

**MINUTES
TEMPORARY HAWAII INTER-ISLAND
FERRY OVERSIGHT TASK FORCE MEETING
HONOLULU INTERNATIONAL AIRPORT, INTER-ISLAND TERMINAL
7TH FLOOR, CONFERENCE CENTER, ROOM 4**

October 9, 2008

Members Present

Michael D. Formby (DOT designee)
Laura Thielen, (DLNR Chair)
Domingo Cravalho (DOA designee)
Michael Lau (AG designee)
Richard Houck (Large capacity ferry vessel company designee)
Randy Awo (Maui county)
Michael Matsukawa (Hawaii county)
Dennis Chun (Kauai county)
Lynn McCrory (Kauai county)

Excused

William Aila, Jr. (Oahu county)
Kauila Clark (Oahu county)
Sara Peck (Hawaii county)
Colette Machado (Maui county)

Other Attendees

K. Napua Brown, Executive Assistant, Mayor Kim
Margaret Ahn (AG's office)

Call to Order

Member Formby, as Oversight Task Force (OTF) facilitator, called the meeting to order at 9:06 a.m. Seven members were present representing a quorum.

Adoption of Minutes for September 19, 2008 OTF Meeting

Member McCrory moved that the minutes of September 19, 2008 be adopted. Member Cravalho seconded the motion which passed unanimously.

**DEPARTMENT OF AGRICULTURE (DOA) UPDATE ON HSF
INSPECTIONS/FINDINGS BY DOMINGO CRAVALHO (POWERPOINT AND
EXCEL HANDOUT ATTACHED HERETO)**

Member Cravalho distributed DOA's Hawaii Superferry Operations September 2008 Update. There was a total of 39 roundtrips between Oahu and Maui in September 2008, with DOA monitoring 37 roundtrips for both vehicle and passenger departures. See DOA powerpoint for specific monitoring results.

DOA also provided excel spreadsheets with data collected in September 2008 from Honolulu and Kahului harbors. The DOA data collection excel spreadsheets are attached hereto and contain specific records of data gathering by harbor and date.

According to Member Cravalho, DOA is carefully monitoring coqui frogs, dead bees (for the presence of varroa mites), fire ants and miconia, a noxious weed.

Member Formby inquired as to whom is actually conducting the screenings/inspections that results in the data compiled by DOA. Member Cravalho said that HSF screeners are actually conducting the screenings and DOA inspectors are essentially seeing a "snapshot" of the screening results. One inspector is assigned at the port and is trying to gather statistics from multiple screening lines.

Member Matsukawa inquired if DOA could measure whether the public informational efforts were effective in reducing the number of violations. Member Cravalho indicated it was hard to tell, but he believes it is helping. Member Cravalho noted that he shares DOA's information (Kahului and Honolulu Harbor monitoring data) with HSF and HSF's operation manager is looking at implementing a standardized data collection format. If both HSF and DOA use the same form, it will be easier to review and compare information. Member Houck stated that HSF will be using the same DOA form beginning October 2008. Member McCrory requested the task force discuss collection of data.

State budget concerns mean DOA's programs may be reduced as much as 20 percent. DOA will look at whether they can continue to staff at the ports. DOA focus will definitely be on cargo in-bound to Hawaii. A bill to fund the inspection operation through the user fees was vetoed by the Governor but overridden by the legislature.

Member Formby inquired when DOA could start collecting fees. Member Cravalho responded August 1, 2008 and they have been collecting fees from the transportation carriers. Harbor transportation carriers have been the most supportive. They collect their fees and deposit it with DOA. Air carriers have not deposited anything with DOA. There is a difference of opinion as to whether the Act is self executing or whether DOA has to promulgate rules to implement. Although the Act was ruled self-executing, DOA may have to work on rules nonetheless to clarify the process.

Member Formby inquired if DOA could use the revenue from the fees to staff inspectors at HSF since the Act covered “imported” cargo and not inter-island cargo. Member Cravalho stated his understanding that the revenue could be used for any and all quarantine and eradication efforts.

**HSF UPDATE ON OPERATIONS BY RICHARD HOUCK, HSF DESIGNEE
(HSF POWERPOINT ATTACHED HERETO)**

HSF’s update included HSF screening results between April and mid-September 2008.

According to HSF’s report, the reported incidents/findings are fairly consistent based on load levels. Screening results suggest successful intervention, with no apparent malicious intent to violate the law or illegal trafficking by passengers. HSF also noted that many of the items reported by HSF/DOA/DOCARE are not prohibited by the Executive Order (EO) or law, but they are reported nonetheless. Other reported items are prohibited by the EO but not illegal. HSF believes its continued screening is effective as a protective measure for Hawaii’s cultural resources.

HSF’s report also included Alakai Voyage Statistics (passengers and vehicle counts by month), The Maui News letter to the editor entitled “Superferry inspectors take their jobs seriously” by Corrine Dutro-Ponce, Information on HSF’s posted website of banned items from the vessel (for passenger review prior to boarding the vessel) and the RRA Action Task List with status comments by HSF. All HSF handouts are attached hereto.

Member Formby provided OTF members with copies of the Honolulu Advertiser editorial dated September 24, 2008 entitled, “Superferry, state share duty to protect resources,” a copy of which is attached hereto.

**DLNR-DOCARE UPDATE ON INSPECTIONS/FINDINGS BY MEMBER
RANDY AWO, (POWERPOINT ATTACHED HERETO)**

The DLNR-DOCARE update includes HSF Inspections between September 13, 2008 and October 4, 2008. DOCARE was present for 25 departures from Kahului to Oahu, with a total of 1789 vehicles inspected.

Member Formby inquired regarding the news report of additional rocks being shipped from Maui to Oahu. Member Awo clarified that the shipment of rocks was via Young Brothers (YB), not HSF. YB notified DOCARE and reported 16-5 pound buckets of ili ili stones, which were held for DOCARE to pick up. DOCARE located the individuals attempting to transport the rocks.

**FURTHER DISCUSSION RE: DLNR/DOCARE MANNING IN SUPPORT OF
LARGE CAPACITY FERRY VESSEL OPERATIONS BY LAURA THIELEN**

The topic of DLNR/DOCARE manning at the ports, discussed previously at the August OTF meeting, was re-discussed. Member Thielen said that DLNR is committed to

continued monitoring through December 2008 at current manning levels. DLNR will switch over to random monitoring beginning January 2009. Member Thielen noted that it is important for DOCARE officers to be out in the field observing people as they come in from fishing and utilizing Hawaii's state-wide natural resources. Member Thielen believes it would not be a productive use of DOCARE assets to have a full-time DOCARE presence at the harbors while neglecting field operations elsewhere, including monitoring of fishing.

Member Thielen also noted that the economy has taken a downward turn with a corresponding negative impact on available state funds. DLNR is currently trying to figure out how to manage on less while still providing essential services. Given what they know from six months of HSF operations, DLNR-DOCARE previously looked at how HSF could improve and standardize their screening operation by so that the public would feel comfortable and have consistency throughout the ports. DLNR/DOCARE suggested standard operating protocol for HSF screeners. Many recommendations are the same as contained in the Rapid Risk Assessment. DLNR/DOCARE also made additional recommendations which included dealing with irate passengers, including having a manager on site and moving the difficult passengers to a "penalty box" where the difficult situation could be difused. Member Thielen emphasized that DLNR/DOCARE is committed to continuing its work with HSF as they develop and refine their training materials.

Member Matsukawa asked if there was a way to deputize HSF's screeners so that they could have enforcement powers akin to DOCARE officers. Member Thielen noted that some things in the EO are prohibited while not illegal. HSF screeners already have the authority to turn people away, i.e., turning away dirty vehicles. Thus, it may not really be an issue of legal enforcement powers.

Member Chun inquired what hours the DOCARE officers are on duty at HSF. Member Awo stated that they are there for one and a half hours (per voyage). Member Thielen stated that on the outer islands, there are eight to ten officers on duty on any given day. DLNR-DOCARE needs to be able to deploy their resources in all areas. What she doesn't want is for people to have an expectation that DLNR-DOCARE will have a full time dedicated enforcement officer presence in one area (at the harbors), but they will commit to doing random checking at HSF.

Member Chun understands the economic situation but said that the comfort level on Maui is good with the current DOCARE presence. He noted that a Kauai resident reported there was a situation on Kauai in August in which an all-day event at the harbor with approximately 100 people attending the event had a DOCARE officer present on-duty from morning to 5:00 p.m. Given that allocation of resources, he questioned why DOCARE can not fund officers at HSF. Member Thielen noted that while DLNR can afford one person at one spot on one day (for a one-time event), DLNR cannot afford one person in one spot seven days a week (which is the current HSF allocation).

Discussion continued on OTF's role. Member Awo recommended we set aside time to create the right model for Superferry. He also noted that many people are not so much anti-Superferry as they are pro kuleana. Discussion followed on preparing the final report to the legislature.

Concerns were expressed about the threat from coqui frogs and varroa mites between the islands. Member Cravalho said that DOA has furthered their outreach and awareness to other carriers, including Young Brothers. DOA participated in training sessions with YB and created a DVD for them to use at each of the ports, pointing out pests of concern. Member Thielen said a lot of credit should be given to DOA for the work they did with HSF early on.

Member Thielen recommended looking at the standard operating procedure recommendations DLNR made for HSF screening and she requested feedback from the OTF.

PLANS FOR KAWAIHAE BY MICHAEL D. FORMBY, DOT HARBORS

DOT continues to meet with HSF, Young Brothers and other Kawaihae stakeholders on a bi-monthly basis for HSF's operational plans at Kawaihae when HSF begins service in May 2009. The October 2006 earthquake significantly complicated the ability to lay out operational plans. Plans are for HSF to go back to Pier 1 following earthquake repairs and release of the pier by the Coast Guard, but depending on the weather, HSF might have to move operations from Pier 1 to Pier 2A on an as-needed basis (primarily during the winter season). Member Formby met with Capt. Compagnoni of the Coast Guard and briefed him on DOT's plans to finalize earthquake repairs at Pier 1. When further information becomes available, Mike will report to the OTF.

Hull 616 (second vessel) came out of the Austal shipyard and is in the testing phase and will be in Hawaii as early as February or March 2009. It will substitute for the Alakai while the Alakai is in drydock, after which it will head over to the Big Island.

COMMUNITY INPUT

Community input from Pacific Whale Foundation (PWF) by Greg Kaufman was read by Irene Bowie of Maui Tomorrow. (PWF letter with maps attached hereto.)

PWF proposes a new "Proposed Route" which would:

- a. Avoid the whale dense area of Penguin Bank;
- b. Reduce transit time in Hawaiian Island Humpback Whale National Marine Sanctuary; and
- c. Minimize the amount of time HSF spends in waters 100 fathoms or less.

Irene Bowie offered additional comments, including comparison of the OTF to "lipstick on a pig."

**DISCUSSION OF ISSUES FROM SUPERFERRY INSPECTIONS –
SUMMARIZED BY OTF MEMBER LYNN MCCRORY (HANDOUT
ATTACHED HERETO)**

OTF members discussed issues summarized by Member McCrory, including data compiled from six months of reports given by HSF, DOA and DLNR-DOCARE. Topics of discussion included data compilation (permitted or rejected), bees, muddy vehicles, need for car washes, focus on natural resources that matter, camping permits and whales.

Member McCrory volunteered to donate a scale to Maui for weighing of confiscated items.

Member Formby noted that we should not focus on things which are beyond our control (i.e. items which can be taken on the airlines or shipped inter-island through the harbors). Instead, should address the major issues which are HSF specific.

Member McCrory read from: *Act 2, page 17: “The Governor shall also review and determine the efficacy and appropriateness of all conditions or protocols established pursuant to this section and report to the legislature at the end of each fiscal quarter of the State on the efficacy and appropriateness of all conditions or protocols established pursuant to this section and the costs incurred by the State in establishing and maintaining the enforcement activities required under this section.*

Member McCrory asked if the Governor prepares a quarterly report on the efficacy and appropriateness of the conditions and protocols, as well as costs incurred. Member Formby said he would check but he believed the RRA and legislative reports meet that specific requirement. Member Formby also noted that DOT compiled financial data which was provided to the auditor and DOT continues to compile additional cost data. As of October 1, 2008, costs of tug assist was transferred from the State to HSF. DOT is working on a permanent solution which will mean that the tug assist will not be necessary in the long term.

Member McCrory inquired about DOA and DLNR-DOCARE costs. Member Formby stated that DOA and DLNR-DOCARE bill DOT and DOT reimburses accordingly.

Member McCrory read from: *Act 2, page 25, section E. In the preparation of a draft statement, the department shall consult all appropriate agencies and other citizen groups, and concerned individuals.*

Member McCrory wanted Belt Collins Hawaii to be aware of this section.

Member McCrory read from: *Executive Order, page 2, A.1. The large capacity ferry vessel company (“company”) shall agree to request that National Marine Fisheries Service (NMFS) certified fisheries observers, currently residing in Hawaii, such as graduates and members of Alu Like’s Marine Stewardship Program...*

Member McCrory questioned whether anything was done. Member Houck stated that the HSF asked, as required by the EO, and that none were available. Member Formby noted that the requirement was only for HSF to request observers and if none are available, the condition was fulfilled.

Member McCrory read from: *Executive Order, page 4, number 7. The company shall agree that it shall designate a crew member or crew members to be trained by the Department of Land and Natural Resources to monitor its vessel for downed seabirds. Between September 15 and December 15 of each calendar year, prior to evening departures from the ports of Nawiliwili, Kahului and Honolulu and prior to morning departures from any harbor after being docked overnight, the company shall agree to retrieve and care for any and all downed seabirds on a vessel in accordance with DLNR policies and procedures, if any.*

Member McCrory asked if this was a Kauai issue. Member Awo said this might also be a Maui issue. Member Awo will follow up. Member Houck stated that they report downed seabirds between September 15 and December 15. Member Formby noted that the issue primarily concerns shearwaters and when the harbor lights are bright, the birds circle the lights until they fall on the vessel and if and when HSF finds downed birds on vessel, they are required to care for and report the birds to DLNR.

Member McCrory read from: *Executive Order, page 8, section F, no. 3. The company shall agree: (a) that live or dead fish or live coral, may only be transported with a valid commercial marine license issued by DLNR except that recreational fishers may transport fish subject to any limitations established by DLNR and, (b) to notify passengers that marine life, including live or dead fish or live coral, may only be transported with a valid commercial marine license issued by DLNR except that recreational fishers may transport fish subject to any limitations established by DLNR.*

Member McCrory stated that this is the section that DLNR can recommend substantive changes.

Member McCrory asked when the Draft EIS will be coming out. Member Formby stated that it may be out by the end of October but there are more issues that need to be resolved.

Regarding the RRA, Member McCrory questioned vigilance and whether there should be a third-party observation team to oversee HSF. Suggestion at the last meeting was that HSF would provide the necessary funding for the third-party observers.

Member McCrory inquired about the night vision equipment that was recently purchased by HSF. Questions were asked about when the new equipment will be installed, how it will operate and if there is anyone who has this system in place. Member Houck advised that the equipment will be in at the end of the month. It is a two camera system mounted on the bridge on the vessel. Each camera system has high resolution for daytime

operations and a high resolution night vision system with a thermal imaging system. Inside the bridge, there will be 3 or 4 monitors. Each lookout on either side of the bridge will have a monitor and controls for their particular system. Member McCrory asked if another ship is currently using this product. Member Houck said that there are similar systems used by Korean Coast Guard ships, Navy Seals teams, etc. using it for night vision. Member McCrory requested that Member Houck speak to the company to provide information on another company that has used the night vision equipment for whale detection and inquire if they have had any problems with the equipment. Member Houck agreed and will provide information.

Member McCrory asked if the traffic signage on Nimitz Highway has been installed. Member Houck stated that they have met with DOT-Highways and noted that they have received approval for temporary signs which have been put up at various locations. Member Houck agreed to confirm.

Member McCrory asked for an explanation of the electronic unit operated by HSF screeners: what are they doing? Member Houck explained that it is a hand-held device that can scan VIN numbers to confirm owners of vehicles and it is used as a checklist. The unit is also used as a data collection system. HSF is continually upgrading the system. All screeners have the electronic unit.

Member McCrory asked what is considered to be a random inspection (i.e. every other car). Member Houck stated that he did not think random meant every other car, but it might be 5% random check across all inspections.

Member McCrory asked if the boot scrubber signage is in place. Member Houck answered that the boot scrubber exist, but the signage is not yet in place.

Member McCrory asked if the query of passengers for banned items with handheld electronic devices and modifications to mirrors were completed. Member Houck answered in the affirmative.

Member McCrory asked how the hidden camera monitoring is done, when is it done and what happens when something is spotted? Member Houck stated that they have cameras for security and safety issues at the passenger terminal. Member Houck also stated that they have internal audit controls. Member McCrory requested a copy of the summary of HSF's internal audit.

Member McCrory asked if HSF has more volume in passengers, do they assign more supervisors to the area? Member Houck stated that with bigger loads, they have more staff.

Member McCrory asked if the written protocols on illegal contraband were completed and how many internal random audits have occurred since September 18, 2008. Member Houck will check.

Member McCrory asked Member Awo if DOCARE needs more information from HSF. Member Awo responded that DLNR came up with a centralized reporting system that works between HSF and DLNR. Member McCrory requested that if DOCARE has any recommendations for inspection reporting systems, to please provide it at the next meeting.

Discussion regarding the number and location of meetings in November/December 2008 was had and will be further discussed at the November 2008 meeting.

NEXT MEETING/LOCATION/DATE/TIME

The next meeting will be on November 6, 2008, 9:00 a.m.-3:00 p.m. Honolulu International Airport, Inter-Island Terminal, 7th Floor, Conference Center, Room No. 4.

ADJOURNMENT

Member Houck made a motion to adjourn the meeting. Member Chun seconded the motion and it passed unanimously. Meeting adjourned at 12:20 p.m.