

EXHIBITS TO OPINION  
DATED OCTOBER 16, 2007

EXHIBIT NUMBER	CONTENTS
1	The Garden Island – Article re: arrests and official violence
2	The Garden Island – Article re: arrests, and official threats and violence
3	Declaration of Fabienne Christe re: witness to official violence
4	Declaration of Ka’iulani Edens re: witness to official violence
5	Honolulu Advertiser – Article re: Governor announcing Unified Command with Coast Guard security zone and return to Kaua’i
6	Government publications re: consequences of entering security zone without permission
7	Honolulu Advertiser re: people’s response to Governor’s trip to Kaua’i



Posted: Tuesday, Aug 28, 2007 - 10:33:39 pm HST

## Action unites many

by Nathan Eagle - THE GARDEN ISLAND

When outrigger canoe club paddler Leigh Drachman entered the water Monday, she never expected an evening practice would turn into a “wonderful opportunity” to join hundreds of Kaua‘i residents protesting the Hawaii Superferry at Nawiliwili Harbor.

The 34-year-old Kapa‘a local joined a diverse group united under a common cause — preventing the new inter-island “Alakai” from operating until the state conducts an environmental assessment.

But not all Kaua‘i residents there supported the protests Sunday and Monday evenings. Some were simply curious bystanders and others were there to greet family members arriving from O‘ahu.

As Kapa‘a resident Sharon Verity waited in a line of cars stuck on the narrow jetty road Sunday, she said some of the protesters treated her and her family rudely and hopes for more respectful demonstrations in the future.

Jimmy Trujillo, the spokesman for Hui-R, a coalition of community members united against the Alakai, said he hopes to work with Superferry officials to devise a plan to return to Kaua‘i to pick up stranded O‘ahu residents.

“We’re all living on this island together and we know there’s people on that boat that have friends and relatives here,” he said. “We don’t want to make enemies, we just want to make it right. I would be a fan of the ferry if I knew it was safe, affordable, efficient and if we all had a say. People do want an alternative to air flights for inter-

island travel.”

Fourteen women and a coach in three canoes paddled out in unison with a men’s team to reinforce more than 40 surfers, swimmers and boogie boarders who had formed a human blockade to stave off the 350-foot catamaran.

“It was so wonderful when we saw the canoes — so reassuring,” said 31-year-old Kaua’i surfer Mehana Vaughan. “To see them there in a traditional Hawaiian vessel, making turns in front of the ferry ... it was moving.”

“When we saw the people on canoes do what they do every afternoon, I was moved to tears,” Trujillo said. “It was a powerful statement ... growing the resistance using peaceful, non-violent tactics.”

Vaughan said she felt inspired to support the Superferry protesters after witnessing their efforts Sunday evening when the Alakai made its maiden voyage to Kaua’i.

“I’ve been sick about the Superferry all summer ... it just didn’t feel like Kaua’i had been listened to,” Vaughan said. “The culture of Kaua’i is you take care before taking. It’s about living within our limits as an island ... and taking care of our impacts.”

Backed by more than 400 sign-waving, drum-beating, chant-singing protesters on the jetty road, the flotilla in the water ranged from a 12-year-old student to a 55-year-old businessman and included organic farmers and fishermen.

“It was so exciting to see the spirit of Kaua’i,” surfer Andrea Noelani Brower said. “The experience of being in the water was very powerful with the moon rising and the canoes and the surfers and the protesters silhouetted against the background.”

The protesters were mixed ethnicities, political

backgrounds and economic levels, new residents and locals who have lived on Kaua‘i for generations, the 22-year-old lifelong Kaua‘i resident said.

“The community has been so lacking in our ability to communicate what we’re frustrated with. The Superferry may be the symbol of larger issues,” Brower said. “I really hope that Kaua‘i uses this energy to talk about what we want to see happen with affordable housing, development, too much tourism and other alternative visions.”

The surfers suffered thirst and hunger as they battled the cold after the sun set, but some residents swam out bottled water to help, Vaughan said.

“We were singing, laughing, looking out for one another and feeling supported by the island,” she said. “There was a growing camaraderie.”

This spirit developed as multiple local, state and federal law enforcement vessels tried to deter the protesters. The U.S. Coast Guard reportedly arrested some, but was ultimately unable to break up the group.

The Alakai abandoned its effort to dock after protesters stalled it for around three hours. The ferry was scheduled to arrive at 6 p.m. with passengers from O‘ahu, and then depart for Honolulu at 7 p.m.

“We knew the Superferry’s strategy was to wait us out,” Vaughan said. “We were determined to finish together and decided when it turned to leave to wait and watch it till the lights were gone ... then stay 10 minutes after and go in together.”

Many swimmers and surfers were greeted on shore by Kaua‘i Police Department officers and masked SWAT team members.

“I didn’t realize how scary that point was building to be,”

Vaughan said.

“The cops were lined up to arrest anyone that was wet,”  
Brower said.

KPD arrests 11

Kaua‘i Police Department Lt. Dan Miyamoto said police arrested seven adults and four juveniles on misdemeanor charges Monday evening during the second day of protests against the Hawaii Superferry at Nawiliwili Harbor.

The adults arrested were: Mathew Hamm, 25, obstructing and disorderly conduct; Gilbert Nieto, 49, obstructing and disorderly conduct; Alan Zebe, 36, obstructing and disorderly conduct; Kana Kirkpatrick, 22, obstructing, disorderly conduct and criminal trespass second degree; Shane Valiere, 21, obstructing, disorderly conduct and criminal trespass first degree; Steven Valiere, 55, obstructing; and Robert Pa, 46, disorderly conduct.

A local businessman, who spoke on condition of anonymity, said he suffered from a pepper spray attack Sunday evening by a Kaua‘i Police Department officer, but the department could not confirm the incident.

“It was excruciating pain and I couldn’t see for an hour — very scary,” he said.

Unconfirmed reports claim officers maced protestors attempting to deflate a tire on a vehicle and causing other damage.

These 11 arrests are in addition to three Kaua‘i residents who were arrested during the protest Sunday evening.

“These are not terrorists. These are our dads, brothers and sisters demonstrating their rights to free speech and to assemble,” Trujillo said. “This should not be impeded by corporate interests ... especially at the expense of public

safety and public interest.”

Several protesters wished to extend their aloha to the U.S. Coast Guard and Kaua‘i Police Department for doing their jobs well and keeping the demonstration as safe as possible.

“There were a lot of angry police officers making snide remarks and being tough with women, but also a lot of very respectful police officers who I don’t think wanted to be there,” Brower said.

Miyamoto said all have posted bail, but could not provide more specific details.

People for the Preservation of Kaua‘i spokesman Rich Hoepfner said he helped bail the protesters out until 2 a.m.

He added that the environmental group plans to dedicate its efforts now to legal action to stop the Superferry with a permanent injunction until the environmental review is completed.

Environmentalists are concerned the Alakai will endanger marine life, create traffic jams, spread invasive species and negatively impact the community.

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Posted: Tuesday, Aug 28, 2007 - 10:25:36 am HST

## **Superferry turned back - Protesters form floating human chain in harbor**

*by Nathan Eagle - THE GARDEN ISLAND*

The Hawaii Superferry found no port in a storm last night, turning back to O‘ahu about 9 p.m. after dozens clogged the entry to Nawiliwili Harbor while hundreds shouted from shore.

Sailing in the face of court orders, the Hawai‘i Superferry returned to Kaua‘i last night with another load of passengers and cars traveling from Honolulu to Nawiliwili Harbor on discounted \$5 fares.

“They wouldn’t offer \$5 fares if it were pono,” said protester Jeri DiPietro of Koloa.

Close to 1,000 Kaua‘i residents — waving “Bury the Ferry” signs and shouting “Go home” — lined the narrow jetty road that leads to the 350-foot “Alakai’s” designated boarding zone.

Despite an added local, state and federal law enforcement presence in and out of the water, more than 60 surfers, swimmers, kayakers and outrigger canoe paddlers again delayed the inter-island catamaran from docking by its 6 p.m. scheduled arrival time.

Backed by a few Kaua‘i Police Department boats, U.S. Coast Guard officers in multiple vessels — including an 85-foot cutter — threatened arrest through loud speakers as they tried to clear a path through the human wall.

It was unclear at press time how many protesters law enforcement officers took into custody.

Four KPD cruisers and officers controlled the intersection to the jetty road, preventing protesters from repeating Sunday's vehicle blockade that further stalled the unloading of Superferry passengers and cars arriving on the Alakai's first official service run here.

Kaua'i Police Department officers Sunday arrested three local residents on misdemeanor charges and the U.S. Coast Guard forcefully cleared at least 20 surfers and swimmers blocking the vessel from docking.

"They herded them like goats," said Koohan Paik of Kilauea.

KPD Capt. Scott Yagihara said police charged Justin Wood, 22, of Kapa'a, on suspicion of disorderly conduct; Bomun Bockchung, 28, Kilauea, on suspicion of harassment, disobedience to police officers and obstructing government operations; and Randy Wolfshagen, 49, Kekaha, on suspicion of obstructing government operations and criminal trespass in the second degree.

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### **Temporary restraining order granted**

Joseph Cardoza, Second Circuit Court judge for Maui, yesterday granted three environmental groups' request to stop the Superferry from using Maui's Kahului Harbor.

The judge issued a temporary restraining order hours after the Alakai successfully made its second daily run to Maui. The order, in effect until Sept. 6, does not apply to ports on O'ahu or Kaua'i.

But People for the Preservation of Kaua'i spokesman Rich Hoepfner said plans are underway to file for a similar injunction in Kaua'i court today.

"I'm so impressed with all the people that have turned



out,” he said, noting there has been coast-to-coast media coverage.

The Hawai‘i Supreme Court unanimously ruled Thursday that the state Department of Transportation erred in its decision to exempt the Superferry from an environmental review of \$40 million in state-funded harbor improvements.

Attorney Isaac Hall — representing Maui Tomorrow, the Kahului Harbor Coalition and the Sierra Club — is seeking a permanent injunction to ground the Alakai in Honolulu during the Department of Transportation’s environmental review.

The Superferry is violating state law by operating prior to an environmental assessment, Hall said.

“Everybody across the state sees that the law is clear,” he said.

“This review should have been done years ago,” Sierra Club’s Hawai‘i Chapter Director Jeff Mikulina said. “There’s a potential for serious environmental and community harm. ... You have to look before you leap.”

Paik said she filmed much of the protest Sunday, which started around 3 p.m. at Nawiliwili Park and ended sometime after 10 p.m. when the Alakai sailed back to O‘ahu.

There were 20 police cruisers, seven SWAT members and 1,000 protesters there then, she said.

Witnesses said they saw police use Mace on two residents Sunday.

The Kaua‘i Police Department at press time could not confirm or deny these incidents or others reported.

“I’m shocked that the owners of the Superferry decided

to ignore the Supreme Court's decision," Kaua'i County Councilwoman JoAnn Yukimura said.

When an entity like the Superferry is refusing to follow the law and law enforcement agencies like the U.S. Coast Guard are brought in to protect the Superferry, Yukimura said, "it distorts the framework of law and order in our community."

The councilwoman said she blames Superferry officials and the Department of Transportation for creating unsafe conditions by allowing the situation to happen and not following the law.

The Kaua'i County Council unanimously approved a resolution on Jan. 26, 2005, requesting an environmental impact statement be prepared prior to the Superferry starting service.

"If the Superferry had spent the last year and a half doing an EIS instead of pushing its way through, we all would be better off," Yukimura said.

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII**

MEGAN WONG, et al.,            )  
    Plaintiffs                    )  
    v.                                )  
GEORGE W. BUSH, et al.        )  
    Defendants                    )  
\_\_\_\_\_                          )

Civil No. CV07-00484

**DECLARATION OF FABIENNE CHRISTE**

I, Fabienne Christe, declare under penalty of perjury, that the following statements are true and correct:

1. I reside on the Island of Kaua'i, Islands of Hawai'i.
2. I participated in the non-violent, First Amendment protected protest against the ilegal entry of the superferry into Nawiliwili Harbor on August 26.
3. I am concerned about the impact of the ferry and its passengers on the water, on animal health and well being, and on island life and lifestyle, safety and security.
4. On August 26, I stood on the dock and at the gate and observed the Coast Guard was violent and very rough to the surfers.

*Exhibit 3*

5. The Coast Guard forcibly took several surfboards away.
6. The Coast Guard boat circled around the group of 12 surfers.
7. As the Superferry came in, the Coast guard quickly drove their boat up to one surfer and threatened him.
8. At the harbor gate, the police shot mace in the faces of two demonstrators.
9. An ambulance arrived and took care of the men.
10. What I observed overall was serious violent energy directed against peaceful protest.
11. The message seemed to be: "If you don't do what I want, I will bring in the military to protect this business."
12. I have observed, since the events of August 26, that the attitudes and actions of the Coast Guard have had a strong impact on the people.
13. The common view is that the Superferry and its supposed rights are protected, while the resident of Kaua'i and their rights, guests who use the harbor, and the natural environment and lifestyle for rest, health improvements, and recreation are not.
14. The animals who live in Hawai'i or visit out waters for part of the year are not protected from the Superferry's trip from Oahu to the Kaua'i harbor and back.

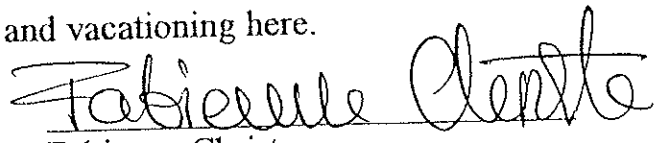
*Exhibit 3*

15. The animals must rely upon us to protect them because they have no voice.

16. We are not voting on this issue and therefore we residents and the animals and environment have no voice.

17. We should have the freedom to communicate our concerns and the needs of the island and not be bullied or railroaded into accepting something that has the potential of harming all of us.

18. Environmental impact studies should be conducted for the health and wellbeing of all the beings residing and vacationing here.

  
Fabienne Christie

Dated: Sept. 22, 2007

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII**

MEGAN WONG, et al.,            )  
    Plaintiffs                    )  
    v.                                )     Civil No. CV07-00484  
GEORGE W. BUSH, et al.        )  
    Defendants                    )  
\_\_\_\_\_ )

**DECLARATION OF KA'IULANI EDENS**

I, KA'IULANI EDENS, declare under penalty of perjury, that the following statements are true and correct:

1. I resides on the Island of Kaua'i, Island of Hawai'i.
2. I am an indigenous person from the Island of Kaua'i.
3. My family has been on Kaua'i for at least 10 generations.
4. I have the world's only all sovereignty music show at KKCR in Hanalei.
5. I have fought for Sovereignty and been involved in many protests.
6. I was on the sea wall on August 27th.
7. At about 1630, I picked up my Hawaiian Flag, and asked another person to walk in through the barricaded jetty road, also carrying a Hawaiian Flag.
8. As I approached the Gate there were 4 armed officers, all with their hands

*Exhibit 4*

on their gun straps, as if they were going to pull their weapons for any slight movement!

9. The officers were scary.

10. I took a deep breath, told the kid with me to be quiet and follow me, and approached the Police.

11. They were at the time herding Rich Hoepner and his wife out of the gate, threatening to arrest them.

12. As I approached with the flags, the officers said things like, "Come'on, Ka'iulani, you know we can't let you in."

13. I said loudly, "I am NOT under the Jurisdiction of the U.S. step aside!" and held my breath.

14. They stepped aside!!

15. We walked in.

16. At some point I turned around and saw a few hundred people had followed me in.

17. The cops were on their radios, asking "What should we do?"

18. As the protest went on I was on the wall; stayed in the same place most of the night.

19. The violence I witnessed has caused horrible Post Traumatic Stress Disorder.

20. I've had to double up on my meds under my doctor's orders, as well as take something to help me sleep.
21. I have nightmares about the kids I saw being run over in the water, about law enforcement hunting people in the ocean.
22. I was almost maced by an overzealous rookie when I objected to his handling of an arrestee.
23. This policeman slammed the guy against the wall as hard as he could, although the surfer WAS NOT RESISTING!
24. The violent images will never leave my memory.
25. I can only hope they fade over time, and with therapy.
26. As a human being my sense of well being, and freedom is gone.
27. I cannot trust Government nor law enforcement ever again.
28. As a Native Hawaiian, a Polynesian, I feel extremely violated as if I am being raped over and over (and I speak from actual experience).
29. My gathering rights ( PASH) are being stripped away by the same government who "gave" us those rights.
30. My stress is so bad I can barely leave my home.
31. I am extremely depressed about the desecration of our island.

*Ka'iulani Edens Huff* 10/2/07  
KA\_IULANI EDENS

*Exhibit 4*



Posted on: Thursday, September 13, 2007

## Ferry can resume Kauai route Sept. 26

By Derrick DePledge and JOAN CONROW  
Advertiser Staff Writers

Gov. Linda Lingle yesterday issued a firm warning to protesters on Kaua'i, saying they would be arrested and prosecuted if they break the law and disrupt the Hawaii Superferry during its expected return to Nawiliwili Harbor in two weeks.

Federal, state and local authorities have cleared the Superferry to resume service between O'ahu and Kaua'i starting Sept. 26. The Alakai will be temporarily restricted to operating during the day instead of the original evening arrival and departure schedule at Nawiliwili Harbor, until authorities decide it is safe.

The daytime restriction could pose conflicts for space with other harbor users, such as cruise ships, but is intended to better protect public safety if protesters again choose to go into the water and block the ferry.

Lingle, state Attorney General Mark Bennett and Coast Guard Rear Adm. Sally Brice-O'Hara cautioned protesters that the state and federal response would be much swifter and sweeping than when protesters first delayed and halted the ferry last month.

"It's not our desire or preference to arrest or prosecute people, but no one should mistake the restraint that was shown initially as a lack of resolve on our part to make certain that vessel is allowed to travel safely and that we protect public safety overall," the governor said at an afternoon news conference at the state Capitol.

### **DETECTING PROTESTERS**

The Coast Guard has used an emergency rule to create a federal security zone at the harbor to protect the Alakai, along with a designated protest area off Kalapaki Beach. The security zone is in effect for one hour prior to the ferry's arrival and 10 minutes after the ferry's departure. A separate federal security zone exists 100 yards around the ferry.

The state also will set up barricades and other crowd-control measures around the harbor to deter protesters, including closing off portions of a public-access road along the jetty.



Protesters greeted the Hawaii Superferry upon its approach Aug. 26 to Kaua'i's Nawiliwili Harbor. If protesters disrupt Superferry operations again — the Alakai is set to return to Kaua'i Sept. 26 — officials warn that the response will be much swifter and sweeping than last month.

DENNIS FUJIMOTO | The Garden Island

Brice-O'Hara said the Coast Guard was caught by surprise by the protests last month.

"None of us were prepared for that level of passion and determination to halt the Superferry's transit," she said. "Absolutely, that was not something that we were expecting and we were very measured in our response. These weren't terrorists, but quite honestly, the Coast Guard is used to reaching in the water and pulling the hand of someone who desperately wants to be rescued.

"Now we have people who want to make a statement."

Lingle said she plans to visit Kaua'i before Sept. 26 for public talks on the Superferry's return.

The Lingle administration believes the state Supreme Court's ruling requiring an environmental assessment for the Superferry only applies to Kahului Harbor on Maui and that the ferry has a legal right to go to Kaua'i.

A Maui court has issued a temporary restraining order against the Superferry for Kahului Harbor and is hearing arguments about whether it should be allowed to resume service to Maui while the state conducts the environmental assessment.

A Kaua'i court has denied a temporary restraining order for Nawiliwili Harbor and has scheduled a Monday hearing date on whether ferry service can proceed during the environmental review, which will involve all four harbors that the Superferry plans to serve.

Court rulings on Maui or Kaua'i over the next two weeks could influence the Sept. 26 target date for ferry service to Kaua'i.

### **'HEAR OUR VOICE'**

On Kaua'i yesterday afternoon, about 75 people gathered for a rally at the historic County Building, where the County Council was meeting, and later engaged the governor's liaison and Mayor Brian Baptiste.

Andrea Brower, who was born and raised on Kaua'i and who had joined protesters in the water to blockade the Alakai, said young people like her "don't feel represented by government. We will get in the water again. It's the young people, and we ask you to hear our voice."

Some on the County Council, which had passed a nonbinding resolution in January 2005 calling for an environmental review of the Superferry, said they were disappointed by Lingle's announcement. "I'm very disappointed about the decision because I don't think the courts have announced whether the Superferry is a legitimate operation or not," said Councilwoman JoAnn Yukimura.

Yukimura addressed the rally, saying: "I want to thank you all for your concern about the island. Kaua'i has always shown itself to be a separate kingdom. I want to ask you all to really take personal responsibility for your actions and to do things without violence and to do things with respect for everyone."

Councilman Tim Bynum said he had called on Superferry not to return to Kaua'i until the legal disputes are clarified.

"I'm disappointed the governor's statement focuses on the rights of the Superferry," he said, "but doesn't say anything about the outstanding legal action."

Bynum also urged the group "to be really cognizant of the image we portray and this time around, make sure the world sees us acting in a calm and dignified manner."

Baptiste, who had participated in Lingle's news conference by telephone, told the group that there are people from the business community and others on Kaua'i who support the Superferry. "Believe it or not, there are other people who want the Superferry," the mayor said.

#### **PUBLIC SAFETY 'NO. 1'**

Lingle described the collaboration between federal, state and local authorities on the Superferry as a "unified command." The Republican governor, who had campaigned on making the Islands more friendly to business, also made it clear that authorities, not the Superferry, set the date for a return to Kaua'i.

"The unified command made this decision, Superferry was informed of it (Tuesday)," Lingle said. "There was no option. We didn't ask them their opinion of it. I think it's fair to say they would prefer to go earlier. Every day they don't go it costs them money. But as I told you in the beginning, our No. 1 priority was public safety, and that was a date that we collectively felt comfortable with."

Superferry likely would be unable to offer service to both Maui and Kaua'i during daylight hours, so that restriction would have to be reviewed if the Maui court rules in Superferry's favor. Superferry also likely would have to evaluate its financial status if either court determines that ferry service should be halted during the environmental review.

"We're just monitoring what's happening on Kaua'i and Maui and will make a decision as we go along," said John Garibaldi, Superferry's chief executive officer.

Lingle said at her news conference that the Superferry may not survive in the Islands if it has to wait an estimated eight months for an environmental assessment — or longer if the findings are challenged — before operating again. The review could also lead the state to require a full environmental impact statement, which could take a few years.

"Superferry will be out of business by then," Lingle said. "I don't think there's anybody who doubts that. And I don't think a majority of people in the state want to see that happen."

Meanwhile, Bennett, the attorney general, said he has spoken with state Senate President Colleen Hanabusa, D-21st (Nanakuli, Makaha), about the possibility of a special session of the state Legislature on the Superferry.

Lawmakers could consider a bill allowing the ferry to resume service while the state does the environmental review, essentially bypassing the courts.

### **SPECIAL SESSION?**

Senate leaders have been discussing a special session privately, but mostly in the context of how they would respond if Lingle were to use her powers and call them back. State House and Senate leaders have so far not been inclined to come back for the Superferry on their own.

A special session to help the Superferry could be politically explosive. The House refused to hear a Senate bill last session that Neighbor Island senators believed would have allowed the Superferry to launch while an environmental review on harbors was being done. House leaders would have to explain why that option should be given now, especially after it was fought by both Superferry and the state during session.

Many environmentalists may also object since they had to turn to the courts after failing to get the Lingle administration and the Legislature to order an environmental review.

A special session for the Superferry also may be a precedent for other developers who want to avoid unfavorable court decisions. Lawmakers were criticized in 2006 for a bill that was seen as helping the developers of the Hokuli'a luxury home project on the Big Island, which had been halted in court by environmentalists. But Hokuli'a developers and environmentalists settled the lawsuit during session and the bill died.

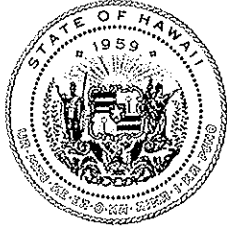
Some lawmakers believe the Legislature should help the Superferry after approving \$40 million in harbor improvements for the project.

"If the courts rule that they can't do it, then there should be a special session," said state Sen. Will Espero, D-20th ('Ewa Beach, Waipahu). "I support the Superferry."

*Advertiser staff writer Christie Wilson contributed to this report.*

*Reach Derrick DePledge at [ddepledge@honoluluadvertiser.com](mailto:ddepledge@honoluluadvertiser.com).*

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# SUMMARY OF STATE LAW CONSEQUENCES

**POSSIBLE CRIMINAL CHARGES:** Below is a non-exhaustive list of state criminal offenses that can be charged if committed at the Nawiliwili Harbor, along with the applicable penalties:

**Assault Against a Law Enforcement Officer:** Any person who intentionally, knowingly, or recklessly causes bodily injury to a law enforcement officer while the officer is engaged in the performance of official duties. Penalties start at a mandatory 30 days in jail and may go up to 5 years in prison and/or a fine of \$10,000, if a weapon was used.

**Assault:** Any person who intentionally, knowingly or recklessly causes bodily injury to another person. Penalties start at possible maximums of one year in jail and/or a fine of \$2,000 and may go up to 10 years in prison and/or a fine of \$25,000, depending on the severity of the injuries caused and whether a weapon was used.

**Obstructing Government Operations:** Any person who intentionally obstructs, impairs, or hinders the performance of a governmental function by using or threatening to use violence, force, or physical interference or obstacle. Penalties are up to one year in jail and/or \$2,000 in fines.

**Disorderly conduct:** Any person, with intent to cause physical inconvenience or alarm to a member of the public, engages in violent or tumultuous behavior, makes unreasonable noise, makes a gesture or utters abusive language so as to provoke a violent response, or creates a hazardous or physically offensive condition. Penalties range from up to a \$1,000 fine and may be up to 30 days in jail and/or a \$1,000 fine if the person persists in his conduct after a reasonable warning or the conduct is committed with an intent to cause substantial harm or serious inconvenience.

**Terroristic Threatening:** Any person who, with the intent to terrorize, threatens by word or conduct to cause bodily injury to another person, serious damage to the property of another, or to commit a felony. Penalties start at possible maximums of one year in jail and/or a fine of \$2,000 and may go up to a maximum of five years and/or a fine of \$10,000, depending on whether a weapon was used and whether a government employee was threatened.

**Trespass:** Any person who knowingly enters or remains unlawfully upon a premises. The penalty is up to a \$1,000 fine.

**Criminal Property Damage:** Any person who intentionally damages the property of another. Penalties range from up to 30 days and/or a fine of \$1,000, up to five years in prison and/or a fine of \$10,000, depending on the extent of the damage, along with restitution for the damages caused.

**Failure to disperse:** Failure on the part of six or more people, who are disorderly, to disperse after an order from a peace officer. The penalties are up to one year in jail and/or a fine of \$2,000.

**Harassment:** Any person, who with the intent to harass, annoy, or alarm another person, touches another person in an offensive manner, or insults, taunts or challenges another person in a manner likely to provoke an immediate violent response or would cause the other person to reasonably believe that bodily injury or damage to property may result. The penalties are up to 30 days in jail and/or a fine of \$1,000.

**Hindering Prosecution:** Any person who, with the intent to hinder the apprehension or prosecution of another, prevents or obstructs by means of force, deception, or intimidation, anyone from performing an act that might aid in the apprehension or prosecution of such person. The penalties are up to one year in jail and/or a fine of \$2,000.

**Endangering The Welfare of a Minor:** Any person who, being a parent, guardian, or other person whether or not charged with the care or custody of a minor, knowingly endangers the minor's physical or mental welfare by violating or interfering with any legal duty of care or protection owed such minor. The penalties are up to one year in jail and/or a fine of \$2,000.

**Obstructing:** Any person, who having no legal privilege to do so, knowingly or recklessly obstructs any highway or public passage, whether alone or with others. The penalty is a fine of up to \$1,000.

**Refusal to Provide Ingress or Egress:** Any person who is directed to move by a law enforcement officer so as to provide and maintain a free and unobstructed passageway for persons and vehicles going into or out of any public or private place, and refuses to move. The penalties may be up to six months in jail and/or a fine of \$200.

## POSSIBLE INVESTIGATION INTO THREATENED HARM TO A CHILD

If your conduct places a child into a dangerous situation, such as placing a child in a Coast Guard Security Zone or in the course of a vessel, the Department of Human Services could investigate you for such conduct, including pursuant to Hawaii Revised Statutes Chapter 587, the Child Protection Act.

Exhibit 6



## Summary of Consequences For Violation Of USCG Security Zone Nawiliwili Harbor in Kaua'i, Hawai'i


Violation of the Security Zone may result  
in any or all of the following **CONSEQUENCES**:

- **Federal Criminal Prosecution For (non-exhaustive list):**
  - *Failure to comply with orders related to the security zone:* Any person who knowingly fails to comply with any regulation or rule issued or order given related to the security zone, or knowingly obstructs or interferes with the enforcement of the security zone may be punished by imprisonment for up to 10 years and may, at the discretion of the court, be fined up to \$10,000.
  - *Knowing violation of the security zone and or injuring an enforcement officer:* Any person who willfully and knowingly violates the security zone commits a class D felony and any person who, in the willful and knowing violation of the security zone uses a dangerous weapon, or engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce the zone commits a class C felony.
  - *Failure to heave to or forcibly interfering with a law enforcement action authorized by any Federal law:* 18 U.S.C. § 2237 makes it a felony for a master, operator or person in charge of a vessel to knowingly fail to obey an order by authorized Federal law enforcement officers to heave to the vessel and/or to forcibly resist, oppose, prevent, impede, intimidate, or interfere with a boarding or other law enforcement action authorized by any Federal law or to resist a lawful arrest. Any person who intentionally violates this section shall be fined under this title or imprisoned for not more than 5 years, or both.
  - *Destruction of, or Interference with, Vessels or Maritime Facilities:* 18 U.S.C. § 2291 makes it a felony to interfere by force or violence with the operation of any maritime facility if such action is likely to endanger the safety of any vessel in navigation. Any person who knowingly violates this section shall be shall be fined under this title or imprisoned not more than 20 years, or both. Whoever knowingly and intentionally imparts or conveys any threat to do an act which would violate § 2291, with an apparent determination and will to carry the threat into execution, shall be fined under this title or imprisoned not more than 5 years, or both, and is liable for all costs incurred as a result of such threat.
- **Federal Seizure of Property for Civil and/or Criminal Forfeiture:** Any vessel, including surfboards, kayaks, and canoes, that is used in violation of the security zone may be immediately seized and forfeited and/or may be seized in an action commenced in a U.S. District Court to collect any issued civil penalty that is not paid.
- **Federal Civil Penalties:** Any person who violates the security zone may be liable for a civil penalty of up to \$32,500. Each day of a continuing violation constitutes a separate violation.
- **Immediate Arrest for Any Outstanding Wants or Warrants.**


Exhibit 6

Posted on: Friday, September 21, 2007

## Governor heckled over Hawaii Superferry

 Photo gallery: [Gov. Lingle faces tough crowd](#)

- [Honolulu planning for transit ripple effects](#)
- [Maui hearing's focus: whales, invasive species](#)

 StoryChat: [Comment on this story](#)

By [Derrick DePledge](#)  
Advertiser Staff Writer

LIHU'E, Kaua'i — Gov. Linda Lingle tried to calm tensions over the Hawaii Superferry at a raucous public meeting last night where she was interrupted by boos, hecklers and scattered profanities.

Most of the people in the standing-room-only crowd of more than 1,100 at the Kaua'i War Memorial were opposed to the Superferry and predicted more protests when the ferry returns Wednesday.

A smaller group that included several Superferry employees and their families showed support for the ferry.

"EIS, EIS, EIS," the crowd stood and chanted at the start of the meeting. Along with Lingle, Barry Fukunaga, director of the state Department of Transportation, and Coast Guard Rear Adm. Sally Brice O'Hara were also interrupted and booed.

Many speakers said the state should wait until courts on Maui and Kaua'i act on legal challenges to the Superferry before authorizing resumed service to Nawiliwili Harbor. "We call on you, we count on you to choose life and righteousness," said Kaua'i County Councilwoman JoAnn Yukimura.

Lingle drew more boos when she said the decision to allow the Superferry to return to Kaua'i has already been made, and she just wanted to hear residents' concerns about a planned federal security zone at the harbor and other issues.

"My answers may not be the ones you want to hear and I accept that," Lingle told the crowd.



People gather in front of the County Building in Lihu'e on Kaua'i yesterday before a meeting at the War Memorial Convention Center with Gov. Linda Lingle, members of her administration and Coast Guard officials.

JOAQUIN SIOPACK | The Honolulu Advertiser

## **BARRAGE OF CRITICISM**

With Lingle standing behind a podium on stage, speaker after speaker criticized all aspects of the Superferry — from the state's initial policy decision to exempt the Superferry from an environmental assessment to broader accusations that the administration appeared to be favoring corporate interests over the people of the island.

Andrea Brower of Anahola asked the governor if she feels justified in threatening protesters with arrest and prosecution for standing up to the ferry. Brower's question received a rousing ovation.

Lingle replied: "It is our hope and our desire than no one faces a penalty because no one breaks the law."

State Senate Majority Leader Gary Hooser, D-7th (Kaua'i, Ni'ihau), said he hoped the Republican governor heard the message that people shared throughout the night. He said most Kauaians aren't necessarily opposed to the Superferry, but want an environmental assessment first.

"I was not surprised by the emotion. It's a very emotional time. The people of Kaua'i feel like nobody's listening to them," he said. "So when the governor finally comes over and listens, there's a lot of passion."

Hooser said he hopes the Coast Guard and the state delays resuming service next week. "It would be very poor judgment on their part to force the issue," he said. "I would encourage them to wait for the Kaua'i and Maui courts to decide one way or the other." Before the meeting, dozens of people gathered outside the nearby County Building. And many spoke of using the right words and tone to get their message to the governor. Many people are cognizant of how the protests have been perceived on the other islands.

## **'BAD NEIGHBORS'**

Many are also concerned about how the Superferry fight has divided some people here. Barbara Elmore, who is retired and lives in Lihu'e, said she believes she is among the few people who support the Superferry.

"It makes us look like bad neighbors," she said of the protests.

Elmore also said the reaction to the Superferry is symbolic of a deeper sentiment in the community about how life here is changing. "I think people here are fed up with development," she said.

Michelle Fields, a Realtor who lives in Puhi, said she wants more assurances from Superferry executives that they are going to thoroughly inspect vehicles before voyages. She said she is worried that a lack of screening could lead to transport of illegal drugs, invasive species and even ecoterrorism.



"I want to know that the cars that are coming over on the ferry are properly screened," she said. "Each of our islands has a delicate ecosystem."

Dennis Chun, who teaches Hawaiian studies at Kaua'i Community College, said he disagreed with how Lingle has handled objections from Kaua'i.

"It's Big Brother telling Little Brother what to do. To me, that approach just creates more conflict," he said.

But Chun also believes the issue goes beyond an environmental assessment. "It's about where people here see the island now and the direction it's going to go in the future," he said.

### **LINGLE NOT OFFENDED**

The meeting lasted 3 1/2 hours and Lingle stayed afterward and talked personally to people who didn't have a chance to speak at the meeting.

She told reporters later she was not offended by the intensity of the crowd.

"But the passion is very intense," she said, "and what I wanted to try to communicate tonight is this issue of knowingly violating the law is just unnecessary, because there are clearly ways to protest, legal ways to make your point.

"One man said to me tonight: 'But you wouldn't have come tonight if we hadn't jumped into the water.'

"And I told him, 'You're probably right, because of my concern for safety.'

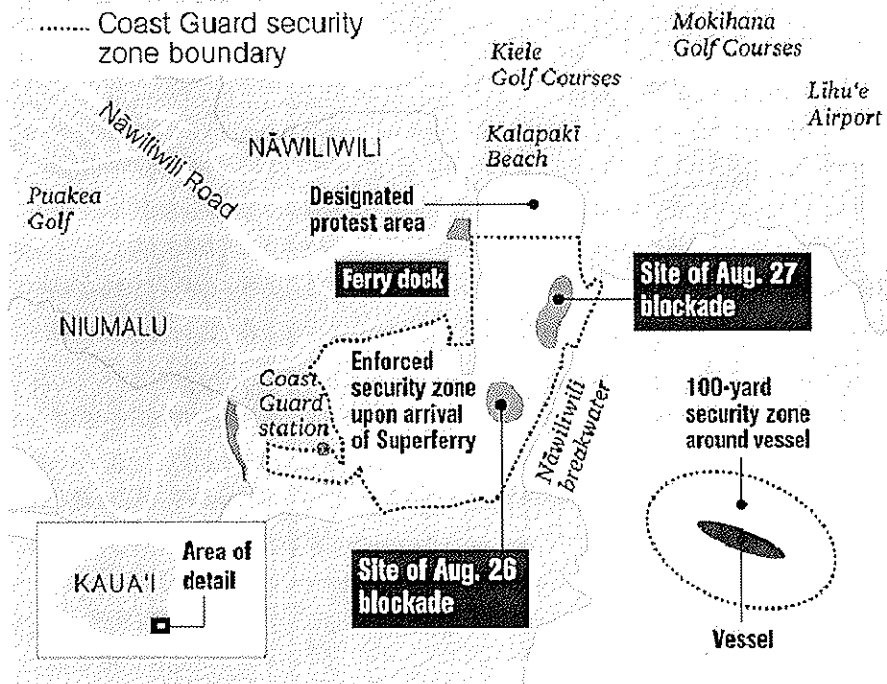
"And that is what brought me here tonight."

*The Associated Press contributed to this report.*

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# HAWAII SUPERFERRY SECURITY ZONES



Source: U.S. Coast Guard

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