVESTIGATOR <b>HUBERT, HAROLD</b>	
9. ADDRESS <b>C/O State of Hawaii DLNR/DAR</b>			10. SCHOOL EMPLOYED/SCHOOL ATTENDING <b>State of Hawaii DLNR/DAR</b>		4. DISTRICT <b>MAKENA</b>	
11. LOCATION OF OFFENSE AND CLOSEST INTERSECTING STREET <b>Near shore waters off of Maluaka Beach Makena, Maui</b>			12. DATE/TIME/DAY OCCURRED <b>On Going</b>		7. D.O.B.	
14. DESCRIBE LOCATION OF OFFENSE OR TYPE OF PREMISES <b>Open Ocean waters near Maluaka Beach in Makena on the Island of Maui, State of Hawaii</b>			15. HOW REPORTED <b>Written Report (DAR)</b>		8. OCCUPATION <b>State Biologist</b>	

16. VEHICLE INVOLVED	Year	Make	Model	Color(s)	License No.	I.D. Characteristics	
17. BOAT INVOLVED	Length <b>65'</b>	Make <b>Gold Coast</b>	Model <b>65</b>	Color(s) <b>Blue/White</b>	Name <b>Kai Kanani II</b>	HA No. <b>USCG DOC</b>	I.D. Characteristics
18. REGISTERED OWNER <b>Makena Boat Partners</b>				Address <b>5400 Makena Alanui (Maui Prince Hotel), Kihei, HI 98753</b>			Res. Phone

CODE: W = Witness S = Suspect (Fill in Composite Description) R = Reporting Person O = Other

19. NAME <b>Sidney Akiona</b>	Age	Sex <b>M</b>	Code <b>S-1</b>	Address <b>C/O Makena Boat Partners</b>	Res. Phone	Bus. Phone <b>280-8028</b>
<b>Roger Gildersleeve</b>		<b>M</b>	<b>S-2</b>	<b>C/O Makena Boat Partners</b>		
		<b>M</b>				

20. SEX	Composite Description	Race	Age	Wt.	Build	Hair	Eyes	Complex	Clothes/I.D. Characteristics

21. INVESTIGATION: 1. Insert a synopsis of the crime or incident. 2. Summarize details of the crime or incident. 3. Denote persons from whom statements taken and who took them. 4. Identify additional suspects and witnesses. 5. Identify additional investigators. 6. Use opposite side for continuation of report, if necessary.

Synopsis  
Russell Sparks State of Hawaii DLNR/DAR Aquatics specialist reported that he and State of Hawaii DLNR/DAR Specialist had just Done an initial assessment of a mooring site belonging to Kai Kanani and Kai Kanani II and found that the mooring chains are Causing extensive damage to Live Stony Coral & Live Rock. Contrary to and in Violation of 13-95-70 HAR "Damage to Stony Coral Prohibited" on 01 August 2007 Citation issued to Makena Boat Partners the owner of both vessels.

ASSIGNMENT:  
27 July 2007, at 1300 hrs.  
Assigned to contact State of Hawaii Aquatics Specialist Russell Sparks regarding ongoing destruction of Stony coral at Makena.

STATE OF HAWAII AQUATICS SPECIALIST STATEMENT:  
27 July 2007, 1345 hrs.  
State of Hawaii DLNR/DOCARE Aquatics Specialist Russell Sparks, provided a written Statement detailing his assessment, he also provided a Photo CD depicting the current Damage. He also requested that Kai Kanani & Kai Kanani II be moved to a better location so a final Assessment can be done. Sparks also provided a sketch of the area.

CONTACT OF MAKENA BOAT PARTNERS:  
01 August 2007, at 1300 hrs.  
Sidney Akiona contacted and informed at this time that the State Aquatics Specialist here on Maui had done an initial assessment of The mooring sites used by Makena Boat Partners for Kai Kanani and Kai Kanani II where by the State Aquatics Specialists have determined That extensive Damage is being done and is continuing to be done by the chains in-place. Thus Citations are being issued based on the Findings of the State Aquatics Specialists. Also recommend that immediate action be taken to stop the ongoing damage to the area.

STATEMENT OF SIDNEY AKIONA:  
01 August 2007, at 1300 hrs.  
Sidney stated that, the mooring they have has been in-place for a number of years, and there has had no problems in the past. They recently put in for a permit for another one, he is unsure where it is in the process with the State at this time. Akiona added that Makena Boat Partners a corporation includes himself and his partner Roger Gildersleeve. He assured this officer that there is no intention In any way to cause any damage to any marine life by Makena Boat Partners since that would be detrimental to their business. And they will Be seeking ways to eliminate any further damage. Also Kai Kanani II will be Hauled out next week for dry dock.

CITATIONS ISSUED:  
01 August 2007, at 1300 hrs.  
Citations issued #054552LNR & 054553LNR (Damage of Live Rock refer to MA-07-0183)

22. REPORT WRITTEN BY <b>Harold Hubert</b>	Badge No. <b>205</b>	Date/Time <b>07 Aug 07. 0800 hrs.</b>	23. SUPERVISOR APPROVING <i>[Signature]</i>	Badge No. <b>20</b>
24. DISPOSITION <input type="checkbox"/> Unfounded <input checked="" type="checkbox"/> Citation/No. 054552LNR		<input type="checkbox"/> Arrested/Prosecuted <input type="checkbox"/> Other/No Arrest		
<input type="checkbox"/> Arrested/No Prosecution <input type="checkbox"/> Adult		<input type="checkbox"/> Arrested/Prosecuted <input type="checkbox"/> Juvenile		
25. Date/Time Reproduced	26. Distribution		27. Connecting Report No.	

27 July 2007

**EVIDENCE:**

No actual physical evidence obtained, however photographs taken by Aquatics Specialist Russell Sparks, Provided is two copies of his original with a photo report within the CD cases.

**ATTACHMENTS:**

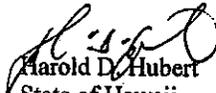
Attached are two photo CD'd provided by State of Hawaii DLNR/DAR Aquatics Specialist Russell Sparks. Also attached id Aquatics Specialist written Statement and a Sketch of the area where the damage is occurring.

**INVESTIGATION:**

Thus far shows per findings of the State of Hawaii Department of Land and Natural Resources, Division of Aquatics Resources, Aquatics Specialist Russell Sparks that there is extensive damage being done to the Stony Coral and Live Rock within the areas where the Kai Kanani and Kai Kanani II are moored off of Maluaka beach fronting the Maui Prince Hote.

**DISPOSITION:**

Pending courts disposal,

  
Harold D. Hubert  
State of Hawaii  
DLNR/DOCARE Maui  
CREOIII #205

  
8-7-07

PIZ FORWARDED TO DAD  
ATTN: KAMALE SMITH  
Nichols

CONFIDENTIAL

**DOCARE COMPLAINT & SUMMONS**

In the DISTRICT/FAMILY COURT

of the 2ND JUDICIAL CIRCUIT, STATE OF HAWAII  
STATE JUVENILE

054552LNR

Drvr lic \_\_\_\_\_  
ISS# \_\_\_\_\_

NAME MAKANA BOAT PARTNERS  
Last

Current/Mailing Address 5400 MAKANA ACACU  
First Middle

City, State, Zip KIHEI HI 96753

Hgt: \_\_\_\_\_ Wt. \_\_\_\_\_ Sex \_\_\_\_\_ Date of Birth \_\_\_\_\_ Age \_\_\_\_\_ Complexion \_\_\_\_\_

Place of Employment School or Branch of Service \_\_\_\_\_  
Job Title, Yr. in school or Military Rank \_\_\_\_\_

Parent's name if juvenile or Registered owner of vehicle/vessel: \_\_\_\_\_

Phone number (Days): 879-7216 (Eves): \_\_\_\_\_

Did on/or about this 27 day of JULY Yr 07 at 13 00 AM PM

did operate/command Vehicle/Vessel#: NAI KANAHI & KANAHI  
Vehicle/Vessel Make/Name COLA Type 65 Color DRUM Yr. 07  
at (location): \_\_\_\_\_

and did commit the offense of:  
DAMAGE OR DESTROY GOODS

SECTION: 13-95-70 LIGS HAR OTHER

EVIDENCE TAKEN: Yes No  
DESCRIPTION OF EVIDENCE \_\_\_\_\_

Receipt of this citation is acknowledged (Your signature is not an admission of guilt)

X [Signature]  
Signature

The undersigned alleges that the person named above committed the offense herein set forth, contrary to law.

Date of Issue 01 ACU 07 Time 15:00 Hrs.

[Signature]  
Print Rank, First Initial & Last Name

Complainant's Signature \_\_\_\_\_ Badge/ID No. 201

Bail Forfeiture by Mail Permitted:  Yes  No

**A** Postmarked BEFORE court date Payment Amount \_\_\_\_\_  
**B** Postmarked ON court date Payment Amount \_\_\_\_\_

**SUMMONS**

Your court appearance date is:

DATE: 28 ACU 07 TIME: 8 30 AM COURTROOM: \_\_\_\_\_

District Court  Family Court of WAILUKU

9/03

OFFICER

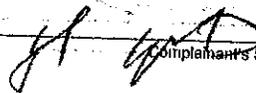
RECEIVED  
700 SEP 19 AM 11:07  
DOCARE - ADMIN  
DEPT OF LAND AND  
NATURAL RESOURCES

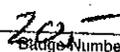
REPORT MA-08-0182  
SUBMITTED

COMPLAINT CITATION SYSTEM  
+ COMPLAINT REPORT MA-08-0182  
ALSO SUBMITTED.

CITATION ISSUED BASED ON  
FINDINGS OF STATE OF HAWAII  
DEMR/DNR AQUATICS SPECIALIST  
RUSSELL STARRS.

The undersigned alleges that the person named herein committed the offense set forth, contrary to law.

  
Complainant's Signature

  
Judge Number

Subscribed and sworn before me on 8-7-07  
date

Signed 

STATE OF HAWAII, Land and Natural Resources

SELECT OPTION: \_\_\_\_\_

JDXM24M0

=====

\*\*\* DISTRICT COURT SYSTEM \*\*\*

ARREST REPORT NUMBER SUMMARY

PLEASE SELECT (X) TO GO TO CASE INQUIRY

ARREST REPT NO: 054552LNR

ARREST REPT NO	CASE ID	DEFENDANT NAME	SSN	BIRTHDATE
_ 054552LNR	2P1070002319	MAKENA BOAT PARTNERS		
	LNR 13-095-70/STONY CORALS		ST:CL	

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-

SELECT OPTION: \_\_\_\_\_

JDXM03M1

===== 2P1070002319

\*\*\* DISTRICT COURT SYSTEM \*\*\*  
- APPEARANCE INQUIRY -

MAKENA BOAT PARTNERS

CAL REF NO: JUDGE ID: JKKAWANO  
LOC: 2D11 FLR: 3 ROOM: C CAL TYPE: CR DATE: 10-05-2007 PH: PRTY:  
APP MINUTES: KAWANO/WERK/MEHLING; SIDNEY AKIONA PRESENT FOR  
MAKENA BOAT PARTNERS; COP FROM NG TO NO CONTEST  
ENTERED; FINE \$200; POC: 11/06/07P

USER: N1C DATE: 10-05-2007 TIME: 0824A

\_ (B) BASIC, (C) COUNT, (D) DOC, (L) PTY REL, (P) PTY, (R) RELATED, (S) SENT

SELECT OPTION: \_ \_ \_ \_ \_

JDCM10M0

===== 2P1070002319

\*\*\* DISTRICT COURT SYSTEM \*\*\*  
- APPEARANCE MINUTES UPDATE -

MAKENA BOAT PARTNERS

CAL ID: 2D11 3 C POC 11-06-2007 P PRIORITY:

APP MINUTES: LOO / WERK; DEFENDANT NOT PRESENT; FINE PAID IN\_\_\_\_  
FULL; NO FURTHER ACTION. \_\_\_\_\_

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USER: ASU DATE: 11-07-2007 TIME: 1038A

PAGE: 1 OF 4 MORE MINUTES (X): \_ CREATE APPEARANCE (X): \_

SELECT OPTION: \_\_\_\_\_

JDXM24M0

=====  
\*\*\* DISTRICT COURT SYSTEM \*\*\*

ARREST REPORT NUMBER SUMMARY

PLEASE SELECT (X) TO GO TO CASE INQUIRY

ARREST REPT NO: 054553LNR

ARREST REPT NO	CASE ID	DEFENDANT NAME	SSN	BIRTHDATE
_ 054553LNR	2P1070002318	MAKENA BOAT PARTNERS		
	LNR 13-095-71/LIVE ROCKS		ST:CL	

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-  
-

SELECT OPTION: \_\_\_\_\_

JDCM10M0

===== 2P1070002318

\*\*\* DISTRICT COURT SYSTEM \*\*\*  
- APPEARANCE MINUTES UPDATE -

MAKENA BOAT PARTNERS

CAL ID: 2D11 3 C CR 10-05-2007 PRIORITY:

APP MINUTES: KAWANO/WERK/MEHLING; SIDNEY AKIONA PRESENT FOR\_\_\_\_\_  
MAKENA BOAT PARTNERS; COP FROM NG TO NO CONTEST\_\_\_\_\_  
ENTERED; FINE \$200; POC: 11/06/07P\_\_\_\_\_

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USER: N1C DATE: 10-05-2007 TIME: 0822A

PAGE: 1 OF 4 MORE MINUTES (X): \_ CREATE APPEARANCE (X): \_

SELECT OPTION: \_

JDCM10M0

===== 2P1070002318

\*\*\* DISTRICT COURT SYSTEM \*\*\*  
- APPEARANCE MINUTES UPDATE -

MAKENA BOAT PARTNERS

CAL ID: 2D11 3 C POC 11-06-2007 P PRIORITY:

APP MINUTES: LOO / WERK; DEFENDANT NOT PRESENT; FINE PAID IN FULL; NO FURTHER ACTION.

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PAGE: 1 OF 4      USER: A8U      DATE: 11-07-2007      TIME: 1037A  
                  MORE MINUTES (X): \_      CREATE APPEARANCE (X): \_

EXHIBIT K -- PHOTO DOCUMENTATION CD  
ON FILE AT THE DIVISION OF AQUATIC RESOURCES, DLNR

**EXHIBIT K**

**PART I. GENERAL PROVISIONS**

**§187A-1 Definitions.** As used in this subtitle, unless the context indicates otherwise:

"Aquaculture" means the propagation, cultivation, or farming of aquatic plants and animals in controlled or selected environments for research purposes, commercial purposes, or stocking purposes.

"Aquatic life" means any type or species of mammal, fish, amphibian, reptile, mollusk, crustacean, arthropod, invertebrate, coral, or other animal that inhabits the freshwater or marine environment and includes any part, product, egg, or offspring thereof; or freshwater or marine plants, including seeds, roots, products, and other parts thereof.

"Board" means the board of land and natural resources.

"Commercial marine dealer" means any person who sells or exchanges, or who is an agent in the transfer of marine life obtained directly from a commercial marine licensee, or any commercial marine licensee who sells or exchanges marine life at retail.

"Commercial marine license" means a license issued to take marine life within or outside the State for commercial purpose.

"Commercial marine licensee" means a person who has been issued a commercial marine license pursuant to section 189-2.

"Commercial purpose" means the taking of marine life for profit or gain or as a means of livelihood where the marine life is taken in or outside of the State, or where the marine life is sold, offered for sale, landed, or transported for sale anywhere in the State.

"Department" means the department of land and natural resources.

"Fishing" or "to fish" means catching, taking, or harvesting, or attempting to catch, take, or harvest, aquatic life. The use of a pole, line, hook, net, trap, spear, or other gear which is designed to catch, take, or harvest aquatic life, by any person who is in the water, or in a vessel on the water, or on or about the shore where aquatic life can be caught, taken, or harvested, shall be deemed to be fishing.

"Harvest" means the taking and retaining of marine life by any means whatsoever.

"Marine life" means any type or species of saltwater fish, shellfish, mollusks, crustaceans, coral, or other marine animals, including any part, product, egg, or offspring thereof; or seaweeds or other marine plants, including any part, product, seed, or root thereof.

"Qualified aquaculturist" means a person, or association of persons, actively engaged in aquaculture farming, aquaculture produce processing, or aquaculture product development activities.

"Shark" means any member of the class Chondrichthyes, including but not limited to: inshore species of galapagos shark (*Carcharhinus galapagensis*), reef blacktip shark (*Carcharhinus melanopterus*), gray reef shark (*Carcharhinus amblyrhynchos*), big-nosed shark (*Carcharhinus altimus*), tiger shark (*Galeocerdo cuvier*), blacktip shark (*Carcharhinus limbatus*), smooth hammerhead shark (*Sphyrna*

**EXHIBIT L**

zygaena), reef whitetip shark (*Triaenodon obesus*), scalloped hammerhead shark (*Sphyrna lewini*), sandbar shark (*Carcharhinus plumbeus*), offshore species of white shark (*Carcharodon carcharias*), shortfin mako shark (*Isurus oxyrinchus*), silky shark (*Carcharhinus falciiformis*), blue shark (*Prionace glauca*), whale shark (*Rhincodon typus*), thresher shark (*Alopias vulpinus*), oceanic whitetip shark (*Carcharhinus longimanus*), cookie cutter shark (*Isistius brasiliensis*), and megamouth shark (*Megachasma pelagios*). [L 1985, c 94, pt of §1; am L 1991, c 160, §§1, 4; am L 2000, c 277, §3; am L 2001, c 177, §2]

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STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
DIVISION OF AQUATIC RESOURCES  
1151 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813

PETER T. YOUNG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
  
ROBERT K. MASUDA  
DEPUTY DIRECTOR - LAND  
  
DEAN NAKANO  
ACTING 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

MARINE LIFE CONSERVATION DISTRICT USE PERMIT FOR:  
COMMERCIAL ACTIVITIES IN THE MOLOKINI SHOAL  
MARINE LIFE CONSERVATION DISTRICT

The Board of Land and Natural Resources hereby grants permission under the authority of Title 13, Chapter 31, Section 5, Hawaii Administrative Rules (HAR), and all other applicable laws, to:

NAME MAKENA BOAT PARTNERS  
MAILING ADDRESS 5400 Makena Alanui, Makena, HI 96753  
PHONE NO. 808-879-7218

PROPOSED ACTIVITIES:  
Molokini Snorkel Cruise

VESSEL NAME, AND HA. NO. OR VESSEL DOCUMENT NO.  
Kai Kanani D675222

PERMIT NUMBER: 024

for the following purpose:

This permit allows commercial activities (not including the taking of marine life) within the Molokini Shoal Marine Life Conservation District (MLCD) under the terms and conditions listed below:

1. The permittee shall comply with all applicable provisions of the Department of Land and Natural Resources HAR, Chapter 13-31, and other applicable laws not exempted by this permit.
2. Discretion shall be used to avoid conflict with divers, swimmers and others while conducting commercial activities.
3. This permit does not authorize the primary permittee or any designated assistant to engage in any other activity that violates any other State, Federal or County law, regulation or ordinance.
4. The permittee shall be responsible and accountable for all actions under this permit.
5. This permit shall be in effect for a two year period, and for a non-refundable \$50.00 fee, from 12/16/05 to 12/15/07 for the activities as specified.
6. Prior to its expiration, the permittee shall apply for reissuance of this permit; failure to do so will result in the automatic expiration of the permit at the end of its term. The permittee must return this permit by United States mail or by hand delivery to the Division of Aquatic Resources, 1151

Punchbowl St. Room 330, Honolulu, Hawaii, 96813.

7. This permit shall be incorporated as an addendum to the commercial vessel use permit for the use of state boating facilities issued in accordance with HAR section 13-231-57, or a commercial vessel registration issued in accordance with HAR section 13-256-4.
8. This permit shall be non-transferable, except as provided by HAR Section 13-231-62.
9. The board may revoke any permit for any infraction of the terms and conditions of this permit, and a person whose permit is revoked shall not be eligible to renew a permit until the expiration of one year from the date of revocation.
10. This permit does not in any way make the Board of Land and Natural Resources of the State of Hawaii or its employees liable for any claims of personal injury or property damage which may occur while the permittees are engaged in activities authorized under this permit; further, the permittees agree to hold the State harmless against any claims of personal injury, death, property damage, or business loss resulting from their activities.

I certify that I understand the conditions of this Permit and the Penalty of Chapter 13-31, Hawaii Administrative Rules which is attached hereto for reference.

APPLICANT:

Signature: \_\_\_\_\_

Print: \_\_\_\_\_

*Sidney Akiona*  
SIDNEY AKIONA

DESIGNATED ASSISTANTS:

Signature: \_\_\_\_\_

Print: \_\_\_\_\_

Signature: \_\_\_\_\_

Print: \_\_\_\_\_

APPROVED: \_\_\_\_\_

*Peter T. Young*  
Peter T. Young, Chairperson  
Board of Land and Natural Resources

cc: DOCARÉ  
DOBOR  
DAR-Maui

LINDA LINGLE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

LAURA H. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

KEN C. KAWAHARA  
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

MARINE LIFE CONSERVATION DISTRICT USE PERMIT FOR:  
COMMERCIAL ACTIVITIES IN THE MOLOKINI SHOAL  
MARINE LIFE CONSERVATION DISTRICT

The Board of Land and Natural Resources hereby grants permission under the authority of Title 13, Chapter 31, Section 5, Hawaii Administrative Rules (HAR), and all other applicable laws, to:

NAME Makena Boat Partners

MAILING ADDRESS 5400 Makena Alanui, Makena, HI 96753

PHONE NO. 808-879-7218

PROPOSED ACTIVITIES:

Molokini Snorkel Cruise

VESSEL NAME, AND HA. NO. OR VESSEL DOCUMENT NO.

Kai Kanani II 1194318

PERMIT NUMBER: 024

for the following purpose:

This permit allows commercial activities (not including the taking of marine life) within the Molokini Shoal Marine Life Conservation District (MLCD) under the terms and conditions listed below:

1. The permittee shall comply with all applicable provisions of the Department of Land and Natural Resources HAR, Chapter 13-31, and other applicable laws not exempted by this permit.
2. Discretion shall be used to avoid conflict with divers, swimmers and others while conducting commercial activities.
3. This permit does not authorize the primary permittee or any designated assistant to engage in any other activity that violates any other State, Federal or County law, regulation or ordinance.
4. The permittee shall be responsible and accountable for all actions under this permit.
5. This permit shall be in effect for a two year period, and for a non-refundable \$50.00 fee, from 12/16/07 to 12/15/09 for the activities as specified.
6. Prior to its expiration, the permittee shall apply for reissuance of this permit; failure to do so will result in the automatic expiration of the permit at the end of its term. The permittee must return this permit by United States mail or by hand delivery to the Division of Aquatic Resources, 1151

EXHIBIT M.1

Punchbowl St. Room 330, Honolulu, Hawaii, 96813.

7. This permit shall be incorporated as an addendum to the commercial vessel use permit for the use of state boating facilities issued in accordance with HAR section 13-231-57, or a commercial vessel registration issued in accordance with HAR section 13-256-4.
8. This permit shall be non-transferable, except as provided by HAR Section 13-231-62.
9. The board may revoke any permit for any infraction of the terms and conditions of this permit, and a person whose permit is revoked shall not be eligible to renew a permit until the expiration of one year from the date of revocation.
10. This permit does not in any way make the Board of Land and Natural Resources of the State of Hawaii or its employees liable for any claims of personal injury or property damage which may occur while the permittees are engaged in activities authorized under this permit; further, the permittees agree to hold the State harmless against any claims of personal injury, death, property damage, or business loss resulting from their activities.

I certify that I understand the conditions of this Permit and the Penalty of Chapter 13-31, Hawaii Administrative Rules which is attached hereto for reference.

APPLICANT:

Signature:   
Print: SIDNEY J. AKIONA

DESIGNATED ASSISTANTS:

Signature: \_\_\_\_\_

Print:

Signature: \_\_\_\_\_

Print:

APPROVED:

  
LAURA H. THIELEN, Chairperson  
Board of Land and Natural Resources

cc: DOCARE  
DOBOR  
DAR-Maui

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

COMMERCIAL OPERATING AREA USE PERMIT

Permit No. C-01Date: 11/20/06

This permit authorizes MAKENA BOAT PARTNERS (A PARTNERSHIP) (hereinafter referred to as the Permittee) to conduct (describe commercial activities)

LOADING & OFFLOADING PASSENGERS AT THE PUBLIC BEACH FRONTING THE MAUI PRINCE HOTEL AS STIPULATED IN THE Cдуа ISSUED BY THE BOARD OF LAND & NATURAL RESOURCES ON 08/14/87. on the ocean waters of the (SEE DLNR LETTER DATED 12/28/88) State of Hawaii located on the island of MAUI, in the SOUTH MAUI ocean recreation management area, to commence on DECEMBER 01, 2006 and expire on NOVEMBER 30, 2007 unless terminated for cause.

Copies of exhibits are submitted for review and the record:

- Vessel documentation (if applicable)  Vessel certification (if applicable)
- Certificate of business liability insurance  General Excise License
- Certificate of insurance covering thrill craft (jet skis, wave runner, etc.)
- Department of Land and Natural Resources Permit No. \_\_\_\_\_ (if applicable)
- Partnership, Joint venture, corporate exhibits, as applicable
- LAND BOARD Cдуа/OTHER DOCUMENTATION

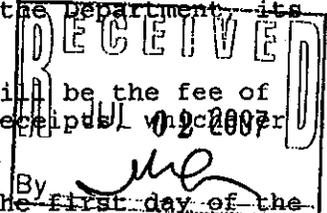
1. The Permittee agrees to abide by all applicable Federal and State laws and all boating and shore water rules promulgated by the Department of Land and Natural Resources (hereinafter referred to as the Department). Any violation of the provisions aforementioned laws or rules, in addition to any fines or penalties a court of law may cause this permit to be terminated by the Department By written order of its representative, and the vessel or operation shall immediately cease activity.

2. The Permittee agrees to operate the vessel or equipment described in this permit in accordance with applicable rules and regulations regarding passenger-carrying and commercial vessels.

3. When applicable, the Permittee agrees to present proof, upon, request, of the Coast Guard certification for the vessel(s) described to the Department, its officers or agents.

4. *W* The fee for this *M* commercial operating area use permit will be the fee of \$75.00 per month or 3% of the vessel's or operation's gross receipts, *11/20/06* whichever is the greater.

5. The fee stated above is due and payable in advance of the *first day of the* month in the Division of Boating and Ocean Recreation office. Not later than 30 days following the end of the month, the Permittee will submit to Division of Boating and Ocean Recreation a report of gross receipts for the month plus payment of any additional amount required by the percentage of the gross receipts specified in paragraph 4. **UNLESS PAID ON TIME, THIS PERMIT WILL AUTOMATICALLY EXPIRE.**



**EXHIBIT N**

6. During scheduled events, as evidenced by a marine events permit authorized by the State or U.S. Coast Guard, vessel(s) or operations under commercial operating area use permits may be required to adjust their schedules for use of an ocean recreation management area, or temporarily cease activity as directed by the Department.

7. The Permittee agrees to notify the Department in writing of any changes concerning ownership, address, vessel inventory or operator(s) of a vessel(s) within 7 days of the date of change. Failure to promptly notify the Department of any changes may cause this permit to be terminated by the Department.

8. The Permittee shall at all times use due care for public safety and shall defend, hold harmless and indemnify the State of Hawaii, its officers, agents and employees from and against all claims or demands, including claims for property damage, personal injury or death arising out of or incident to the operation of said vessel or operation.

9. The permit charges are for the privilege of operating a commercial vessel or operation in the designated ocean recreation management area in the manner stated above or within the ocean recreation management rules. Any other use of harbor/ramp facilities or services must be requested and approved separately.

10. The duration of this commercial operating area use permit shall not exceed the period of one year from the date of commencement.

I AGREE TO THE TERMS, CONDITIONS AND CHARGES:

\_\_\_\_\_  
VESSEL OWNER, if not Permittee)

*Sidney J. Akiona*  
\_\_\_\_\_  
MAKENA BOAT PARTNERS  
Sidney J. AKIONA

5400 MAKENA ALANUI  
ADDRESS

MAKENA                      HI                      96753  
CITY                              STATE                      ZIPCODE

879-7218                      [REDACTED]  
BUS. PHONE                      CELL. PHONE

APPROVED:

DEPT. OF LAND & NATURAL RESOURCES  
DIVISION OF BOATING AND OCEAN  
RECREATION

ACCOUNT # 0883C002139

BY: *[Signature]*  
S. MASUDA  
DECEIVED  
JUL 2 2007  
By: *[Signature]*

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

OCEAN RECREATION MANAGEMENT  
COMMERCIAL REGISTRATION APPLICATION  
PERMIT NO. C-01

APPLICANT: MAKENA BOAT PARTNERS (A PARTNERSHIP) DATE: 11/17/06

INVENTORY OF VESSEL (s) and/or EQUIPMENT

Indicate if: (N)ew/(R)enewal/(D)eleation and pay appropriate fee.

	Description	HIN#	Reg/Doc No.	Reg. Fee
R 1.	KAI KANANI (CATAMARAN) <u>D-3451</u>	<u>HIN# N/A</u>	<u>675222</u>	<u>\$ 3.50</u>
2.		<u>HIN#</u>		<u>\$</u>
3.		<u>HIN#</u>		<u>\$</u>
4.		<u>HIN#</u>		<u>\$</u>
5.		<u>HIN#</u>		<u>\$</u>
6.		<u>HIN#</u>		<u>\$</u>
7.		<u>HIN#</u>		<u>\$</u>
8.		<u>HIN#</u>		<u>\$</u>
9.		<u>HIN#</u>		<u>\$</u>
10.		<u>HIN#</u>		<u>\$</u>
11.		<u>HIN#</u>		<u>\$</u>
12.		<u>HIN#</u>		<u>\$</u>
13.		<u>HIN#</u>		<u>\$</u>
14.		<u>HIN#</u>		<u>\$</u>
15.		<u>HIN#</u>		<u>\$</u>
16.		<u>HIN#</u>		<u>\$</u>

RECEIVED  
 JUL 02 2007  
 By: [Signature]

APPLICATION FEE: \$ 5.00

TOTAL FEES DUE: \$ 8.50

Decal No(s) D-3451 EXP. 11

Receipt No. MMH-50612

The description listed above are correct to the best of my knowledge.

[Signature]  
 (Applicant)  
 SID AKIONA  
 MAKENA BOAT PARTNERS

DEPT. OF LAND & NATURAL RESOURCES  
 DIV. OF BOATING & OCEAN RECREATION  
 By: [Signature]  
 S. MASUDA

STATE OF HAWAII  
DEPT. OF LAND & NATURAL RESOURCES  
DIVISION OF BOATING & OCEAN RECREATION

APPLICATION FOR COMMERCIAL USE PERMIT  
AT Makalaen SMALL BOAT HARBOR

PLEASE TYPE OR PRINT

1. Name MAKENA BOAT PARTNERS Social Security No. \_\_\_\_\_

Mailing Address 5400 MAKENA ALANUI KIHAI, HI 96753

Telephone No.: Business 808 879-7218 Residence \_\_\_\_\_

2. Name of Vessel KAI KANANI Reg. or Doc. Expiration Date COI 2-11-2010

Registration No. \_\_\_\_\_ Documentation No. 675 222

Ownership of Vessel: (Proof of ownership must be presented at time of application)

Principal Owner MAKENA BOAT PARTNERS Phone No. 808 879 7218

Mailing Address 5400 MAKENA ALANUI KIHAI, HI 96753

Co-owner N/A Phone No. \_\_\_\_\_

Mailing address \_\_\_\_\_  
(If more than one Co-owner use back of sheet)

3. Vessel Size: L.O.D. 46.0 L.O.A. 46.0 Beam 21.0 Draft 5.3

Commercial Activity Vessel used for DAY CHARTERS

Coast Guard Certificate: Passenger Cap. 48 Re-Cert. Date Due 2-11-2010

Master of Vessel 1. PATRICK de Vault Tonnage Lic. 100 TON Type NEAR COA

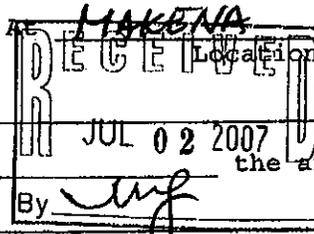
2. Michael Troesch - Worrell Tonnage Lic. 100 TON Type NEAR COA  
(For additional Masters, full or part-time, use back of sheet)

4. This Vessel 1. Has a berth, No. \_\_\_\_\_ At \_\_\_\_\_ Harbor

2. Is moored/Anchored On MAUI Island

3. Is kept on a trailer at \_\_\_\_\_

5. I Purchased \_\_\_\_\_ Leased \_\_\_\_\_ Other \_\_\_\_\_ the aforementioned vessel on \_\_\_\_\_ From \_\_\_\_\_



6. The vessel described on this application is free of all liens, mortgages or other encumbrances except as follows (person/institution holding security interests):  
Name \_\_\_\_\_ Address \_\_\_\_\_

7. I understand that pursuant to the Small Boat Harbors Rules, I must inform the Harbor Agent within seven (7) days of any sale or lease of the vessel described in this application. I also understand that if I violate any of the provisions of the aforementioned rules, in addition to any fines or penalties a court of law may impose, my permit to operate a vessel commercially in \_\_\_\_\_ harbor may be revoked.

The information given by me, the applicant, is true, correct and completed to the best of my knowledge and belief.

Date 11-14-06 [Signature]  
SIGNATURE OF APPLICANT  
Date 11-14-06 [Signature]  
HARBOR AGENT

For Use by DOBOR
Number: <u>MMH-50612</u>
Date Rec'd: <u>11/14/06</u>
Rec'd By: <u>[Signature]</u>
Expiration Date: <u>11/30/07</u>



# UNITED STATES OF AMERICA

DEPARTMENT OF HOMELAND SECURITY  
UNITED STATES COAST GUARD

NATIONAL VESSEL DOCUMENTATION CENTER

## CERTIFICATE OF DOCUMENTATION

VESSEL NAME KAI KANANI		OFFICIAL NUMBER 675222	IMO OR OTHER NUMBER	YEAR COMPLETED 1984
HAILING PORT MAKENA HI		HULL MATERIAL WOOD		MECHANICAL PROPULSION YES
GROSS TONNAGE 16 GRT	NET TONNAGE 13 NRT	LENGTH 46.0	BREADTH 21.0	DEPTH 5.3
PLACE BUILT HONOLULU HAWAII				
OWNERS MAKENA BOAT PARTNERS A GENERAL PARTNERSHIP			OPERATIONAL ENDORSEMENTS COASTWISE	
MANAGING OWNER MAKENA BOAT PARTNERS 5400 MAKENA ALANUI DRIVE KIHAEI, HI 96753				
RESTRICTIONS NONE				
ENTITLEMENTS NONE				
REMARKS NONE				
ISSUE DATE MAY 18, 2006				
THIS CERTIFICATE EXPIRES JUNE 30, 2007				

**RECEIVED**  
JUL 02 2007  
By *[Signature]*

*[Signature]*



ORIGINAL CERTIFICATE OF DOCUMENTATION ENTIRELY REPRODUCED IN THIS COPY



United States of America  
Department of Homeland Security  
United States Coast Guard

Certification Date: 11 Feb 2005  
Expiration Date: 11 Feb 2010  
IMO Number:

# Certificate of Inspection

Vessel Name: **KAI KANANI** Official Number: **675222** Call Sign: **WBE9509** Service: **Passenger (More Than 6)**

Hailing Port: **MAKENA HI** Hull Material: **Wood** Horsepower: **170** Propulsion: **Auxiliary Sail**

Place Built: **HONOLULU HAWAII, UNITED STATES** Delivery Date: **28Oct1984** Date Keel Laid: **28Oct1984** Gross Tons: **R-16** Net Tons: **R-13** DWT: **-** Length: **R-46**

Owner: **MAKENA BOAT PARTNERS  
5400 MAKENA ALANUI DRIVE  
KIHEI HI 96763** Operator: **KAI KANANI, INC  
5400 MAKENA ALANUI DRIVE  
KIHEI HI 96763  
UNITED STATES**

**This vessel must be manned with the following licensed and unlicensed personnel. Included in which there must be 0 certified lifeboatmen, 0 certified tankermen, 0 HSC type rating, and 0 GMDSS Operators.**

1 Master	Master & 1st Class pilot	Radio Officer(s)	Chief Engineer	QMED/Rating
Chief Mate	Mate & 1st Class Pilot	Able Seamen/ROANW	1st Asst. Engr/2nd Engr.	Oilers
2nd Mate/OICNW	Lic. Mate/OICNW	Ordinary Seamen	2nd Asst. Engr/3rd Engr.	
3rd Mate/OICNW	1st Class Pilot	2 Deckhands	3rd Asst. Engr.	
			Lic. Engr.	

In addition, this vessel may carry 42 passengers, 0 other persons in crew, 0 persons in addition to crew, and no others. Total persons allowed: 45

**Route Permitted and Conditions of Operation:**

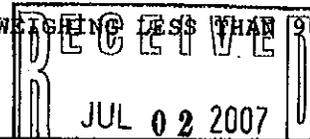
**---Lakes, Bays, and Sounds plus Limited Coastwise---**

LIMITED COASTWISE: PACIFIC OCEAN AREA, SOUTHERN AND WESTERN COASTS OF THE ISLAND OF MAUI BETWEEN CAPE HANAMANIOA AND LIPOA POINT; SOUTHERN COAST OF THE ISLAND OF MOLOKAI BETWEEN CAPE HALAWA AND LAU POINT; AND THE ISLAND OF LANAI, STATE OF HAWAII, NOT MORE THAN 20 MILES FROM A HARBOR OF SAFE REFUGE.

IF THE VESSEL IS AWAY FROM A DOCK, OR HAS PASSENGERS ON BOARD, OR IF THE PASSENGERS HAVE ACCESS TO THE VESSEL FOR A PERIOD EXCEEDING 12 HOURS IN ANY 24-HOUR PERIOD, AN ALTERNATE CREW SHALL BE PROVIDED.

A CHILD SIZE LIFE PRESERVER SHALL BE PROVIDED FOR EACH PASSENGER WEIGHING LESS THAN 90

\*\*\*SEE NEXT PAGE FOR ADDITIONAL CERTIFICATE INFORMATION\*\*\*



With this Inspection for Certification having been completed at Maui, HI, the Officer in Charge, Marine Inspection, HONOLULU certified the vessel, in all respects, is in conformity with the applicable vessel inspection laws and the rules and regulations prescribed thereunder.

Annual/Periodic/Quarterly Reinspections			
Date	Zone	A/P/Q	Signature
-	-	-	-
-	-	-	-
-	-	-	-
-	-	-	-

This certificate issued by:

**T. V. SKUBY, Captain, USCG**  
Officer in Charge, Marine Inspection

**HONOLULU**  
Inspection Zone





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

COMMERCIAL OPERATING AREA USE PERMIT

Permit No. C-01Date: 07/02/07

This permit authorizes MAKENA BOAT PARTNERS (A PARTNERSHIP)  
 (hereinafter referred to as the Permittee) to conduct (describe  
 commercial activities)

LOADING & OFFLOADING PASSENGERS AT THE PUBLIC BEACH FRONTING THE  
MAUI PRINCE HOTEL AS STIPULATED IN THE CDUA ISSUED BY THE BOARD OF  
LAND & NATURAL RESOURCES ON 08/14/87. on the ocean waters of the  
 (SEE DLNR LETTER DATED 12/28/88)  
 State of Hawaii located on the island of MAUI, in the SOUTH MAUI  
 ocean recreation management area, to commence on JULY 02, 2007  
 and expire on NOVEMBER 30, 2007 unless terminated for cause.

Copies of exhibits are submitted for review and the record:

- Vessel documentation (if applicable)  Vessel certification (if applicable)  
 Certificate of business liability insurance  General Excise License  
 Certificate of insurance covering thrill craft (jet skis, wave runner, etc.)  
 Department of Land and Natural Resources Permit No. \_\_\_\_\_ (if applicable)  
 Partnership, Joint venture, corporate exhibits, as applicable  
 LAND BOARD CDUA/OTHER DOCUMENTATION

1. The Permittee agrees to abide by all applicable Federal and State laws and all boating and shore water rules promulgated by the Department of Land and Natural Resources (hereinafter referred to as the Department). Any violation of the provisions aforementioned laws or rules, in addition to any fines or penalties a court of law may cause this permit to be terminated by the Department By written order of its representative, and the vessel or operation shall immediately cease activity.

2. The Permittee agrees to operate the vessel or equipment described in this permit in accordance with applicable rules and regulations regarding passenger-carrying and commercial vessels.

3. When applicable, the Permittee agrees to present proof, upon, request, of the Coast Guard certification for the vessel(s) described to the Department, its officers or agents.

4. The fee for this commercial operating area use permit will be the fee of \$200.00 per month or 3% of the vessel's or operation's gross receipts, whichever is the greater.

5. The fee stated above is due and payable in advance of the first day of the month in the Division of Boating and Ocean Recreation office. Not later than 30 days following the end of the month, the Permittee will submit to Division of Boating and Ocean Recreation a report of gross receipts for the month plus payment of any additional amount required by the percentage of the gross receipts specified in paragraph 4. **UNLESS PAID ON TIME, THIS PERMIT WILL AUTOMATICALLY EXPIRE.**

**EXHIBIT O**

6. During scheduled events, as evidenced by a marine events permit authorized by the State or U.S. Coast Guard, vessel(s) or operations under commercial operating area use permits may be required to adjust their schedules for use of an ocean recreation management area, or temporarily cease activity as directed by the Department.

7. The Permittee agrees to notify the Department in writing of any changes concerning ownership, address, vessel inventory or operator(s) of a vessel(s) within 7 days of the date of change. Failure to promptly notify the Department of any changes may cause this permit to be terminated by the Department.

8. The Permittee shall at all times use due care for public safety and shall defend, hold harmless and indemnify the State of Hawaii, its officers, agents and employees from and against all claims or demands, including claims for property damage, personal injury or death arising out of or incident to the operation of said vessel or operation.

9. The permit charges are for the privilege of operating a commercial vessel or operation in the designated ocean recreation management area in the manner stated above or within the ocean recreation management rules. Any other use of harbor/ramp facilities or services must be requested and approved separately.

10. The duration of this commercial operating area use permit shall not exceed the period of one year from the date of commencement.

I AGREE TO THE TERMS, CONDITIONS AND CHARGES

MAKENA BOAT PARTNERS  
VESSEL OWNER, (if not Permittee)



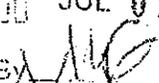
MAKENA BOAT PARTNERS  
ROGER GILDERSLEEVE

5400 MAKENA ALANUI  
ADDRESS

<u>MAKENA</u>	<u>HI</u>	<u>96753</u>
CITY	STATE	ZIPCODE

879-7218  
BUS. PHONE

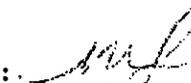
[REDACTED]  
CELL PHONE

DEPT. OF LAND & NATURAL RESOURCES  
JUL 02 2007  
BY: 

APPROVED:

DEPT. OF LAND & NATURAL RESOURCES  
DIVISION OF BOATING AND OCEAN  
RECREATION

ACCOUNT #0883C002139

BY:   
Miles J.K. Lopes Sr. Harbor Agent II

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

OCEAN RECREATION MANAGEMENT  
 COMMERCIAL REGISTRATION APPLICATION  
 PERMIT NO. C-01

APPLICANT: MAKENA BOAT PARTNERS (A PARTNERSHIP)

DATE: 07/02/07

INVENTORY OF VESSEL(S) and/or EQUIPMENT

Indicate if: (N)ew/(R)enewal/(D)eletion and pay appropriate fee.

Description	HIN#	Reg/Doc No.	Reg. Fee
<u>R</u> 1. <u>KAI KANANI II(D3523)</u>	<u>GCY64CDCA707</u>	<u>119-431-8</u>	<u>\$ 3.50</u>
2. _____	HIN# _____	_____	\$ _____
3. _____	HIN# _____	_____	\$ _____
4. _____	HIN# _____	_____	\$ _____
5. _____	HIN# _____	_____	\$ _____
6. _____	HIN# _____	_____	\$ _____
7. _____	HIN# _____	_____	\$ _____
8. _____	HIN# _____	_____	\$ _____
9. _____	HIN# _____	_____	\$ _____
10. _____	HIN# _____	_____	\$ _____
11. _____	HIN# _____	_____	\$ _____
12. _____	HIN# _____	_____	\$ _____
13. _____	HIN# _____	_____	\$ _____
14. _____	HIN# _____	_____	\$ _____
15. _____	HIN# _____	_____	\$ _____
16. _____	HIN# _____	_____	\$ _____

RECEIVED  
 JUL 02 2007  
 BY: *[Signature]*

APPLICATION FEE \$ 5.00

TOTAL FEES DUE: \$ 3.50

Decal No(s) D-3523

Receipt No. mmh-51109

DEPT. OF LAND & NATURAL RESOURCES  
 DIV. OF BOATING & OCEAN RECREATION

BY: *[Signature]*

Miles J.K. Lopes Sr. Harbor Agent II

The descriptions listed above  
 are correct to the best of my knowledge.

*[Signature]*  
 (Applicant)  
 Roger Gildersleeve

PLEASE TYPE OR PRINT

Name Roger Gildersleeve Social Security No. [REDACTED]

Mailing Address 5400 Makena Alanui

Telephone No.: Business 808 879 7218 Residence \_\_\_\_\_

1. Name of Vessel Kai Kanani II Reg. or Doc. Expiration Date Dec 31-07

Registration No. GCY64CDA707 Documentation No. 1194318

Ownership of Vessel: (Proof of ownership must be presented at time of application)

Principal Owner Makena Boat Partners Phone No. 808 879 7218

Mailing Address 5400 Makena Alanui

Co-owner Kai Kanani Inc Phone No. 808 879 7218

Mailing address 5400 Makena Alanui, Kihuna

(If more than one Co-owner use back of sheet)

3. Vessel Size: L.O.D. 64' 11" L.O.A. ~~70'~~ 70' Beam 29' 10" Draft 5'

Commercial Activity Vessel used for Snorkle Charter

Coast Guard Certificate, Passenger Cap. 80 Re-Cert. Date Due 27 June 2012

Master of Vessel 1. Roger Gildersleeve Tonnage Lic. 100 Type N Coastal

2. Pat DeVault Tonnage Lic. 100 Type N Coastal

(For additional Masters, full or part-time, use back of sheet)

4. This Vessel 1. Has a berth, No. \_\_\_\_\_ At \_\_\_\_\_ Harbor

2. Is moored/Anchored On Mau At Makena  
Island Location

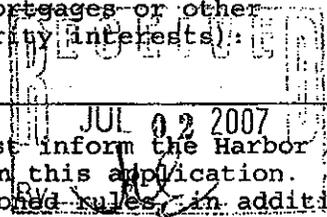
3. Is kept on a trailer at \_\_\_\_\_

5. I Purchased Kai Kanani Leased \_\_\_\_\_ Other \_\_\_\_\_ the aforementioned

vessel on Apr 6-07 From Gold Coast Yachts

6. The vessel described on this application is free of all liens, mortgages or other encumbrances except as follows (person/institution holding security interests):

Name CIT Financial Address \_\_\_\_\_



7. I understand that pursuant to the Small Boat Harbors Rules, I must inform the Harbor Agent within seven (7) days of any sale or lease of the vessel described in this application. I also understand that if I violate any of the provisions of the aforementioned rules, in addition to any fines or penalties a court of law may impose, my permit to operate a vessel commercially in \_\_\_\_\_ harbor may be revoked.

The information given by me, the applicant, is true, correct and completed to the best of my knowledge and belief.

Date 6-24-07 [Signature]  
SIGNATURE OF APPLICANT

Date 7-2-07 [Signature]  
HARBOR AGENT

For Use by DOBOR
Number: <u>MMH 51109</u>
Date Rec'd: <u>7/2/07</u>
Rec'd By: <u>M. Lopez</u>
Expiration Date: <u><del>02-02</del> 11/30/07</u>

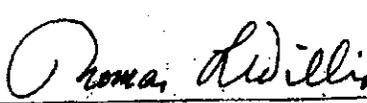


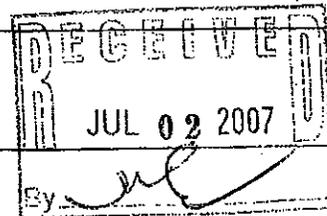
# UNITED STATES OF AMERICA

DEPARTMENT OF HOMELAND SECURITY  
UNITED STATES COAST GUARD

NATIONAL VESSEL DOCUMENTATION CENTER

## CERTIFICATE OF DOCUMENTATION

VESSEL NAME KAI KANANI		OFFICIAL NUMBER 1194318	IMO OR OTHER NUMBER GCY64CDCA707	YEAR COMPLETED 2006	
HAILING PORT MAUI, HI		HULL MATERIAL FRP (FIBERGLASS)		MECHANICAL PROPULSION YES	
GROSS TONNAGE 36 GRT	NET TONNAGE 28 NRT	LENGTH 64.0	BREADTH 31.0	DEPTH 7.0	
PLACE BUILT ST CROIX, VI					
OWNERS MAKENA BOAT PARTNERS, A GENERAL PARTNERSHIP COMPRISED OF TWO GENERAL PARTNERS			OPERATIONAL ENDORSEMENTS COASTWISE RECREATION		
MANAGING OWNER MAKENA BOAT PARTNERS 5400 MAKENA ALI NUI KIKEI, HI 96753					
RESTRICTIONS NONE					
ENTITLEMENTS NONE					
REMARKS NONE					
ISSUE DATE DECEMBER 21, 2006		 DIRECTOR, NATIONAL VESSEL DOCUMENTATION CENTER			
THIS CERTIFICATE EXPIRES DECEMBER 31, 2007					
					







**S E R V C O**  
INSURANCE SERVICES

900 Fort Street Mall, Suite 800, Honolulu, Hawaii 96813  
Telephone 808.540.3333 • Fax 808.540.3395

**FACSIMILE TRANSMITTAL**

DATE: July 2, 2007

TO: State of Hawaii, DLRN  
FAX NUMBER: (808)243-5820

FROM: Renee Arindain-Bajo  
DIRECT LINE: 808/564-2517 or e-mail reneeab@servco.com

SUBJECT: **Kai Kanani, Inc.**  
**Makena Boat Partners**  
Certificate of Insurance

TOTAL NUMBER OF PAGES (including cover page): 2

To Whom It May Concern:

Following please find a copy of the certificate of insurance issued on behalf of the above captioned. The original will be mailed today.

If you have any questions or need anything further, please do not hesitate to call me at (808)564-2517.

Thank you!

RECEIVED  
JUL 02 2007  
By: *[Signature]*

If you do not receive all of the pages, please call 808.540.3333 or fax 808.540.3338 as soon as possible.



United States of America  
Department of Homeland Security  
United States Coast Guard

Certification Date: 27 Jun 2007  
Expiration Date: 27 Jun 2008  
IMO Number:

*COMPLETED NEW  
TO ZONE INSPECTION  
ON 27 JUN 07.*

# Temporary Certificate of Inspection *RB. Oddy*

This Temporary Certificate of Inspection is issued under the provision of Title 46 United States Code, Section 399, in lieu of the regular certificate of inspection, and shall be in force only until the receipt on board said vessel of the original certificate of inspection, this certificate in no case to be valid after one year from the date of inspection.

Vessel Name <b>KAI KANANI</b>	Official Number <b>1194318</b>	Call Sign <b>WDD6048</b>	Species <b>Passenger (Inspected)</b>
Holding Port <b>MAUI HI</b>	Hull Material <b>FRP (Fiberglass)</b>	Manpower <b>370</b>	Population <b>Sal</b>
Place Built <b>ST CROIX, VI UNITED STATES</b>	Delivery Date <b>30Mar2007</b>	Date Keel Laid <b>15Dec2006</b>	Gross Tonn <b>R-38</b>
Owner	Operator	Net Tonn <b>R-28</b>	DWT <b>L</b>
		Length <b>R-84</b>	

This vessel must be manned with the following licensed and unlicensed personnel. Included in which there must be 0 certified lifeboatmen, 0 certified tankermen, 0 HSC type rating, and 0 GMDSS Operators.

- |                  |                            |                     |                            |               |
|------------------|----------------------------|---------------------|----------------------------|---------------|
| 1 Master         | 0 Master & 1st Class pilot | 0 Radio Officer(s)  | 0 Chief Engineer           | 0 QMED/Rating |
| 0 Chief Mate     | 0 Mate & 1st Class Pilot   | 0 Able Seamen/ROANW | 0 1st Asst. Engr/2nd Engr. | 0 Oilers      |
| 0 2nd Mate/OICNW | 0 Lic. Mate/OICNW          | 0 Ordinary Seamen   | 0 2nd Asst. Engr/3rd Engr. |               |
| 0 3rd Mate/OICNW | 0 1st Class Pilot          | 2 Deckhands         | 0 3rd Asst. Engr.          |               |
|                  |                            |                     | 0 Lic. Engr.               |               |

In addition, this vessel may carry 80 passengers, 5 other persons in crew, 0 persons in addition to crew, and no others. Total persons allowed: 88

Route Permitted and Conditions of Operation:  
---Lakes, Bays, and Sounds plus Limited Coastwise---  
PACIFIC OCEAN, STATE OF HAWAII, HAWAIIAN ISLANDS, NOT MORE THAN 20 MILES FROM A HARBOR OF SAFE REFUGE.  
IF THE VESSEL IS AWAY FROM THE DOCK OR PASSENGERS ARE ON BOARD OR HAVE ACCESS TO THE VESSEL FOR A PERIOD EXCEEDING 12 HOURS IN ANY 24 HOUR PERIOD, AN ALTERNATE MASTER AND CREW SHALL BE PROVIDED.

\*\*\*SEE NEXT PAGE FOR ADDITIONAL CERTIFICATE INFORMATION\*\*\*

With this inspection for Certification having been completed at, the Officer in Charge, Marine Inspection, MSO SAN JUAN certified the vessel, in all respects, is in conformity with the applicable vessel inspection laws and the rules and regulations prescribed thereunder.

Annual/Periodic/Quarterly Reinspections			
Date	Zone	A/P/Q	Signature
-	-	-	-
-	-	-	-
-	-	-	-
-	-	-	-

This certificate issued by:  
*[Signature]*  
\_\_\_\_\_  
Officer in Charge, Marine Inspection  
\_\_\_\_\_  
Inspection Zone



Department of Homeland Security  
United States Coast Guard

# Temporary Certificate of Inspection

Page 2 of 3

Certification Date:  
27Jun2007

KAI KANANI

THE MASTER MUST REMAIN ON BOARD THE VESSEL AT ALL TIMES WHILE UNDERWAY OR AT ANCHOR WHEN CARRING PASSENGERS FOR HIRE.

Significant Wave Height (ft) Max Allowable Speed (Kn)

0-5	20	5-6	19	5-6	17	6-7	15
6-7	13	7-8	11	8-9	10	9-10	9
10-11	8	11-12	7				

Overnight accommodations for 0 passengers.

---Hull Exams---

Exam Type	Next Exam	Last Exam	Prior Exam
Drydock	08Mar2009	08Mar2007	-
Internal structure	08Mar2009	08Mar2007	-

---Stability---

Letter Approval Date / 18May2007 Office/ CG MSC

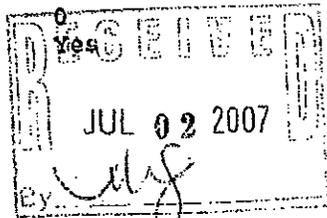
---Inspection Status---

\*Fuel Tanks\*

Tank ID	Internal Examinations		Next
	Previous	Last	
FWD PORT	-	27Mar2007	-
FWD STBD	-	27Mar2007	-
E/R PORT	-	27Mar2007	-
E/R STBD	-	27Mar2007	-

---Lifesaving Equipment---

	Number	Persons	Required
Total Equipment for	88		88
Lifeboats (Total)	0	0	9
Lifeboats (Port)*	0	0	1
Lifeboats (Starbd)*	0	0	1
Motor Lifeboats*	0	0	1
Lifeboats W/Radio*	0	0	0
Rescue Boats/Platforms	0	0	0
Inflatable Rafts	0	0	0
Life Floats/Buoyant App	2	22	0
			Life Preservers (Adult)
			Life Preservers (Child)
			Ring Buoys (Total)
			With Lights*
			With Line Attached*
			Other*
			Immersion Suits
			Portable Lifeboat Radios
			Equipped with EPIRB?
			(* included in totals)



---Fire Fighting Equipment---

Number of Fireman Outfits/ 0

Number of Fire Pumps/ 1

\*Fixed Extinguishing Systems\*

Capacity  
500

Agent

Halocarbon (Formerly: FM 200, FE241)

Space Protected

Port Engine Room

**CERTIFICATE OF OWNERSHIP**

KNOW ALL MEN BY THESE PRESENTS THAT GOLD COAST YACHTS, INC., of St. Croix, U.S.V.I., hereinafter referred to as BUILDER, for and in consideration of the sum of ONE MILLION TWO HUNDRED AND EIGHTY-NINE THOUSAND NINE HUNDRED AND TEN DOLLARS (\$1,289,910.00) which has been paid by MAKENA BOAT PARTNERS hereby grants, sells, conveys, transfers and delivers title of the vessel known as "KAI KANANI", a 64' - foot auxiliary sailing passenger catamaran, Official Number 1194318, unto MAKENA BOAT PARTNERS together with all gear and tackle belonging thereto, all "as is and where is".

TO HAVE AND TO HOLD the same unto MAKENA BOAT PARTNERS its executors, administrators and assigns forever.

GOLD COAST YACHTS, INC., together with MAKENA BOAT PARTNERS warrant and defend title to the vessel hereby transferred unto MAKENA BOAT PARTNERS its executors, administrators and assigns against all and every person whomsoever.

IN WITNESS WHEREOF, the BUILDER has set its hand and seal on this 6th day of April 2007.

IN WITNESS:

Susan Krzenski

BUILDER:

Richard A. Difede  
Richard A. Difede  
President  
Gold Coast Yachts, Inc.

**ACKNOWLEDGMENT**

TERRITORY OF THE VIRGIN ISLANDS    )  
DIVISION OF ST. CROIX                ) SS:

ON THIS 6th day of April, 2007 before me, the undersigned officer, personally appeared RICHARD A. DIFEDE, known to me to be the individual described as the BUILDER in the foregoing CERTIFICATE OF OWNERSHIP, and he acknowledged to me that he executed the same freely and voluntarily for the uses and purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Regan Hubbard  
Notary Public

NP-012-05



To: Department of Land and Natural Resources  
Boating and Ocean Recreation, State of Hawaii  
Subject: APPLICATION FOR BOAT HARBOR AGREEMENT  
AND USE PERMIT

THIS SPACE FOR BOATING DIVISION USE	
Received By	<u>[Signature]</u>
Date / Time	_____
Use Permit #	_____

1. I (Name) MAKANA BOAT PARTNERS hereby  
Request that an Agreement and Use Permit be issued  
for use of the following facilities and services:

MAALAEA HARBOR MOORING

2. RESIDENCE  
a. Address 5100 MAKANA MAUNU  
Kalahehi HI 96753

3. SOCIAL SECURITY NUMBER \_\_\_\_\_

Telephone # [REDACTED]

4. EMPLOYER \_\_\_\_\_

Business Phone # 819-7218

5. OCCUPATION \_\_\_\_\_

6. SEND MONTHLY STATEMENT TO:

a. Name \_\_\_\_\_  
b. Address \_\_\_\_\_

7. VESSEL DESCRIPTION:

a. Name of vessel Kai Kanoni U  
b. HA Registration or Document Number 1194318  
c. Length (on deck): Feet 64 Inches 11  
d. Length overall (including bowsprits, bumpkins, etc.): Feet 64' Inches 11"  
e. Beam: 20  
f. Draft: 1.0  
g. Principal type of propulsion:  
1. Power: Inboard \_\_\_\_\_ Outboard \_\_\_\_\_ Inboard/Outboard \_\_\_\_\_  
2. Sail: Rig Sloop Other  Number of Hulls 2  
h. Type of Vessel CATAMARAN i. Builder ADCOCKS YACHTS  
j. Year Built 2006 k. Hull Material FIBERGLASS / FIBER CORE  
l. Radio Call Sign \_\_\_\_\_ M. Manufacturer's Hull Serial# \_\_\_\_\_

8. VESSEL WILL BE USED FOR (Check a b or c)

a. Pleasure \_\_\_\_\_  
b. Commercial: Passengers  Fishing \_\_\_\_\_ Charter \_\_\_\_\_ Dealer \_\_\_\_\_  
c. Other (Specify) \_\_\_\_\_

9. I (Purchased / Rented / Chartered / Other \_\_\_\_\_) the aforementioned vessel from:  
(Name) \_\_\_\_\_  
(Address) \_\_\_\_\_ On (Date) \_\_\_\_\_

10. THE VESSEL IS OWNED BY:

a. Principal Owner (Name) MAKANA BOAT PARTNERS  
b. Co-Owner (Name) \_\_\_\_\_  
(Address) \_\_\_\_\_

11. THE VESSEL DESCRIBED IN THIS APPLICATION IS FREE OF ALL LIENS, MORTGAGES OR OTHER  
ENCUMBERANCES EXCEPT AS FOLLOWS (person holding security interests):

a. Name CIT FINANCIAL  
b. Address \_\_\_\_\_

12. Remarks \_\_\_\_\_

I understand that pursuant to the Hawaii Administrative Rules, I must inform the Harbor Agent, within 14 days, of any sale, lease, or rental of the vessel described in this application. I also understand if I violate any of the provisions of the aforementioned regulations that, in addition to any fines and penalties a Court may impose, my permit to moor in the harbor may be revoked. The information given by me on this application is true, correct and complete to the best of my knowledge and belief.

DATE: 09-19-2007 APPLICANT SIGNATURE [Signature]

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

COMMERCIAL OPERATING AREA USE PERMIT

Permit No. C-01

**APPROVED**  
 1- 9/25/07

Date: 09/24/07

This permit authorizes MAKENA BOAT PARTNERS (A PARTNERSHIP) (hereinafter referred to as the Permittee) to conduct (describe commercial activities)

LOADING & OFFLOADING PASSENGERS AT THE PUBLIC BEACH FRONTING THE MAUI PRINCE HOTEL AS STIPULATED IN THE CDUA ISSUED BY THE BOARD OF LAND & NATURAL RESOURCES ON 08/14/87. on the ocean waters of the (SEE DLNR LETTER DATED 12/28/88) State of Hawaii located on the island of MAUI, in the SOUTH MAUI ocean recreation management area, to commence on DECEMBER 1, 2007 and expire on NOVEMBER 30, 2008 unless terminated for cause.

Copies of exhibits are submitted for review and the record:

- Vessel documentation (if applicable)  Vessel certification (if applicable)
- Certificate of business liability insurance  General Excise License
- Certificate of insurance covering thrill craft (jet skis, wave runner, etc.)
- Department of Land and Natural Resources Permit No. \_\_\_\_\_ (if applicable)
- Partnership, Joint venture, corporate exhibits, as applicable
- LAND BOARD CDUA/OTHER DOCUMENTATION

1. The Permittee agrees to abide by all applicable Federal and State laws and all boating and shore water rules promulgated by the Department of Land and Natural Resources (hereinafter referred to as the Department). Any violation of the provisions aforementioned laws or rules, in addition to any fines or penalties a court of law may cause this permit to be terminated by the Department By written order of its representative, and the vessel or operation shall immediately cease activity.
2. The Permittee agrees to operate the vessel or equipment described in this permit in accordance with applicable rules and regulations regarding passenger-carrying and commercial vessels.
3. When applicable, the Permittee agrees to present proof, upon, request, of the Coast Guard certification for the vessel(s) described to the Department, its officers or agents.
4. *on* The fee for this commercial operating area use permit will be the fee of \$200.00 per month or 3% of the vessel's or operation's gross receipts, whichever is the greater. *on*
5. The fee stated above is due and payable in advance of the first day of the month in the Division of Boating and Ocean Recreation office. Not later than 30 days following the end of the month, the Permittee will submit to Division of Boating and Ocean Recreation a report of gross receipts for the month plus payment of any additional amount required by the percentage of the gross receipts specified in paragraph 4. **UNLESS PAID ON TIME, THIS PERMIT WILL AUTOMATICALLY EXPIRE.**

**EXHIBIT O.1**

6. During scheduled events, as evidenced by a marine events permit authorized by the State or U.S. Coast Guard, vessel(s) or operations under commercial operating area use permits may be required to adjust their schedules for use of an ocean recreation management area, or temporarily cease activity as directed by the Department.

7. The Permittee agrees to notify the Department in writing of any changes concerning ownership, address, vessel inventory or operator(s) of a vessel(s) within 7 days of the date of change. Failure to promptly notify the Department of any changes may cause this permit to be terminated by the Department.

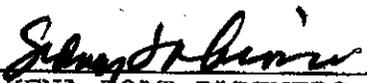
8. The Permittee shall at all times use due care for public safety and shall defend, hold harmless and indemnify the State of Hawaii, its officers, agents and employees from and against all claims or demands, including claims for property damage, personal injury or death arising out of or incident to the operation of said vessel or operation.

9. The permit charges are for the privilege of operating a commercial vessel or operation in the designated ocean recreation management area in the manner stated above or within the ocean recreation management rules. Any other use of harbor/ramp facilities or services must be requested and approved separately.

10. The duration of this commercial operating area use permit shall not exceed the period of one year from the date of commencement.

I AGREE TO THE TERMS, CONDITIONS AND CHARGES:

\_\_\_\_\_  
VESSEL OWNER, if not Permittee)

  
\_\_\_\_\_  
MAKENA BOAT PARTNERS  
SIDNEY J. AKIONA

5400 MAKENA ALANUI  
ADDRESS

MAKENA                      HI                      96753  
CITY                              STATE                      ZIPCODE

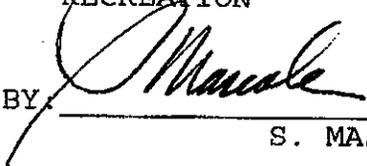
879-7218                        
BUS. PHONE                      CELL. PHONE

APPROVED:

DEPT. OF LAND & NATURAL RESOURCES  
DIVISION OF BOATING AND OCEAN  
RECREATION

ACCOUNT # 0883C002139

BY

  
\_\_\_\_\_  
S. MASUDA

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

OCEAN RECREATION MANAGEMENT  
COMMERCIAL REGISTRATION APPLICATION  
PERMIT NO. C-01

APPLICANT: MAKENA BOAT PARTNERS (A PARTNERSHIP) DATE: 9/24/07

INVENTORY OF VESSEL (s) and/or EQUIPMENT

Indicate if: (N)ew/(R)enewal/(D)eletion and pay appropriate fee.

	Description	HIN#	Reg/Doc No.	Reg. Fe.
R	1. KAI KANANI II (CATAMARAN)	GCY64CDCA707	1194318	\$ 3.50
	2.			\$
	3.			\$
	4.			\$
	5.			\$
	6.			\$
	7.			\$
	8.			\$
	9.			\$
	10.			\$
	11.			\$
	12.			\$
	13.			\$
	14.			\$
	15.			\$
	16.			\$

SEP 24 2007  
By: *SM*

APPLICATION FEE: \$ 5.0

TOTAL FEES DUE: \$ 8.5

Decal No(s) E-3791 EXP. 11

Receipt No. MMH-51252

The description listed above are correct to the best of my knowledge.

*Sidney J. Akiona*  
(Applicant)  
SIDNEY J. AKIONA  
MAKENA BOAT PARTNERS

DEPT. OF LAND & NATURAL RESOURCE  
DIV. OF BOATING & OCEAN RECREATI  
By: *S. Masuda*  
S. MASUDA

STATE OF HAWAII  
DEPT. OF LAND & NATURAL RESOURCES  
DIVISION OF BOATING & OCEAN RECREATION

APPLICATION FOR COMMERCIAL USE PERMIT  
AT Makana SMALL BOAT HARBOR

PLEASE TYPE OR PRINT

1. Name MAKENA BOOP PARTNERS Social Security No. \_\_\_\_\_

Mailing Address 5400 Makana Alanui

Telephone No.: Business 808-879-7218 Residence \_\_\_\_\_

2. Name of Vessel Kai Kanani II Reg. or Doc. Expiration Date Dec. 31, 2007

Registration No. G CY 64 CDCA 707 Documentation No. 1194318

Ownership of Vessel: (Proof of ownership must be presented at time of application)

Principal Owner Makana Boat Partners Phone No. 808-879-7218

Mailing Address 5400 MAKENA ALANUI

Co-owner KAI KANANI INC Phone No. 808 879 7218

Mailing address 5400 MAKENA ALANUI, Kihei

(If more than one Co-owner use back of sheet)

3. Vessel Size: L.O.D. 64' 11" L.O.A. same Beam 29' 10" Draft 5'

Commercial Activity Vessel used for snorkle charter

Coast Guard Certificate: Passenger Cap. 80 Re-Cert. Date Due 27 JUNE 2006

Master of Vessel 1. ROGER GALTORSLEVE Tonnage Lic. 100 Type Coast

2. PATRICK DeVault Tonnage Lic. 100 Type Coast

(For additional Masters, full or part-time, use back of sheet)

4. This Vessel 1. Has a berth, No. \_\_\_\_\_ At \_\_\_\_\_ Harbor

2. Is moored/Anchored On MAVI At MAKENA  
Island Location

3. Is kept on a trailer at \_\_\_\_\_

5. I Purchased KAI KANANI II Leased \_\_\_\_\_ Other \_\_\_\_\_ the aforementioned

vessel on APRIL 6, 2007 From GOLD COAST YACHTS

6. The vessel described on this application is free of all liens, mortgages or other encumbrances except as follows (person/institution holding security interests):

Name CIT FINANCIAL Address \_\_\_\_\_

SEP 24 2007

7. I understand that pursuant to the Small Boat Harbors Rules, I must inform the Harbor Agent within seven (7) days of any sale or lease of the vessel described in this application. I also understand that if I violate any of the provisions of the aforementioned rules, in addition to any fines or penalties a court of law may impose, my permit to operate a vessel commercially in \_\_\_\_\_ harbor may be revoked.

The information given by me, the applicant, is true, correct and completed to the best of my knowledge and belief.

For Use by DOBOR	
Number:	
Date Rec'd:	<u>9/20/07</u>
Rec'd By:	<u>Shanda</u>
Expiration Date:	<u>11/30/08</u>

Date 09-18-2007 [Signature]  
SIGNATURE OF APPLICANT  
Date 9-20-07 [Signature]  
HARBOR AGENT

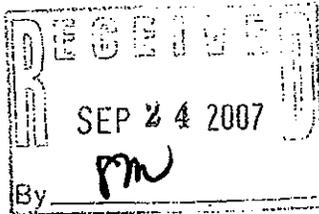
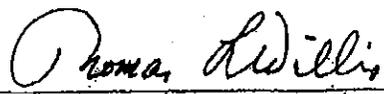


# UNITED STATES OF AMERICA

DEPARTMENT OF HOMELAND SECURITY  
UNITED STATES COAST GUARD

NATIONAL VESSEL DOCUMENTATION CENTER

## CERTIFICATE OF DOCUMENTATION

VESSEL NAME KAI KAHANI <i>IL</i>		OFFICIAL NUMBER 1194318	IMO OR OTHER NUMBER GCY64CDCA707	YEAR COMPLETED 2006
HAILING PORT MAUI, HI		HULL MATERIAL FRP (FIBERGLASS)		MECHANICAL PROPULSION YES
GROSS TONNAGE 36 GRT	NET TONNAGE 28 NRT	LENGTH 64.0	BREADTH 31.0	DEPTH 7.0
PLACE BUILT ST CROIX, VI				
OWNERS MAKENA BOAT PARTNERS, A GENERAL PARTNERSHIP COMPRISED OF TWO GENERAL PARTNERS		OPERATIONAL ENDORSEMENTS COASTWISE RECREATION		
				
MANAGING OWNER MAKENA BOAT PARTNERS 5400 MAKENA ALI NUI HIKEI, HI 96753				
RESTRICTIONS NONE				
ENTITLEMENTS NONE				
REMARKS NONE				
ISSUE DATE DECEMBER 21, 2006		 DIRECTOR, NATIONAL VESSEL DOCUMENTATION CENTER		
THIS CERTIFICATE EXPIRES DECEMBER 31, 2007				
				



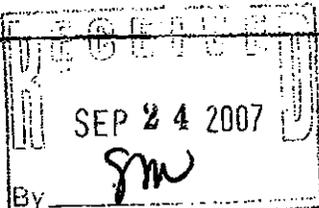
United States of America  
Department of Homeland Security  
United States Coast Guard

Certification Date: 27 Jun 2007  
Expiration Date: 27 Jun 2008  
IMO Number:

COMPLETED NEW  
TO ZONE INSPECTION  
ON 27 JUN 07.

# Temporary Certificate of Inspection *R.B. O'Leary*

This Temporary Certificate of Inspection is issued under the provision of Title 46 United States Code, Section 399, in lieu of the regular certificate of inspection, and shall be in force only until the receipt on board said vessel of the original certificate of inspection, this certificate in no case to be valid after one year from the date of inspection.

Vessel Name <b>ICAI KANANI</b>	Official Number <b>1194313</b>	Call Sign <b>WDD6048</b>	Service <b>Passenger (Inspected)</b>
Home Port <b>MAUI</b> <b>HI</b>	Hull Material <b>FRP (Fiberglass)</b>	Horsepower <b>370</b>	Propulsion <b>Sail</b>
Place Built <b>ST CROIX, VI</b> <b>UNITED STATES</b>	Delivery Date <b>30Mar2007</b>	Date Keel Laid <b>15Dec2006</b>	Gross Tonnage <b>R-35</b> Net Tonnage <b>R-28</b> DWT <b>L</b> Length <b>R-84</b> <b>L</b>
Owner	Operator		

This vessel must be manned with the following licensed and unlicensed personnel. Included in which there must be 0 certified lifeboatman, 0 certified tankerman, 0 HSC type rating, and 0 GMDSS Operators.

1 Master	0 Master & 1st Class pilot	0 Radio Officer(s)	0 Chief Engineer	0 QMED/Rating
0 Chief Mate	0 Mate & 1st Class Pilot	0 Able Seaman/ROANW	0 1st Asst. Engr/2nd Engr.	0 Officers
0 2nd Mate/OICNW	0 Lic. Mate/OICNW	0 Ordinary Seamen	0 2nd Asst. Engr/3rd Engr.	
0 3rd Mate/OICNW	0 1st Class Pilot	2 Deckhands	0 3rd Asst. Engr.	
			0 Lic. Engr.	

In addition, this vessel may carry 80 passengers, 5 other persons in crew, 0 persons in addition to crew, and no others. Total persons allowed: 80

Route Permitted and Conditions of Operation:  
**---Lakes, Bays, and Sounds plus Limited Coastwise---**

PACIFIC OCEAN, STATE OF HAWAII, HAWAIIAN ISLANDS, NOT MORE THAN 20 MILES FROM A HARBOR OF SAFE REFUGE.

IF THE VESSEL IS AWAY FROM THE DOCK OR PASSENGERS ARE ON BOARD OR HAVE ACCESS TO THE VESSEL FOR A PERIOD EXCEEDING 12 HOURS IN ANY 24 HOUR PERIOD, AN ALTERNATE MASTER AND CREW SHALL BE PROVIDED.

\*\*\*SEE NEXT PAGE FOR ADDITIONAL CERTIFICATE INFORMATION\*\*\*

With this Inspection for Certification having been completed at , the Officer in Charge, Marine Inspection, MSO SAN JUAN certified the vessel, in all respects, is in conformity with the applicable vessel inspection laws and the rules and regulations prescribed thereunder.

Annual/Periodic/Quarterly Reinspections				This certificate issued by:
Date	Zone	A/P/Q	Signature	
-	-	-	-	_____
-	-	-	-	_____
-	-	-	-	_____
-	-	-	-	_____



# Temporary Certificate of Inspection

Certification Date:  
27Jun2007

KAI KANANI

THE MASTER MUST REMAIN ON BOARD THE VESSEL AT ALL TIMES WHILE UNDERWAY OR AT ANCHOR WHEN CARRYING PASSENGERS FOR HIRE.

Significant Wave Height (ft)		Max Allowable Speed (Kn)	
0-5	20	5-6	19
6-7	13	8-9	10
10-11	6	11-12	7

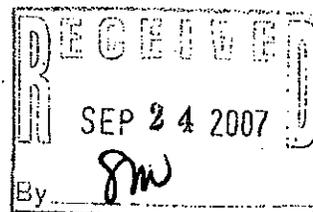
Overnight accommodations for 0 passengers.

### ---Hull Exams---

Exam Type	Next Exam	Last Exam	Prior Exam
Drydock	08Mar2009	08Mar2007	-
Internal structure	08Mar2009	08Mar2007	-

### ---Stability---

Letter Approval Date / 18May2007 Office/ CG MSC



### ---Inspection Status---

#### \*Fuel Tanks\*

Tank ID	Internal Examinations		Next
	Previous	Last	
FWD PORT	-	27Mar2007	-
FWD STBD	-	27Mar2007	-
E/R PORT	-	27Mar2007	-
E/R STBD	-	27Mar2007	-

### ---Lifesaving Equipment---

	Number	Persons	Required
Total Equipment for		88	88
Lifeboats (Total)	0	0	9
Lifeboats (Port)*	0	0	1
Lifeboats (Starbd)*	0	0	1
Motor Lifeboats*	0	0	1
Lifeboats w/Radio*	0	0	0
Rescue Boats/Platforms	0	0	0
Inflatable Rafts	0	0	0
Life Floats/Buoyant App	2	22	Yes
			(* included in totals)

### ---Fire Fighting Equipment---

Number of Fireman Outfits/ 0

Number of Fire Pumps/ 1

\*Fixed Extinguishing Systems\*  
Agent

Capacity  
500

Halocarbon (Formerly: FM 200, FE241) Space Protected  
Port Engine Room



# BUILDERS CERTIFICATE

VESSEL NAME                      HULL NUMBER      OFFICIAL NUMBER              HOMEPORT  
NAI KANANI II                      GCY64CDCA707              1194318                      St. Croix, USVI

GROSS NET   LENGTH   BREADTH   DEPTH      HULLMATERIAL              SELF PROPELLED  
36T   28T   64'   31'   7'      Composite/fiberglass              YES

ENGINE SERIAL NUMBERS: s/n 67271 and s/n 67275

BUILDER    PLACE BUILT  
Gold Coast Yachts, Inc.    St., Croix U.S.V.I

OWNER    MANAGING OWNER  
MAKENA BOAT PARTNERS    Same

RESTRICTIONS

NONE

ENTITLEMENTS

NONE

REMARKS

NONE

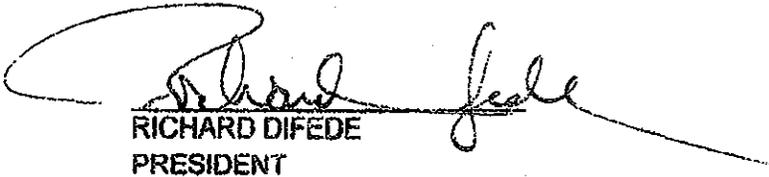
ISSUED AT

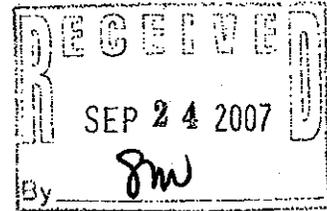
ST. CROIX USVI

ISSUE DATE

April 6, 2007

SIGNATURE AND SEAL

  
RICHARD DIFEDE  
PRESIDENT



**CERTIFICATE OF OWNERSHIP**

KNOW ALL MEN BY THESE PRESENTS THAT GOLD COAST YACHTS, INC., of St. Croix, U.S.V.I., hereinafter referred to as BUILDER, for and in consideration of the sum of ONE MILLION TWO HUNDRED AND EIGHTY-NINE THOUSAND NINE HUNDRED AND TEN DOLLARS (\$1,289,910.00) which has been paid by MAKENA BOAT PARTNERS hereby grants, sells, conveys, transfers and delivers title of the vessel known as "KAI KANANI", a 64' - foot auxiliary sailing passenger catamaran, Official Number 1194318, unto MAKENA BOAT PARTNERS together with all gear and tackle belonging thereto, all "as is and where is".

TO HAVE AND TO HOLD the same unto MAKENA BOAT PARTNERS its executors, administrators and assigns forever.

GOLD COAST YACHTS, INC., together with MAKENA BOAT PARTNERS warrant and defend title to the vessel hereby transferred unto MAKENA BOAT PARTNERS its executors, administrators and assigns against all and every person whomsoever.

IN WITNESS WHEREOF, the BUILDER has set its hand and seal on this 6th day of April 2007.

IN WITNESS:

Swoan Krzenski

BUILDER:

Richard A. Difede

Richard A. Difede  
President  
Gold Coast Yachts, Inc.

**ACKNOWLEDGMENT**

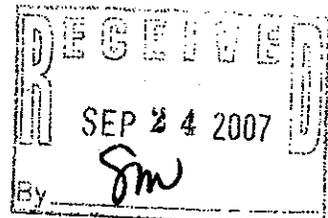
TERRITORY OF THE VIRGIN ISLANDS )  
DIVISION OF ST. CROIX ) SS:

ON THIS 6th day of April, 2007 before me, the undersigned officer, personally appeared RICHARD A. DIFEDE, known to me to be the individual described as the BUILDER in the foregoing CERTIFICATE OF OWNERSHIP, and he acknowledged to me that he executed the same freely and voluntarily for the uses and purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

W. J. Hatfield  
Notary Public

NP-012-05



# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
07/16/2007

PRODUCER (808) 540-3333 FAX (808) 540-3334  
 Servco Insurance Services  
 900 Fort Street Ma11  
 Suite 800  
 Honolulu, HI 96813-3706

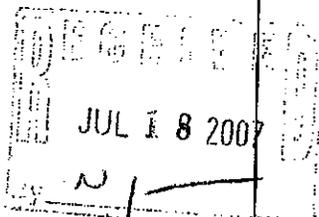
THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

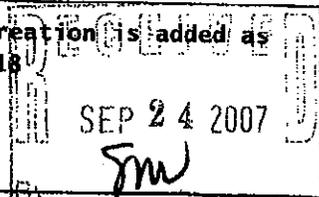
INSURED Kai Kanani, Inc.  
 Makena Boat Partners  
 5400 Makena a la Nui  
 Kihei, HI 96753

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Indemnity Ins Co of North Amer	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	

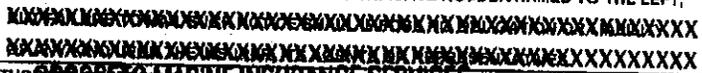
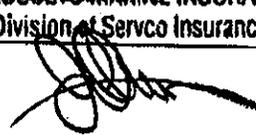
## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

NSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
	<b>EXCESS/UMBRELLA LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  <input type="checkbox"/> DEDUCTIBLE RETENTION \$				WC STATU-TORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	<b>OTHER Protection &amp; Indemnity</b>	N00900084	03/01/2007	03/01/2008	\$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS  
 State of Hawaii, Dept. of Land & Natural Resources, Div. of Boating & Ocean Recreation is added as  
 additional insured with respect to the vessel: Kai Kanani II; Official #1194318  


**CERTIFICATE HOLDER**  
 State of Hawaii - DLNR  
 Division of Boating & Ocean Recreation  
 101 Maalaea Boat Harbor Road  
 Wailuku, HI 96793

**CANCELLATION**  
 SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ~~NOTICE~~ MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT,  
  
 AUTHORIZED BY:   
 A Division of Servco Insurance Services

CORD 25 (2001/08) FAX: (808) 243-5820

©ACORD CORPORATION 1988

STATE OF HAWAII — DEPARTMENT OF TAXATION  
**TAX CLEARANCE APPLICATION**  
PLEASE TYPE OR PRINT CLEARLY

1. APPLICANT INFORMATION: (PLEASE PRINT CLEARLY)

Applicant's Name MAKENA BOAT PARTNERS  
Address 5400 MAKENA ALANUI  
City/State/Zip Code KIHEI HI. 96753  
DBA/Trade Name \_\_\_\_\_

2. TAX IDENTIFICATION NUMBER(S): (Complete applicable ID numbers)

HAWAII TAX ID # W [REDACTED]  
FEDERAL EMPLOYER ID # (FEIN) [REDACTED]  
SOCIAL SECURITY #(SSN) \_\_\_\_\_

3. APPLICANT IS A/AN: (CHECK ONLY ONE BOX)

- CORPORATION
- INDIVIDUAL
- LIMITED LIABILITY COMPANY
- Single Member LLC disregarded as separate from owner; enter owner's FEIN/SSN \_\_\_\_\_
- Subsidiary Corporation; enter parent corporation's name and FEIN \_\_\_\_\_
- S CORPORATION
- PARTNERSHIP
- LIMITED LIABILITY PARTNERSHIP
- TAX EXEMPT ORGANIZATION
- ESTATE
- TRUST

4. THE TAX CLEARANCE IS REQUIRED FOR:

- CITY, COUNTY, OR STATE GOVERNMENT CONTRACT IN HAWAII \*
- REAL ESTATE LICENSE
- FINANCIAL CLOSING
- HAWAII STATE RESIDENCY
- SUBCONTRACT
- CONTRACTOR LICENSE
- PROGRESS PAYMENT
- FEDERAL CONTRACT
- OTHER COMMERCIAL PERMIT RENEWAL
- LIQUOR LICENSE \*
- BULK SALES\*\*
- PERSONAL
- LOAN

\* IRS APPROVAL STAMP IS ONLY REQUIRED FOR PURPOSES INDICATED BY AN ASTERISK.

\*\* ATTACH FORM G-8A, REPORT OF BULK SALE OR TRANSFER

5. NO. OF CERTIFIED COPIES REQUESTED:

**3**

6. SIGNATURE:

SIDNEY J. AKROVA  
PRINT NAME

GENERAL PARTNER  
PRINT TITLE: Corporate Officer, General Partner or Member, Individual (Sole Proprietor), Trustee, Executor

[Signature]  
SIGNATURE

09-06-07 808 879-7218  
DATE TELEPHONE

(808) 579-1850  
FAX

FOR OFFICE USE ONLY

BUSINESS START DATE IN HAWAII  
IF APPLICABLE  
08/01/1986

HAWAII RETURNS FILED  
IF APPLICABLE  
20\_\_\_\_ 20\_\_\_\_ 20\_\_\_\_

STATE APPROVAL STAMP

State of Hawaii  
**APPROVED**  
[Signature]  
SEP 07 2007  
per \_\_\_\_\_  
Department of Taxation

\*IRS APPROVAL STAMP

REGULATED  
SEP 24 2007  
By SM

CERTIFIED COPY STAMP

POWER OF ATTORNEY. If submitted by someone other than a Corporate Officer, General Partner or Member, individual (Sole Proprietor), Trustee, or Executor, a power of attorney (State of Hawaii, Department of Taxation, Form N-848) must be submitted with this application. If a Tax Clearance is required from the Internal Revenue Service, IRS Form 8821, or IRS Form 2848 is also required. Applications submitted without proper authorization will be sent to the address of record with the taxing authority. UNSIGNED APPLICATIONS WILL NOT BE PROCESSED.  
PLEASE TYPE OR PRINT CLEARLY — THE FRONT PAGE OF THIS APPLICATION BECOMES THE CERTIFICATE UPON APPROVAL.  
SEE PAGE 2 ON REVERSE & SEPARATE INSTRUCTIONS. Failure to provide required information on page 2 of this application or as required in the separate instructions to this application will result in a denial of the Tax Clearance request.

The following represents the rationale for the use of a “coral colony” as the definition of a “specimen” relative to damage and injury events, pursuant to HRS § 187A-12.5.

It should be noted that for many of the coral scientific collecting or special activity permits that I have written for DAR, I have used a “nubbin” (or branch tip) – a small piece of broken live coral usually less than 3cm x 3cm x 3cm – as the representative of a coral specimen for permitting reasons.

Individual coral animals are called polyps; there can be hundreds to thousands of individual polyps living, and attached, together to form a coral colony. Most reef biologists consider a coral colony to be the independent unit for clonal species such as hermatypic (i.e. reef-building) corals. Often when someone uses the term “coral,” he or she is referring to a coral colony. An independent colony would be made-up of genetically-identical coral polyps attached together by a thin, interconnective layer of tissue and living within a communal skeletal matrix that in most cases is attached to the substrate. From an ecological point of view, the coral colony (not the polyp) functions as the smallest independent unit that provides shelter and other ecosystem services to a wide array of reef fish and invertebrates. From a temporal point of view, it is the coral colony that can live to be tens to hundreds of years old. In many ways the coral colony is analogous to a tree and the polyps to the leaves of the tree; the most conservative estimate of damage to a tree is the tree itself, not the individual leaves or bark. Note that damage to the bark or leaves would be construed as damage to the tree, and in a similar vein, damage to the coral colony resulting in fragments, scrapes, breakage, or loss of polyps (including bleaching events) would similarly constitute damage to the coral colony. It is the coral colonies in assemblages over time that form coral reefs.

Numerous marine biology textbooks define the coral colony as the ecologically-functional units of a coral, often using the term colony to define functional states and impacts. Examples include Gulko, 1998; Klemm et al, 1995; Nybakken, 1993; Reseck, 1988; Barnes, 1987.

Submitted by Dave Gulko, DAR, October 24, 2008.

DLNR Fees & Costs Associated with Kai Kanani Investigation

Division	Summary of Costs	Amount
<b>DAR</b>	<b><i>Labor Expenses*</i></b>	
	1 staff – 37 hours @ \$34.69/hr (RS)	\$1283.53
	1 staff – 16 hours @ \$40.59/hr (SH)	\$649.44
	1 staff – 8 hours @ 27.47/hr (JM)	\$219.76
	1 staff – 8 hours @ \$18.47/hr (KW)	\$147.76
	<b><i>Vessel Expenses</i></b>	
2 days @ \$500/day (Whaler)	\$1000.00	
1 day @ \$500/day (Seacat)	\$500.00	
	<b><i>Travel Expenses</i></b>	N/A
	<b><i>Misc. Expenses</i></b>	
	Expendable data collection supplies	\$150.00
<b>TOTAL</b>		<b>\$3950.49</b>

\*Labor costs include salary plus fringe benefits (40.66%)